

DRAFT FOR PUBLIC CONSULTATION

Handbook for Trade Sustainability Impact Assessment

2nd edition

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INTRODUCTION

Background

Sustainability Impact Assessments (SIAs) are a trade-specific tool developed for supporting trade negotiations. They are essential for the conduct of sound, evidence-based and transparent trade negotiations. SIAs were first developed by the European Commission's Directorate General for Trade ('DG Trade') in 1999 for the WTO Doha Development Agenda ('DDA') negotiations. At the close of 2014, 22 SIAs had been conducted in support of all major bilateral and multilateral EU trade negotiations and four are currently on-going¹.

A first edition of the SIA Handbook was published in 2006. It detailed DG Trade's experience to date in carrying out SIAs and described their methodological framework.

Many of the principles outlined in the first edition of the Handbook are still relevant, but the experience of conducting SIAs over the years has led to improvements in the approach. At the same time, methods for conducting impact analyses have evolved and improved over time, while recommendations for further improvement of SIAs have been made by stakeholders², recommendations which have been carefully reflected in this revised edition of the Handbook. The way SIAs are conducted has significantly evolved since 2006. To give an example, since 2012, SIAs systematically assess the potential human rights consequences of the envisaged trade agreement. The SIA Handbook published in 2006 did not include such an assessment and did not, therefore, provide any guidance to consultants on the expected approach. We have also improved other elements in the light of experience.

This new edition of the Handbook sets out the main characteristics, objectives, and principles of the new generation of SIAs. It will be the main reference point for consultants, civil society and all potentially involved stakeholders on how to carry out an SIA.

SIAs and EU policy

SIAs are crucial for the formulation of sound, transparent and evidence-based trade policies and contribute to the Better Regulation Agenda of the European Commission (the 'Commission') as embodied in the 2010 communication on *Smart Regulation in the European Union*, and that of 2012 on *EU Regulatory Fitness*. The present revision of the 2006 SIA Handbook should be seen in the wider context of the Commission's major on-going revision of its approach to better regulation, which includes specific new guidelines on impact assessment, evaluation and stakeholder consultation.

¹ Please refer to the Trade on Europa website for more information on conducted and ongoing SIAs, <http://ec.europa.eu/trade/policy/policy-making/analysis/sustainability-impact-assessments/>

² Including : the opinion of the European Economic and Social Committee on Sustainability impact assessments (SIA) and EU trade policy, CESE 818/2011 - REX/313, May 2011 and the European Court of Auditors Special Report No 2/2014, "Are Preferential Trade Arrangements appropriately managed?", 2014.

Transparency is a central element of SIAs. By relying on a genuine, wide-ranging and continuous consultation of stakeholders, SIAs contribute to fulfilling the Commission's commitment to ensure transparent trade negotiations. SIAs are a prime opportunity for stakeholders to inform EU negotiators of their views on the potential economic, social, human rights, and environmental consequences of ongoing trade negotiations.

Furthermore, SIAs are also important instruments for integrating issues of **sustainable development** into trade policy. Sustainable development is a principle enshrined in the *EU Treaties*³, which stands on three interdependent and mutually reinforcing pillars: economic development, social development and environmental protection. It should thus be taken into account by all institutions in all their actions and policies, both domestically and in the EU's relations with non-EU countries. In this regard, the EU is committed to *stepping up efforts to see that international trade and investment are used as a tool to achieve genuine global sustainable development*, as highlighted in the 2006 *Sustainable Development Strategy of the European Union* (EU SDS). SIAs contribute to this objective by assessing in depth the potential economic, social, and environmental impacts of an ongoing trade negotiation as well as by providing recommendations on the accompanying measures to put in place to maximise likely benefits or mitigate possible negative impacts. SIAs also provide the opportunity for an analysis of the impact of the trade agreement on developing countries, in line with commitments stemming from the EU Treaties⁴ on policy coherence for development, whereby the EU shall take account of the objectives of development cooperation in the policies it implements which are likely to affect developing countries.

In addition, since 2012, all SIAs systematically include an analysis of the potential human rights impacts of the trade agreement being negotiated.

As expressed in the 2012 *Communication on Trade, Growth, and Development* the Commission is committed to *better assessing the impact of trade initiatives on the EU and its trading partners*, and ensuring that the analyses which are carried out *address all significant economic, social, human rights and environmental impacts, and build upon a wide consultation of relevant stakeholders*.

SIAs' characteristics and purpose

SIAs are a trade-specific tool supporting trade negotiations conducted under the aegis of the Commissioner for Trade. They are independent *ex ante* assessments carried out by external consultants. SIAs are performed concurrently with trade negotiations. They feed into and steer the negotiations, assessing changes that are likely to be caused by the trade agreement, helping to identify possible trade-offs, and ensuring that the related policy choices are optimised.

Trade SIAs consist of two equally important and complementary components:

³ Article 3 TUE and article 11 TFUE.

⁴ Article 208 TFUE.

(i) A **robust analysis** of the potential economic, social, human rights, and environmental impacts that a trade agreement could have, in the EU, in the partner country(ies) and in other relevant countries; and

(ii) A **continuous and wide-ranging consultation** process which ensures a high degree of transparency and the engagement of all relevant stakeholders in the conduct of the SIA inside and outside the EU.

SIA key principles

SIA are:

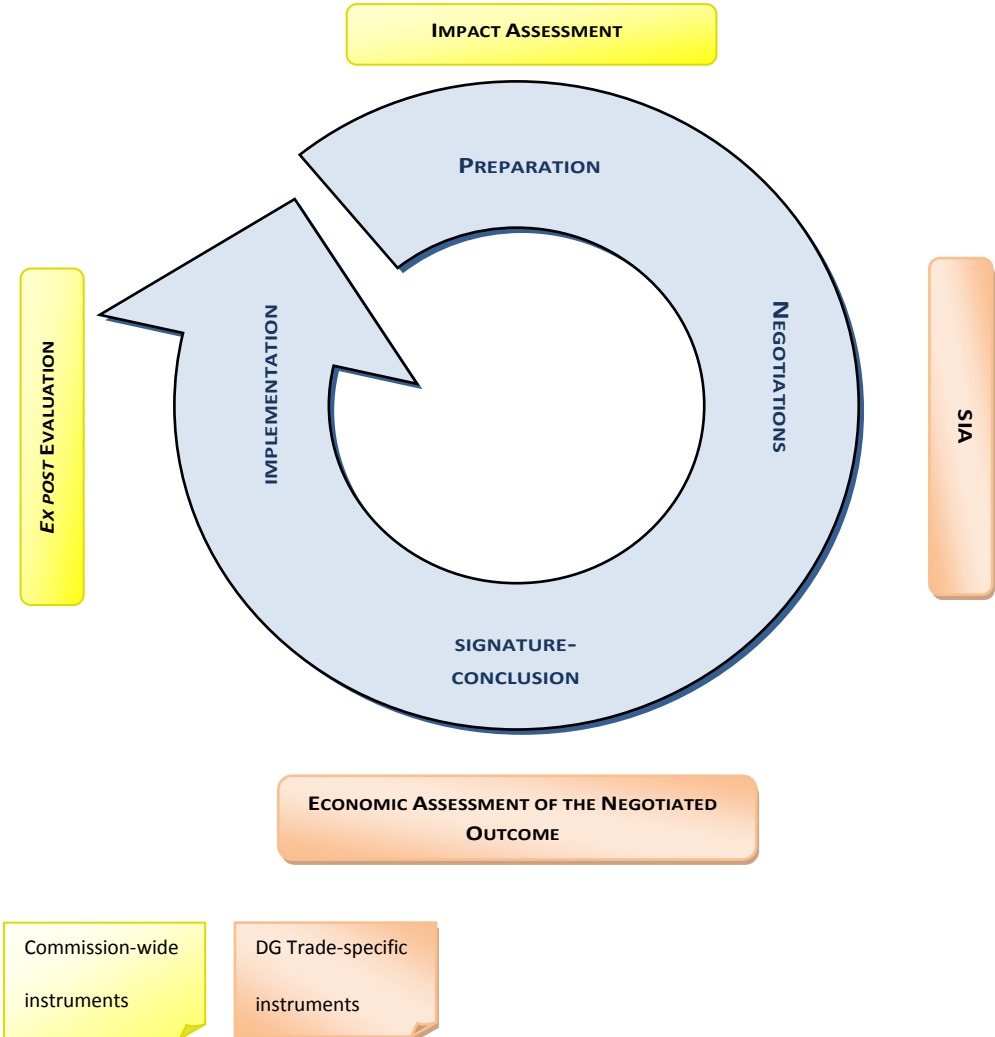
- Integrated. SIAs are based on a comprehensive approach which looks at both benefits and costs; and covers economic, social, human rights, and environmental considerations all in a single document.
- Independent. SIAs are carried out by external consultants in a neutral and unbiased manner, in observance of strict rules on the absence of conflicts of interest.
- Evidence-based. SIAs should be based on the best available research, information and data presented in a transparent manner.
- Transparent. SIA consultations contribute to the transparency of the analysis and the on-going trade negotiations. Stakeholder consultations are a key element of SIAs and all stakeholders are given equal opportunity to take part in the process through various channels.
- Proportionate. The scope and the depth of each SIA should be calibrated to the importance and the type of trade measures being negotiated, as well as to the magnitude of the expected impacts.

CHAPTER I – THE EUROPEAN COMMISSION'S EVIDENCE-BASED POLICY MAKING FOR TRADE AGREEMENTS

The Commission employs a wide set of evidence-based policy tools covering the full policy-making cycle, from when a policy is designed to when it is implemented, evaluated and revised. SIAs, which are specific to trade negotiations conducted by DG Trade under the aegis of the Commissioner for Trade, are one such tool, operating during the negotiations.

As committed to in the 2010 communication *Trade, Growth and World Affairs*, up to four major types of assessments and evaluations can be conducted during the life of a trade proposal: an **impact assessment** at the initial design stage; an **SIA** during trade negotiations; an **economic assessment of the negotiated outcome** after the conclusions of the negotiations and before the signature of the agreement; and finally, an **ex post evaluation**, after implementation.

Table 1 - Assessment and evaluation tools and the trade policy cycle



Key features of major trade impact assessments and evaluations

- **Impact Assessments (IAs)**

The European Commission's impact assessment system was first established in 2002 and has undergone continuous strengthening over the years. IAs are Commission-wide analytical tools which are prepared for Commission initiatives that are likely to have significant and clearly identifiable economic, environmental or social impacts..

With respect to trade agreements, IAs aim to provide answers to such questions as “is a trade negotiation the best course of action for our trade relations with partner X, Y, Z?”, “which issues should be covered in the negotiations?”, “what potential impacts could a trade agreement have?”

Impact assessment is about gathering and analysing evidence to support policy making. In this process, an IA verifies the existence of a problem, identifies its underlying causes, assesses whether EU action is needed, and analyses the advantages and disadvantages of available solutions and their impacts. On this basis, it identifies the best course of action and accompanies the proposal when it is sent to the other EU institutions, such as the European Parliament and the Council. IAs are prepared by Commission services in accordance with the related Commission guidelines⁵ which are currently being reviewed⁶.

- **Sustainability Impact Assessments (SIAs)**

SIAs, for which this Handbook provides methodological guidance, are specific to trade negotiations. Trade SIAs were first developed in 1999 and have been carried out for all major bilateral and plurilateral trade negotiations ever since⁷.

They help to answer the question “how should we run these negotiations?”

SIAs are independent studies taking place in parallel with the negotiations. They complement IAs by allowing a more in-depth analysis of the potential economic, social, human rights and environmental impacts of the trade agreement under negotiation, as well as facilitating a wider outreach with stakeholders in both the EU and partner countries.

For further information on the key features of an SIA, please refer to Chapter II.

⁵ http://ec.europa.eu/smart-regulation/impact/commission_guidelines/docs/iag_2009_en.pdf

⁶ http://ec.europa.eu/smart-regulation/impact/consultation_2014/index_en.htm

⁷ Please refer to the Trade on Europa website for the full list of SIAs conducted, <http://ec.europa.eu/trade/policy/policy-making/analysis/sustainability-impact-assessments/>.

- **Economic assessment of the negotiated outcome⁸**

Once the negotiations are concluded, and before the agreement is signed, an economic analysis of the proposed agreement for the EU is prepared by the Commission services for the European Parliament and the Council. The analysis assesses the impact of the actual outcome of the negotiations in terms of reduction of trade barriers as opposed to previous analyses based on assumptions of such reductions.

The economic analysis is a trade-specific instrument and relates only to negotiations conducted by DG Trade under the aegis of the Commissioner for Trade.

- ***Ex post* evaluations**

Finally, after the trade agreement has entered into force, commitments have been phased in, and sufficient time has passed to gather a robust body of data and evidence, an *ex post* evaluation is conducted.

Ex post evaluations are Commission-wide tools that use evidence to assess whether a specific intervention was justified and whether it worked (or is working) as expected in achieving its objectives and why. *Ex post* evaluations also look for unintended effects (i.e. those which were not anticipated at the time of the IA or SIA) and look for evidence of causality.

⁸ The economic assessment of the negotiated outcome is referred in the 2010 *Trade, Growth and World Affairs* communication as 'an analysis of the consequences of the proposed deal', which should be prepared for the Parliament and Council once negotiations are concluded and before the signature of the agreement'.

CHAPTER II – SIAs: AN INTEGRATED PROCESS

SIAs are trade-specific and independent *ex ante* assessments carried out by external consultants simultaneously with all major trade negotiations. They assess in depth the potential economic, social, human rights and environmental impacts of the agreement being negotiated. SIAs help to steer the trade negotiations by feeding observations into them on an on-going basis.

Trade SIAs consist of two complementary components of equal importance:

(i) A robust analysis of economic, social, human rights, and environmental impacts, using among other things modelling techniques and causal chain analysis. This component is undertaken in a clear and objective manner using state-of-the-art techniques.

For more detail, please refer to Chapter III.

(ii) A wide consultation process involving stakeholders both in the EU and in the partner country, which provides opportunities for information gathering and dissemination of results.

For more detail, please refer to Chapter IV.

The SIA methodological framework⁹ is in line with the Commission's impact assessment guidelines, though several elements of the process are specific to SIAs.

The conduct of an SIA is an integrated process that includes several steps and different players.

1. SIAs main players

Three main players are involved in the conduct of an SIA: the consultants, stakeholders and the Commission's services. Their cooperation and regular interactions are key in ensuring the quality of the SIA findings and their effective feeding into the trade negotiation.

- **SIAs consultants**

⁹ A certain set of elements, which are spelled out in this Handbook as the **methodological framework**, should be common to all SIAs (e.g. consultation characteristics). They should be distinguished from the particular mix of techniques that will be proposed by the contractors (the **methodological approach**) to analyse a specific agreement (e.g. type of economic modelling).

SIAAs are carried out by independent consultants selected through an open competitive tendering procedure.

The consultants are responsible for carrying out the work in a transparent and independent manner. In particular, they are expected to run the analysis of the likely impacts of the trade agreement being negotiated, conduct open and far-reaching stakeholder consultations, and liaise with the Commission services as appropriate.

To ensure the accuracy and quality of the SIA analytical exercise and process, the consultants are required to have proven expertise and knowledge in economic, social, human rights and environmental impact analyses. In particular, this covers areas such as international trade policy and trade negotiations, quantitative analysis and modelling in economics and social sciences, quantitative and qualitative analysis of complex matters such as trade rules, competitiveness, environmental, social, and human rights issues.

In addition, consultants are expected to have experience in conducting consultations with stakeholders, including in carrying out surveys and organising other forms of activities engaging civil society representatives.

- **SIA stakeholders**

Stakeholders both in the EU and in the partner country(ies) are key SIAAs players. They include non-governmental organisations, businesses, social partners, experts, academia and national administrations. Stakeholders in developing countries should also be considered whenever relevant.

They provide additional and constructive perspectives at each and every stage of the study. In particular, their input on the SIA methodological approach and the potential sustainability consequences of the envisaged trade agreement, as well as their help in identifying priority areas and key issues in the trade negotiations, are essential for the SIA analysis.

Moreover, the involvement of stakeholders is paramount in ensuring both the transparency of the SIA itself, and that their opinions and concerns are taken into account.

- **The European Commission**

While the SIA is an independent study, Commission services should nevertheless be regularly informed of the progress of the study, and should provide relevant information and guidance to the conduct of the SIA.

In particular, the SIA Steering Committee must ensure systematic coordination between the consultants and the Commission services and must mobilize the relevant expertise of Commission services. The Steering Committee is set up at the beginning of the work and

involved in all phases of the SIA. All interested Commission services and the European External Action Service (EEAS) are invited to participate in the Steering Committee. To ensure full transparency of the SIA process, consultants list in the inception report the departments represented on the SIA Steering Committee. Depending on the specificities of the negotiations, the exact composition of the Steering Committee may vary.

In addition to the meetings with the Steering Committee, interaction between the consultants and EU officials should take place regularly. In order to help shape better-informed EU positions, the consultants should provide EU negotiators with frequent updates on their findings; in return, they should receive regular feedback from EU officials on developments in the negotiations, and on specific sectors or cross-cutting issues which should be analysed more closely. In addition, parts of the Commission services such as EU delegations in the partner country should provide the consultants with relevant information for carrying out the SIA, in particular regarding the consultation of stakeholders inside and outside the EU.

2. The launch of an SIA

SIAs are launched after the Council of the European Union has formally authorised the Commission to enter into trade negotiations; and within 6 months of their start, to ensure that the analysis can usefully feed into the negotiating process.

The relevant Commission departments prepare the basis for the SIA by drafting the terms of reference for the study and by selecting the consultants.

The SIA Steering Committee is also set up to ensure early coordination on how the SIA is carried out.

The SIA process can be divided into three main phases that lead to the publication for comments of draft reports by the consultant: inception, interim and final reports.

3. First phase - inception report: development of the methodological approach and identification of key sustainability issues

The inception phase lays the foundation for the entire SIA: it describes the methodological approach that the consultant proposes in order to ensure an in-depth and comprehensive analysis of economic, social, human rights and environmental impacts. It further outlines a draft consultation plan, including a preliminary list of key stakeholders.

The identification of the elements being negotiated which are likely to have a significant impact is begun by a screening and scoping process¹⁰.

¹⁰ For more details on the screening and scoping process, please refer to chapter III - section 2.

This phase also makes it possible to identify a selected number of sectors which should be subject to further detailed analysis in order to provide deeper insights into the effects of the trade negotiations on a given sector, and in particular the effects on its competitiveness.

The consultant's work at that stage is put into the draft inception report. The report is presented to the Steering Committee and publicly released for comments and discussion with stakeholders in the DG Trade's Civil Society Dialogue¹¹, and through other available channels. In particular, no later than the date of the draft inception report, the consultant must set up a SIA dedicated website. It serves as the main channel for publicising the SIA, for communicating about it, and for disseminating its findings¹².

The consultant then finalises inception report, taking stakeholders' contributions into account, and makes it publicly available on the dedicated website.

This phase is a prime opportunity for stakeholders to comment on the methodological approach proposed by the consultants as well as to identify other relevant issues to be further analysed. This is a crucial phase when interested parties can contribute to the SIA in its early stages.

4. Second phase - interim technical report: overall and sectoral assessment of identified sustainable impacts

The interim report puts the methodological approach described in the inception report into practice by presenting an in-depth overall assessment of the economic, social, human rights and environmental impacts arising from the expected outcome of the trade negotiation. The analysis is further detailed for the sectors identified in the inception report¹³.

Preliminary findings from the overall and sectoral analyses are compiled in a draft interim technical report and made public on the SIA dedicated website with a view to providing negotiators with timely inputs that feed into the ongoing negotiations and to enabling stakeholders to be informed of, and contribute to the findings.

The consultant ensures consultation and dialogue with external experts from stakeholders through the various channels established for this purpose such as, among others, the dedicated SIA website, specific questionnaire(s), targeted interviews, meetings or workshops, which may take place in the EU and/or partner countries.

¹¹ For further information on SIAs and civil society, please refer to chapter IV.

¹² For more detail on the SIA dedicated website, please refer to chapter IV.

¹³ The way the overall and sectoral analyses are performed is detailed in chapter III.

The consultant then finalises the interim technical report, taking stakeholders' contributions into account, and publishes it on the dedicated website.

5. Third phase - final report: completion of the SIA process

Building on the previous phase, the consultant refines the overall and sectoral analyses performed so far and finalises the SIA process.

The consultants produce a draft final report. It must be clear and understandable, taking into account the need to address both expert and non-expert readers. It must summarise and refer to stakeholders' comments in a transparent manner.

The report recapitulates the outcomes and findings of the assessment together with a summary of the methodological approach adopted to arrive at those outcomes. The identified impacts are accompanied in the draft final report by policy recommendations to maximise the benefits of the proposed agreement and prevent or minimise potential negative impacts.

These findings will have already been widely disseminated and discussed among all stakeholders as well as with Commission departments and negotiators throughout the SIA process, in order to fuel the negotiations and make sure that the SIA findings are appropriately taken into account.

The consultant publishes the draft final report on the dedicated SIA website and discusses it with the Steering Committee, as well as with interested stakeholders in DG Trade's Civil Society Dialogue and through other available channels.

The final report is made public, highlighting all relevant stakeholder contributions.

Following the conclusion of the study, the Commission services explain how the SIA findings have or will contribute to decision-making by means of a position paper. In particular, taking into account the specifics of the negotiation and progress made in this process, the Commission sets out in the position paper its own views on the identified impacts and the policy measures proposed to address them. The Commission then publishes the position paper on DG Trade's website.

CHAPTER III – SIAs: THE ANALYTICAL EXERCISE

Trade SIAs complement IAs by providing an in-depth analysis of impacts of the economic, social, human rights and environmental consequences of the trade agreement under negotiation.

The analysis starts by a screening and scoping exercise and is then followed by overall and sectoral impact analyses.

While the methodological approach should be tailored for each trade negotiation, this chapter spells out the common elements to be complied with in order to ensure the relevance and coherence of the analytical exercise (the methodological framework). However, flexibility is left to allow for further developments of the methodological approach.

1. General approach

The sustainability impact assessment of the identified trade measures should be undertaken in a clear, objective, proportionate and evidence-based manner. 'Proportionate' means that the level of depth and detail of the analysis should be adapted to the likely significance of the trade measure as well as to possible analytical constraints.

To the extent possible, the consultants should take into account relevant Commission guidelines on impact assessments¹⁴.

The consultants should ensure that the following elements are reflected in their methodological approach.

Causal chain analysis and baseline scenario

Trade SIAs are based upon causal chain analysis that identifies the significant cause-effect links between a proposed change in trade policy and its economic, social, human rights and environmental impacts.

This requires the development of a baseline scenario outlining what are the likely economic, social, human rights and environmental developments in the absence of the trade agreement and against which the likely impacts of the trade agreement under negotiation will be measured and compared. The baseline scenario should have a strong factual basis, be expressed as far as possible in quantitative terms, and be set for an appropriate time horizon. The baseline takes into account recent trends and implementation of existing policy including agreements already concluded even if not finalised.

¹⁴ The 2009 Guidelines on Impact assessment are available at http://ec.europa.eu/smart-regulation/impact/commission_guidelines/docs/iag_2009_en.pdf. They are currently being revised (http://ec.europa.eu/smart-regulation/impact/consultation_2014/index_en.htm)

Quantitative and Qualitative analysis

The analysis should combine both quantitative and qualitative approaches covering impacts in the EU¹⁵ as well as in the negotiating partner's country and relevant non-EU countries (in particular Turkey which is linked to the EU by a Customs Union agreement).

Quantitative analyses aim to estimate the costs and benefits of the impacts of identified individual elements under negotiation. Analyses should use state-of-the-art quantifying methods¹⁶.

Qualitative analysis complements the quantitative study. It should be rigorous, thorough and rely on available evidence and on illustrative examples.

Data

The analysis should be based upon the most up-to-date economic, social, human rights and environmental data available. The main source should be Eurostat.¹⁷ This can be complemented whenever necessary by Eurobarometer¹⁸, EU Open Data portal¹⁹, relevant international organisations (e.g. UN²⁰, WTO²¹, World Bank²², OECD²³, ILO²⁴) and other available reliable sources.

Any limitations in collecting or analysing the data (e.g. measurement errors, aggregation bias) should be acknowledged in the SIA report. It should be clearly indicated if the evidence is limited or inconclusive.

The analysis is based on state-of-the-art available indicators. Specific attention should be given to the list of main themes provided in annex.

Case studies

Case studies can often be used to shed light on key sustainability issues, as a complement to analytical methods. When other analytical methods cannot provide reliable and robust findings, case studies can also be used as the main analytical output.

¹⁵ The assessment of EU impact may be disaggregated at Member State level

¹⁶ For more detail on the economic, social, human rights and environmental analyses please refer to section 3 of this chapter.

¹⁷ <http://epp.eurostat.ec.europa.eu/portal/page/portal/eurostat/home/>

¹⁸ http://ec.europa.eu/public_opinion/index_en.htm

¹⁹ www.open-data.europa.eu

²⁰ <http://data.un.org>

²¹ www.wto.org

²² <http://data.worldbank.org>

²³ www.oecd.org

²⁴ <http://www.ilo.org/global/statistics-and-databases/lang--en/index.htm>

The selection and the design of case studies, as a complementary or the main analytical element, should allow for more general conclusions on the likely sustainability impacts of the trade negotiations.

Stakeholder inputs

Inputs from stakeholders are valued throughout the SIA process; they constitute a key pool of expertise in many areas, thereby contributing to the identification of potential impacts and sectors or cross-cutting issues for detailed analysis²⁵.

2. Screening and scoping

Screening and scoping constitute the initial steps of the analytical exercise. They aim at identifying significant sustainability impacts associated with the individual elements under negotiation. They should build on findings from the IA.

Screening

Screening aims at identifying which trade measures under negotiation are likely to have significant positive or negative impacts, in the EU or in the partner country/ies.

Screening is a means to select the key sustainability issues that will be assessed in further detail and to explain why a particular focus should be put on those elements. Several criteria should be used including:

- the current economic, social, human rights or environmental conditions in the EU and in the partner country(ies);
- the characteristics and specificities of the envisaged trade agreement;
- the magnitude of the expected economic, social, human rights and environmental impacts. Their nature, geographical scope, duration, as well as their potential cumulative effect should be taken into account;
- the relevance of the issue for specific stakeholders (e.g. businesses and in particular SMEs, NGOs, trading partners, consumers) and in the ongoing trade negotiations.

²⁵ Please refer to Chapter IV on the conduct of stakeholders consultations

Scoping

Scoping aims at identifying which components of the trade measures, identified and narrowed down during the screening exercise, are likely to be the main drivers of the predicted impact. These components should be described in detail, explaining how they would operate and which particular elements are likely to be potentially significant to the sustainability impacts.

Screening and scoping should also identify a number of sectors which should be subject to further detailed analysis.²⁶

3. Overall economic, social, human rights and environmental analysis

Further to the screening and scoping exercise, an in-depth analysis is then undertaken to produce an estimate of the most significant sustainability impacts with an enhanced focus on social, human rights, and environmental impact analyses.

SIAs should allow for a robust and informative analysis of the magnitude of the economic, social, human rights, and environmental impacts of the trade measures being negotiated

Economic analysis

The SIA should include a quantitative assessment of the likely effects of the agreement under negotiation on the EU²⁷ and partner country/ies, using state-of-the-art economic tools to provide aggregated effects as well as a general overview of sectors impacted²⁸. Key impacts on non-EU countries, including developing countries and, in particular, least developed countries (LDCs) should also be considered²⁹.

Economic modelling should be used to assess the likely consequences of the policy changes on variables such as output, trade flows, prices, fiscal revenues, income and welfare. Attention should also be paid to expected impacts on competitiveness, making use of the respective Commission guidance³⁰.

²⁶ For further information see section 4 on sectorial analysis.

²⁷ including the EU's outermost regions when relevant

²⁸ Specific sectors will be singled-out for in depth analysis (see section 4).

²⁹ This follows the approach established in the 2012 Communication on "Trade, Growth and Development", which sets new policy orientations for the EU's policy on trade and development for the next decade. In particular, it focuses on Least-Developed Countries (LDCs) and other countries most in need. The analysis of the impact of the proposal on developing countries should reflect these orientations.

³⁰ SEC(2012)91 [include link]

In cases where economic modelling has already been conducted (i.e. in support of an IA), the SIA economic analysis should make full use of the available material and should complement the analysis with other relevant information of qualitative and quantitative nature, including results from case studies and other modelling exercises available in the recent economic literature. The consultant will be expected to complement the existing analysis and examine more in-depth issues such as the impact on specific sectors, competitiveness and employment.

Efforts should be made to take into consideration the informal economy, particularly in cases where this may make up a substantial portion of the partner country's total economy. Although data on the informal economy may not be sufficiently reliable to be used in a quantitative analysis, a best attempt should be made at estimating the effect that the trade agreement may have on the size and performance of the informal economy in both the EU and in the trading partner.

In developing the economic analysis for an SIA, particular attention should be given to identifying and assessing where the impacts could be particularly significant, and/or potentially disproportionate; and/or could specifically affect (positively or negatively) particular individuals or groups.

For example, due to their size and limited resources, SMEs are arguably more affected by regulatory costs than their larger competitors. With this in mind, in the Small Business Act the Commission has made a commitment to implementing the 'Think Small First' principle in its policy making by assessing the impact of forthcoming legislation and administrative on SMEs (the 'SME-test'); and by taking this into account when designing proposals. SIAs should reflect this commitment in each analytical step, to the extent that data allows.

Open trade gives consumers access to a wider variety of goods and services, and consumers in the EU and worldwide have been the big beneficiaries of trade in past decades. Particular attention should be given to possible impacts on consumers, including an analysis of the impact on consumer prices and on the availability of goods and services, as well as consumer information and protection.

Social analysis

SIAs should provide a detailed assessment of the likely significant social impacts of the trade agreement under negotiation and identify which groups of people or actors will be affected, using a mix of quantitative and qualitative approaches. The consultant should make full use of operational guidance from Commission services on assessing social impact³¹.

³¹ See: Better Regulation Toolbox: tool on assessing impacts on employment, working conditions, income distribution, and inequality. See also:

http://ec.europa.eu/smart-regulation/impact/key_docs/docs/guidance_for_assessing_social_impacts.pdf

Particular attention should be given to the assessment of the impacts on employment (overall job creation or losses, job creation or losses in specific sectors, professions and skill levels), on working conditions (wage level, work standards, health and safety at work, social dialogue) and distributional impacts (poverty, income inequalities, disposable income). The SIA should explain how these effects might be measured or quantified with reference to labour market analysis, decent work indicators, ILO sources and information on labour standards.

The assessment should, whenever possible, be based on quantitative research, which will be complemented by case studies, whenever relevant, and by a detailed qualitative analysis, including the impact on vulnerable groups (e.g. women, children, minorities, un-skilled workers)³².

In addition, in conducting the social impact analysis, the interaction between the potential trade agreement and the effective implementation of ILO core labour Conventions and the promotion of the ILO Decent Work Agenda should also be considered, taking into account the proportionality principle, in the EU as well as in the trade partners under consideration and in non-EU countries. Other ILO Conventions and labour rights should also be taken into consideration, where relevant.

Consultations with stakeholders are important sources of information on the social dimension, including consultations with social partners (see Chapter IV).

Human rights³³ analysis

The SIA should also analyse the potential impact of the agreement being negotiated on human rights issues in the countries or territories concerned.

This analysis is not intended to pass a judgement on the actual human rights situation in a country, nor to decide whether the country is eligible for the conclusion of trade negotiations; but rather, to bring to the attention of negotiators the potential impacts of the trade measures under negotiations and thus, to support sound policy making.

The analysis of human rights impacts undertaken in a SIA should add to the analysis done in an IA by analysing in further depth the possible impacts on human rights of the trade agreement being negotiated, and by making full use of the expertise provided through extensive consultation of stakeholders, including in the partner country.

³² The concept of “vulnerability” will depend on the specific context in which the trade agreement would be implemented.

³³ The term ‘fundamental rights’ is used in the European Union (EU) to express the concept of ‘human rights’ within a specific EU internal context. Traditionally, the term ‘fundamental rights’ is used in a constitutional setting whereas the term ‘human rights’ is used in international law. Indeed, the two terms refer to similar substance as many parallels can be found when comparing the content of the CFR and the core UN conventions on human rights. Therefore, the SIA Handbook refers to the term ‘human rights’. Nevertheless, this should be understood as also encompassing fundamental rights as enshrined in the Charter of Fundamental Rights of the European Union.

The consultants should use the guidance on the analysis of human rights impacts in impact assessments as developed by Commission services. In particular, the Fundamental Rights "Check-List" developed in the *Commission Guidance on Taking account of Fundamental Rights in IAs*³⁴ as well as *Guidelines on the analysis of human rights impacts in impact assessments for trade-related initiatives*³⁵ should form the basis for the human rights analysis under the SIA.

Following a normative approach, the consultants should refer to human rights as set out in the Charter of Fundamental Rights of the European Union, the core UN Treaties and Conventions³⁶, the ILO core labour Conventions³⁷ and the European Convention on Human Rights as well as, where relevant, customary international law.

The consultant should keep in mind that human rights are interdependent and interrelated and, should, therefore, consider the likely multiple impacts of a particular measure.

As part of the analysis of human rights impacts, the consultant should:

- identify the specific human rights most likely to be affected by particular measures included in the agreement being negotiated;
- analyse the extent to which the particular measures foreseen in the agreement may enhance or impair the enjoyment of the relevant rights and/or may strengthen or weaken the ability of the EU and partner countries to fulfil or progressively realise their human rights obligations³⁸;
- identify individuals or specific groups of people or players that are likely to be specifically affected by those impacts.

In doing so, attention should be given to the pre-existing legal situation in the EU and country(ies) concerned (e.g. human rights treaties by which the parties have consented to be

³⁴ Operational Guidance on Fundamental Rights in Commission Impact Assessments (SEC(2011) 567 final, 06.05.2011 (available at: http://ec.europa.eu/justice/fundamental-rights/files/operational-guidance_en.pdf))

³⁵ Guidelines on the analysis of human rights impacts in impact assessments for trade-related initiatives are being developed as a response to the Action Plan (point 11a) included in the Strategic Framework on Human Rights and Democracy adopted by the Council on 25 June 2012.

³⁶ Core UN human rights treaties: *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD); *International Covenant on Economic, Social, and Cultural Rights* (ICESCR); *International Covenant on Civil and Political Rights* (ICCPR); *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW); *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT); *Convention on the Rights of the Child* (CRC); *International Convention on the Rights of Persons with Disabilities* (ICRPD); and *International Convention for the Protection of All Persons from Enforced Disappearance* (ICPED).

³⁷ *Freedom of Association and Protection of the Right to Organise Convention*, 1948 (No. 87), *Right to Organise and Collective Bargaining Convention*, 1949 (No. 98), *Forced Labour Convention*, 1930 (No. 29), *Abolition of Forced Labour Convention*, 1957 (No. 105), *Minimum Age Convention*, 1973 (No. 138), *Worst Forms of Child Labour Convention*, 1999 (No. 182), *Equal Remuneration Convention*, 1951 (No. 100), *Discrimination (Employment and Occupation) Convention*, 1958 (No. 111).

³⁸ The contractor may also refer to *Human Rights Indicators: A Guide to Measurement and Implementation* (OCHCR, 2012)

bound – taking into account any reservations expressed, existing regulatory framework); and pre-existing conditions of stress or vulnerability should be highlighted including in relation to particular vulnerable groups.

The analysis should combine both quantitative and qualitative approaches. Figures generated by the economic analysis (including by the modelling techniques) should be used, as well as complementary qualitative analyses (since reliable figures may be difficult to obtain and may only provide a partial picture). To the extent possible, available quantitative information on affected individuals and/or groups of people or actors in relevant sectors should be presented.

Stakeholders' consultations are a particularly important source of information and should ensure inclusive participation with a view to contributing to the identification of the potential impacts and affected individuals and/or groups of people or players as precisely as possible. Consultants are given a wide mandate to conduct far-reaching consultations including of disadvantaged persons and vulnerable groups (e.g. women, children, un-skilled workers) in the EU and the partner country(ies)³⁹.

Environmental analysis

International trade can serve as an important catalyst for global climate action. SIAs should contain a detailed assessment of likely environmental impacts of the trade agreement being negotiated. This includes the study of impacts on a broad range of relevant environmental issues such as climate change including the most important types of greenhouse gas (GHG) emissions, air pollution, biodiversity, water and waste.

The study should also try to identify how the agreement could contribute to greening the economy, resource efficiency objectives, and to promoting sustainable consumption and production.

Building on the overall economic modelling, the environmental analysis is conducted using various additional economic models as well as qualitative analysis.

The consultants should, where appropriate, break down the impact of the envisaged trade agreement into scale, structural, technology and product effects. Scale effects refer to environmental impacts by trade-induced economic growth (e.g. increased resources for environmental protection, impacts on biodiversity); structural effects refer to changes in production or consumption patterns at the microeconomic level (e.g. changes in the cost of raw materials or labour); technology effects are those affecting the processes or production methods used in product supply (e.g. potential for facilitated access to environmental technologies); product effects refer to the changes in the use of specific goods and services

³⁹ For further detail on the SIA consultations, please refer to Chapter IV.

following liberalisation⁴⁰. The analysis should be based on the most up-to-date and reliable decomposition techniques and complementary approaches.

In conducting the analysis, attention should be given to the interaction between the potential trade agreement and relevant multilateral environmental agreements (MEAs).

4. Sectoral analysis

Detailed sectoral analysis is conducted in order to provide deeper insights into the effects of trade negotiations on key economic sectors identified at the screening and scoping phase, although these could be adjusted based on the outcome of the overall economic, social and environmental impacts' analysis.

Sectors that will be subject to further detailed analysis in the SIA should be selected according to several criteria, such as their weight (e.g. GDP, share of employment) in the EU and/or partner country(ies) economy; the particularly significant (positive or negative) expected economic, social, human rights or environmental impacts of the agreement in these sectors; and concerns and priorities raised by stakeholders. Indeed, stakeholder consultations are a vital element for identifying sectors for further detailed analysis.

The aim is to assess quantitatively and qualitatively the economic, social, human rights and environmental impacts of the agreement under negotiation on the selected sectors as well as knock-on effects on other indirectly affected sectors identified in the overall analysis.

The in-depth sectoral analyses should identify and highlight any specific sub-sectors, activities, products, vulnerable social groups and geographical areas that are most likely to be affected, either positively or negatively, by the outcome of the negotiations. Particular attention should be given to a detailed analysis of the likely impact on competitiveness, job creation or losses, and the potential impacts on SMEs. The other potential economic, social, human rights and environmental impacts as defined above should also be analysed in depth at sectoral level.

The methodology to be applied should be multi-faceted. It should be based as far as possible on the existing economic modelling result developed for the overall analysis, but should go beyond this in terms of the actual analysis. The use of case studies can be particularly useful in this regard. In addition, the analysis should rely on stakeholders' feedback, technical experts' opinions, surveys, etc.

⁴⁰ Mayrand & Paquin (2007), p.21; http://unisfera.org/IMG/pdf/Unisfera_-_EAs_of_Services_Trade_Liberalisation_-_Literature_Review_19_April_2007.pdf

CHAPTER IV – SIAs: STAKEHOLDER CONSULTATION – A KEY COMPONENT OF THE ANALYSIS

SIAs are highly participatory: an open, transparent and wide-ranging consultation process is central to the analysis.

Consultations are conducted by the consultants and should be tailored to the specific needs of each SIA. Nevertheless some guidance on key elements and consultation activities are to be included in order to ensure the consistency and quality of the dialogue.

1. Purpose

Consultations are key to ensuring the transparency, quality, credibility and legitimacy of SIAs by providing a dynamic and robust framework for interaction and dialogue with all relevant stakeholders.

By directly involving those affected or interested in the trade measures under negotiation, the SIA consultation provides additional and constructive perspectives on the potential sustainability consequences of the envisaged agreement.

The main objectives of the consultation process are:

- to actively engage with all interested parties in order to reflect their experience, priorities and concerns;
- to contribute to the transparency of the SIA analysis;
- to help to identify priority areas and key issues in the trade negotiations.

2. Key principles

The consultants must ensure a far-reaching, open and continuous consultation process. The consultants should take into account and refer to the Commission guidelines for stakeholders' consultation⁴¹. In particular, the consultants should make specific efforts to ensure that the consultation is:

- **Comprehensive:** all relevant stakeholders should be given the opportunity to express their views;
- **Balanced:** the consultants should ensure an adequate and balanced coverage of all relevant interested parties during the consultation in order to be representative and avoid capture of the process by specific constituencies;

⁴¹ Under preparation http://ec.europa.eu/smart-regulation/impact/planned_ia/consultation_2014/index_en.htm

- **Timely:** in order to maximize the usefulness of stakeholders' contributions, consultations should start at an early stage of the SIA process and be conducted throughout the SIA study. Participants should be informed without delay of consultation activities and given sufficient time to provide their input and contributions;
- **Tailored:** consultation activities and documents are adapted and tailored to meet the needs of all target audiences. In particular, SIA reports should be clear, concise and easily understandable, taking into account the need to address both experts and non-expert readers, as well as provide a clear executive summary of the findings⁴²;
- **Incorporated:** stakeholders' contributions are appropriately taken into account, responded to and included in the conduct of the SIA. All inputs received should be summarised in a dedicated section of the SIA website and, where relevant, integrated and addressed in the analysis. In addition, the SIA final report should summarise and refer to stakeholders' contributions in a transparent manner and include an analysis of the effectiveness of the consultation process.

3. The consultation process

Consultations ensure dynamic and continuous interaction with stakeholders. The consultants provide regular information to relevant stakeholders on the progress of the analysis and regularly seek their input. Stakeholders are also encouraged to proactively convey their views as soon as the dedicated SIA website is set up and throughout the whole process.

Definition of the consultation plan and identification of stakeholders

The consultants are responsible for establishing a consultation plan which proposes how the SIA consultation will be carried out. In particular, the consultation plan should identify key stakeholders to be consulted in the EU and partner country(ies), map the nature of civil society, identify any risks (e.g. non-attendance by major stakeholders or constraints on freedom of association) and how these risks will be addressed to ensure constructive dialogue and useful inputs from stakeholders. Consultation means and activities foreseen should also be described in detail.

Stakeholders to be consulted include non-governmental organisations, businesses, social partners, academia and national administrations. The consultant should seek to involve experts from the EU and partner countries as well as from appropriate international organizations such as the ILO. Sectoral Social Dialogue Committees may also usefully be consulted. A consultation of the relevant committees can be organised with the assistance of DG EMPL.

⁴² Reports should be written in English, though in some cases the consultants may be asked to translate the executive summaries in one or two other languages.

The consultant should identify target groups that run the risk of being excluded. There might be differences between stakeholder groups regarding their access to consultations or in the availability of resources they can dedicate for participation in consultations.

The consultant should ensure a balanced coverage of all relevant interests among identified stakeholders and clearly explain how and why these stakeholders have been invited to participate in the process.

The consultant should also consult with the Commission, the European Economic and Social Committee and, through the Commission, the Social Dialogue Committees, in order to identify key stakeholders.

The consultation plan is presented to and discussed at the meetings of DG Trade's Civil Society Dialogue as well as at the meetings with the SIA Steering Committee.

Consultation Activities

Consultation is not a one-off event but a dynamic, systematic process that includes a wide range of complementary activities. These include interviews, meetings and surveys of stakeholders, as well as dissemination of the findings at all the main stages of the analysis, publication of the draft reports for comments and their discussion in public meetings.

- **Dedicated website and electronic communications**

To ensure dynamic and continuous interactions with civil society and all other relevant stakeholders throughout the conduct of the SIA, the consultants must set up a dedicated SIA website as well as other digital channels.

SIA dedicated website

The SIA dedicated website provides an essential channel for publicising the Trade SIA, communicating information about it, and disseminating its results. The website should be designed to facilitate regular interactions with stakeholders and serve as a discussion forum to further stimulate the involvement of stakeholders on the basis of SIA information made available online.

To this end, the SIA website includes a specific feedback mechanism, a home page with an easily accessible summary on the stage of the SIA process and all appropriate SIA-related information.

In particular, all reports – inception, interim and final – in their draft version as well as in their final forms are made publicly available on the website. Other relevant outputs, including regular updates on the SIA's process and findings and documentation sources are also published on the SIA website.

All public meetings should be appropriately advertised on the dedicated SIA website and through other channels such as SIA newsletters issued by the consultants, the Commission's and the consultants' Twitter accounts, EU trade newsletters⁴³ (EUTN) etc. The dates, venue and other relevant information are clearly communicated well in advance of the events.

Finally, to ensure that the SIA consultation is open and transparent, the consultants should also publish all the inputs received from the stakeholders together with the names of their authors in a section of the website specifically created to this end, unless respondents indicate that they do not wish their contributions to be made public.

The consultants should create the SIA dedicated website no later than the date of publication of the draft inception report, and should remain active for at least two years after the date of approval of the final report.

Other electronic tools

Additionally, the consultants are expected to contact relevant stakeholders by various means such as email, electronic newsletter, Twitter, etc. to inform them regularly and pro-actively about the SIA process including consultation activities and the main findings. In particular, at the beginning of the SIA consultation process and at each of the main stages of the analysis, the consultants should contact identified stakeholders informing them about the SIA study and inviting them to provide contributions via dedicated channels.

Other complementary communication tools can be developed where relevant such as a dedicated email address for feedbacks, regular mails or social media coverage.

- **Interviews, meetings, and questionnaires**

As part of the consultation process interviews, meetings, and questionnaires should be conducted.

Interviews and meetings

The consultants are encouraged to undertake interviews and one-to-one meetings, particularly at an inter-professional level. These meetings should encourage detailed discussions on the ongoing negotiations and their potential sustainability impacts.

The consultants should also identify existing platforms for dialogue that they could use to enhance communication with stakeholders. In this respect, the consultants should consult with the Commission, the European Economic and Social Committee and, through the Commission, the Social Dialogue Committees to determine whether existing conferences or meetings that they should attend are taking place.

⁴³ For detail information on EUTN, please refer to the Trade on Europa website, <http://trade.ec.europa.eu/eutn/>

Questionnaires

The consultants should also develop a questionnaire open to all stakeholders. When relevant a questionnaire specifically directed to SMEs ('the SME survey') should also be prepared.

The consultants should make sure that the questionnaire is appropriately disseminated and that all relevant stakeholders can reply to it. In doing this, the consultant should make full use of the Commission SME panel consultations through the Enterprise Europe Network managed by DG GROW⁴⁴.

- **Civil Society Dialogue meetings and workshops**

Consultants should present on-going work to interested stakeholders, giving them the opportunity to provide direct inputs.

In particular, two meetings should take place in Brussels with civil society as part of DG Trade's Civil Society Dialogue⁴⁵. These are regular meetings between civil society and the Commission to discuss aspects of the EU's trade policy. The consultants are expected to participate in the meetings specifically on SIAs, to present the SIA methodological approach and findings as well as to hold an open discussion with interested stakeholders. The first meeting should be organised to discuss the draft inception report and the second meeting to discuss the draft final report.

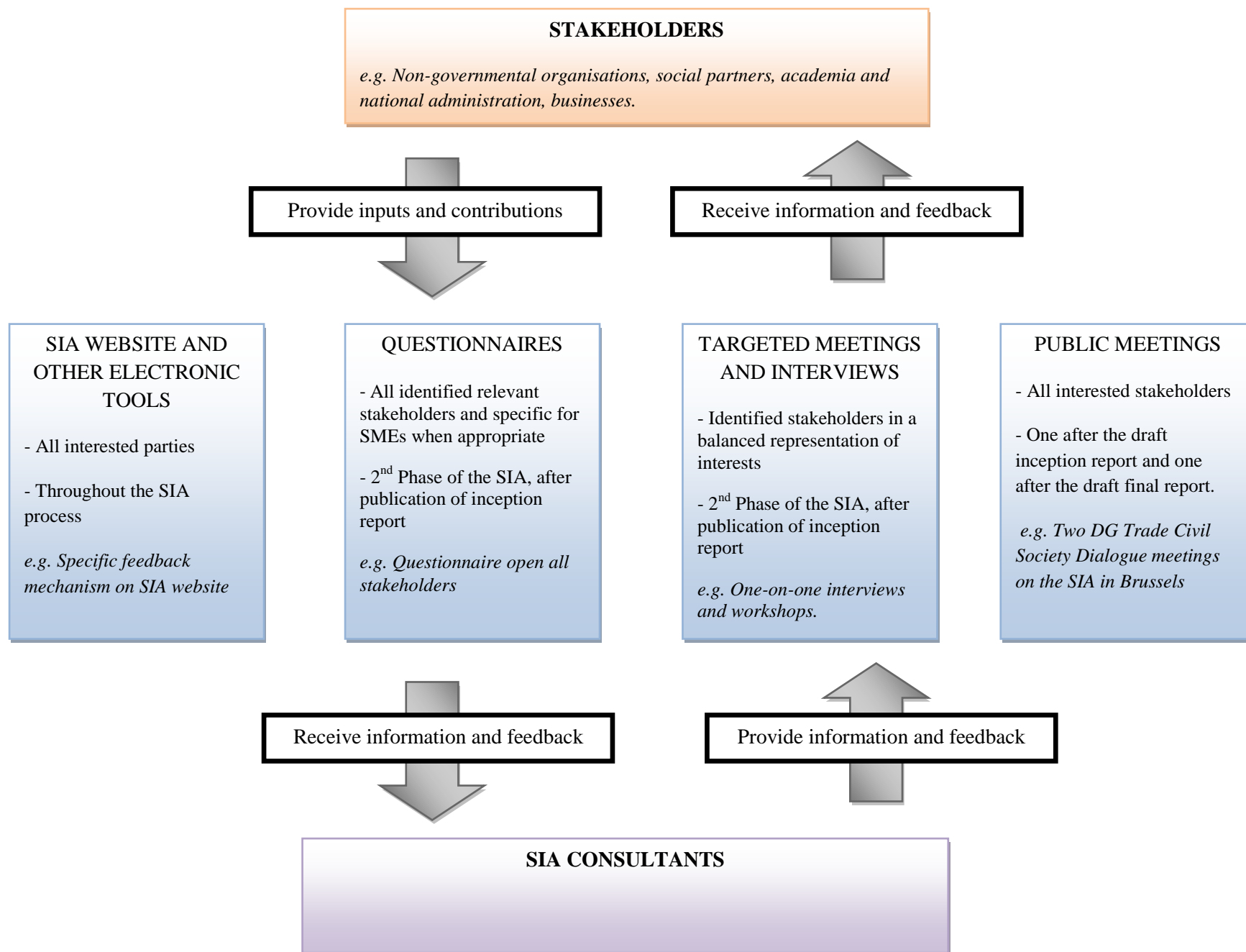
The draft reports are made public within a reasonable time limit ahead of the public meetings and should be finalised taking into account contributions provided during the Civil Society Dialogue as well as through other consultation channels.

Where appropriate, workshops may also be organised, in particular in the partner country(ies), to strengthen genuine consultation of local stakeholders.

⁴⁴ For further information, please visit DG Enterprise and Industry website; http://ec.europa.eu/enterprise/policies/sme/small-business-act/consulting-smes/index_en.htm

⁴⁵ For more information, please visit Trade on Europa at <http://trade.ec.europa.eu/civilsoc/index.cfm>

Table 2. SIA consultation activities



FINAL REMARKS

The SIA consultants' work feeds continuously into the trade negotiations throughout the whole duration of the study. Additionally, the final report should include recommendations to maximise the benefits of the proposed agreement, as well as to prevent or minimise potential adverse impacts.

Once the SIA is finished, the Commission services set out their views on the consultant's findings and recommendations by means of a position paper. The position paper explains how the SIA has and will contribute to the negotiations; it highlights the Commission services' views on the impacts identified in the SIA and the measures proposed by the consultant, and explains how the SIA findings have or will be used.

Finally, it is important to keep in mind that while this Handbook sets out the broad methodological framework of the new generation of SIAs, this is inevitably a dynamic and learning-by-doing process. The methodological approach will continue to be refined with each SIA in order to further strengthen the consultation process wherever necessary, and to reflect the state-of-the-art in relation to data collection tools and modelling techniques. In this way, SIAs can help ensure that the EU's trade agreements continue to contribute simultaneously to the EU's jobs and growth agenda, as well as to overarching sustainable development objectives.

ANNEX: MAIN LIST OF SIA THEMES

Below, is an indicative list of themes that may be of particular relevance when assessing the impacts of a trade agreement under negotiation. The list is intentionally broad and non-exhaustive. It has been organised under five categories (economic, social, human rights, environmental and institutional) but several of the themes mentioned may pertain to more than one category. Indeed, some themes listed below may be pertinent for the analysis of several types of impacts. Depending on the specifics of each trade negotiation, some of the below-mentioned themes may not be relevant while other unlisted themes should also be considered.

