The democratic dimension of EU negotiations on trade agreements: the role and responsibilities of citizens and Local and Regional Authorities
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It does not represent the official views of the European Committee of the Regions.
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<td>ACTA</td>
<td>Anti-Counterfeiting Trade Agreement</td>
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<tr>
<td>ATTAC</td>
<td>Association pour la Taxation des Transactions financière et l'Aide aux Citoyens</td>
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<td>CoR</td>
<td>Committee of the Regions</td>
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<td>CCP</td>
<td>Common Commercial Policy</td>
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<td>CJEU</td>
<td>Court of Justice of the European Union</td>
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<td>CETA</td>
<td>Comprehensive Economic and Trade Agreement</td>
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<td>EC</td>
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<td>EP</td>
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<td>ERC</td>
<td>EU Regional Competitiveness Index</td>
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<td>EUSFTA</td>
<td>EU Singapore Free Trade Agreement</td>
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<td>FTA</td>
<td>Free Trade Agreement</td>
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<td>FDI</td>
<td>Foreign Direct Investment</td>
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<td>ICT</td>
<td>Information and Communication Technology</td>
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<td>IDA</td>
<td>Industrial Development Authority</td>
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<td>IDSD</td>
<td>Investor-State Dispute Settlement</td>
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<td>IHK</td>
<td>Industrie- und Handelskammer</td>
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<td>JEFTA</td>
<td>Japan-EU Free Trade Agreement</td>
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<td>LFS</td>
<td>Labour Force survey</td>
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<td>LRA</td>
<td>Local and Regional Authorities</td>
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<td>MEP</td>
<td>Member of the European Parliament</td>
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<td>MA</td>
<td>Managing Authorities</td>
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<td>MS</td>
<td>Member States</td>
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<td>NUTS</td>
<td>Nomenclature of Territorial Units for Statistics</td>
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<tr>
<td>PDO</td>
<td>Protected Designation of Origin</td>
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<td>PGI</td>
<td>Protected Geographical Indication</td>
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<tr>
<td>TEU</td>
<td>Treaty on the European Union</td>
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<td>TFEU</td>
<td>Treaty on the Functioning of the European Union</td>
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<tr>
<td>TiSA</td>
<td>Trade in Services Agreement</td>
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<td>TRIPS</td>
<td>Trade-Related Aspects of Intellectual Property Rights</td>
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<tr>
<td>TTIP</td>
<td>Transatlantic Trade and Investment Partnership</td>
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<tr>
<td>RCI</td>
<td>Regional Competitiveness Index</td>
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<tr>
<td>RTDI</td>
<td>Research, Technological Development and Innovation</td>
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<td>WTO</td>
<td>World Trade Organization</td>
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Executive Summary

The aim of the study is to explore, from Local and Regional Authorities (LRAs)’ perspectives, the need and potential for greater transparency and democratic governance in the EU trade negotiations processes. The pivotal role of LRAs in terms of bridging the legitimacy gap between citizens, national and European authorities is central to this study. Indeed, bringing up citizens’ concerns and underlining the territorial specificities of regions impacted by EU trade negotiations is of utmost importance to ensure the comprehensiveness, coherence and acceptance of trade agreements, notably when ratified following a mixed-agreement procedure.

Chapter 2 of the study sets the basis for the discussions outlining the main drivers and trends associated with trade liberalisation and Free Trade Agreements (FTAs) as well as the potential impacts on EU regions. Trade liberalisation, notably via the increased prevalence of FTAs, can be seen as a catalyst for economic development in territories featuring competitiveness and the importance of technological advancements and efficiency. On the downside, regions which may not have reached a certain level of development may more often experience reinforced negative impacts.

The data analysis of several indicators present a relevant overview on key economic trends and the unequal impacts of trade liberalisation across the EU. Since a causal relationship between trade liberalisation and impacts cannot be directly established, key features and conditions which result in beneficial or negative regional impacts are highlighted.

Intra and extra-EU trade flows for instance show the importance of domestic market’s openness and economic ties to non-EU countries. Likewise, the evolution of foreign direct investments (FDI) activity across the EU is rather uneven, which is likely to reflect a competitiveness deficit in countries receiving less FDI. A sectoral outlook may similarly shed light on pervasive strengths and weaknesses of regional economies, the agricultural sector (although relatively protected in the EU) as well as the industry and services sector are critical areas of scrutiny. Moreover, looking at employment trends and regional disparities, it is even further highlighted that economic development at the regional and local level are quite unequally distributed. Purchasing power per inhabitant follows a similar trend. Some Member States have a relatively even distribution of purchasing power, and some have sharp differences between their regions indicating uneven development. The economic dynamism of regions is also linked with population change and migration. In general, migration follows the trend of outmigration from regions of poor development prospects, toward
regions where development and job opportunities exist. This is particularly true of the working age population. This migration can occur between regions in one Member State, or can be the result of migration between different Member States. Finally, technological investment, in particular through R&D investment, is another key indicator highlighting regional disparities. All in all, based on the analysis, it appears that trade liberalisation may principally target and favour already vibrant regions, hence reinforcing the vicious cycle of the negative impacts faced by low-growth and low-income regions.

The analyses conducted in Chapter 2 led to the identification of four main categories reflecting the negative and positive effects of trade liberalisation at the regional and local level:

- Balanced territorial development, higher relative technological investments, and favourable trade and labour trends;
- Middle balanced territorial development, middle to lower relative technological investments, and favourable trade and labour trends;
- Less balanced territorial development, middle to lower relative technological investments, and favourable trade and labour trends;
- Less balanced territorial development, middle to lower relative technological investments, and disadvantageous trade and labour trends.

Those four categories were used to select the four case study regions under scrutiny in Chapter 3.

Chapter 3 deals with the concerns LRAs would like to see being taken into consideration in the discussion of EU policy-making surrounding Free Trade Agreements. In the European system of multilevel governance, the LRAs are the governance level closest to citizens’ needs, which make their perception of trade agreements, and of the impact trade agreements have on the regional level, crucial. LRAs not only act as an interlocutor towards citizens, they carry administrative and/or legislative authority which can be impacted through the evolving processes of trade agreements. Therefore increased attention has been drawn to distribution of competencies, especially with regard to mixed-agreements, between the EU and the Member State level.

The impact and the perception of FTA are largely influenced by a region’s economic and development trends. Therefore, four Case Study Regions have been selected aligned with the four categories of development outlined in Chapter 2: the German Upper Bavaria, the Irish Border Midland and Western Region, the Bulgarian Severoiztochen and the Spanish Extremadura. Although some LRAs were reluctant to participate in the interviews as this new topic of discussion carries with it political implications, respondents often cited a
necessity of more information, participation earlier in the negotiation process, and incorporation of formal national mechanisms to increase LRA participation as relevant issues.

Chapter 4 of the study maps the ratification procedures of mixed agreements in Member States having regions with legislative powers as well as two non-EU trading partner countries. In the EU, national legislation defines how Member States proceed with Free Trade Agreements. In most cases, the approval of the Parliamentary system is involved; however, the mechanism through which parliamentary approval is undertaken varies. Even in Member States with regional Parliaments, only those in Belgium are formally involved in the ratification process.

Based on the ratification mapping, Chapter 4 also examines the relevance of the CJEU opinion on the Singapore FTA on local and regional authorities. LRAs are only legally affected by the findings of the CJEU opinion paper insofar as national legislation formally includes regional and local authorities in the ratification process of Free Trade Agreements.

Chapter 5 presents the main recommendations derived from a triangulation of the study findings. The recommendations address several aspects of Free Trade Agreements including their negotiation, ratification, and potential impacts on EU’s regions. It was found that the main issues to be considered in LRA involvement in FTA negotiations and ratification are as follows:

- Timeliness and transparency of information provided, including the importance of EU Commissioners in encouraging national debates;
- Consideration of the importance of both formal and informal channels for participation;
- Resource allocation to enable regions to analyse the impacts of FTAs, planning of regional development, and participation in meaningfully discussion.
1. Introduction

1.1 Objectives of the study

The present report on ‘The democratic dimension of EU negotiations of trade agreements: the role and responsibilities of citizens and Local and Regional Authorities (LRAs)’ examines EU trade negotiations from an LRA perspective. In particular, the study intends to investigate the building of public legitimacy of trade negotiations and examines the implications for LRAs as well as their role in targeting their responses to the specific negative distributional effects (e.g. increased earnings and profit inequality) generated by globalisation. Moreover, the role of regions in increasing legitimacy of international trade agreements at regional and local level along with their role in contributing to the EU trade policy making by bringing up the citizens’ concerns is a cornerstone of the study. Such role likewise covers the need to raise citizens’ awareness on the challenges, stakes and opportunities derived from trade agreements.

1.2 Structure of the report, objectives and methodological approaches

The report is structured and articulated around the following methodological elements:

Chapter 2 examines the positive and negative impacts of trade agreements at the regional and local level. A distinct consideration will be drawn towards impacts of globalisation driven by technological change. Chapter 2 is based on statistical analyses, enriched by a literature review and expert interviews.

Chapter 3 identifies and analyses LRA concerns in regards to EU trade policy-making. Based on the LRA opinions, the findings will enable the formulation of recommendations on possible governance mechanisms improving the transparency and greater participation of LRAs in the EU trade policy-making process. Chapter 3 applies a combination of desk review, as well as LRA expert interviews.

Chapter 4 maps and details the ratification procedures of mixed agreements in Member States (MS) having regions with legislative powers. Additionally, an overview of the ratification procedures of countries having regions without legislative powers is presented. Alongside this, closer attention is drawn to the ratification procedure of two non-EU countries – Canada and Australia. Finally, the relevance and implications of the opinion of the Advocate General of the

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Court of Justice of the EU on the EU-Singapore FTA, and the subsequent opinion of the EU Court of Justice, are discussed in terms of the potential effects on LRAs. The information collected and analysed in Chapter 4 is primarily derived from desk research and literature analysis.

Chapter 5 provides policy conclusions and recommendations, at different governance levels (from a focus on the LRAs to the national and EU levels) on measures capable of increasing transparency and, thus, public trust in EU trade policy-making. Ways to improve public understanding of the importance of trade agreements, the negotiations processes and possible shapes that future agreements could take are likewise explored. The demands for greater involvement by Member States and regional governments as well as the type of reform measures needed for the Common Commercial Policy are central considerations when developing recommendations. A triangulation of the different methodologies followed throughout the study is used in Chapter 5.

Further details are provided in annex 0 on the scope and methodological approach followed in the study. Likewise, annex 6.4 presents the founding key terms definitions used as a basis to structure and shape the study.
2. Overview of the actual impact of globalisation on regions

The first section of Chapter 2 presents an overview of economic trends in regions reflecting the effects of globalisation and more precisely, of trade liberalisation and FTAs. The second section provides an analysis of key identified impacts of FTAs on regions, which are further deepened by literature review findings. Despite the global nature of the discussion, a focal point lies on pinpointing the various impacts of globalisation on regions.

Beforehand, several issues associated with the analysis conducted in Chapter 2 and its scope shall be brought forward. First, comprehending the ubiquitous and intertwined nature of factors shaping and driving trade liberalisation and FTAs is a complex undertaking. Indeed, causal relationship between any identified key features or indicators and the related impacts of trade liberalisation cannot be established from the analysis. Along those lines, as regions’ economic and social fabrics vary to a great extent, it may only be possible to estimate which conditions makes a region more competitive on global markets and resilient to international competition. Moreover, statistical data at the regional scale is often very limited or not precise enough to make inferences on the regional level. Making up for those issues would require a more narrow scope, collecting data at the regional scale, conducting a cluster analysis to establish a typology of regions, and focus on a certain type of region (e.g. rural, peri-urban, urban, etc.). Furthermore, limiting the scope to a smaller set of economic sectors in those regions would be required. Examining the potential effects of one specific FTA being negotiated would also contribute to narrow down the scope of the issues under scrutiny. Such analyses could be considered as a follow-up to this initial study.

2.1 Main trends: impacts of trade liberalisation and FTA

Globalisation is a compound phenomenon. It represents a wide range of economic, social, environmental and technological intertwined variables and the comprehension of the phenomenon and of its impacts, has significantly evolved over time.

Historically, the impact of globalisation was viewed solely in a macroeconomic context, with economies of scale and wage disparities used as the primary explanatory mechanisms. In these models, firms and sectors were often the most granular units of analysis (Politecnico di Milano, Bocconi University, 2009). As time went on, additional and more complex micro-economic relationships, and
regional impacts of globalisation began to emerge at the forefront of trade discourse. It became increasingly evident that, while data – either on a firm or regional level – can provide some evidence of regional trends and snapshots, it cannot adequately create cause and effect relationships between Free Trade Agreements and their true impacts.

‘The new globalisation paradigm requires firms to adopt complex strategies intended to optimize multiple trade-offs: between labour costs and temporal proximity to customers; between transportation and inventory costs; among accesses to knowledge sources, to skilled labour and unskilled labour; between commodification of existing products and the need to accelerate product design and time-to market’ (Politecnico di Milano, Bocconi University, 2009).

Globalisation is further driven and shaped by **Foreign Direct Investments (FDI)**. FDI can harvest untapped production potential in transitioning economies, while at the same time opening up new markets for high value-added products and services of the industrial countries that generate high-income jobs (Chirilă, 2011). Yet, FDI is also by nature volatile. The contribution of FDI to GDP growth, for example, has generally exhibited a decreasing trend over the last two decades, and is furthermore very uneven across EU countries (Vetter, 2014).

GDP cannot be denied as an important macro-indicator applied when discussing globalisation. What’s more, one of the most direct expressions of globalisation is often attributed to the **increased value share of trade in the total GDP of a country or region**. Global trends in trade have been fluctuating. Historically, world trade flows were growing faster than GDP until the 2008/2009 crisis. Since then, academics have largely been reflecting on the observed global trade slowdown as a sign that globalisation and trade liberalisation have structurally peaked (Hoekman, 2015).

Presently, and taking into account the **fluctuating economic trends influencing global trade**, many studies suggest that **globalisation had indeed a significant, and highly variable impact on various levels and aspects of EU’s regions**.

Some regions flourish as a result of globalisation, while others fall behind. All the while, globalisation continues to evoke a climate of competition among EU regions (Politecnico di Milano, Bocconi University, 2009). It is not disputed that the surge of multilateral international Free Trade Agreements, of all types, signed between the EU and other trading partners has had numerous economic, and other distributive, effects on EUs regions. As Free Trade Agreements result in **increases in production efficiency, competition, and innovation on the marketplace**, they have differentiating impacts on various sectors and regions.
in the EU. While highly specialised regions, producing products relying on locality and knowledge, such as champagne, may see benefits from reduced tariffs and barriers, less specialised industries that do not carry regional branding, for example steel manufacturing, may face some negative impacts through increased exposure to competition.

Notwithstanding, approximately 90% of global economic growth, over the following 10 to 15 years, is anticipated to be created outside the boundaries of the EU (EC, 2013). With the world’s economic motors humming outside of the EU’s boundaries, **globalisation is consequently expected to be a continued pillar of EU economic policy.**

Attempting to quantify the **net impacts of FTA and trade liberalisation** is an intricate enterprise which is rendered even more complex due to the significant expansion and evolution of the types of economic activities covered in EU FTA and trade policy. They include a focus on traditional activities like manufacturing of components and final products as well as a shift to services, design and marketing, research, assembly, distribution and maintenance. In parallel, the EU economy is undergoing a process of ‘tertiarisation’ bringing new industries and sectors to the table, making the discussion even more complex. The trade in financial services too is becoming very important as revealed by the TiSA (Trade in Services Agreement) negotiations, which are said to set a new and reference point for future EU FTA negotiations (European Parliament Think Thank, 2016). Such a diversity of areas, to varying extent included in FTAs, also contributes to multiplying the areas impacted at the social, economic and environmental levels and hence the number of actors affected, as well as the overall number of their concerns.

**Technological change or development** relates to several elements essential to comprehending the impact of trade liberalisation and globalisation. In particular, technological change drives improvements in the capacity to produce goods and services, i.e. productivity increases. In its turn, generation, sharing and acquisition of knowledge – an essential driver of technological change – brings the ownership of technological advances (i.e. intellectual property rights, patent rights) into the mix. However, while high-tech trade and scientific exchange have increased tremendously as a result of the lowering of trade taxes and custom duties, thereby contributing to technological change, it is very hard to discern their impact on the economy, in terms of employment (Hoekman, 2015).

A sectoral approach may, to some extent, shed some light on a debate rather oriented towards the job-destroying effects of technological change and the role played by globalisation and trade liberalisation. In some sectors, such as
agriculture or manufacturing, multiple forces such as technical progress but also consumers’ preferences shifts, and increasing reliance on services inputs in industries, have resulted in job losses. While at the short term, structural unemployment may persist in a given sector, in the long term, new jobs creations to compensate for losses in other activities, whether resulting from trade, technology, or tastes, is essential to adjust to structural change (OECD, 2017). Along those lines, a recent study concluded ‘the dominant trend is of contracting employment in agriculture and manufacturing being more than offset by rapid growth in the caring, creative, technology and business services sectors’ (Steward, 2017). The sustainability of the new jobs created along with their resilience to, for instance, effects linked to FTAs, is another pivotal aspect to consider when looking at the trade liberalisation impacts on regional labour markets. Another factor of utmost importance is the degree of economic diversification in line with the territorial characteristics of the region (i.e. 'predominantly rural', 'intermediate' or 'predominantly urban'). A greater diversity of activities tends to shelter urban areas from adverse employment consequences from international competition and the pressure of technological change. In contrast, rural areas may be less diversified and tend to be more specialised, which are more likely conducive to create negative effects of globalisation and trade liberalisation (OECD, 2017).

Technological change has also boosted the creation of jobs in knowledge intensive sectors (medicine, education, professional services). Technological change has also shifted and shaped consumption patterns (e.g. demand for electronic appliances) the prices of which drastically deceased thanks to international trade.

Distributional effects are also felt by citizens in their daily life. These are now increasingly being taken into consideration with a more social orientation of trade liberalisation and FTA. TTIP, CETA, TiSA, and JEFTA attracted more public attention when it was anticipated by negotiators and also more than other trade agreements. However, anti-globalisation has been strong in many parts in Europe, especially in Austria, Germany and France. The Seattle WTO protests in 1999 became a key moment for the anti-globalisation. Many of the arguments raised during these protests are similar to these raised during the protests against TTIP, such as the fear of a dominance of multi-lateral companies over sovereign and democratic states. The fact that modern trade agreements go beyond traditional tariffs and WTO-agreements, but include many deeper behind the border measures, contributes to this discourse of fear. Agreements like TRIPS (Agreement on Trade-Related Aspects of Intellectual Property Rights), a WTO agreement on intellectual property, effective in 1995, has been under constant critics for increasing global inequalities ever since. Trade agreements negotiated by the EU before CETA have not been that encompassing. The only comparable
agreement was ACTA (Anti-Counterfeiting Trade Agreement), which was rejected after international protests by the European Parliament in 2012. The protests against TTIP therefore were not the first time that trade agreements attracted attention, and protests.

Indeed, today, FTAs’ terms and conditions along with the decision-making processes and negotiation procedures have gained momentum in the EU public sphere. The limited amount of information transpiring from Brussels, where FTA negotiations (particularly for CETA and TTIP) appeared to be held ‘behind closed door’ was widely used by a large array of groups highlighting the lack of legitimacy and transparency of the European Commission. As a result, distorted, partial or obsolete information contributed to reinforce a pervasive so-called EU ‘democratic deficit’ and strengthened EU sceptic movements, among others, for example, extreme right nationalist groups. The arguments raised by those groups against FTAs appeal, to a large extent, to EU citizen’s key concerns (job losses, lower social, health, and cultural and environmental standards, loss of national sovereignty over multi-national companies etc.). While the relevance of those concerns is not presently discussed, it shall however be pointed out that official, reliable and balanced sources of information, which are uniformly accessible across EU MS, at local and national level appears to be lacking to counterbalance other partial sources of information.

**European civil society** is very sensitive to aspects potentially regulated or indirectly impacted by FTAs. From food regulations linked to a plethora of norms (e.g. hygiene, pesticides use, etc.), the banning of Genetically Modified Organisms, to the highly criticised labour law harmonisation facilitating a race to the bottom, the development of wide-encompassing FTA does raise a large array of concerns among EU citizens.

One example can be seen in the wide range of schemes for defining quality products, which has emerged to **promote the high standards of EU local and regional products**. For instance, several trademarks promote the authenticity and origin of the food (e.g. Protected Designation of Origin, PDO, Protected Geographical Indication, PGI, and Traditional Speciality Guaranteed), organic and other diverse environmental and animal welfare friendly labelling. The aim has been to foster and ensure quality to consumers meanwhile securing fair prices for EU farmers. While FTA negotiations (e.g. CETA) may foresee the protection of these labels, concerns remain with regards to the future differentials in standards and norms between trading partners.

Moreover, an important aspect to mention is also the **environmental impact of trade liberalisation and FTAs**. Direct impacts of trade policies on the environment, such as the potential for accelerated depletion of natural resources,
and the increase in emissions (e.g. industrial pollution and greenhouse gas emissions linked to production and transport) are presently well acknowledged. Moreover, indirect impacts, such as shifts in consumption patterns and consumer behaviour (DG AGRI, 2015) (Kearney, 2010), are also scrutinised by environmental groups. As a result of the increasing attention drawn onto environmental issues, the EU Sustainability Impact Assessment (SIA) is a tool systematically used by DG Trade for supporting major trade negotiations. SIAs intend to provide the European Commission with an in-depth assessment of, inter alia, the potential environmental impacts of on-going trade negotiations.

All in all, a definite focus is drawn on promoting trade in services, enabling digital trade, addressing issues preventing the mobility of professionals and improving regulatory fragmentation (European Commission, 2014). New and dynamic opportunities are emerging for EU regions to participate in the global economy. When taking into account the varying impact of these processes on EU regions, a great deal of work will be necessary to identify success factors, and increase the capacity of those regions which at present do not benefit from, or are being impeded by, globalisation, if the EU is to develop in an equitable and balanced fashion. It shall, however, be highlighted that, as regions are arrayed across a large spectrum of development characteristics, a tailor-made approach will have to be applied to identify each territory’s endemic need and potential and select adequate support measures.

2.2 Data analysis

Macroeconomic data on international trade is used to identify countries participating more, and those participating less, in globalisation. Additional data on labour and employment, market size, migration, and technological investments will be considered as a means of assessing the varying impact of trade liberalisation on EU Member States and in profiling regions that are more and less likely to benefit from international trade agreements.

Many of the data sources will be explored on the regional level (NUTS 2 and, where available, NUTS 3) with the aim of assessing the resulting negative and positive impact of trade agreements on the regional and local level. NUTS, or the Nomenclature of Territorial Units for Statistics, is a territorial categorisation applied in EU legislation since 1988. NUTS categories are used as the uniform breakdown of territorial units, applied in the production of regional statistics by Eurostat. NUTS categories are the most relevant statistical units for analysis of comparable data across the EU. Although not always identical to administrative borders, NUTS favours institutional breakdown and regional units of a general character wherever possible. NUTS is a three-level hierarchical classification,
with each Member State being subdivided into a number of regions, for NUTS 1, then further subdivided into a finer granulation for NUTS 2, and finally for NUTS 3.

It is important to note that although data on the regional level can provide some evidence of regional trends and present snapshots of current circumstances, it cannot adequately delineate a cause and effect relationship between Free Trade Agreements and regional changes. Global markets continuously change and evolve. The EU and its regions, are affected by these global market changes even without trade agreements in place. While Free Trade Agreements can accelerate, and sometimes amplify, this process, it cannot be argued that Free Trade Agreements themselves are synonymous with globalisation or global market effects. Finally, just as regions differ from one another, so do international agreements. Free Trade Agreements are specifically negotiated and each country’s comparative advantage, legislative structure, and ability to negotiate favourable conditions greatly come into play.

In order to overcome this issue, the indicators explored will be applied to frame the characteristics of regions that will likely be more competitive on global markets and more resilient to international competition, and identify those that may result in more negative effects from the market openness and international competition. The data analysis is applied as a means of demonstrating regional trends along several indicators important to understanding how regions have been responding to the longstanding process of globalisation.

Trade liberalisation may principally target and favour already vibrant regions, hence reinforcing the vicious cycle of the negative impacts faced by low-growth and low-income regions. Those regions with the strongest economies, highest investments in innovation, technology and infrastructure, lowest unemployment rates, and greatest attraction of a skilled labour force are the regions most likely to benefit from new markets in goods and services, while being able to cope with competition and share in technology transfer. It is these regions, and Member States, that most often view trade agreements as a sum positive scenario. However, there are pronounced disparities across EU regions and Member States that can affect a region’s ability to benefit from trade. There has been a progressive integration of markets, internationally as well as within the EU. Nonetheless, despite of the role of cohesion policy in supporting the economic integration of EU regions, structural challenges along with changing economic and social environments keep altering regional development trajectories.

The following sections apply relevant indicators to frame a discussion of the regional and national characteristics that may put regions and Member States in
a better, or less beneficial, position in the light of currently negotiated and upcoming international trade agreements.

2.2.1 International Trade

Macroeconomic data on international trade available at the national level is used in this report to highlight national differences in trade, and identify those countries participating more in globalisation, and those participating less.

Figure 1 shows the export to import ratio of the years 2005 and 2013 by Member State, i.e. the value of exports divided by the value of imports. This indicator is important in trade liberalisation as it is widely used to fuel policy changes and decision-making with regard to trade agreements. For example, in France, politicians recently used the export to import ratio to argue for market closures and development of protectionist measures (Maligorne, Clémentine; Théobald, Marie, 2017) (Bartnik, 2016).

Figure 1: Export to import ratio in the years 2005 and 2013 by MS

This indicator is the value of export of goods and services divided by the imports of goods and services. Values higher than one indicate a positive trade balance whereas values smaller than one indicate a negative trade balance.

Source: Own elaboration based on Eurostat.

In general, European regions have strong economic ties between each other and especially with their neighbouring countries, which manifest in their trade flows. Strongly related to their geographical position, but also notably linked to their economic strength, the Intra-European-Market is more important than economic ties to Extra European Countries.
Taking intra-EU exports with extra-EU exports in goods as a comparison point, it can be said that Central European countries such as Slovakia, Czech Republic, Hungary, but also Poland and Luxembourg are exporting most strongly to countries within the EU borders.

On the contrary, countries with an island position like UK, Malta or Ireland have strong export relations to Extra-EU countries. The same is true for Germany, whose industry is generally very export-oriented with a global export network, or France with historically strong ties to north African countries. The Netherlands, a country with direct sea access on the other hand, has rather modest goods export flows to Extra-EU countries; however, they rather export services (see Figure 2).

Regarding the exports to Extra-EU countries (in 2015), the US are the main trade partner with a share of 21%, followed by the Mediterranean Basin countries with 12%, China with 9.7% and Switzerland with 8.4% (Eurostat, 2017). Regarding imports, China is the number one trade partner with 20.3%, followed by the US with 14.4% the Mediterranean Basin Countries with 8.7% and Russia with 7.9% (Eurostat, 2017).

Figure 2: Intra-EU exports of goods compared with Extra-EU exports of goods by MS in %, 2015

Source: Eurostat, DS-018995.

Complementing the picture sketched above, the distribution of Intra-EU and Extra-EU trade flows in services is analysed (see Figure 3). Apart from the ‘islands’ UK, Malta, and Ireland, the Netherlands have an outstanding share of
trade relations in services with Extra-EU countries. This is also true for Denmark and Germany. Again, Central European countries have less pronounced ties to Extra-EU countries in the trade of services as well as some Eastern European Countries, e.g. Romania or Estonia.

**Figure 3: Distribution of Intra-EU and Extra-EU trade (exports plus imports) in services, 2015 (%)**

Source: Eurostat, (bop_its6_tot).

The most important extra-EU trade partner is the US with a share of respectively 27% of all exports and 26% of all imports of extra-EU-countries. They are followed by Switzerland (with 14% of extra-EU exports and 9% of extra-EU imports).

Figure 4, is an index capturing the intensity of foreign investment integration into the national economy. The data covers the period after the economic crisis (2008/2009) up until the data most recently available. Looking at FDI flow intensity we can conclude that, apart from the special cases Malta and Luxembourg, which have a significantly higher average FDI flow intensity than any other Member State, Ireland has exhibited the highest relative FDI flow intensity while Denmark exhibits the lowest.
The evolution of FDI activity across the EU is rather uneven, which is likely to reflect a competitiveness deficit in countries receiving less FDI. Looking at the type of FDI in Ireland (over 2010-2012), investments are mostly found in three sectors: manufacturing, financial intermediation and other (i.e. non-financial) services (Vetter, 2014).

It should be noted that important drivers (or more accurately, pre-requisites) for attracting FDI are linked to a well-functioning regulatory environment supported by strong institutions. Apart from national trends, regional differences in institutional structures and regulatory burdens may have an effect on the distributive effects of FDI flows across regions. Reinforcing competition and procurement regulations, in parallel with the liberalisation of trade, is considered an important approach to ensure positive economic impacts for regions (European Commission, 2010).

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1 Direct investment refers to the international investment made by a resident entity (direct investor) to acquire a lasting interest in an entity operating in an economy other than that of the investor (direct investment enterprise). Direct investment involves both the initial transactions between the two entities and all subsequent capital transactions between them and among affiliated enterprises, both incorporated and unincorporated. Data are expressed as percentage of GDP to remove the effect of differences in the size of the economies of the reporting countries.
2.2.2 Sectoral analysis

In general, as economies evolve, the proportion of national income moves from the primary, to the secondary, and finally tertiary sector. Although the optimal balance of sectors is a regional matter that is linked to a number of localised factors, a sectoral analysis can serve as a broad indicator of the current structure of a regional economy, and can help point toward regions that are in a better position to benefit from Free Trade Agreements and those that may be more exposed to the negative effects. Three sectors were picked for their particular relevance vis-à-vis the present subject matter: agriculture, industry, services. The impacts of trade liberalisation on those sectors is of particular interest due to the ambivalent potentials and risks associated with free trade for the development of those sectors, and ultimately, for the prosperity or decline of the regions where they are dominant.

2.2.2.1 Agriculture

A principle aim of Free Trade Agreements is to increase the flow of goods and services outside national borders, and while agriculture is prone to a certain protection, overall it is no exception. In fact, the EU is the largest exporter of agricultural products, which makes this sector a major focus for the EU (Copenhagen Economics, 2016). Trade of agricultural goods occurs both within the EU between Member States, and outside of the EU – called extra-EU trade. As agricultural production in the EU increases in efficiency and adequately meets local market demands, international opportunities gain relevance and, therefore, so do international trade agreements (Copenhagen Economics, 2016). However, trade is a two-way street, and while opening borders creates new opportunities for the EU, it also has the potential to create new competition which can shift the nature of domestic agricultural production, affecting regions disproportionately. Some regions may be in a good position to benefit from new markets and respond to competition without adverse effects, while others may not have the required basic preconditions to do so (technical capacity, marketing capacity, infrastructure, technology, investment potential, soil/water quality, etc).

Taking the Transatlantic Trade and Investment Partnership (TIPP), between the EU and the US, as an example of a recently debated trade agreement, both positive and negative potential effects have been identified. Some of the general positive effects on agriculture include access to new markets, efficiency gains from convergence of regulations with trade partners, and the harmonisation of policies making trade flows more fluent and markets easier to access (DG Internal Policies, 2014). The negative effects of TIPP have been identified as market disruption from overwhelming competition, the beef sector leading this
debate, and the creation of an uneven playing field since domestic legislation disproportionately constricts EU producers in particular (especially in the use of biotechnology, environmental rules, chemical use and waste, and animal welfare rules) (DG Internal Policies, 2014). This is felt to further lead to the potential risk of lowering EU standards in these un-level policy areas only to help increase competition and protect markets from an influx of US products that do not meet these standards. Many argue that this dismantling of strong regulatory frameworks is one of the primary risks for consumers that value ecologically produced, non-genetically modified, food products, as well as EU sanitary standards (e.g. EU ban on hormone-treated beef and chlorinated poultry) adhering to strong animal and human welfare standards. Moreover, concerns are raised with regards to the EU trademarks (PDO, PGI), which provide EU consumers with a protected indication of quality and origin, and are also often considered as cultural heritages.

In agriculture, extra-EU trade balance has been on an upward trend since 2010 demonstrating a slightly positive ratio by the end of 2010 (Eurostat, 2017). In parallel a consolidation process has been occurring, and many comparably small farms in the EU have been increasing their productivity and size. This process can be attributed to many potential reasons, including the effects of the CAP, global developments which are also mirrored in the EU, and increases in technology (Copenhagen Economics, 2016). However, the outcomes of these changes can place regions, and agricultural sectors, in different positions in terms of their ability to benefit from free trade agreements.

Figure 5: Extra-EU trade balance in agriculture 2006-2016

Employment in the agricultural sector demonstrates a declining trend in nearly all Member States. Belgium, Luxembourg, Germany, Malta, and the UK have the smallest proportion of employment in agriculture. However, employment in agriculture remains above 10% of all employment in Greece, Poland and Romania. Romania has significantly the highest share of employment in agriculture at 25% in 2015, and the most rapid change in agricultural employment, starting at 45% in 2000.

**Figure 6: Employment in agriculture (% of total employment)**

While employment rates are an important indicator of the degree of development of an economy, high employment rates in the agricultural sector often correspond to less technological development in this sector, and can be an indicator of a more traditional agrarian-based economy. More developed economies are those which often shift employment toward secondary and tertiary sectors, rather than remaining in the primary. Overall, the factors which may be attributed to a positive response to international trade agreements in the agricultural sector is a high degree of technological development, strong marketing and market expansion opportunities and adequate infrastructure to enable production, processing and transporting of goods. In addition, regions with products that belong to Protected Geographical Indications (such as the French ‘Champagne’ and the Italian ‘Parmesan’) that are included as a protected product in a given Free Trade Agreements can be said to be in a positive position to benefit from the agreement by enjoying exclusive rights to
production. The ability of regions to negotiate the inclusion of local PGIs into Free Trade Agreements is likewise a factor, discussed in greater detail in Chapter 3 of this study.

2.2.2.2 Industry

The industry sector has been changing in the EU. While employment in the EU has been shifting toward the tertiary sector, and away from primary production aspects of industry, industry remains a relevant component of the EU economy contributing to approximately 25% of the GDP (European Central Bank, 2017). Some sectors are expanding, while others face more difficult structural changes. Market opening creates opportunities for more successful and strategically positioned industries to grow, however, it introduces competition and some industry sectors, or companies, may be adversely affected. Free trade agreements can introduce more dynamics in the business climate, sparking innovation, they can result in a reduction of government subsidies to industry, freeing up funding for other areas, and can increase technology transfer. On the other hand, all of these factors can negatively affect companies that are not fully competitive, and in regions relying on these industries for employment and income, the effects can be devastating. The degree to which the positive or negative effects can be felt at a regional level are strongly associated with the specifics of the trade agreement, and the region in question, and can therefore not be accurately stipulated across all EU regions.

However, regional data can present a snapshot of the current industrial structure in the EU, and can speak to some observed trends. Formerly more concentrated in Western Europe, in recent decades, industry has become more important in new Member States, and in peripheral regions (DG Internal Policies, 2006). Likewise, many companies, and components of the production processes, have been delocalised outside of EU borders. Delocalisation refers to the moving of jobs and production to other parts of the world, often ones where companies are able to achieve one or more of the following – improve access to markets, lower costs and higher more skilled workers (DG Internal Policies, 2006). While sound statistics to quantifying the extent of delocalisation is not readily available, delocalisation has become widely linked to a process of change fuelled by increased global integration, international competition, and technological development (DG Internal Policies, 2007).

Employment in industry in nearly all regions in Bulgaria and Romania is above 35%. When compared to the UK where most regions are below 25%, and many below 15% (particularly near urban centres). Employment statistics in industry

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2 Industry is defined as NACE 2 categories B to E: Mining and quarrying; Manufacturing, Electricity gas, steam and air conditioning supply; Water supply, sewage, waste management and remediation activities.
can be indicative of two trends, a shift in the emphasis on industry in a particular region, and technological advances in an industry that reduce employment requirements.

**Figure 7: Regional Employment in Industry**

According to a 2017 study on the Future of Industry in Europe, regions belonging to new Member States having joined since 2004 (EU-13) have on average more industrial growth than regions in the old Member States (EU-15). Looking at industrial enterprises, the study findings further suggest that
enterprises appear to be concentrated in Italy, Germany, Spain, Poland and the Czech Republic. However, a very large disparity in annual average gross wage, and labour productivity exists. Northern and central European regions continuing to demonstrate higher labour productivity and gross wages, although, eastern regions have begun to demonstrate the largest growth in labour productivity in recent years (Committee of the Regions, 2017). See Figure 7 in for the EU regional distribution of employment in industry.

2.2.2.3 Services

The tertiary sector is gaining importance in many EU regions. Services\(^3\) account for over 70% of employment in the EU, and approximately the same percent of its GDP, therefore, it is now the main employment source in the EU. In tandem, the European Commission has been working toward removing barriers for companies, making it easier for them to offer cross-border services (DG Growth, 2017). Examining the inclusion of the service sector in FTAs is also of utmost relevance in line with the plurilateral Trade in Services Agreement (TiSA) negotiations on financial services, which reportedly could impact current and future FTAs negotiations.

The real effect of trade agreements on the services sector depends on the agreement, and on the region in question. In eastern European Member States, such as Poland, Romania and Bulgaria service sector jobs make up a smaller proportion of jobs when compared to regions in the Netherlands, Germany, the UK, and other northern Member States.

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\(^3\) Services are defined as NACE 2 categories G to J and L to N and Division 95: Wholesale and retail trade; repair of motor vehicles and motorcycles; Transportation and storage; Accommodation and food service activities; Information and communication; Real estate activities; Professional, scientific and technical activities; Administrative and support service activities; Repair Services.
There has been a trend toward increases in labour in the services sector, from other sectors such as industry and agriculture. This is commonly referred to as the ‘tertiarisation of the economy’. The difference in the proportion of jobs in the service sector between regions, and Member States, can relate to the degree of development of the economy. Whereas regions in Member States in eastern Europe appear to continue to exhibit a growth in jobs in industry, other EU regions, exhibit more growth in services.
Figure 9: Change in employment in Services by NUTS2 region in % (2008 – 2014), sub-national disparities

Source: Own elaboration. Original data from Eurostat.

2.2.3 Labour and Employment

Exploring statistics at the regional and local level, it can be seen that economic development trends not only vary between Member States, but are also unevenly distributed across regions. Taking into consideration the potential effects on employment and labour generated by globalisation and encouraging sustainable development is indeed one of the main challenges faced by LRAs when designing or implementing inclusive economic policies. Open markets play a pivotal role in supporting growth and job creation, but on the other hand, open markets can harm regions with higher unemployment rates causing further loss of jobs due to international competition in already weakly performing areas.

Employment statistics show a relatively high employment to population rate in Germany – in particular within Bavaria – in the UK, and in Sweden. The regions with the highest employment rate are the Highlands Islands region of Scotland (92%), the Åland Islands region of Finland (81%), and Stockholm (77%). Out of the five lowest employment rates three are found in Greece, namely in East Macedonia and Thrace (35%), Western Greece (34%), and Peloponnese (33%). Apart from Greece, Calabria in Italy has an employment rate of 35% while the Mediterranean island of Corsica, France, has an employment rate of only 30%. In general, it can be said that the regions in Greece, southern Italy, southern Spain, Romania, and small islands have a significantly lower employment rates.

4 France, Croatia, Ireland and Slovenia were excluded due to data availability.
than other regions in the EU. Importantly, most of these regions have the common characteristics of being at a fringe location in relation to the most economically dynamic areas and main markets in Europe. These disadvantaged regions are also frequently found in new Member States, which are facing persistent regional and spatial challenges.

Figure 10: Employment Rate as Percent of Population Aged 15-64 in 2014

Source: Eurostat.
Looking at employment trends and regional disparities, it is even further highlighted that economic development at the regional and local level are quite unequally distributed. Figure 11 shows the change in average total employment by country (2005-2013) as well as the minimum and maximum values at sub-national level (NUTS-2). Notably, in some countries regional disparities have increased drastically, e.g. Bulgaria, France, Italy, Poland, Romania and the UK, but also Belgium or Greece.

These figures should be discussed in the context of population change and Chapter 2.2.5 provides information on migration, as a key variable for better understating regional dynamics. Notwithstanding, employment is often a factor most readily felt at the citizen level, and most easily discussed in policy debates. We anticipate that, especially in regions that have experienced negative, or even smaller positive, changes in employment, we may observe a negative perception of liberalisation developments among citizens and in the wider political and policy-making sphere.

Figure 11: Development of persons employed in % 2005 – 2013 at regional level (NUTS 2), sub-national disparities

On the sectoral level, technological change may have boosted an employment shift from the primary and secondary sectors to the tertiary sector and may have contributed to increases in purchasing power. Yet, as mentioned in Chapter 3.1,
deductions on the role of technology and trade liberalisation in terms of job creation/job destruction cannot be drawn at this level of analysis.

### 2.2.4 Market Size

Purchasing power per inhabitant follows a similar trend to employment. This indicator looks at gross domestic product (GDP) per inhabitant at current market prices by NUTS 3 regions.

**Figure 12:** GDP at Current Market Prices
All five regions with the lowest purchasing power in the EU 28 are in Bulgaria. Conversely, four out of five of the regions with the highest purchasing power are in the UK, with one in Germany.

Looking at the development trend in EU Member States between the years 2005 and 2013 demonstrates the greatest upward trends in new Member States, with Romania, Bulgaria, and Slovakia leading the group. On the other hand, France and Hungary have experienced the largest regional income disparity growth. It is important to note that these observed trends can be linked to several factors, including the effects of EU integration. Therefore, although these findings cannot, in this amplitude, be directly linked to trade liberalisation, they still may help point to the regions falling behind.

![Development of disposable income 2005 – 2013 in % sub-national disparities](source)

**Figure 13:** Development of disposable income 2005 – 2013 in % sub-national disparities

Source: Own elaboration based on Eurostat.

### 2.2.5 Migration and Population

Migration and population indicators help point to areas with a lower level of growth and employment opportunities. However, positive migration statistics may indicate regions with a greater economic dynamism, employment, and income. Regions with a rapidly decreasing population, often observed in rural regions and commonly named rural exodus, may be less able to access new markets through trade agreements because of a declining workforce. Furthermore, current outmigration may point to an already weakened economic
development foundation which may only enter a negative cycle when faced with increased pressure and competition.

Population change is considered the result of two factors, the natural population changes and net migration (including a statistical adjustment) (Eurostat, 2016). Migration can be used as an indicator of regions that are attracting populations, and those from which people are leaving. In general, migration follows the trend of outmigration from regions of poor development prospects, toward regions where development and job opportunities exist. This migration can occur between regions in one Member State, or can be the result of migration between different Member States. Moreover, regions outside the EU, in particular those with local conflicts, also exhibit a large outflow of migration. To this end, the influx within EU Member States should be considered through the lens of national policies on immigration and on refugees as well. This having been said, regional differences in migration can point to natural changes as well as exogenous factors.

Many of the regions in Germany exhibit a high net inward migration. Of the 20 regions with the highest net migration (approximately 15 per 1 000 inhabitants or more) 12 were in Germany. When looking at all regions at NUTS 3 level with an inward migration of 8 per 1 000 inhabitants or more, one can see that 217 regions fit this category, of these, 147 are in Germany and most others are in the UK, France, Austria and Sweden, meaning that the highest concentration of net inward migration was seen in these countries. However, the region of Ilfov, in Romania, actually exhibited the highest rate of net migration (at nearly 30 per 1 000 inhabitants). As is mentioned, migration data includes rural to urban migration within one Member State, as well inter-MS migration. Therefore, in the case of Ilfov, this change can be rather interpreted as a negative one, and an impact of uneven territorial development and a strong rural to urban migration within Romania (Committee of the Regions, 2016). Net emigration was observed across Southern and Eastern Europe, as well as some areas in northern Europe and the Baltics.

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5 NUTS 3 level.
Of note, lagging behind regions (notably characterised by population outflows) are not purely rural. Notably in Italy, Spain and Greece, cities and commuting zones are being depopulated rather than rural areas.

Specific public interventions are needed in regions where population losses are the most substantial. Trade increase mostly occurs within economically dynamic
regions which are attracting younger and more-educated population, thereby limiting the growth prospects of other regions. Trade liberalisation may principally target and favour already vibrant regions, hence reinforcing the vicious cycle of the negative impacts faced by low-growth and low-income regions.

2.2.6 Technological Investments

All Member States show an increasing trend in R&D investments between 2005 and 2013. Germany and Poland have the largest change in regional disparities, indicating that these Member States increasingly focused their R&D investments on a few regions, with other regions lagging behind significantly. In both cases, the low average growth in investment, compared to the very high maximum, suggests a centralisation of R&D resources in a small number of regions.

**Figure 15:**  Development of R&D expenditure, Purchasing Power Standards per capita 2005 – 2013 in %, Sub-national disparities

R&D expenditures as a share of GDP demonstrate the disparity between many of the EU Member States and important international trade partners (e.g. South Korea, Japan, United States). This indicates that many of the new Member States, and several old Member States that experienced significant effects of the
economic crisis, arguably are not on a competitive trajectory with regard to R&D (e.g. Spain, Greece, Bulgaria, Latvia, Cyprus).

Figure 16: Gross domestic expenditure on R&D by sector, 2015
(% of GDP)

The push toward providing broadband access is mostly the result of government and private sector investment in IT infrastructure. Nonetheless, the proportion of households with broadband access can be used as a proxy indicator pointing at regions that have more tools available, and thus, can take advantage of trade liberalisation\(^6\). Internet access is important for advertising services (especially touristic services), selling products and accessing new markets. Therefore, broadband access is an important indicator of a region’s capacity to take advantage of trade liberalisation and trade agreements.

The regions belonging to the western Member States of the EU – especially in Germany, Luxembourg, the Netherlands, the UK and Scandinavia – have a high share of broadband access. In many of these regions, internet access is available

\(^6\) While access to internet can also demonstrate important links to technological development, for the purpose of this study broadband was considered the more suitable indicator.
in over 90% of all households. Conversely, regions in southern and eastern Europe have comparatively lower connectivity rates, with many of these regions having less than 70% of households with broadband access. Even within countries with relatively low household broadband access, there are regions that significantly fall behind, and most of these are in Bulgaria and Romania. Of the ten regions with the lowest share of broadband access (ranging from 45% to 57%) four are in Bulgaria and Romania each, while one is in Martinique (French outermost region located in the Caribbean area) and one in Alentejo (Portugal). Figure A.5 in page IX in the annex contains a detailed map of the regional EU proportion of households with broadband connections.

2.3 Conclusions on the conditions which make regions more resilient to international competition triggered by free trade agreements

2.3.1 Summary of findings

The relationship between globalisation and trade agreements is complex, and the real effects of trade liberalisation are very difficult to untangle from those linked to EU integration, global economic changes, and geopolitical shifts, particularly when exploring this issue on a regional level.

However, on the whole, some significant trends appeared. Regions already facing structural difficulties, such as peripheral regions having a low economic dynamism, are also often confronted with a significant out-migration of the younger and more educated population, attracted by regions with more prospects. These regions often also have less investment in terms of innovation and R&D. By favouring the most viable regions, FDI and trade policies may create a self-reinforcing negative cycle, in the process, leaving out and behind more fragile economies. EU cohesion policy intends to narrow this development gap and reduce disparities between Member States. Nonetheless, some EU regions may not be fully able to grasp the potential of the investment opportunities due to the persisting effects of economic crisis and other structural issues.

Based on the main findings identified in Chapter 2, four categories have been created to reflect the negative and positive effects of trade liberalisation at the regional and local level.
Balanced territorial development, higher relative technological investments, and favourable trade and labour trends. These Member States, may, historically, have experienced more industrial growth, with evolving economies, and may be in a better position to benefit from more sustainable types of trade, and therefore, the impacts of trade liberalisation could be argued to be positively felt — at least in the present time period. Germany (chiefly the ‘western’ and ‘southern’ part of the country), for example, has a stable and positive import to export ratio (both within the EU and with non-EU trading partners), positive FDI flows, among the highest employment rate in the EU exhibiting a continual increase in employment with small regional disparity, a large purchasing power and a net inflow of migration. Austria, Sweden and Denmark (although Denmark shows a trend of negative FDI flow intensity) can also be included under this category.

Middle balanced territorial development, middle to lower relative technological investments, and favourable trade and labour trends. Indicators such as broadband access show that these territories are relatively well connected. FDI flows are also quite positive, hence revealing the attractiveness of the territory and its openness to trade liberalisation. These Member States can be argued to be overall positively affected by trade liberalisation, although the middle to low technological investments and middle to high employment rates suggest that the distributive effects of trade may not be evenly felt. Ireland is an example of this, with an employment rate of 54% in the Border Midland and Western Region. Other countries such as the UK, Luxembourg and Malta can be comprised in this category.

Less balanced territorial development, middle to lower relative technological investments, and favourable trade and labour trends. Some EU regions may be positioned to benefit from trade agreements because of lower labour costs, and/or lower tax rates, resulting in positive FDI flows. However, low employment rates and purchasing power of these regions may indicate a reduced ability to benefit from trade agreements, particularly in terms of the effects on the population. Whereas relatively lower investments in technology and R&D bring into question how long these regions will remain competitive. Eastern European Member States are good examples of this. For example, while Bulgaria has a positive FDI flow intensity, and demonstrates improvements in its trade balance; overall the country has a relative reduction in employment rate and a high regional disparity in development statistics. Only one region in Bulgaria has an employment rate above 60%, while the region of Severozapaden has an employment rate that falls below 50%. Similarly, when looking at purchasing power, Bulgaria has some of the smallest values. In these Member States, the capital regions, regions where industries are clustered, and
touristically attractive regions, often show a higher benefit, leaving other regions far behind.

Less balanced territorial development, middle to lower relative technological investments, and disadvantageous trade and labour trends. Portugal, the southern regions of Spain (Castilla-la-Mancha, Extremadura, Andalucía), Greece and the Southern regions of Italy (Puglia, Calabria, Basilicata, Campania, Molise) are characterised by a relatively lower GDP (compared to EU average). Employment rates, R&D expenditures are likewise lagging behind with regards to other European regions. Rural areas, notably in Spain, are less developed and rural exodus prevails. For other more urbanised regions, other variables related to the quality of governance, limited administrative capacity are critical features.

2.3.2 Selection of case study regions

Balanced territorial development, higher relative technological investments, and favourable trade and labour trends.

Based on the characteristics of this category, the selected case study region is Upper Bavaria (Germany).

Middle balanced territorial development, middle to lower relative technological investments, and favourable trade and labour trends.

Based on the characteristics of this category, the selected case study region is the Border Midland and Western Region (Ireland).

Less balanced territorial development, middle to lower relative technological investments, and favourable trade and labour trends.

Based on the characteristics of this category, the selected case study region is Severoiztochen (Bulgaria).

Less balanced territorial development, middle to lower relative technological investments, and disadvantageous trade and labour trends.

Based on the characteristics of this category, the selected case study region is Extremadura (Spain).

Interviews of the regions’ LRAs representative are reported in Chapter 3.
3. Enhancing transparency and democratic participation in EU trade negotiations for regions and citizens: the views of regions

Concerns of LRAs are a relevant component in the discussion of EU policy-making surrounding Free Trade Agreements, one often not systematically explored.

In the ‘new era’ of Free Trade Agreements, some aspects of trade agreements are recognised as a shared competency between the EU and Member States, whereas formerly the EU had exclusive competence over negotiation and ratification of international trade treaties (CJEU, 2017). One illustration of this is Opinion 2/15 of the Court of Justice of the EU on the Singapore FTA. The main argumentation behind the current re-think of trade agreements is embedded in the growing complexity and scope of international agreements themselves that are argued to reach beyond the boundaries of the Common Commercial Policy (CCP). For example, provisions on investment have been one important point of discussion. Whereas foreign direct investments fall under the Common Commercial Policy (according to Article 207 TFEU) and are therefore an exclusive EU competence, other forms of investment, such as portfolio investment, are argued to be a shared area of competence between the EU and Member States (Schöllmann, 2016). Similarly, with the increased inclusion of Member States in FTAs, and the increasing complexity of the agreements themselves, national frameworks according to constitutional definitions for regulating the role of regional authorities and citizens within the process of negotiation and ratification of international treaties is also called into question.

In the European system of multilevel governance, LRAs interact most closely with citizens. LRAs experience regional changes at the ground level, and often have the information required to serve as a feedback mechanism to higher levels of government. This function is reflected in various ways in national legislative frameworks. Some Member States allocate legislative powers over certain aspects of the regulatory system to authorities at the local and regional level, these would be considered more decentralised Member States. Other Member States may not specifically allocate legislative powers locally, but may still have regional or district bodies responsible for serving as the link between the central government, and its regions.

In recent years, outside of national frameworks, LRAs have increasingly become active voicing their concerns with regards to EU FTA negotiations. As mentioned in Chapter 1, protests against trade agreements occur since the 1990s
and in 2012, ACTA was rejected by the EP after protests all over Europe. In 2016, when TTIP and CETA were being negotiated, demonstrations occurred across Europe. At this time more than 2,000 cities or councils declared themselves as ‘TTIP free zones’ (The Parliament Magazine, 2016). In October 2016, representatives of LRAs met for the ‘1st Pan-European Meeting of Local Authorities and the New Generation of Free Trade Agreements’ and 58 cities signed the ‘Barcelona Declaration’ according to which TTIP, CETA and TISA were negotiated ‘in a non-transparent manner, not fulfilling European democratic and participatory standards’ (TTIP Free Zones, 2016). The second pan-European meeting took place in Grenoble, in February 2017. This initiative, mainly driven by the organisation ATTAC\(^7\), shows that many LRAs feel affected by FTAs and not involved in EU-trade policy processes. Figure A. 6, in the annex page X, shows a distribution of the ‘TTIP free zones’ in Europe.

Case study profiles outline the development trends as well as strengths and weaknesses of the case study regions. The aim is to pinpoint the critical areas of concerns for which specific policy responses may be needed. Following the profiles, a discussion based on LRA responses and expert consultations is presented covering LRA concerns and how LRAs could be involved in EU free trade policy making. Detailed recommendations are discussed in Chapter 5.

### 3.1 Case Study profiles

#### 3.1.1 Upper Bavaria

<table>
<thead>
<tr>
<th>Table 1: Upper Bavaria</th>
<th>Figure 18: Upper Bavaria in the European Regional Competitiveness Index (RCI) (Region in red, EU average in blue)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>GDP</strong></td>
<td>Regional (NUTS 2) 51 400 National level 796 060.0 (2016 Q4)</td>
</tr>
<tr>
<td><strong>GDP in % EU</strong></td>
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<tr>
<td><strong>inhabitants</strong></td>
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<tr>
<td><strong>unemployment rate 2016</strong></td>
<td>2.1%</td>
</tr>
<tr>
<td><strong>unemployment rate 2006</strong></td>
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<tr>
<td><strong>youth unemployment</strong></td>
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<td><strong>employment rate 2016</strong></td>
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<td><strong>employment rate 2006</strong></td>
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<td><strong>share of extra-EU28 trade 2016 (in total exports)</strong></td>
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</tr>
<tr>
<td><strong>share of extra-EU28 trade 2004 (in total exports)</strong></td>
<td>35.1%</td>
</tr>
</tbody>
</table>

\(^7\) Association pour la Taxation des Transactions financière et l'Aide aux Citoyens (Association for the Taxation of Financial Transactions and Aide to Citizens).
In the Federal Republic of Germany, the Free State of Bavaria is one of the 16 constituent states. Upper Bavaria is one of seven administrative districts of Bavaria, with the capital Munich being the biggest city. Upper Bavaria GDP is 178% of the EU average. As Figure 12 points out, all the Regional Competitiveness Index (RCI)’s criteria are above EU average. Upper Bavaria’s most important industries are the automotive industry (with 96,390 employees and a revenue of 55.5 billion Euro in 2015), IT, electronic engineering and chemical production. Furthermore, export rates have been constantly increasing (Bayerisches Staatsministerium für Wirtschaft und Medien, Energie und Technologie, 2016). Upper Bavaria is expecting a population growth of 10% until 2035, mostly in the district of Munich, where a growth rate of more than 12.5% is expected (Bayrisches Landesamt für Statistik, 2016).

Having a highly developed industry and a high degree of openness, Free Trade Agreements are of high relevance to Bavaria. In Germany, the federal government represents all Bundesländer in external relations, and therefore also in trade matters. Bavaria’s ruling party, the CSU is as part of the CSU/CDU alliance also in the federal government, which supported Free Trade Agreements. Consequently, the government of Bavaria has been a strong advocate of Free Trade Agreements. The government and the IHK, the Bavarian chamber of industry and trade, launched several information campaigns and funded studies. Within the discourse on trade agreements, no difference can be observed between Upper Bavaria and the other regions. However, several municipalities and districts declared themselves as ‘TTIP-free’ zones, mostly they had non-CSU majorities. In Upper Bavaria, citizens’ participation is only regarded possible through elections or referendums. Other (informal) forms of citizens’ participation are hardly taken into account and LRA are almost not involved in the discourse.

Despite long information campaigns, among civil society strong opposition remained. In general, opposition within the civil society was very strong in Germany, and many opposition parties and civil society organisation supported the point of view that trade agreements were mainly for the benefit of large corporations, undermining democracy and environmental standards. A campaign for a referendum to legally bind the government of Bavaria in the Bundestag to

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8 The Federation of Germany consists of 16 states, the Bundesländer.
9 The term Free State ’Freistaat’ derives from the 19th century word for a state not ruled by a monarch. Today 3 of the German Bundesländer are ’Free States’.
10 Upper Bavaria is classified as a NUTS 2 region. Upper Bavaria is a Bezirk (the third local layer, starting with municipalities, Gemeinden), which is responsible for social affairs, health, culture, education environment and fostering of regional values and traditions and a Regierungsbereich, which is a medium layer of the regional administration. There are 3 cities that are kreisfreie Städte, among which Munich is the biggest city with 1.4 million inhabitants, and 20 Landkreise.
vote against consent to the ratification of CETA collected 30 002 signatures\textsuperscript{11}, but the referendum the campaign aimed at was rejected by the Bavarian Ministry of the Interior, and the Bavarian constitutional court ruled that the legal conditions for conducting such a referendum were not given and therefore stopped the request for holding a referendum on the matter.

An official statement for the Upper Bavaria isn’t available, neither as part of the administration of the Free State of Bavaria nor from the highest local level. However, a representative of the city of Munich, the capital of Bavaria and the largest city, interviewed, confirmed that a region being that strong in economic terms benefits from international trade agreements. With a growth and export oriented industry, the labour market for the region and beyond is a beneficiary. (Landeshauptstadt München, 2017). However, the city of Munich remains critical and stated in position papers several demands to FTA negotiations. In particular a catalogue of demands was drafted where the city of Munich has been raising a demand for increased transparency (Art 9 and 10), and raised the demand for a positive list for public services (Landeshauptstadt München).

The interview revealed that Munich, as a local authority, is especially concerned about the effects trade agreement could have on their ability to provide public services. Another concern raised relates to the city’s autonomy or leeway in ‘correcting mistakes’, if privatized services are not performed in a satisfactory manner.

In order to voice its concerns, Munich not only published position papers but also worked in formal networks (the German Städtetag) and organisation with informal influence such as Eurocities. A demand for formal frameworks was clearly raised during those meetings by the local authorities’ representatives.

\textsuperscript{11} According to the Bavarian Ministry of Interior. The Green Party for example claims to have collected more than 50 000.
3.1.2 Border Midland and Western Region

<table>
<thead>
<tr>
<th>Table 2: Border Midland and Western Region</th>
<th>National level</th>
</tr>
</thead>
<tbody>
<tr>
<td>GDP</td>
<td>796 060.0 (2016 Q4)</td>
</tr>
<tr>
<td>GDP in % EU</td>
<td>80</td>
</tr>
<tr>
<td>inhabitants</td>
<td>1 250 094</td>
</tr>
<tr>
<td>unemployment rate 2016</td>
<td>9.2%</td>
</tr>
<tr>
<td>unemployment rate 2006</td>
<td>4.7%</td>
</tr>
<tr>
<td>youth unemployment</td>
<td>22%</td>
</tr>
<tr>
<td>employment rate 2016</td>
<td>67.9%</td>
</tr>
<tr>
<td>employment rate 2006</td>
<td>63.9%</td>
</tr>
<tr>
<td>share of extra-EU28 trade 2016 (in total exports)</td>
<td>49.1%</td>
</tr>
<tr>
<td>share of extra-EU28 trade 2004 (in total exports)</td>
<td>37.1%</td>
</tr>
</tbody>
</table>

Figure 19: Border Midland and Western Region in the European Regional Competitiveness Index (RCI) (Region in red, EU average in blue)

The Border, Midland and Western Region is one of only two NUTS 2 regions in Ireland. Due to the administrative structure of Ireland, within the border midland and western region, there are several local and regional authorities. Galway County together with Galway City, are one of the largest and most populated local authorities in this region, and were therefore selected as a specific object of investigation. Galway County consists of two administrative bodies, Galway City Council and Galway County Council.

Galway has a growing industry and investments in technology as well as a particularly high growth in FDI – something seen across all of Ireland and often at least partially attributed to the efforts of the Industrial Development Authority (IDA) Ireland. The top five industries in Galway County include wholesale and retail trade; repair of motor vehicles and motorcycles, accommodation and food services activities, human health and social work, construction, and other services. The services sector, and tourism, are particularly important to the local economy, as has been interest in business start-ups and entrepreneurship, which is most evident in the ICT and food sectors (Whitaker Institute, 2015). To this end, one would expect these sectors would require specific attention when considering the effects of FTAs.

Galway city administers activities such as waste collection, traffic control, parks, housing, regional planning, local business development and community and culture. Predominantly, the issues addressed by Galway City council are regional, and focus on local administrative issues. The Economic Development
Unit, an initiative of the community and enterprise department of city council, acts a liaison between businesses and Galway city and helps coordinate initiatives to promote Galway city as a place to invest and work (Galway Council, 2013). Galway County council is involved in many of the same activities, on a county level, and also has a Business Support Unit and Local Enterprise offices (Galway Council, 2013). However, it does not appear that Galway County or City presently actively participate in debates surrounding Free Trade Agreements. This is primarily left to Irish MEPs, such as the four constituents for Midlands-North-West. Of these, Matt Carthy called CETA a ‘battle against this dangerous deal’ (Agri Land, 2017), indicating that opinions are split when it comes to one of the more recent FTA negotiations. However, opinions on CETA are largely divided, many MEPs in Ireland, being in support of the agreement.

3.1.3 Severoiztochen

<table>
<thead>
<tr>
<th></th>
<th>Regional (NUTS 2)</th>
<th>National level</th>
</tr>
</thead>
<tbody>
<tr>
<td>GDP</td>
<td>11 200</td>
<td>13 191.4 (p) (2016Q4)</td>
</tr>
<tr>
<td>GDP in % EU</td>
<td>39</td>
<td></td>
</tr>
<tr>
<td>inhabitants</td>
<td>944 458</td>
<td></td>
</tr>
<tr>
<td>unemployment rate 2016</td>
<td>9.8%</td>
<td></td>
</tr>
<tr>
<td>unemployment rate 2006</td>
<td>11.6%</td>
<td></td>
</tr>
<tr>
<td>youth unemployment</td>
<td>16.2%</td>
<td></td>
</tr>
<tr>
<td>employment rate 2016</td>
<td>67.0%</td>
<td></td>
</tr>
<tr>
<td>employment rate 2006</td>
<td>64.5%</td>
<td></td>
</tr>
<tr>
<td>share of extra-EU28 trade</td>
<td>32.1%</td>
<td></td>
</tr>
<tr>
<td>(in total exports)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>share of extra-EU28 trade</td>
<td>37.3%</td>
<td></td>
</tr>
<tr>
<td>(in total exports)</td>
<td></td>
<td></td>
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</tbody>
</table>

Bulgaria is an industrialised country, and has a well-developed manufacturing industry (both light and heavy), and important services sector. Industry accounts for approximately 27% of national GDP, while the services sector accounts for approximately 67% (BG National Statistics, 2016).

The Northeast (Severoiztochen) region has a population of approximately 945 000 inhabitants and borders the Black Sea (Eurostat, 2016). The region is divided into four provinces, Varna Province, Silistra Province, Shumen Province and Dobrich Province. The largest city in the region is Varna, with a population of approximately 160 000 inhabitants in the city, and 500 000 in the metro area.
Severoiztochen is the second largest regional economy in Bulgaria, generating €4.56b of GDP and contributing 13% to the national GDP (NSI, 2013). The contribution to the national economy focuses on service-orientated industries, such as tourism, and manufacturing industries. The highest Research, Technological Development and Innovation (RTDI) potential of the region is concentrated in the city of Varna, which hosts five universities and two institutes of the Bulgarian Academy of Sciences. According to the Regional Innovation Scoreboard 2014, the North East region is ranked as a modest innovator with an innovation performance below EU average.\(^\text{12}\)

Bulgaria is a highly centralised country.\(^\text{13}\) On a regional level, when it comes to governance there are no provisions that ensure that the regional representatives are involved in negotiation process covering Free Trade Agreements. The connection between the regional governor and the Council of Ministers ensures political cooperation between a regional and central level, but no formal rules have been established so to ensure that regional interests are acknowledged in policy-making. Legislative authority is maintained at the national level (VarnaDistrict, 2017).

For Severoiztochen, whose economy is highly dependent on tourism, Free Trade Agreements that put Bulgaria in a favourable position for FDI are particularly important to the region (VarnaDistrict, 2017). Overall, the District of Varna has felt that, since joining the EU, FTAs that have been ratified, have favourably impacted the services sector and investments, in particular in the ICT sector. However, more research is needed, especially on the distributive effects of trade, as little data is available to holistically discuss the various effects of trade policy on the region.

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12 The regional gross value added in 2013 was €3.9b (NSI) of which 64% derived from the services sector, followed by industry with 29% and agriculture with 8% (NSI, 2013). The main industrial sectors are food, beverage and tobacco production, chemicals, textile, fibres and clothing, machine building, transport equipment and construction building. The region features high investment activity focused mainly in the Varna administrative region due to its appeal as a tourist and logistical centre on the Black Sea coast.

13 Bulgaria is a highly centralised country; hence legislation is being adopted by the National Assembly (art. 84 of the Constitution of Bulgaria). While regions, such as the NUTS 2 regions of Severoiztochen, are only responsible for implementation of the legislation. For this purpose, the Council of Ministers, that directs and implements domestic and foreign policy, appoint regional governors.
3.1.4 Extremadura

Extremadura, one of 17 autonomous communities, is located in the south west of Spain; it contains the two largest provinces in Spain: Caceres and Badajoz. The capital is the city of Mérida, with about 60 000 inhabitants. This is the seat of the government and the Parliament of Extremadura, with 65 representatives. Extremadura is Spain’s least populated region, with the lowest GDP, and the highest unemployment rate. Youth unemployment is high and population is declining. As outlined in Figure 15, the RCI shows that innovation and infrastructure are particularly low there.

In Extremadura, there are approximately 60 000 enterprises – largely SME’s and microenterprises. The main sub-sectors are services, energy, agro-business, building, ornamental stone, machinery and textiles. The leading sector in the contribution to economy is the service sector (57%), followed by construction. In recent years, Extremadura has tried to foster the development of tourism, commerce, information and communication technologies (ICT) and food sector (DG Growth).

Following an initiative from the grass-root movement and political party Podemos, Extremadura became the first region in Spain to create a committee analysing the impact of TTIP on the region (El País, 2016). According to Podemos, Extremadura was after Wallonia the second region opposing CETA and claims being ‘TTIP-free’ (Podemos, 2016). This is consistent with André Sapir (from Bruegel think tank)’s remark that opposition to FTA was more likely to occur in regions with unfavourable economic situations. Indeed, competition in key regional sectors may increase and lead to job losses if the
sector is not yet prepared for or able to adapt to such transformations (Sapir, 2017). In Spain, opposition against FTAs awoke later and slower than in Germany, Austria and France. In Spain, opposition and support of the FTAs also follow political parties’ ideologies: whereas Podemos is leading the opposition of environmentalists, farmers and anti-globalization activists, the conservative People’s Party and its allies are advocating for the trade agreements (El País, 2016).

A study (Sieps, 2015) published on the expected impacts of the TTIP on the Spanish regions, notably, in Extremadura, reveals that prospects for the region’s prosperity are not too good. The effects of TTIP agreement are said to be small, but positive. However, they will not be distributed equally and FTAs are likely to increase disparity between regions.

In Spain, the national government’s information policy vis-à-vis the LRAs is reported to be inadequate and insufficient. Information is obtained mostly through informal channels, via Extremadura’s office in Brussels and MEPs. A clear need for formal channels and mechanisms is voiced (Extremadura, 2017). While the authority sees many positives sides in better citizens’ participation, they think it isn’t possible for them in the current situation, as they themselves are hardly involved. According to the government of Extremadura, the specificities and common interests of the regions remain outside the main objectives and the broad lines reflected in the FTAs (Extremadura, 2017).

### 3.2 LRAs perspective in EU trade policy-making

On the whole, interview findings show that interviewed LRAs do not appear to be formally involved in the process of negotiating and ratifying FTAs. The only exception being Belgium, discussed in greater detail in Chapter 4. Having this in mind, the subsequent chapters elaborate on LRA’s concerns and on the roles they could play within the EU trade policy decision-making process.

#### 3.2.1 Relevant considerations and LRA’s main concerns

LRAs experience the effects of trade agreements on the ground level and often have to cope with their long-term repercussions. Although trade agreements have varied impacts and cannot be seen in a wholly positive or negative light – even when looking at one region – global market integration can result in higher exposure to economic shocks at the regional level (Huguenot-Noël, 2017).

Being responsible for local issues, key LRA concerns are linked to the practical impacts of opening markets on regional labour markets, business creation and
entrepreneurship, local planning and infrastructure, as well as certain indirect effects more difficult to quantify such as the ability of a region to ensure high environmental protection standards and quality of life. The impacts of FTAs, notably with regards to an increased competition, on regional SMEs and associations are particularly dreaded. Concerns ultimately relate to a fear of a downwards harmonisation of social, environmental and consumer protection rules and standards with partners having less stringent requirements to comply with.

Since LRAs operate on a local level with a finite population, they are more sensitive to the minute effects of trade liberalisation. Even if a given trade agreement represents an overall net positive effect on the EU level, there may still be significant regional losers, and this can be most closely observed from the perspective of LRAs.

Some regions benefit from trade liberalisation more while others might lag behind, which makes the discussion of FTAs across the EU so complex. Regions with a strong services and technology sector often benefit from market access abroad; similarly a flourishing digital sector presents significant opportunities through market expansion. Furthermore, areas with investments in technology with the aim of competing in newly opening markets, and products with regional branding, those that belong to Protected Geographical Indications (PGI), can be in a better position to compete. On the other hand, some regional industries may experience negative impacts through being exposed to external competition. This is especially relevant for regions with a strong emphasis on high volume primary production (e.g. either agricultural produce (e.g. corn) or industrial products such as steel), which are seen as ‘like products’ under the WTO and are thus specifically prone to price competition.

One LRA stated that, on the whole, the main objectives and the broad lines reflected in many EU trade policy agreements are dis-aligned with the specificities and common interests of the regions. This LRA further highlighted that only a small list of agri-food products with geographic indications are given PGI status in agreements, and that regions relying heavily on industrial production have concerns with FTAs. In their view, 98% of the products in their region are left unprotected, or subject to a complex, insecure and unpredictable procedures that must be undertaken in order to allow them to benefit from protection mechanisms in place. LRAs feel that some industries belonging to EU regions will be negatively affected if competing with products produced under significantly lower environmental, safety, social, and labour standards. Literature review and interview results suggest that this is likewise a main concern according to EU citizens.
Resources, capacities, and mechanisms for involvement are seen to play a large role in the ability of LRAs to be involved in the negotiation process of FTAs. LRAs mention that greater capacities and systems of organisation are required internally to enable the assessments of trade agreement impacts on regional economies. Furthermore, it is highlighted that establishing an exclusive period of information transfer between the EU, National Authorities, and LRAs, with a systematic process of direct consultation with regional authorities at the early stage of negotiations is required. It is mentioned that this could have the additional effect of increasing citizen participation. Currently, as discovered through the interview process, LRAs often lack the mechanisms through which to voice the concerns of citizens because they themselves are on the peripheries of the negotiation process. Most LRAs highlight that this inclusion should be addressed at the national level, since national legislation governs the degree of involvement in international treaties. This finding also mirrored through expert interviews. However, most stated that this process is currently lacking, or underdeveloped.

If LRAs are to be involved more directly in trade agreements, most interviewees suggest that timing is essential. Timing and transparency of information are key concerns felt to affect the ability of LRAs to participate, and to propose mediations or modifications, in aspects of EU trade policies. The communication channels between the EU, MEPs, and the regions, with regard to trade agreements, are reported to be insufficient or underdeveloped. This finding is echoed through expert interviews. Although mechanisms exist at the EU level for transferring information to Member States, according to experts, national authorities often lag behind in sharing this information with LRAs. Similarly, channelling the concerns of LRAs through national mechanisms towards the European Council, as it would be foreseen according to the treaties, seems insufficient. LRAs are concerned that little information is transparently disseminated to them, and that information is scarce, partial or available until the very advanced stages of the negotiation process. Furthermore, they are concerned that when they have suggestions for modifications of international agreements, the relevant national structures do not support the upwards dissemination of this information. Some of the LRA respondents reported that they were very interested in increasing their involvement in FTAs, and that presently they are only slightly involved through non official or informal channels or through communication with the Brussels office directly.

Concerns raised by LRAs also relate to the legal implications of FTAs, which may directly influence their autonomy on the local level. The aspect most frequently raised relates to the Investor-State Dispute Settlement (IDSD), which is perceived to allow private companies to challenge local governments’ decisions, if they were found to unfairly affect their prospective returns. Since
public procurement is an important role of local and regional authorities, this is an issue of particular concern. LRAs cite health and safety standards and labour laws, as equally important. Experts interviewed reported that this was a fine line, since trade agreements are guided by the Common Commercial Policy, in principle they are not negotiated in ways that encroach on the agreements under the CCP. However, as we have seen – and will be discussed in greater detail in the following section – the ‘new era’ of trade agreements do appear to touch on areas that extend beyond the CCP, and therefore require ratification by the EU and Member States.

In summary, the main LRA concerns can be grouped into three areas. Firstly, the LRAs that would like greater involvement in FTA negotiation and ratification are concerned with the timing and transparency of information, and consider as a crucial factor having adequate communication channels in place to voice their recommendations and feedback. Secondly, many LRAs reported lacking the resources (technical capacity and financial) to perform impact assessments, and to promote economic development in light of upcoming agreements. Thirdly, LRAs are concerned with losing autonomy, in particular with recent Free Trade Agreements. The issue of autonomy is related to retaining PGI status of local artisanal goods, public procurement especially linked to Investor-State Dispute Settlements, and to managing the adherence to environmental, food safety and quality, and labour standards.

3.2.2 What role can LRAs play and how can communication channels be improved?

Local and regional authorities have the potential to play the role of identifying local challenges and competitive advantages, preparing regional economies to benefit from trade agreements, supporting businesses and enterprise development, ensuring high environmental and quality standards of incoming companies and industries, and in expressing the needs and desires of the region and its citizens.

Interviewees have suggested that several features are required for this to be achieved. Firstly, open channels of communication with national authorities, and with the EU level are required. Secondly, many local and regional authorities report a lack of technical capacity to complete the analyses required to plan regional economic development in light of trade agreements. Studies of this type can be costly, and require a high degree of skillset and data in order to be completed, this is reported as a missing link at the LRA level. Thirdly, since LRAs are involved in many activities, finding funding and allocating time is sometimes also cited as relevant. For example, it can be time consuming, and depending on resources also expensive, to plan public debates, workshops, or
job fairs. Similarly, it requires manpower to keep up to date on FTA discussions, to disseminate this information within the LRA, and to prepare well thought-out arguments and feedback. Even informing the public and local industries on how to take advantage of new agreements requires coordination and time. Therefore, it cannot be ignored that, in particular, Member States and LRAs with weaker economies at the onset, may be in a more vulnerable position and unable to participate in the FTA debate, or even benefit from or compete within, the resulting open markets.

LRAs are locally based and can play an important role in informing citizens. In the current framework, citizens are sometimes left with the impression that their voice is not heard or cannot effectuate change. This correspondingly may lead to an increased scepticism toward EU trade policy. The provision of transparent and timely information has the potential to avoid misinformation that can lead to distrust of FTAs. Furthermore, having public consultation opportunities on specific topical areas could be a good basis for fostering public debates in a more open and informed manner.

Experts interviewed (from Bruegel, the European Policy Centre and DG Trade) highlighted this issue as well. According to André Sapir (Bruegel), given the high standards of transparency the European Commission is subject to, the information on FTAs is already available for the public (Sapir, 2017). The European Commission has been encouraging commissioners to bring the issue to national assemblies at an earlier phase in the FTA process, in order to enable greater debate and participation at the national and regional level (DG Trade, 2017). Furthermore, public and industry stakeholders and trade unions are invited to contribute to the negotiation discussion surrounding FTAs at a very early stage through consultation processes (DG Trade, 2017). It seems however, that the sheer availability of information is not enough for a transparent and participative process. Greater coordination is required at all levels of the administrative process, with particular attention at mechanisms at the national and local level. Ensuring the timely and updated availability of information is conclusively as important as ensuring access to this information.

Interestingly, in Canada, the federal government plays an active role in encouraging citizen participation in the very early stages of FTA negotiations. For example, in the preliminary phase of negotiating FTAs, public consultation is organized where all parties are eligible to provide their comments or ask a question (Gov Canada, 2017). For each FTA for which the consultation is organized, background of the FTA and useful links are made public and also basic information on the FTAs characteristic. Usually in the consultation process a specific topic is raised regarding the continuation of the negotiations. Although this is an excellent example of direct public participation in FTAs, public
consultation is not legally binding, and through no formal legislation is the government required to incorporate aspects of public opinion.

Apart from acting as an information relay and as a public discussion facilitator, the role of LRAs as planning bodies and regional representatives is crucial.

LRAs can certainly be further integrated, ‘upstream’, as an integral part of the multi-level governance system. Nonetheless, if LRAs request to be informed and involved, it is upon coordination between them and their respective national government to establish a system that meets their demands (Sapir, 2017). For Local Authorities, there is often a lack for formal mechanism for a dialogue on the Member State level when it comes to international politics, including trade, and resultantly even more so on the EU level. On the other hand, it is not self-evident that this involvement would make it more transparent from a citizens’ point of view, as this would also mean that another layer (with interests of their own) would be added to the decision-making procedures (Capello, 2017). Along those lines, trade-offs between efficiency of the decision-making processes and democratic principles such as transparency and legitimacy are an important component of discourse. A participatory culture, at all levels, indeed requires time, systematic processes, and an inclusive representation of all actors.

This having been said, a first step could be to bring the discussion to national assemblies prior to the adoption in the Council of the document commonly referred to as the ‘negotiating mandate’. This could be considered a means of increasing information transfer and participation at the LRA level (Huguenot-Noël, 2017). Another option is to strengthen the role of the Committee of the Regions (CoR) in the FTA negotiation process. It may play the voice and advocate of the LRAs in a more direct way than national representatives may (e.g. within the Council). However this implies a stronger mandate for the CoR in legal terms in order to make this representation binding.

The following figure presents a schematic overview on the FTA negotiations procedures in case of mixed agreement. The green colour represents suggestions on additional steps where LRAs’ voice could be taken into consideration.
Figure 22: Trade negotiations procedure and potential involvement of LRAs

Source: Derived from DG Trade, 2013
4. Mapping the ratification procedures of mixed agreements and the relevance of Opinion 2/15 of the Court on the Singapore FTA for local and regional authorities

Chapter 4 presents a mapping of the ratification procedures of mixed agreements in Member States having regions with legislative powers, as well as in two relevant EU trade partners, Canada and Australia. The basis of this mapping will be applied to discuss the relevance of Opinion 2/15 of the Court of Justice of the EU (Full Court) on the Singapore FTA for local and regional authorities, and its implication on future trade agreements.

There are eight Member States with legislative powers at the sub-national level. These include Austria, Belgium, Finland, Germany, Italy, Portugal, Spain, and the UK. The governmental structure and distribution of competences between national and sub-national authorities differ greatly across these Member States (see annex 6.5 for a list of regional competences per MS), which results in different implications of international agreements to LRAs.

Belgium is the only Member State with formal regional competences in the ratification procedure of mixed agreements. All other Member States do not have regional bodies that formally participate in the ratification procedure; hence their regions are not formally involved in the process of ratification. This having been said, since the eight aforementioned Member States have sub-national legislative powers in other areas covered by FTAs, they may serve as relevant case study examples, particularly for discussing the relevance of Opinion 2/15 of the Court on the Singapore FTA for local and regional authorities.

Importantly, irrespective of legislative powers at the sub-national level, 13 Member States have the possibility to call a referendum to determine whether a mixed agreement will be ratified. While referendums of this type are rare, they are worth discussing as they are a potential mechanism through which civil society can vote on a trade agreement ratification process. The conditions under which a referendum might be called, and the body authorised to do so, varies. The Member States with the possibility of referendum, are Austria, Bulgaria, Croatia, Denmark, France, Greece, Ireland, Lithuania, the Netherlands, Poland, Romania, Slovakia, the UK.

14 As per the scope of this study, the UK will not be included in the case study analysis.
In the case of Canada and Australia, ratification procedures are also primarily completed at the central level. While Australia has undergone a series of reforms in an attempt to include parliament more directly in trade agreements, Canada has incorporated public participation through electronic open calls for comments.

Chapter 4.1 outlines the ratification procedures only, for further information on the governmental structure and distribution of competences between national and sub-national authorities please see annex 6.5 on page XVII.

4.1 Ratification procedures: EU cases

4.1.1 Austria

Ratification procedure

Austria is a federal state composed of 9 Federal Provinces (‘Bundesländer’) with a bicameral Parliament. The National Council ‘Nationalrat’ is the lower house (directly elected at least every 5 years), and the Federal Council ‘Bundesrat’ is the upper house (not directly elected).

The division of powers between the federal government, the Länder, and the municipalities is outlined in several articles of the Austrian Constitution. Articles 10-12 describe the competencies of the federal government, among these includes Article 10 (1) 2.: ‘foreign affairs including political and economic representation with regard to other countries, in particular the conclusion of state treaties, notwithstanding province-competence in accordance with Art. 16 para 1; demarcation of frontiers; trade in goods and livestock with other countries; customs’. Principally, article 15 outlines areas of competence of the Länder ‘in so far as a matter is not expressly assigned by the Federal Constitution to the Federation for legislation or also execution’ (Constitution of Austria). While articles 115-120 demarcate the responsibilities and structure of municipalities and their administration. Therefore, as per the constitution, the formal responsibility of the ratification process is allocated to the federal government.

The National Council and Federal Council are both involved in the process of ratification of mixed agreements, according to Article 50 of the Austrian Constitution. The National Council votes on the approval of an international treaty, with up to three readings. On the other hand, the Federal Council may object to an international treaty.
In principle, referendum is not an option for international treaties according to the constitution; however, the National Council can hold a referendum on a particular option of federal law, including one that authorises ratification of an international treaty (Constitution of Austria).

4.1.2 Belgium

Ratification procedure

Belgium is a federal state composed of three regions, namely, the Flemish Region (Vlaanderen), the Walloon Region (Région Wallone), The Brussels Capital Region (Région Bruxelles Capital – Brussel Hoofdstedelijk Gewest).

In Belgium, when an agreement has to be concluded as a mixed agreement, this automatically involves the approval of regional and community parliaments. The following describes the main steps of the procedures:

- **Information and legal status of the agreement**

  First, an inter-ministries conference shall be organised to decide whether the agreement is mixed according to the Belgium laws. If a community or region deems the mixed qualification appropriate, it shall signify its position during the conference and request the Federal States to act accordingly. When a region or community does not foresee the need to participate to the negotiation, it shall notify the committee within a delay of 30 days following the reception of information. The Ministry of foreign affairs is in charge of reporting back to the EC and European Council the decision of each region and community. A region or community having decided not to contribute to these negotiations keeps the right to sign the final text of the agreement but loses its right to amend it. A working group chaired by the Ministry of foreign affairs and composed of representatives from the regions, communities and from the Federal States is then created. Within a period of 60 days, the working group shall statute on the qualification of the agreement and make a proposal regarding the composition of the delegation taking part in the negotiations.

- **Negotiations, signature and consent**

  During the negotiations, the various representatives have the equal powers. If the discussions are taking place in another country, the ambassador can be assigned a negotiating role. A letter of credentials is deposited when all parties involved in the negotiations have formally agreed on the terms of the agreement. The initialling of each page of the agreement by all parties is mandatory.

  Once the agreement is qualified as ‘mixed’, and accordingly the competences as well as federated entities involved, the chair (Ministry of Foreign Affairs) transmit the text to the community and regional authorities concerned.
4.1.3 Finland

**Ratification procedure**

Finland is a Republic with a parliamentary democracy, and specifically a unicameral Parliament (*Eduskunta*) with 200 representatives elected on four-year terms (European Committee of the Regions).

The Finish Constitution in Sections 93 (1) (1) and 94 details that the Finnish Parliament must approve an international agreement before ratification is possible.

Regional bodies do not formally participate in the ratification procedure.

The process of approval contains two steps, and a possible third if approval of the president is not given. First, the matter is prepared by an appointed committee and read to the Parliament. After the first reading, the text may be discussed and altered as necessary until a final format of the legislation is prepared, at this time the document is not voted on. During the second reading, once the final format is presented, the Parliament must vote with a majority to accept or reject the draft legislation. If accepted, the draft legislation is presented to the president who is given three months to decide on confirmation. If the president chooses not to bring the legislation into force, it is taken back to the parliament in the same format and given to another vote. If it is again voted in by majority, it is then put into force regardless of the decision of the president (Eschbach, 2015). Once entered into force, the two-tiered system is required to implement the agreement into national law (Kulovesi, 2001).

While a referendum on the ratification of mixed agreements is possible, it is not considered binding.

4.1.4 Germany

**Ratification procedure**

Germany is a federal republic with a bicameral Parliament comprised of the Federal Council (Bundesrat) and the Federal Parliament (Bundestag).

According to Art. 59 (2) of German Basic Law, the Federal government negotiates international agreements. Therefore, in Germany, mixed-agreements generally fall under the responsibility of the Federal government. Furthermore, customs and goods movement is governed by law, and according to the constitution, the Federal Council and the Parliament are expected to prepare an ‘act of assent’ in order to ratify a mixed agreement (Federal Constitutional
Court, Germany) (Eschbach, 2015). In this process, the Federal Council can object to a mixed-agreement however they are not required to provide consent in the process, while the Federal Parliament is primarily responsible for the formal negotiation and ratification process. Generally, after negotiation, the Federal Parliament prepares a draft of the agreement which is sent to the Federal Council for comments. The commented version is returned to the Federal Parliament for ratification which is completed through a two-reading process. After the first reading, the agreement is delivered to the relevant committees, then returned to the Federal Parliament for a final vote (Eschbach, 2015).

Regional and local bodies do not formally participate in the ratification process. Furthermore, there is no possibility of a referendum.

4.1.5 Italy

Ratification procedure

Italy is a bicameral parliamentary Republic. The Parliament is composed of the Senate (Senato della Repubblica) and the Chamber of Deputies (Camera dei deputati).

According to the constitution, Article 80, approval is required for all international agreements that are political, have arbitration, pertain to administrative justice, result in territorial changes, amendments in law or pose potential financial burdens. Mixed-agreements fall within these legal boundaries. Therefore, in accordance with Article 72 of the constitution, the Senate and the Chamber of Deputies are required to ratify mixed-agreements. Both must approve the same text, if amendments are made, new versions are delivered to both chambers for approval (Eschbach, 2015). The final agreement is approved by the President.

Regional bodies, or local authorities, do not formally participate in the ratification procedure and there is no possibility of referendum with ratification procedures of mixed-agreements (DG Presidency, 2016).

4.1.6 Portugal

Ratification procedure

Portugal is a republic state and a unicameral parliamentary democracy. The Portuguese Parliament must approve agreements that affect domestic legislative competencies or issues of foreign policy, defence and membership of international organizations. Autonomous regions may participate in this process.
through their assemblies. This is a procedure where the agreement in question touches on regional matters by means of the provision of an opinion to the Assembly of the Republic.

If it is assumed that the parliament has the legislative competency, it must give its approval in form of a simple law. For this purpose, the draft law is published in the Official Gazette of the Parliament, after it is introduced in Parliament, and its content is assessed by committees. The Assembly of the Republic shall have such committees as may be provided for by the Rules of Procedure, and may form ad hoc committees of inquiry or for any other given purpose (Art. 178). Thereafter, there is a debate about general aspects and specific aspects before a vote is taken about the draft on the whole, the individual points, and the final vote is taken. The President must examine the adopted law for legitimacy.

The Portuguese Constitution, according to Art. 115, allows for a referendum if it is expressly defined in the Constitution or another law and it is a matter of substantial national interest.

4.1.7 Spain

Ratification procedure

Spain parliamentary Monarchy is a bicameral structure comprising two houses – the Congress of the Deputies and the Senate

The Spanish constitution comprises common provisions for the Parliament, and specific provisions for each of the houses. The Spanish constitution contains provisions that regulate circumstances when the approval of the Parliament is required for the conclusion of international trade agreements. Art. 94 of the constitution a.) (agreements of political nature) or lit. e.) (agreements that require the amendment or repeal of a law or require legislative measures for their implementation), are relevant for the ratification process.

Mixed agreements generally fall under this category, and require the approval from both houses of the Parliament. Firstly, the chamber of deputies votes on the

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15 Article 94
1. Before contracting obligations by means of treaties or agreements, the State shall require the prior authorisation of the Cortes Generales in the following cases:
   a) treaties of a political nature;
   b) treaties or agreements of a military nature;
   c) treaties or agreements affecting the territorial integrity of the State or the fundamental rights and duties established under Title I;
   d) treaties or agreements which imply financial liabilities for the Public Treasury;
   e) treaties or agreements which involve amendment or repeal of some law or require legislative measures for their execution.
The Senate can agree, or veto, within two months of this vote. Vetoes can only be considered with absolute majority. Similarly, the chamber of deputies can then overrule the Senate veto, however, again only with an absolute majority. Referendum on the issue of mixed-agreements is not possible.

Regional and local bodies do not formally participate in the process of ratification.

4.2 Ratification procedures: Partner Countries

4.2.1 Canada

Ratification procedure

The ratification procedure of FTAs is completed through the House of Commons passing the implementation of the agreement, and the senate approving the agreement. Interestingly, in the preliminary phase of negotiating FTAs, public consultation is organized where all parties are eligible to provide their comments or ask a question (Gov Canada, 2017). Usually in the consultation process a specific topic is raised regarding the continuation of the negotiations.

4.2.2 Australia

Ratification procedure

The power to enter treaties, as per the constitution section 61, is an executive power allocated to the executive government. The power to implement treaties is allocated under section 51(xxix) as a legislative power. Currently, in Australia, the decisions surrounding the negotiation process and the ratification process of FTAs are the responsibility of the executive branch of the government. On the other hand, all relevant FTA implementing legislation is the responsibility of the parliament. Therefore, the main role of the parliament is the implementation of FTAs, rather than negotiation or development (Commonwealth of Australia, 2015).

4.3 Summary Ratification Procedures

As it can be seen from the ratification procedures outlined above, it is national legislation that defines how Member States proceed internally with regard to Free Trade Agreements. In most cases, the approval of the parliamentary system
is involved; however, the mechanism through which parliamentary approval is undertaken varies. Across the EU, all of the unicameral parliaments, and the lower chambers of the bicameral parliaments are involved. In Member States with regional parliaments, only Belgium is involved formally.

Table 5: The role of Regional Parliaments

<table>
<thead>
<tr>
<th>Regional Parliament Approval Required if Legislatively Relevant</th>
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<td>BE</td>
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| Regional Parliament Approval Not Required                     |
| AT, DE, ES, IT, PT, UK                                       |

| No Regional Parliaments                                      |
| BG, CZ, DK, EE, IE, EL, FR, HR, CY, LV, LT, LU, HU, MT, NL, PL, RO, SI, SK, FI, SE |

Source: adapted from EP. 2016. Briefing Ratification of international agreements by EU Member States.

In addition, several Member States have the legislative power to call a referendum on mixed agreements, including Austria, Bulgaria, Croatia, Denmark, France, Greece, Ireland, Lithuania, the Netherlands, Poland, Romania, Slovakia, the UK.

Annex 6.5 outlines, in detail, the individual government structures and regional competencies in each of the Member States explored. When analysing these competencies it becomes evident that while it cannot be said that the ratification process of Free Trade Agreements directly impacts a region’s ability to proceed with its legislative competencies, it could to a degree limit the autonomy of regions to govern over certain aspects. Public procurement is often discussed in this regard, as can be environmental and sustainability factors. As will be discussed in the following chapter, such legislative competencies can be quite relevant, particularly in the context of mixed-agreements – i.e. those not under the sole exclusive competency of the EU.

4.4 Opinion 2/15 of the Full Court on the Singapore FTA

The study analyses the relevance of the 2/15 Opinion of the Court of Justice of the European Union (CJEU) on the Singapore FTA on local and regional authorities.

The Singapore agreement is considered one of the first of the ‘new generation’ trade agreements that include, apart from traditional provisions related to tariffs and customs, the inclusion of several broader aspects of trade such as
intellectual property protection, investment, public procurement, competition and sustainable development (CJEU, 2017).

The Opinion 2/15 of the Court, requested by the Commission, presents a detailed document analysis of the relevant EU and Member State level legislation (mainly focusing on EU Treaties) in order to determine the legal allocation of competencies over the Singapore Free Trade Agreement, in particular, between the EU and Member States. Opinion 2/15 of the Court follows largely 2/15 Opinion of Advocate General Sharpston approximately 6 months prior.

The main findings identify the Singapore FTA as a mixed-agreement, with certain areas of exclusive competency lying with the EU, and some areas being allocated shared competency between the EU and Member States.

While this is a very relevant issue for MS, and their national governments, local and regional authorities are only affected by the findings insofar as national legislation formally includes regional and local authorities in the ratification process of Free Trade Agreements. In principle, however, in all Member States apart from Belgium, the responsibility over foreign treaties is concentrated at the central level. In these cases, although the government may be organised in a manner that maintains regional representation through a parliamentary system, or ensures public representation though universal voting, LRAs and the public may have little formal opportunity to participate in FTA negotiation and ratification. As elaborated in Chapter 4, Belgium is the only Member State where LRAs formally participate in the process of ratifying and negotiating FTAs. In Belgium, regional Parliaments can veto aspects of the agreement, as seen with the case of Wallonia trade deals.

Importantly, although competency over foreign treaties is concentrated at the national level in most Member States, the increasing complexity and diversity of Free Trade Agreements calls into question whether national legislation at each EU Member State level should be redressed, much like the EU treaty was explored by the CJEU in Opinion 2/15.

Specifically, Opinion 2/15 of the Court reviews the 17 chapters of the EU-Singapore FTA and provides comments related to exclusive or mixed-
competencies for each specific chapter, subchapter, or legislatively relevant area. The opinion states that aspects of the Singapore agreement fall within the shared competency with EU Member States, and therefore, cannot be concluded by the EU alone. The provisions of shared competency include (paragraph 305 opinion 2/15 of the Full Court):

- the provisions of Section A (Investment Protection) of Chapter 9 (Investment) in so far as they relate to non-direct investment;

- the provisions of Section B (Investor-State Dispute Settlement) of Chapter 9;

- the provisions of Chapters 1 (Objectives and General Definitions), 14 (Transparency), 15 (Dispute Settlement between the Parties), 16 (Mediation Mechanism) and 17 (Institutional, General and Final Provisions) in so far as those provisions relate to the provisions of Chapter 9 and to the extent that the latter fall within a competence shared between the EU and the Member States. (CJEU Full Court, 2017).

This brings to light an increasingly complicated discourse surrounding FTAs which not only formally recognises areas of shared competency between the EU and Member States, but also intrinsically unearths the relevance of national legislation in understanding the degree of democracy and transparency of FTA negotiation and ratification processes. Although EU and Member State competency over ratifying certain aspects of Free Trade Agreements is shared in this ‘new era’ of FTAs – as expressed through mixed agreements – Member State legislation that regulates the inclusion of regional authorities in international relations indicates that only in Belgium do regions formally participate in this process. As trade agreements become more elaborate and inclusive, it can be asserted that there is a greater need for more detailed conversation regarding the potential overlaps with trade agreements, national competencies, and local and regional competencies and roles.
5. Policy conclusions and recommendations

Concrete policy conclusions and recommendations covering measure on how different governance levels (from a focus on the LRAs to the national and EU levels) can contribute is explored in Chapter 5. The conclusions and recommendations are developed through the triangulation of desk research, statistical analysis, and interviews (Figure 23).

Figure 23: Triangulation

In recent years, the ‘new era’ of trade agreements has brought to light several considerations important to the discussion of the distribution of competencies in trade agreements. In mixed agreements the power over ratification is shared between the EU and Member States. If Member States do not agree with aspects of the trade agreement, refusal to ratify can initiate lengthy re-negotiation processes and raise the question of partially implemented agreements. These concerns can originate from the national level, as well as formally or informally (depending on national legislative frameworks) from the regional level. Therefore, as trade agreement negotiation and ratification process evolves, so does the potential new role of LRAs and citizens in these processes.
Timing is highlighted as a fundamental concern in the context of EU negotiations on trade agreements. Starting at the EU level, early consultation and a continuous bi-direction flow of information is recommended. National governments are likewise recommended to facilitate timely and transparent information flow with local and regional authorities. Thereby, with all nodes in the communication chain working toward a common goal, in a synchronised manner, national and regional concerns have the potential to be voiced at an early stage of the FTA negotiation process where the agreements can more easily be amended, rather than instigating deadlocks at the end stages during ratification. Early involvement has the potential to mitigate the imbalances between regions, with regard to FTAs, and can encourage the planning of corresponding supportive and corrective measures where potentially necessary.

Other trade partners, such as Canada, are presented as examples of good practice in this regard – bringing the discussion on the CETA FTA to the public and LRA domain at the very beginning of the negotiation process. Indeed, in Canada, citizens are invited to provide feedback on CETA negotiations via open online platforms, administered by the national government.

In the EU, often in elections on the national level, and much less on the local or regional level, trade issues are not greatly relevant in the political arena (Sapir, 2017). This may result in many regions not actively engaging in trade negotiations, even in the context of transparent and available platforms, as other more visible issues may seem more pressing on the local level. To this end, however, other expert interviews suggested that regional authorities should be involved through national structures much earlier on during the trade agreement negotiation process, as the latent burdens are strongly felt at this level. Given the study findings, it appears that this trend is true on a regional level, some regions are very involved in trade discussions and increase citizen participation by disseminating information, while other regions appear to not be as actively involved. Currently, a formal framework in which regions can voice their concerns is missing, and a desire of more formal participation was raised during our interviews. This is something that requires coordination at all levels of government, national, regional, and EU to be meaningfully put into effect.

Not all participation must be direct involvement in decision-making. Across the EU, there are vast legislative differences in the formal mechanisms governing trade agreement negotiation and ratification processes, as well as those governing regional competencies and legislative powers. Respondents (i.e in Extremadura and Bavaria) requested formal participation mechanisms, which could be expected given that in these Member States LRAs retain legislative authority over certain issues (see Chapter 4). However, even in view of these differences, Member States, through national discourse, can also create new and
creative informal mechanisms for enabling participation. Collective bargaining and regional partnerships can create critical mass for addressing horizontal issues and circumventing national legislation. The Assembly of European Regions, is one example of an independent organisation working in interregional cooperation.

**An open discussion is required** at all stages of FTA negotiation and ratification. Having clear mandates to communicate the main objectives of trade agreements, at a very early stage, through all government levels (including EU, national, regional and civil), discussions surrounding trade have the potential to evolve through continued discourse and hence become less susceptible to certain ‘geo-political’ arguments. As outlined in Chapter 3, the immense variety of stakeholders involved and numerous impacts makes trade an especially sensitive matter. This complexity and the reputation of secrecy with the EU’s negotiation process, allows the public discussion to be influenced by xenophobic arguments under a geo-politic mask, through which negative impacts such as increased competition on the labour market or lower standards are highlighted and perceived as danger, without corresponding benefits being as readily voiced. On the other hand, communication from the EC and national governments tend to emphasize only the positive aspects, which sometimes can lead to the impression to being subject of propaganda. An open and informed discussion on the possible positive and negative impacts of any FTA, already from an early stage of negotiations, could decrease possible distortion. Down the line, this open discussion can also identify areas for targeted EU funding to regions or industries most in need. Overall, the importance of early planning cannot be overemphasized.

**The distributive effects of trade agreements** warrant greater discussion. Understanding the distributational impacts of trade, rather than focusing on a narrow set of employment and economic statistics is important for planning ahead. Understanding, in a more holistic manner, the global dynamics of Free Trade, and potential long-term impacts can result in more adaptable regions. Free Trade Agreements often act as catalysts, accelerating the process of transferring the impacts of global economic trends on the regional level. Regions deal with the long-term impacts of trade agreements on a local level, and bear the administrative burden of adjusting to these changes, rebalancing, and absorbing the impacts. Better planning, and strategic implementation of EU corrective funding, could help regions be more efficient and could distribute some of the burden from the impact phase to the planning phase.

**Resource allocation** is additionally mentioned as a crucial issue to explain why some regions adapt and succeed while others fall behind. Member States, and regions, have a significant difference in the resources available to them to plan,
invest in infrastructure, and run daily activities. While, on the whole, trade agreements are seen as a means of creating new markets for EU’s sectors, some regions may not be well positioned to anticipate, plan, and invest in industries that will be competitive now and in the future. In order to participate meaningfully in the trade agreement discussions, LRAs require the technical capacity and resources to evaluate impacts and plan regional development. It is recommended that attention is paid to local capacities, in particular in traditionally centralised Member States, if LRAs are to be included meaningfully in trade agreement negotiations.

Overall, with the Opinion 2/15 of the CJEU on the Singapore agreement, changes in the CCP are likely, as ISDS are no longer regarded as a matter of exclusive EU competence. This has the potential to increase the responsibility at the Member State level and may initiate more discussion regarding national distribution of competencies, in particular within Member States that currently have regional legislative authorities. In general it is evident, that comprehensive trade agreements affect societies in a more encompassing manner as traditional agreements, focusing mainly on the reduction of tariffs, did. This leads to new challenges, which need to be tackled in a democratic and inclusive way.
6. Annex

6.1 Power Point Presentation

The democratic dimension of EU negotiations on trade agreements: the role and responsibilities of citizens and LRAs

Study presentation
August 2017

Aim of the study

- Exploring the impacts of EU international trade agreements at the regional and local level.
- Identifying and analysing the concerns of Local and Regional Authorities with regard to the policy-making process of EU trade agreements.
- Mapping the trade agreement ratification procedures in relevant Member States to understand how national legislation affects the policy-making process of EU trade agreements.
- Formulating policy conclusions and recommendations aimed at informing the discussion on how to improve the policy-making process of EU trade agreements.
Impact of globalisation on regions

- Globalisation, and subsequently trade agreements, affect EU regions to differing degrees, and through various mechanisms.
- Four categories were created aimed at capturing the potential negative and positive effects of trade liberalisation at the regional and local level.
  - Balanced territorial development, higher relative technological investments, and favourable trade and labour trends.
  - Middle balanced territorial development, middle to lower relative technological investments, and favourable trade and labour trends.
  - Less balanced territorial development, middle to lower relative technological investments, and favourable trade and labour trends.
  - Less balanced territorial development, middle to lower relative technological investments, and disadvantageous trade and labour trends.

Transparency and democratic participation in EU trade negotiations

- Local and Regional Authorities should be invited to take part in the discussion of EU policy-making surrounding Free Trade Agreements and express their concerns.
- LRAs feel the ubiquitous effects of trade agreements on the ground level, and often have to cope with long-term impacts.
- Although trade agreements, in general, have varied impacts and cannot be seen in a wholly positive or negative light — even within one region — they certainly result in an acceleration of the effects of global market changes on the regional level.
- The sheer availability of relevant information may not be enough for a transparent and participative process.
- A greater coordination is therefore required at all levels of the administrative process, with particular attention at mechanisms at the national level.
Ratification procedures of mixed agreements

- The distribution of competences between national and sub-national authorities differ greatly across Member States.
- There are eight MS with legislative powers at the sub-national level (AT, BE, FI, DE, IT, PO, ES, UK).
- Belgium is the only Member State with formal regional competences in the ratification procedure of mixed agreements.
- Irrespective of legislative powers at the sub-national level, 13 Member States have the power to call a referendum to determine whether a mixed agreement will be ratified (AT, BG, HR, DK, FR, EL, IR, LI, NE, PL, RO, SK, UK).

Recommendations

- Several considerations arose critical to the discussion surrounding the roles and responsibilities of LRAs and citizens in EU negotiations on trade agreements.
- Considerations range from legislation surrounding shared competency between the EU and member states to the importance of better evaluation techniques that can help regions plan ahead in the context of free trade agreements.
- Key Recommendations include:
  - More consideration toward timing, and involvement at early stages;
  - Participating in informed discussions that present fair balance between geo-political and geo-economic concerns;
  - EU-supported role of LRAs to ensure information availability, access and exchange
  - More collaboration with the EC and dissemination of information to CoR members, regions and cities;
  - More attention to distributive effects of trade agreements;
  - Role of EU funding;
  - Negotiating team regular briefings.
6.2 Figures and Graphs

Figure A.1: Distribution of Intra-EU and Extra-EU trade (exports plus imports) in services, 2015 (%)

Source: Eurostat, (bop_its6_tot).
Figure A. 2: Regional Employment in Industry
Figure A. 3: Regional Employment in Services
Figure A. 4: Crude Rate of Net Migration 2014

Crude rate of net migration (plus statistical adjustment), by NUTS 3 regions, 2014 (*)
(per 1 000 inhabitants)

Source: Eurostat (online data codes: demo_r_gind3 and demo_gind)
Figure A. 5: Proportion of households with broadband connections, by NUTS 2 regions, 2015 (%)

Source: Eurostat (online data codes: loc_t_broad_n and loc_tcl_eu_f)

Notes:
- (*) Germany, Greece, Austria, Poland, the United Kingdom and Turkey: NUTS level 1. Iceland and Switzerland 2014. Montenegro 2012. Liechtenstein: low reliability.
6.3 Scope and methodological approach to the study

The scope of **Chapter 2** is as broad as possible covering the regional impacts of trade liberalisation across the EU. For the sake of conciseness and clarity, positive as well as negative impacts will be screened for.

*Positive impacts* in this study will be considered those that help regions maintain or improve regional development.

*Negative impacts* in this study will be considered those that limit a region’s ability to maintain or improve regional development.

Notably, the limitations of such Manichean vision are fully acknowledged. The thorough examination of relevant literature precisely intends to qualitatively make up for any value judgments linked with such divide and present an overview of economic trends in EU regions. Additionally, statistical data
analyses aim at structuring and providing information on identified impact areas and characteristics.

The literature review comprises a wide selection of sources, including grey literature on globalisation and trade liberalisation from renowned academics and more specialised analyses of economic impacts. The examined literature focuses on the EU as a whole as well as on EU regions and reflects the particular supranational characteristics attached to the EU policy-making procedures. Moreover, the studies and opinions of the Committee of the Regions are taken into consideration. Also official publications from the European Commission (DG Regio and DG Agri) as well as other EU bodies related to the subject matter are examined.

Statistical data sources are mainly stemming from Eurostat, the EU Regional Competitiveness (ERC) Index, DG Regio, Labour Force survey (LFS). The data is extracted and analysed, based on the focus on the study, at NUTS 2 level. The rationale behind the selection of indicators to evaluate the effects of trade liberalisation at NUTS 2 level is derived from the initial literature review and provides a sound basis for the analysis. For each main variable of trade liberalisation identified, a set of key indicators is selected, bearing in mind the regional availability. A sectoral distinction of impacts is similarly carried out in order to target and distinguish effects driven by technological change.

Based on the analyses conducted and on the literature review findings, four case study regions are proposed for selection. The selection of cases aims to represent a set of sectors, demographics, territorial characteristics of both regions deemed more likely to benefit from trade liberalisation and, conversely, those relatively prone to be negatively impacted. Furthermore, two of the selected regions are bestowed with legislative powers whereas the two others do not benefit from such autonomy. The final selection of the four case study regions has been agreed with the CoR.

Chapter 3 builds on the analysis and case study regions selected in Chapter 2. Along the above stated aims of this section, Chapter 3 gathers, by means of interviews, the opinions of representatives of four regions directly concerned with the study subject matters. One interview per region is conducted. The selection and contact process of interviewees starts by examining the most relevant regional authority, e.g. a regional ministry of commerce, employment and productive sectors, a ministry of industry and trade or a ministry of regional development. As a starting point, relevant regional managing authorities (MAs)
designated as a contact point in DG Regio webpage\(^{17}\) are identified. A structured questionnaire is developed prior to conducting the interviews in order to ensure the meticulous analysis and comparison of the interviewees’ answers. In the organisation of the questionnaire particular attention is drawn on the interviewees’ concerns and requests as well as proposed solutions destined to higher governments/administration levels. The aim is to use the main findings to provide concrete and sound recommendations in Chapter 5.

Two additional interviews of representatives from prominent think tanks are also conducted to enrich the information gathered during the regional authorities’ interviews. A synthesis of the first round of interview is presented to the experts and their opinions on the regional authorities’ concerns and suggestions are collected. The identification of these experts is derived from the literature review and desktop research.

**Chapter 4** represents the core of the study, mapping the ratification procedures of mixed agreements (see further Chapter 2.4, the definition and understanding of these terms). The scope of Chapter 4 covers the EU as a whole but the depth of the analysis varies depending on the country. Indeed, the scope of Chapter 4 covers Member States having regions with legislative power. According to the CoR’s Division of Powers portal\(^{18}\), the Member States with legislative powers at the sub-national level are the following: Austria, Belgium, Finland, Germany, Italy, Portugal, Spain and United Kingdom\(^{19}\). Due to their specific powers and competencies, the potential of these countries’ regional governments to further participate in the EU trade policy-making may be relatively more substantial.

Nonetheless, in the light of initial desk research findings, it appears that several centralised countries have foreseen specific ratification procedures of interest given the study subject matter (E.g. expressly allowed or excluded referendum on the ratification of mixed agreements). Accordingly, the rest of the EU Member States’ ratification procedures are examined and a general overview provided. Two non-EU countries’ ratification procedures (namely, Australia and Canada) are likewise surveyed. These tasks are solely desk-research and literature review based. Country profiles are presented for the seven in-depth cases and a more succinct overview of the other country’ specificities are included as main outputs of Chapter 4.

On the basis of this mapping, the implications of the CJEU opinion 2/2015 on the Singapore FTA (Conclusions by Avocat Général) for the LRAs are

\(^{17}\) http://ec.europa.eu/regional_policy/en/atlas/managing-authorities/?search=I&keywords=&periodId=3&countryCode=ALL&typeId=ALL.


\(^{19}\) The United Kingdom is not included in the scope of the analysis under Chapter 4.
scrutinised. More precisely, the study analyses the relevance for LRAs of various legal rules defined in the FTA with regards to investment, public procurement, intellectual property rights and regulatory issues related to environmental, social and food safety norms. The relevance of these rules for LRAs is derived from the analysis of the legal competences bestowed to regions having legislative powers (information collected during the mapping phase of Chapter 4). The extent to which these regions’ fields of competence are affected by the FTA’s legal rules is scrutinised.

Chapter 5 presents the key findings of Chapter 2, 2 and 3. Furthermore, the section elaborates on the links between (1) key issues, stakes and challenges linked to FTAs and free trade liberalisation, (2) LRAs’ concerns and suggested approaches to improve their effective participation in the EU trade policy process as well as the strengthening of LRAs’ roles in improving public understanding of FTA, and (3) the state of play of the involvement of LRAs in the ratification procedure of mixed agreements.

Along those lines, the methodology employed to develop sound recommendations is a triangulation of the key findings stemming from the literature review and statistical data analysis, from the LRA representatives interviews and from the analysis of the academic peers and key experts. This last component of the triangulation consists in having the main conclusions and an early outline of recommendations reviewed, commented and enriched by a prominent academic. The views of a representative of the European Commission are also included at that stage to ensure the practicality of the final recommendations made in the report. The recommendations are likewise tailor-made and address various governance levels.

A future outlook is developed on the possible shapes, participative governance mechanisms developed to ensure EU citizens a greater transparency and legitimacy of the entire EU trade policy process. Prospective types of measures needed for the Common Commercial Policy are provided.

6.4 Key terms definition

Globalisation can be broadly understood as a synthetic process where local economies and social systems undergo a rapid growth of their sphere of action and where their mutual interdependence is reinforced. This definition, although very succinct, reflects the structural and evolving characteristics of today’s economic system. Cyclical events or adjustment punctuate the process, thereby
creating economic volatility, which is then, to a varying extent (positively or negatively) asymmetrically felt at the macro, but also meso and micro levels, when impacting the particular structural characteristics of regions and metropolitan areas (Constantinescu, Mattoo, & Ruta, 2015). The essence of globalisation is said to lie on three keystone elements: the movements of goods, money and people (Hillman, 2004).

Another central concept of the study is trade liberalisation, which is both a cause and an outcome of globalisation. Being a reverse process of protectionism, trade liberalisation has been embraced by most capitalist governments. Such liberalisation process implies the selection of trading partners, formerly united when signing a free trade agreement, which shall ensure a common understanding of the conventions and unified rules of conducts (e.g. in terms of protection of property rights including intellectual property rights).

More precisely, trade agreements are seen as a means of developing international trade standards, in a transparent manner, through establishing rules, procedures, and governance guidelines (European Commission, 2014). In the EU, international agreements are the result of a consensus between the EU on the one hand and a non-EU country or third-party organisation on the other hand. These agreements create rights and obligations for both EU institutions and Member States. They become part of EU law on the date of their entry into force or on another specified date (EUR-Lex, 2016). The process of negotiation can fall under one of two categories, exclusive competence, and shared competence. In exclusive competence, the EU, having legal personality (Article 47 TEU), is a subject of international law and can negotiate and conclude trade agreements within the scope of its competences (Article 5 TEU, Articles 2-4 TFEU). Whereas, in shared competence, or mixed agreements, the conclusion of the agreement is required both by the EU, and each EU Member State, with each Member State following its own domestic ratification procedures.

Based on the Vienna Convention on the Law of Treaty (1969), ‘ratification defines the international act whereby a state indicates its consent to be bound to a treaty if the parties intended to show their consent by such an act. In the case of multilateral treaties, the usual procedure is for the depositary to collect the ratifications of all states, keeping all parties informed of the situation. The institution of ratification grants states the necessary time-frame to seek the required approval for the treaty on the domestic level and to enact the necessary legislation to give domestic effect to that treaty’ (United Nations, 2016).

This two-stage ratification of mixed agreements gives more say to Member States, and even certain regions within them, but also makes the ratification process longer. Ratification procedures of mixed agreements follow certain principles but differ from one country to another depending on constitutional
and other legal requirements. Accordingly, the national and regional parliaments’ involvement varies, as does the possibility of holding referendums.

Referring to the specificities applied to the ratification procedures of mixed treaties directly relates to the wide encompassing and disputed **democratic principles of legitimacy, accountability and transparency**. The understandings of these democratic principles vary to a significant extent along the various views and assumptions regarding how decision-making power should be distributed. Nonetheless, there is somewhat of a consensus that democratic principles need to be reinforced and re-evaluated on an ongoing base to prevent pervasive **democratic deficit** (Schmidt, 2010).

The construction of the EU has been intrinsically shaped by these different views and assumptions. Together with the ‘widening’ (increased EU integration) and ‘deepening’ (increased supranational centralisation) processes, the establishment of the Multi-Level Governance (MLG) structure has developed the unique character of the EU, which has challenged the traditional understandings of power attribution within and between Member States (e.g. undermining national sovereignty). In the EU, MLG arrangements dovetail the scale and complexity of European democracy.

**Legitimacy** can be broadly understood as ‘the moral grounding of power and therefore involves social and cultural norms and expectations concerning proper behaviour of those that govern, the social relationship between rulers and the ruled, the role of trust, reputation and force, and the balance between authority and obeisance’ (Papadopoulos, 2011). Based on this definition, governing authorities would therefore suffer from a legitimacy deficit if citizens perceive that they cannot achieve governmental responsiveness using their participatory opportunities and resources. Correspondingly, legitimacy directly originates from popular sovereignty and is granted to authorities by means of universal direct suffrage (representative democracy) or direct citizen participation. The supranational character of the EU has therefore, to some extent, shifted and rebalanced the decision-making power sources.

The intertwined concept of **accountability** ‘involves the presence of checks and balances: the acceptance of rulers that they must somehow live up to expectations and justify their actions within given norms, and that the ruled have some sanctioning power’ (Papadopoulos, 2011). Making institutions and policy-makers accountable via measures increasing **transparency and trust**, is therefore a fundamental aspect of institutional reforms and governance shifts for a greater involvement in the decision-making processes of the civil society and authorities being the closest representatives of EU citizens. In fact, transparency
is widely believed to be a pivotal pillar in the process of restoring accountability and trust in democratic institutions.

This debate also calls into question the extent to which it is possible to enhance the effectiveness and efficiency of trade policy decision-making as well as democratic legitimacy and accountability by directly implicating citizens (via means of direct citizen participation) or by involving LRAs in the European political agenda.

This study, however, does not intend to contemplate the democratic character of the EU. Rather, it aims to identify the critical stages of the EU trade policy cycle, notably the process of negotiating and ratifying FTAs. A key consideration shall ponder how is trade liberalisation organised at an EU level affecting state sovereignty, and importantly, what are the actual effects of FTAs on territorial development and democratic participation. Moreover, the study aims to identify legitimising mechanisms that could be applied to respond to the demands for greater democratic inclusion in the FTA decision-making process.

6.5 Member State Government Structure and Regional Level Competencies

<table>
<thead>
<tr>
<th>Austria</th>
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</table>

**Governmental Structure**

Austria is a federal state composed of 9 Federal Provinces (*Bundesländer*). The Federal President of Austria is the highest state representative, elected on a 6 year term, and serves as the head of the state. The Federal Chancellor, on the other hand, serves as the head of government.

The Austrian Parliament is made up of two chambers, the National Council (*Nationalrat*, the lower house, which is directly elected at least every 5 years) and the Federal Council (*Bundesrat*, the not directly elected upper house). The Federal Council has to represent the interest of the Federal Provinces in the federal legislative process. Each of the 9 Federal Provinces sends representatives according to its number of inhabitants to the Federal Council. Consent of both chambers is required in cases of constitutional laws or clauses restricting the
competences of the Provinces; Legal provisions affecting the Federal Council itself; state treaties that regulate matters falling within the autonomous sphere of competence of the Provinces; and state treaties changing the legal bases of the European Union (Republic of Austria).

Regional Competences

Central level (federal) exclusive competencies include, inter alia, referenda and consultations of the people, constitutional jurisdiction, administrative jurisdiction, foreign affairs, immigration and emigration, federal finances, the monetary, credit, stock exchange and banking system, civil law affairs, matters pertaining to trade and industry, labour-legislation in so far as it does not fall under Art. 12 BVG (Constitution of Austria). Copyright law, press affairs, traffic-system relating to the railways, aviation and shipping in so far as the last of these does not fall under Art. 11. This Article relates to laws, which are in the legislative power of the Federation, however executed by the federal provinces.

Regional level (Federal Provinces) competencies include public schools, health, building laws in the domain of housing subsidies, local public security administration, local community affairs, fire police, culture (theater, cinema), hunting and fishing rights, field protection, animal and environment protection, sports and tourism.

According to Article 16/1 the provinces can, in matters within their own sphere of competence, conclude state treaties with states, or their constituent states, bordering on Austria. (Constitution of Austria).

Articles 11 and 12 outline federal legislative areas that Federal Provinces administer and federal legislative areas that Federal Provinces implement via implementing laws, respectively (European Committee of the Regions). The Federal Provinces have an own budget and therefore tax competence of their own.

On the local level there are 80 districts (Bezirke), and 2,100 local level authorities (Gemeinden). In addition, there are 15 statutory cities (Statutarstädte) that serve functions at the local and district level. Local level competencies include, inter alia, local traffic, local police, appointment of local administrators, public events regulations, local health and spatial planning, promoting community activities and culture (European Committee of the Regions).
Belgium

**Governmental Structure**

Belgium is a federal state composed of three regions, namely, the Flemish Region (Vlaanderen), the Walloon Region (Région Wallone), The Brussels Capital Region (Région Bruxelles Capital – Brussel Hoofdstedelijk Gewest). The regionalisation of the country intends to meet a desire for autonomy in socio-economic fields. Belgium also comprises three (language) communities (Flemish, French and German) dovetailing the demand for a real recognition and development of a specific language and culture. In territorial terms, the regions do not correspond to the three communities. The Walloon Region exercises regional competencies over two linguistic regions (the French speaking linguistic region and the German speaking region).

At the national level, the legislative power is exercised by the Federal Parliament, which comprises two assemblies, the Chamber of the Representatives and the Senate). Of note, the upper house of the Federal Parliament, the Senate, has no veto power over federal legislation. The three regions have their own legislative and executive organs, which are the Regional Parliament and the Regional Government. The three regions thus have legislative powers in fields that are connected with their region or territories and may accordingly issue regional decrees or orders which have the force of law. The three communities also have legislative powers and may issue community decrees that have the force of law. There is no hierarchical relationship between the regions, the communities and the federal authority. Such autonomy means that each region and community can exercise its competences without consulting other institutions or the Federal State. Nonetheless, in some particular fields, such as international relations and scientific research, the Federal State and the federated entities have parallel competences.

The federalisation process, which began in 1970 created a complex federal state in which certain competences overlap and local authorities’ autonomy (provinces and municipalities) varies depending on the region.

Along the above described governance structures and mechanisms, all the federated entities may play a substantial role regarding the negotiations of Free Trade Agreements, depending on whether the trade agreement affects the federated competences.
Regional Competences

Belgian regions hold competencies in fields that are linked to their regions or territories in the wide sense of the term. Accordingly, the Brussels-Capital Region and the Walloon Region have powers relating to the economy, employment, agriculture, water policy, housing, public works, energy, transport (apart from Belgian Railways), the environment, town and country planning, nature conservation, credit, foreign trade, supervision of the provinces, communes and intercommunal utility companies. Moreover, these regions also have competencies relating to scientific research and associated international relations.

According to the Belgian Constitution’s Article 2, the three communities also have core competencies encompassing cultural affairs, person-related matters (families, healthcare, social services), education, inter-communitary and international cooperation, including the conclusion of contracts and treaties related to the previously mentioned areas of competences. Communities likewise have the power to regulate issues concerning the use of languages.

Finland

Governmental Structure

Finland is a republic with a parliamentary-democracy, and specifically a unicameral parliament (Eduskunta) with 200 representatives elected on four-year terms (European Committee of the Regions). The parliament retains legislative powers such as enacting laws, ratifying treaties, approving state budgets and approving the government programme (or action plan). Finland has a multi-party system, with not one party generally gaining overall majority, therefore resulting in coalition governments. The parliament votes in the prime minister, most often belonging to the party with the majority of seats (Embassy of Finland, Riga, 2015).

The prime minister serves as the head of the government. In Finland, there are 12 ministries\textsuperscript{21}, which the president officially appoints. The

\textsuperscript{21} Prime Minister’s Office; Ministry for Foreign Affairs; Ministry of Justice; Ministry of the Interior; Ministry of Defence; Ministry of Finance; Ministry of Education and Culture; Ministry of Agriculture and Forestry; Ministry of Transport and Communications; Ministry of Employment and the Economy; Ministry of Social Affairs and Health; Ministry of the Environment.
government takes on the role over the decision-making of government and administration and the general governing of the country.

Finland’s elected president of the republic as the head of state, serves a maximum of two 6-year terms. Finland has been moving toward more of a parliamentary system, and in 2012, constitutional updates further increased the powers of the parliament and government. The president remains responsible for foreign relations, participation in negotiations and organisations, and serves as the Commander-in-Chief of the Defence Forces (Embassy of Finland, Riga, 2015).

There is a central, regional and local level of governance. The Local Government Act remains an important piece of legislation for defining the three levels of governance.

Finland has 19 administrative regions (Maakunta) governed through regional councils – 18 regions and the autonomous Aland Islands. In every council, apart from the region of Kainuu, each municipality sends representatives in proportion to their population. In comparison, in Kainuu, the regional council is elected through popular election. In addition, there are 15 Centres for Economic Development, Transport and the Environment, operating, responsible mainly for entrepreneurship promotion, labour markets, agriculture and fisheries, environmental protection, road maintenance and safety, and certain aspects of education (ELY-Keskus, 2010).

At the local level, Finland is divided into 331 municipalities. Residents of each municipality elect through popular election their local councils.

**Regional Competences**

Regional councils have administrative duties under law, whereas municipal authorities have regulatory powers. Aland, as the exception, has certain exclusive legislative powers defined in the Autonomy Act (Sjalvstyrelselagen).

In principle, at the local level, municipalities are responsible for healthcare, education including pre-school, primary, secondary, vocational training, library services), Promotion of local business and employment. Construction and maintenance of local infrastructure, Public transportation and social services.
At the regional level, the regional councils are involved with regional development and land use planning, structural fund programmes, cooperation between local governments, and voluntary competencies such as business promotion and research in the region. Regional state administration agencies provide basic public services. And the Centres for Economic Development, Transport, and the Environment have commences over business, industry, labour force issues, transport and infrastructure, and the environment and natural resources (European Committee of the Regions).

Germany

Governmental Structure

Germany is a federal republic, the 16 Länder are represented in the Federal Council (Bundesrat), a legislating body alongside the Federal Parliament (Bundestag). The Federal Parliament is elected through voting. On the other hand, the Federal Council is made up of representatives from the government of the 16 federal states (Länder). According to the German Basic Law, there is a clear distinction between legislation that requires the consent of both chambers, and legislation that can be passed even if consent is not provided by the Federal Council. Consent is required in cases where there is a potential financial or constitutional, impact of the federal republics. Mixed agreements generally do not fall under this category of ‘consent bills’ (Eschbach, 2015).

Regional Competences

At the central level, according to Basic Law Article 73(1), the federation has exclusive legislative power with respect to foreign affairs, citizenship, currency, safeguarding German assets, unity of customs, and several other competencies. At the federal level, cooperation with the Länder on criminal police work, protection of basic democratic order, and protection against activities within the federal territory that

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22 Basic Law for the Federal Republic of Germany, Article 20(1).
23 Germany consists of 16 federal states, which are administratively divided into 295 Landkreise (rural district). There are an intermediate administrative level between the states and the municipal governments. There are also 107 ‘Kreisfreie Städte’, or urban districts. Five states have additionally a level of administrative regions, called ‘Regierungsbezirk’ (Baden-Württemberg, Bavaria, Hesse and North Rhine-Westphalia). The regional authority is called a Bezirksregierung (district government) and is headed by a Regierungspräsident (district president). The Regierungsbezirke do not pass any legislation.
may endanger external interests of the federation. There are several matters that fall under concurrent legislative powers, including labour law, civil law, promotion and regulation of industry and services, regional planning, etc\textsuperscript{24}.

*Länder* operate at the regional level. According to the Basic Law Article 70: ‘(1) The *Länder* shall have the right to legislate insofar as this Basic Law does not confer legislative power on the Federation. (2) The division of authority between the Federation and the *Länder* shall be governed by the provisions of this Basic Law concerning exclusive and concurrent legislative powers’. The responsibilities of the *Länder* can be summarised as that to implement federal law, and can legislate in areas that are not defined as the sole competence of the Federation, and have exclusive competence over legislation relevant to the federal territory – such as local authorities, universities, culture and education (European Committee of the Regions, n.d.).

At the local level, there are local authorities in districts and urban municiplalities and medium-sized towns (European Committee of the Regions). These local authorities are elected every 5 to 6 years (depending on the region in question). Local authorities are responsible for local issue including infrastructure and road maintenance, national parks, education, culture, youth and social welfare, and can also serve additional functions of tourism, financial support for culture and local development, certain infrastructure and management of Volkshochschulen (state-run adult schools).

### Italy

#### Governmental Structure

Italy is a bicameral parliamentary republic. The parliament is composed of the Senate (*Senato della Repubblica*) and the Chamber of Deputies (*Camera dei Deputati*). The prime minister (*Presidente del Consiglio dei Ministri*) is considered to lead the Government, and the president of the republic (*Presidente della Repubblica*) is considered as the head of state. Neither the Senate nor the Chamber of Deputies is the official representation of regional or local authorities.

In response to dissatisfaction surrounding the predominantly centralised

\textsuperscript{24} Basic Law for the Federal Republic of Germany, Article 74(1).
organisation of Italy, since World War II, Italy has been shifting toward decentralisation, and is now considered ‘regionalised’.

The constitutional reform in 2001, resulted in providing greater powers to provinces and municipalities, and an official recognition of their statutory autonomy. (European Committee of the Regions)

According to the constitution, Italy has four types of regional administration, Regions (regioni), Provinces (province), Municipalities (comuni) and metropolitan cities (città metropolitane), which all have the power to adopt statutes – documents that serve as the regional.

Italy has 20 Regions – 5 with autonomous status\(^{25}\) (regioni autonome) and 15 with normal status\(^ {26}\) (statuto ordinario). Trentino-South Tyrol is further subdivided into two autonomous provinces, Bolzano and Trento. Autonomous and normal status differ whereby statutes in regions with normal status are adopted locally, and the statutes for regions of autonomous status are adopted according to constitutional law. Both types of region have certain legislative and administrative powers.

There are 107 Provinces in Italy, 7,879 municipalities and 14 metropolitan cities. While historically provinces were allocated more powers, since 2014, the roles of Regions, Municipalities and metropolitan cities has been strengthened, whereas, some of the powers of Provinces have been reduced. Provinces are now mainly responsible for programme delivery and broader territorial planning.

**Regional Competences**

At the regional level, it is stated in article 117 of the constitution that areas shall have (exclusive) legislative power with respect to any matters not expressly attributed to the State. In some legislative areas, the State and the Regions share legislative powers, whereby it is assumed that the state only sets out the baseline principles. International and EU relations with relation to the regions, fall into this grouping, as does foreign trade (European Committee of the Regions).

At the local level, provinces have competences over broader components of territorial development, and can assist municipalities and metropolitan cities as required (European Committee of the Regions).

\(^{25}\) Aosta Valley, Friuli-Venezia Giulia, Sardinia, Sicily, Trentino-South Tyrol.

\(^{26}\) Abruzzo, Basilicata, Calabria, Campania, Emilia-Romagna, Lazio, Liguria, Lombardia, Marche, Molise, Piemonte, Puglia, Toscana, Umbria, Veneto.
Municipalities have administrative responsibilities related to local development (such as social welfare, transport, education, culture, and local police), while and Metropolitan cities are responsible for inter alia metropolitan development, management of services, territorial development, planning and promotion of economic development (European Committee of the Regions).

### Portugal

#### Governmental Structure

Portugal is a republic state and a parliamentary democracy, hence being a unitary state under the 1976 Constitution. The parliament (Assembleia de República) is unicameral and has between 180 and 230 seats. Members are elected by popular vote for legislative terms of four years from the country’s twenty-two constituencies (eighteen in mainland Portugal corresponding to each district, one for each autonomous regions, Azores (Portuguese: Açores) and Madeira, one for Portuguese living in Europe and a last one for those living in the rest of the world occupied by the representatives of citizens organized in political groups that are being elected on a four year period.

The constitution grants to the parliament extensive legislative powers, including the power to ratify treaties and other kinds of international agreements. Furthermore, the parliament defines the central, regional and local financial regimes and it has the competence to adopt taxes and levies and other financial contributions. The central government is responsible for the country’s general policy and directs the public administration in all fields, except for autonomous regions. It also demonstrates the administrative powers which do not fall under the competences of local authorities.

#### Regional Competences

The Republic of Portugal is democratically decentralized and is composed of two autonomous regions (Azores and Madeira), 308 municipalities and 3.092 Civil Perishes.

The regional autonomous have their organic laws, regional governments and public administrations. The regional government (Governo Regional) is made up of a regional cabinet, comprising a president (Presidente do Governo Regional) and several regional secretaries...
The legislative assembly (Assembleia Legislativa) is composed of members elected by direct universal suffrage. The responsibilities of the Autonomous Regions include those under the article 227 of the constitution and is ought to be a part of regions statutes. The Autonomous Regions have their own political and administrative statutes and their own legislative autonomy (Art. 228). They benefit from extensive legislative powers and define their own policy, except for the field of foreign policy and defense and internal security, which come under the competences of central authorities.

On local level, the municipal assembly (Assembleia Municipal) is a local authority that monitors the activities of the executive council (Câmara Municipal), including the Mayor who chairs the council. Municipalities have responsibilities in matters that are of local development, particular in the areas of rural and urban infrastructure: education, vocational education and training; heritage, culture and science; leisure and sport; health; social welfare; housing; civil protection; environment, drainage and sanitation; consumer protection; promoting development; the territory and urban planning; municipal police and external cooperation (Regions). Perishes contribute to local self-governance as executive bodies in implementing local policies.

In accordance with the laws, further responsibilities for both regional and local authorities can be transferred.

Spain

Governmental Structure

The parliament in Spain is called the Cortes Generales. The Cortes Generales is a bicameral structure, comprising of two houses, the Congress of the Deputies and the Senate. Spain is considered as a de-facto federation, as the 17 autonomous communities and the 2 autonomous cities have large autonomy.

The Senate consists of 266 senators elected by two means: senators elected by constituency and senators elected by regional parliaments. Senators elected by constituencies, making up the majority of seats, are elected three to four per province. While senators may belong to political parties, the election process is individual. Senators appointed by regional parliaments are elected for each self-governing community, and one for every one-million people. These senators are elected by the
senate, rather than directly by the population. The Congress of the Deputies has 350 members that are elected by constituencies.

Regional Competences

Among other competencies, the state also retains exclusive power over international relations and foreign trade.

At the regional level, autonomous communities retain powers over issues not allocated to the state, these include inter alia, organisation and regional government, planning, transport, regional tourism and cultural activities and the development and implementation of state legislation (European Committee of the Regions).

At the local level, provinces and municipalities retain an even more localised set of powers. Provinces are responsible for provision of public services of supra-municipal character, promotion of economic and social development as well as others. Municipalities, on the other hand, have competence over public utilities, road maintenance, local police, and other delegated competences, as well as varying from municipality to municipality – public safety, transport management, social and cultural services and tourism (European Committee of the Regions).

Canada

Governmental Structure

According to the Constitution of Canada (art. 17) The Parliament of Canada has the highest legislative power in Canada. It consists of the Queen (represented by the Governor General), the Senate (upper house), and the House of Commons (lower house).

The Senate (art. 21, 22) consist of 105 members who are appointed by the Governor General, on the advice of the Prime Minister of Canada. The Senate is deemed to consist of four divisions who are equally represented in the Parliament.

The House of Commons (art. 37) consist of 308 members of parliament (MPs) elected by eligible Canadian voters. MPs are elected with a clear regional perspective.

In the distribution of legislative powers, the parliament has the highest
legislative power. The exclusive legislative power is given to matters (art. 91) which are enumerated by 29 separate topics, including The Regulation of Trade and Commerce.

Provinces have exclusive legislative power on local matters (art. 92), such as direct taxation, property and civil rights.

**Australia**

**Governmental Structure**

Australia has aimed to reduce trade barriers in a multilateral manner. Over the past couple of decades, FTAs have been increasingly incorporated into the Australian economic policy arena as a means of creating bilateral agreements. This trend has been observed globally, and is related to the difficulty of successfully negotiating and introducing wide multilateral agreements. (Karanikolas)

Australia is a commonwealth nation, and has a government structure accordingly. The executive branch of the government in Australia is led by the prime minister and consists of the cabinet and ministry. The executive government is responsible for administration of the country, and daily government responsibilities, including proposing and executing laws presented to the parliament.

The Australian Federal Parliament is made up of the Governor General (representing the Queen), the House of Representatives and the Senate. The parliament is responsible for developing laws, examining and inspecting government activities, approving government spending, and serving as a platform for debate on issues of national relevance. The Parliament consists of 76 senators – two from each of the two mainland territories and twelve from each of the six states. The house of representatives has 150 Members, the members represent the electorate regions in Australia (Parliament of Australia).

The negotiation and ratification process of FTAs in Australia have been subject to decades of discourse, and several round of reform, focusing on strengthening the role of parliament in these processes, and increasing democratic governance and transparency. Although at the forefront of FTA discussions, there continues to be certain disagreement surrounding whether enough process has been made.
The 1985 Constitutional Convention earmarked the first fundamental review of the Australian constitution with regard to distribution of powers. It was decided at this time that the distribution of roles and responsibilities with regard to treaties remain unchanged, even though commissioned reports argued for greater parliamentary participation in the process of treaty-making. Since then, although several opportunities to formally increase the role of the parliament in treaties were presented, such as through the 1994 Parliament Approval of Treaties Bill, the 1996 reform package, and the Treaties Ratification Bill 2012, none were successfully implemented in so far as parliamentary participation is concerned. Several government organisations have participated in these processed throughout the years, perhaps one of the most relevant is JSCOT, the Joint Standing Committee on Treaties. They have repeatedly ‘argued that while introducing a parliamentary ‘up or down’ vote, something that is akin to either accepting or rejecting entire treaty packages, may result in unworkable circumstances, the requirement of the government to inform the parliament on potential treaties before even beginning negotiations, a description of the priorities, objectives, costs and benefits of the agreement, and allowing sufficient say from the parliament at this stage of the process should be the priority in increasing democratic governance and transparency.

### 6.6 List of interviewees

<table>
<thead>
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<th>Name, last name</th>
<th>Position</th>
<th>Organisation</th>
<th>Interview date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sapir, André</td>
<td>Researcher/Author</td>
<td>Bruegel</td>
<td>09.06.17</td>
</tr>
<tr>
<td>Huguenot-Noël, Robin</td>
<td>Policy Analyst</td>
<td>European Policy Centre</td>
<td>12.06.17</td>
</tr>
<tr>
<td>Capello, Roberta</td>
<td>Researcher/Author</td>
<td>Politecnico di Milano</td>
<td>09.06.17</td>
</tr>
<tr>
<td>Baert, Tomas</td>
<td>Deputy Head of Unit</td>
<td>DG Trade</td>
<td>14.06.17</td>
</tr>
<tr>
<td>José Sereno</td>
<td>Head of Trade promotion</td>
<td>Regional Government of Extremadura</td>
<td>16.06.17</td>
</tr>
<tr>
<td>Velislava Tihcheva</td>
<td>Several relevant units from the Regional Administration Centre</td>
<td>Regional administration Varna</td>
<td>26.06.17</td>
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<tr>
<td>Tropper, Anton</td>
<td>Deputy Head of Unit</td>
<td>Landeshauptstadt München Department for Labour and Economic Affairs</td>
<td>16.06.17</td>
</tr>
</tbody>
</table>
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Created in 1994 following the signing of the Maastricht Treaty, the European Committee of the Regions is the EU’s assembly of 350 regional and local representatives from all 28 Member States, representing over 507 million Europeans.