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# **SEMIOTICS OF SUSTAINABILITY**

Analysis of the Trade and Sustainable Development  
Chapter of the EU–Vietnam Trade and Investment  
Agreement

This Master's Thesis analyzes the concept of sustainable development in the so-called Trade and Sustainable Development Chapter (TSD) of the EU–Vietnam Trade and Investment agreement through the theory and methodology of semiotics. Semiotics is a research tradition situated between and within both linguistics and philosophy and it concerns itself with signs, meaning-making and communication. The essential principle of semiotics is that social life is immersed in and mediated by different material signs that contain information and facilitate communication between individuals and groups. The underlying assumption of the thesis is that the concept of sustainable development as communicated in the TSD is a sign with a unique meaning conditioned by the system of other signs that constitutes the contents of the Chapter. This meaning can have unexpected and subtle connotations and consequences in practical policy despite the rhetoric of the text itself.

The EU is a leader in environmental legislation and sustainability in the international stage both as a moral authority and a pioneer in policy, but the academic community has identified several shortcomings in its approach, most predominantly criticizing the importance of economic growth at the cost of focusing on truly sustainable well-being of the environment. My semiotic analysis of the TSD displays similar results: the measures for protecting different aspects of the environment (or even using them sustainably) are not profoundly explored, while they are largely attributed for economic use of no prescribed extent. The aspect of social development – often neglected even in sustainability studies – turns out to be under-developed as well, elaborated again only in its economic connotations. As a single-case study, the outcomes of thesis are not outright applicable to other similar documents, but they suggest that this novel application of semiotics to the study of sustainability and free trade documents can inspire future research using the same methodology.

Keywords: Semiotics, semiology, semantics, free trade agreements, EU, sustainability, sustainable development, environmental sustainability, ecological protection, natural capital

The originality of this thesis has been checked using the Turnitin OriginalityCheck service.

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## Chapter 1: Introduction

East Asia is one of the success stories of global development. The rapid growth of the original “Asian Tiger” countries – South Korea, Taiwan, Hong Kong and Singapore – into developed industrial and market economies has been accompanied in the last decades of the 20<sup>th</sup> century and the first decade of the 21<sup>st</sup> by the gargantuan expansion of the Chinese economy but also by the “Tiger Cubs”, the other Southeast Asian countries: Indonesia, Malaysia, Philippines, Thailand and Vietnam. Out of these five countries, Vietnam has the smallest per capita GDP and is a recent “graduate” from the low-income country group to lower middle income country (as defined by the World Bank).

The EU–Vietnam Trade and Investment Agreement is the first bilateral trade treaty with the EU and a Southeast Asian developing economy and offers an important precedent of future rules and governance of trade between the developing countries of the region and Europe.<sup>1</sup> It is divided into two parts: EU–Vietnam Trade Agreement and EU–Vietnam Investment Protection Agreement. Prior research has estimated that at least the free trade agreement between the EU and South Korea will have benefits in terms of growth and welfare (defined in economic terms) for the economy of both countries, and the agreement between Vietnam and EU promises to have even broader developmental outcomes.<sup>2</sup> EU’s Trade Commissioner Cecilia Malmström has described the agreement as follows:

This FTA<sup>3</sup> (sic) is also significant because of its strong focus on sustainable development. It will support Vietnam's efforts to further enhance economic growth and development for its people in the years to come. This agreement provides a new model for trade policy with developing countries. The EU and Vietnam have also committed to ensure the respect of workers' rights and to support a sustainable management of natural resources.<sup>4</sup>

This study sets forth to evaluate this claim of a “strong focus on sustainable development” by analyzing the Trade and Sustainable Development Chapter and more specifically the contents of the principle of sustainable development contained within. Plenty of research has been made about free trade agreements and their effects, mostly by scholars in the field of economic

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<sup>1</sup> There is already a bilateral FTA in place with EU and Singapore, but Singapore is a modern, highly developed higher income economy unlike the rest of Southeast Asia.

<sup>2</sup> Phan & Jeong (2016)

<sup>3</sup> This comment was released in 2015, when the agreement still went on by the name “EU–Vietnam Free Trade Agreement”.

<sup>4</sup> EC (2015)

science.<sup>5</sup> A semiotic analysis of the principle sustainable development in a free trade agreement can give a fresh insight to the role, possibilities and risks of trade in development processes and upholding sustainable development, as well as deepen our understanding on how the EU views sustainable development in its trade policy. It is also an interesting situation to learn what kind of form the concept acquires when it is applied to policy; one reason that there exists many competing interpretations is indeed because, according to Baker and Eckerberg, the meaning of the concept is essentially realized through practice.<sup>6</sup> The research question of the study is: **What kind of meaning for sustainable development is contained in the Trade and Sustainable Development Chapter of the EU–Vietnam Trade and Investment Agreement?**

Vietnam has been experiencing rapid long-term economic growth since the early 1990s and the trend seems not to be slowing down. The GDP per capita has increased almost 20-fold in about 25 years. The personal experiences of the author in the country indicate that the public has in general been able to reap the benefits of the growth both in rural and urban centers. However, economic and social inequality is consistently visible in everyday life, and the standard of living and consumption is still for many people a far cry from that in developed countries. The increase in urban poverty is gradually becoming more and more worrisome threat to inclusive development in Vietnam.<sup>7</sup> Despite the present social ills, Vietnamese people have unusually positive trust and satisfaction with the effects of globalization unlike almost any other country in the world.<sup>8</sup> The Vietnamese government is also strongly pushing the country's integration to international commerce and free trade in its policies: it has become a member of both ASEAN and the WTO to effectively take advantage of the global economy and benefit from broadening globalization processes while protecting its sovereignty.<sup>9</sup> Indeed, according to Holmes, the legitimacy of the ruling Socialist party could be seen as highly dependent of affluence and material satisfaction brought by the burgeoning economy.<sup>10</sup>

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<sup>5</sup> See for example Baier & Bergstrand 2007, Bagwell & Staiger 2011, Levy 1997, Grossman & Helpman 1995

<sup>6</sup> Baker and Eckerberg 2008, 5

<sup>7</sup> ADB 2016, 1

<sup>8</sup> The Economist 2016

<sup>9</sup> Palmujoki 2007

<sup>10</sup> Holmes 2007. On the other hand, according to a YouGov survey from 2016 (YouGov 2016), Vietnamese people view their country in very much more negative terms than other nationalities and almost 80 % of its people would move away, given an opportunity. Private communications with Vietnamese nationals have suggested that is this is partly because of active dislike for the very same ruling Socialist party.

In this sense, a trade agreement with EU has exceptionally fertile ground for implementation. Mansfield & Mutz and Fordham & Kleinberg have been exploring (and disagreeing with each other) what makes people either support or resist free trade.<sup>11</sup> The former postulated that social factors such as ethnocentrism, isolationism and nationalism have a relationship with how people might perceive foreign trade. They ask whether ethnocentrism and impressions of otherness could have (negative) influence in how they view very different trading partners more than people's economic self-interests.<sup>12</sup> Fordham & Kleinberg challenged this assumption and claimed that they still might have a role.<sup>13</sup> There is also a correlation seen from developed countries where people with *positive* attitudes are also more open towards trade liberalization, this too applies to the opinion received from surveys conducted in Vietnam.<sup>14</sup> Similarly, public opinion in developing countries including Vietnam seems to prefer trade agreements that improve or at least maintain both workers and environmental rights.<sup>15</sup>

Sustainable development is a central objective to EU foreign policy, having even been codified to the Treaty on European Union, where it is stated that the EU shall pursue to “foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty”.<sup>16</sup> According to Bartels, in order to comply with these obligations the EU has implemented in its trade agreements special human rights clauses, but these days increasingly also so-called Trade and Sustainable Development (TSD) Chapters.<sup>17</sup> TSDs have been included in EU's trade agreements since the EU–Korea Free Trade Agreement of 2011 and currently there are TSDs also in the EU–Central America Association Agreement and in Trade Agreement between The European Union and Colombia and Peru.

TSDs are based on a three-pillar approach. It consists of making the parties to commit to a range of multilateral environmental treaties and ILO conventions, establishing structures that enable civil society organizations to implement these commitments, and creating a dispute settlement mechanism to address issues regarding the implementation of commitments.<sup>18</sup> Their goal is “to

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<sup>11</sup> Mansfield & Mutz 2009, Fordham & Kleinberg 2012

<sup>12</sup> Mansfield & Mutz 2009

<sup>13</sup> Fordham & Kleinberg 2012

<sup>14</sup> Bernauer & Nguyen 2015

<sup>15</sup> Spilker, Bernauer & Umaña, 2018

<sup>16</sup> Article 21(3) TEU; Article 21(2)(d) TEU

<sup>17</sup> Bartels 2012, 17

<sup>18</sup> CEC 2018, 1

foster real and lasting change on the ground to the direct benefit of the citizens of [its] FTA partners” .<sup>19</sup>

At least in terms of EU’s own requirements, the regulations of social standards represented through the implementation of TSDs can be considered to be a successful way of doing foreign policy in an ethical and sustainable manner.<sup>20</sup> The EU has itself stated that at least the human rights clauses it has added to its FTAs have given it “a clear legal basis for raising human rights issues” and making it “impossible for both parties to claim that human rights are a purely internal matter”.<sup>21</sup>

To analyze the case of sustainable development in the TSD of the EU–Vietnam Trade and Investment Agreement, theory and methodology of semiotics will be utilized. Semiotics is a broad methodology rooted in linguistics with different theories and approaches, but they are all unified by the common concern with “identifying signs and understanding the processes by which they come to have meaning”.<sup>22</sup> By using semiotics in a setting of a legal text, I assume, it is possible to discover underlying structures of meaning, whose implications for real-life policy practice might otherwise be left unobserved and unexpected. The use of semiotics in the analysis of free trade agreements and sustainable development is a novel approach with the possibility to open up heretofore unexplored areas of research in international relations as well as international law, ecological economics, ecological politics and development studies.

The study shall proceed in the following manner: first I will approach the principle of sustainable development through existing research literature, defining an analytical typology of the term that is useful to the analysis, as well as evaluating the EU policies and perspectives of sustainable development for improved understanding of its role and thinking. Then I will introduce some basics of semiotic theory and shape an approach that is suitable to this case of international relations and law. I draw inspiration from multiple sources, such as established classics of semiotic literature, including Barthes, Eco and Jakobson, complementing these with relevant sources. Before moving on to the analysis, I shall make appropriate notes about methodological issues in semiotic research, which can be found to be anything but straightforward. Then I shall analyze the

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<sup>19</sup> CEC 2018, 1

<sup>20</sup> Bartels 2012, 19

<sup>21</sup> CEC 2016b, 4

<sup>22</sup> Feldman 1995, 22

TSD itself, looking at the semiotic fields of environmental and social dimensions in the text, analyzing signifiers and establishing relationships between them, eventually creating one single unified structure for the concept of sustainable development as it is communicated in the text. Finally, I draw conclusions and ponder the achievements and possible challenges of the study.

## Chapter 2: Theories of sustainable development and the EU

### 2.1. Introduction

Inarguably the most influential and most referred to definition of sustainable development is the one laid out by the Brundtland Commission in their report *Our Common Future*: sustainable development is “development that meets the needs of current generations without compromising the ability of future generations to meet their own needs”.<sup>23</sup> It has been described as “the most established” and having “nearly universal acceptance”.<sup>24</sup> There hardly exists a resource discussing sustainability and sustainable development where the Brundtland formulation would not receive at least a passing mention. So pervasive it is that *not* beginning this discussion of sustainable development with it would almost feel like an intentional neglect of an essential contribution. However, the complete implications of the WCED report are eventually more extensive and radical than the numerous documents and reports from both public and private sector only paying lip service to it are willing to admit.<sup>25</sup>

This chapter looks at the qualities of the EU strain of development thinking, exploring the different varieties suggested by the existing literature and elaborating on some of the key areas, mainly on the difference between “weak” and “strong” formulations of the sustainability principle and the difference between ecological modernization and sustainable development. Previous research has identified the EU brand of sustainable development as being more akin to ecological modernism rather than a “strong” or “weak” understanding of sustainable development.<sup>26</sup> Ecological modernism attempts maintain the status quo of industrial modernity by combining economic and ecological goals instead of viewing them as incompatible and/or counteracting. It is not a single, unified theory, but rather an approach contributed to by a number of different authors.<sup>27</sup>

The principles of sustainable development action were laid out in the Rio Declaration on Environment and Development – issued as a result of the 1992 United Nations Conference on Environment and Development in Rio de Janeiro, also known as the Earth Summit—which included 27 separate principles for states to act out in their policies, but one of the most severe sources of environmental stress on the planet, the unsustainable consumption patterns of the developed

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<sup>23</sup> WCED 1987, 45

<sup>24</sup> Syngellakis 1993, 61; Alam 2008, 4–5

<sup>25</sup> see e.g. Bosselmann 2008

<sup>26</sup> Andersen & Massa 1999, Baker 2007, Gouldson & Murphy 1996, Jones 1999

<sup>27</sup> see, e.g. Hajer 1996, Simonis 1989, Spaargaren & Mol 1992, Weale 1992

world were yet left unaddressed in both the Rio Declaration as well as the Agenda 21 that accompanied it. Thus the affluent North was given no further responsibility in changing and accommodating these patterns in favor of the principles of sustainability; it is argued by the developing countries, after all, that overconsumption is hindering and harming the core value of sustainable development: not depriving future generations of their ability to meet their basic needs.<sup>28</sup>

The Agenda 21 represented a practical blueprint for implementing principles of sustainable development into policy action. It was an ambitious document that aimed to establish a combination of poverty alleviation and official development assistance with environmental protection. Unfortunately, it was entirely non-binding and dependent on strong leadership role of the influential countries as well as generous financing and effective institutional governance, which unfortunately never came to pass despite the verbal commitments and rhetoric made then and afterwards.<sup>29</sup> Besides this, in the same conference the United Nations Framework Convention on Climate Change was adopted and it introduced the idea of “common but differentiated responsibilities”, which effectively demanded different actions from countries at the different ends of the development spectrum.<sup>30</sup> This principle has since become a staple of international discussions of sustainable development.

The 2002 World Summit on Sustainable Development in Johannesburg aimed to fix some of the issues in the design of Agenda 21 that were holding back its implementation. Resulting papers of the summit were the Johannesburg Declaration, a formal commitment of the world leaders to sustainable development and the Johannesburg Plan of Implementation, which set out quantifiable targets and deadlines for sustainable development action.<sup>31</sup> One of the legacies of the Johannesburg summit was a change of focus in the three pillars of sustainable development. If before the environmental aspects of sustainability had dominated, in Johannesburg all of the aspects of sustainable development were for the first time being dealt with in an intersectional manner.<sup>32</sup>

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<sup>28</sup> Alam 2008, 42

<sup>29</sup> Speth & Haas 2006, 70–72

<sup>30</sup> Article 3(1) and Article 4(1) of UNFCCC

<sup>31</sup> Chasek et al. 2010, 335–337

<sup>32</sup> Chasek et al. 2010, 339

One of the vices of current development model is the treatment of temporal and spatial displacement as mostly irrelevant to the development policy praxis.<sup>33</sup> These concepts refer to passing the risks and problems of modernity as well as the negative environmental consequences down to both yet to be born generations in the future and the less developed countries in the present. The former involves not tackling environmental issues that have long-standing consequences such as accelerating climate change by not cutting down on CO2 emissions, whereas the latter addresses the current phenomenon of moving highly polluting industries to less developed countries as the result of richer countries accepting and moving towards advanced, less environmentally intensive technologies.

Sustainable development is commonly considered to consist of three elements: economic development, social development and ecological protection. This tripartite division to “economic, social and environmental” was first presented in an international context in Agenda 21, but at that time it was not clear what the nature of these components was: they were called “factors”, “issues”, “considerations”, “spheres”, “dimensions” and so on.<sup>34</sup> Purvis, Mao & Robinson found out that there actually is no single clear conceptual origin for the pillars (as they call them) nor has there ever been any theoretically rigorous description of these “components” or “pillars”.<sup>35</sup> In semiotic sense (as we will later see) this can be troublesome because without rigorous conceptual structure, the actual workings and implications of the signs and their relationships in action can end up functioning in unexpected and possibly undesirable ways. This is why we shall try to build a conceptually viable iteration of the principle that will be operationally more useful for semiotic analysis.

While there is undeniably a lot of talk about the importance of advancing sustainable development and the process of international policy-crafting for sustainable development has been going on for almost three decades, on the level of governments and domestic policies the action can be seen lacking and missing credible commitment. The academic community has been criticizing the inefficient and inconsistent interpretations of the sustainability of environmental policies and the incoherence between the claims and the promises made and the actions actually taken. Even the basic tenets and principles of sustainable development have occasionally been

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<sup>33</sup> Baker 2006, 216

<sup>34</sup> UN 1992

<sup>35</sup> Purvis, Mao & Robinson 2018

called to question, with some researchers either adjusting or reinterpreting them or rejecting them altogether.<sup>36</sup> EU is one case in point in this matter, its achievements and past track record being able to be seen in both positive and negative light. Whereas it aims to position and show itself as a global leader in tackling sustainable development responsibly, a closer look at its policies show uncomfortable discrepancies.

## 2.2. A conceptual meaning of sustainable development

According to Dixon & Fallon, the word “sustain” comes from the Latin word *sustere*, which means “to hold up” or “to keep elevated”.<sup>37</sup> Their take on the meaning of “sustaining” in the context of resources and the environment is to “to maintain or prolong the productive use of resources and the integrity of the resource base”.<sup>38</sup> They then go on to identify three conceptual uses for the signifier “sustainability”: the first being as a purely physical concept for a single resource, the second one being the use as a physical concept for a group of resources, and thirdly as a social-physical-economic concept. The first use refers to practices such as maximum sustainable yield (in fisheries), maximum sustainable cut (in forestry), maximum sustainable pumping rate (in groundwater extraction), and so on. The second use expands the attention not only to one resource, but also to the other aspect of the ecosystem the resource is part of. In this use, a practice that on its own might be viewed sustainable turns out to be unsustainable to the ecosystem at large. Dixon & Fallon give the example of sustainable yield forestry causing soil erosion and sedimentation and changing water yield etc. The third use then refers to “sustainable development” proper, where “the goal is not a sustained level of a physical stock or physical production from an ecosystem over time, but some sustained increase in the level of societal and individual welfare”.<sup>39</sup> According to Langhelle, this third possible meaning of sustainability is the one that the Brundtland report used and developed.<sup>40</sup>

Klaus Bosselmann argues that if the meaning of “sustainable” qualifies “development” as distinct from “unsustainable development”, then what “sustainable” means needs to be readily understood by people. In other words, if “sustainable” is not defined, then it cannot be understood as being distinct in opposition to “unsustainable”.<sup>41</sup> Bosselmann’s assumption is that

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<sup>36</sup> e.g. Redclift 1987, Bosselmann 2008

<sup>37</sup> Dixon & Fallon 1989

<sup>38</sup> Dixon & Fallon 1989, 74

<sup>39</sup> Dixon & Fallon 1989, 76

<sup>40</sup> Langhelle 1999, 132

<sup>41</sup> Bosselmann 2008, 52

between economic, social and environmental goals to sustainable development there may be potential conflicts; however, in his view they cannot be always equally important and goes on to argue for a hierarchical organization based on the definition of “sustainable”.

Therefore, in his view, sustainability – as in what makes sustainable development “sustainable” and distinct from “unsustainable” – is the key to clarifying the essential meaning of the whole concept. Bosselmann is a legal scholar, but his discussion of sustainability functions in very interesting semiotic and semantic terms as well. His rationale for seeking a definition for the attribute of sustainable is that “if [it] remains undefined, the direction away from ‘unsustainable’ cannot be found, which means that no political guidance could be provided and no legal imperatives could follow”.<sup>42</sup>

Bosselmann goes on to say that the essence of sustainability must be *ecological sustainability*, rather than *economic* or *social* sustainability: both economic and social dimensions are important for *sustainable development*, but they are not a part of *sustainability*. Bosselmann clarifies:

Rolling the three forms of sustainability would be impossible without giving up its core meaning. In other words, it can only be either “economic sustainability” (whatever its meaning) or “social sustainability” or “ecological sustainability” that can provide the necessary direction.<sup>43</sup>

If “sustainability” is ecological by nature, then “sustainable development” must mean “ecologically sustainable development”, which can be defined as follows: “No economic prosperity without social justice and no social justice without economic prosperity, and both within the limits of ecological sustainability”. As such sustainable development has clear qualities of an ethical norm. His definition for the principle of (ecological) sustainability itself is “the duty to protect and restore the integrity of the Earth’s ecological systems”; in the same vein he goes to say that development is “sustainable if it tends to preserve the integrity and continued existence of ecological systems; it is unsustainable if it tends to do otherwise”.<sup>44</sup>

In Bosselmann’s view, the ecological aspect is the preliminary requirement for sustainable development, and any development can be sustainable if and only if it satisfies the requirements of ecological sustainability. In this way, he diverges from the definition of what it means to

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<sup>42</sup> Bosselmann 2008, 52–53

<sup>43</sup> Bosselmann 2008, 53

<sup>44</sup> Bosselmann 2005, 53

“sustain” something that Dixon & Fallon established. It should be noted that Bosselmann traces historically legal principles similar to sustainability which precede the Brundtland report, sometimes by several centuries. In theory, he is then conflating two different anachronistic understandings of what sustainability can mean. On the other hand, though, the exact normative consequences that he calls for are very much in line with how Brundtland report interprets them and which goes in line with the third use of the word “sustainability”. The three-pillar or “triple bottom line”, which was earlier argued to have no rigorous conceptually formed basis, approach thus seems to be challenged by a semantically more rigid definition, which places its components in a hierarchic order. We shall adopt the view that environmental sustainability is a fundamental requirement for any development to qualify as sustainable and consider the view of three equal components as imperfect and imprecise.

Looking back to the Brundtland report, few researches have desired rejuvenate and bring coherence to the central principles and understandings of sustainable development by trying to reformulate if straight from “the source”. Langhelle has evaluated and countered some criticism railed against *Our Common Future* by comparing his critical interpretation of it to what he sees as misunderstandings of its content, while Holden et al. attempted to go back to the “original definition” of sustainable development and then use that definition to determine whether any country had achieved sustainable development (none had).<sup>45</sup> Langhelle’s view of the Brundtland report was that it has a coherent ethical argument with surprisingly radical implications, whereas Holden et al. simply considered the report to represent four primary dimensions for sustainability.

The basis of Langhelle’s insight to the Brundtland report is an argument in the report itself that different interpretations of sustainable development “must share certain general features and must flow from a consensus on the basic concept of sustainable development and on a broad strategic framework for achieving it”.<sup>46</sup> He then proceeds to what he sees as the basic concept of sustainable development. The standard definition is the one cited in the beginning of this chapter as well, but it itself contains two other key concepts, namely those of “needs” and “limitations”. The needs reflect to the overarching objective of development, whereas the limitations refer to

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<sup>45</sup> Langhelle 1999; Holden, Linnerud & Banister 2014

<sup>46</sup> WCED 1987, 43

the constraints placed on the goal. Langhelle chooses to use the names “goal of development” and “proviso of sustainability” to these ideas.<sup>47</sup>

From this framework it follows, according to Langhelle, that not all environmental problems are problems of sustainable development, and that some *unsustainable activities* can be part of larger sustainable *processes*. This is because the goal of development is logically prior to the proviso of sustainability, which then leads to the process of development itself being the one to be sustained. The process of development, however, causes environmental harm and that is why the goal of development is restrained with the proviso of sustainability.<sup>48</sup> In this manner, the idea of sustainability suggested by the Brundtland report does not endorse immediate preservation and protection of all natural environment nor mindless consumption and utilization of that environment. In fact, the major problem for development is indeed to accommodate the needs of an expanding world population while addressing the problem of global warming, a slowly creeping life-threatening transformation of the planet’s climate that the Brundtland report addressed several times.

Holden et al. on their behalf adhere to four fundamental dimensions from the Brundtland report: safeguarding long-term ecological sustainability, satisfying basic human needs, and promoting intra-generational and intergenerational equity.<sup>49</sup> They correctly make note that economic growth is not one of these fundamental dimensions of the “Brundtland brand” of sustainable development and draw to a similar conclusion critiquing the “triple bottom line” model of sustainable development as has been already claimed in this research (and will be presented again with greater detail later on). Instead, they argue that it is, instead, “a potential means to facilitate the fulfilment of the four primary dimensions and not a primary dimension in its own right”.<sup>50</sup>

The interpretations of these dimensions are of course by no means straightforward in any sense. Nowadays there is no single agreement among the academicians on the exact meaning of sustainable development, although the core set of its principles are commonly accepted. Instead, there are competing conceptions of what it means to different people and what it to *ought* to mean to others as well. In this manner it has semiotically speaking a feature called polysemy, i.e. it

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<sup>47</sup> Langhelle 1999, 133

<sup>48</sup> Langhelle 1999, 134–135

<sup>49</sup> Holden, Linnerud & Banister 2014, 131

<sup>50</sup> Holden, Linnerud & Banister 2014, 131

being able to have more than one meaning. This is one of the reasons sustainable development is also described as being an essentially contested concept, much like other politically popular ideas such as “justice” or “democracy”, for example.<sup>51</sup> The main division between different contents of the concept of sustainable development is between proponents of what can be called “weak” and “strong” understandings of the concept.<sup>52</sup> Flint defines “weak” understanding of sustainability as follows:

In its most basic form, weak sustainability involves the protection of total capital stock (constant capital rule) and presupposes that all forms of capital are substitutable with each other. Degradation of one form of capital must be balanced by ensuring capital growth in other areas. [...] The implication is that natural capital can be substituted with human capital and that human ingenuity will be able to counterbalance any negative effects brought about by degradation.<sup>53</sup>

Essentially, the weak sustainability suggests that increases in human knowledge and mastery over the environment, even at the price of environmental degradation – as natural capital and human capital are convertible and substitutable – are able to offset and negation the damage caused to the environment in the imaginable future. What the mankind, science and economy are able to do and achieve now will have beneficial effects that continue and are able to decrease natural degradation and protect the environment of the future generations.

This idea of substitutability presumes on the idea that environment can be thought as a measurable resource with an economic value or price.<sup>54</sup> This is a strong implication of the economic mode of thought in which the weak understanding of sustainable development operates. Flint suggests that the bottom line of the weak position is to offer a solution for the environmental problems while safeguarding the system that produced these problems in the first place.<sup>55</sup>

The “strong” understanding of sustainability emphasizes that economic development and economic reforms themselves are not enough to address the problems and degradation facing the natural environment. It is the current structure of global and national economies themselves that are causing consumption of natural resources and capital. Economic action causes degradation of

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<sup>51</sup> Daly 1996, 2; Jacobs 1991, 60; Baker & Eckerberg 2008, 5

<sup>52</sup> Backer and Eckerberg 2008, Flint 2008. Holden, Linnerud & Banister (2014) adopt also extreme views of both positions of “very weak” and “very strong” sustainability in their analysis.

<sup>53</sup> Flint 2008, 34

<sup>54</sup> Baker 2006, 32–33

<sup>55</sup> Flint 2008, 41

the environment, but economic action is also threatened by the degradation itself.<sup>56</sup> A strong version of sustainable development considers environmental concerns before economic concerns. The weak version of sustainability assumed a total substitutability between all forms of capital, including human and natural capitals whereas the strong version denies this complete substitutability; several proponents have made arguments suggesting the non-substitutability of natural capital and proposed treating some types of it as critical to human welfare.<sup>57</sup> Ekins et al. describe critical natural capital as follows:

If our current development is unsustainable, it is because it is depleting some critical, non-substitutable components of the capital base on which it depends. “Critical natural capital” may then be defined as natural capital which is responsible for important environmental functions and which cannot be substituted in the provision of these functions by manufactured capital.<sup>58</sup>

Strong sustainable development also holds high the idea of the precautionary principle in risk management, thus suggesting and enforcing a strong intervention of the government as well as various forms of political participation. A powerful state and civil society in strong sustainable development therefore set boundaries and limits to market forces and operations.<sup>59</sup> Since it is very hard to define based on the current knowledge which ecosystems and ecosystem services are critical and which are not, upholding the precautionary principle would likely impose limits on the way which forms of natural capital could in any situation be substituted with other forms of capital.<sup>60</sup> Ekins et al. go as far as to claim that in a scientific methodology strong sustainability should be considered as the *a priori* position of substitutability of natural capital to other forms of capital.<sup>61</sup> Redclift also suggests that it is the idea of critical natural capital that distinguishes “strong” versions of sustainable development from its “weak versions”.<sup>62</sup>

A different option for strong definitions of sustainable development is considering economies as subsystems to the planetary ecosystem instead of viewing the natural environment as subsidiary to the human economy. One of the strongest proponents of this kind of sustainability model is Herman Daly, who has continuously argued for his anti-growth views, steady-state economics and the incompatibility of free trade with sustainable development. Daly is a critic of the idea of

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<sup>56</sup> Flint 2008, 41

<sup>57</sup> Pelenc 2015, Ekins et al. 2003

<sup>58</sup> Ekins et al. 2003, 169

<sup>59</sup> Baker 2006, 33

<sup>60</sup> Pelenc 2015

<sup>61</sup> Ekins et al. 2003, 168; unreferred in Pelenc 2015, 3

<sup>62</sup> Redclift 2005, 214

growth and suggests that the dominant economic thinking should switch its focus from “growth” to “development”.<sup>63</sup> The “strong” definition of “development” as described by Herman Daly is “a qualitative improvement in the structure, design and composition of physical stocks and flows”.<sup>64</sup> It should be mentioned that Daly’s argument is ultimately suggesting for a steady-state economic model with minimal growth rates, which is something few in the field of economy advocate. He is countered, for example, by Michael Jacobs who, while agreeing with Daly that negative externalities are not merely an intrinsic and unavoidable but even encouraged by also encouraged by market forces, disagrees with the zero-growth principle.<sup>65</sup> He argues that the *size* of an economy can continue to expand while its *value* remains the same or even diminishes. This would still be classified as negative growth. This leads Jacobs to argue that it is not the rate of growth that causes environmental degradation, but rather it is due to the rate of consumption that is above the sustainable regeneration rate. In the end, however, he agrees with Daly that the idea of “growth” is separate and different from “development”; in his words “development implies something wider than [economic growth], a notion of economic welfare which acknowledges non-financial components”.<sup>66</sup>

Flint goes on to argue that the EU understanding of sustainable development is tied to a weak understanding, as it strives to preserve the current economic status quo and prefer market-based approaches in its attempts to further sustainable development both inside and outside itself.<sup>67</sup> Within this field of weak understanding of sustainable development, it seems that the EU is still one of the leading proponents when it comes to environmental legislation and policy.

### 2.3. Sustainable development in the EU

The European Union views itself as having taken sustainable development seriously at the governmental and objective level for almost twenty years. It prides itself for having lots of impact in the shaping of the Agenda 2030 and Sustainable Development Goals, even going as far as to say that the EU vision of the dimensions of sustainable development has – with the advent of the Agenda 2030 – become “the world’s blueprint for global sustainable development”.<sup>68</sup> The academic community has been more critical of Europe’s position, accusing the EU for aligning

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<sup>63</sup> Daly 1996, 166–167

<sup>64</sup> Flint 2008, 43

<sup>65</sup> Jacobs 1991, 34

<sup>66</sup> Jacobs 1991, 60

<sup>67</sup> Flint 2008, 46

<sup>68</sup> CEC 2016c, 3

instead with a concept called ecological modernization that aims to combine environmental protection with economic growth, and is not actually considered to be sustainable development.

The development to this position where EU portrays itself as a vanguard of sustainable development has been gradual. In the earliest days of the European Community, ever since its founding in the Treaty of Rome, the general impetus of the Post-war Europe was in economic growth and integration of European markets. Environmental degradation and institutional establishment for the protection of the environment were practically nonexistent on the European fora of political discussion and the governing polity level of the European Community. In a historical perspective a major reason was inarguably the fact that the extent of environmental damage had not yet reached a critical level in popular concerns and the scientific research on the issue was scarce; it was not until the 1970s that they became a common concern, which prompted European governments to take action on the issue under pressure from environmentalists and civil society in a transnational manner.<sup>69</sup> The first time the EU made a commitment to sustainable development was in the 1992 Rio Conference, and in 1997 Amsterdam Treaty sustainable development was made into an overarching objective for the whole union.<sup>70</sup>

As mentioned earlier, the European Union has come under critiques of disguising a principle of economic and employment interests called ecological modernism under the image of sustainable development. Gouldson and Murphy have distinguished four themes that characterize the ecological modernization doctrine: using government interventions to combine environment and economy for economic growth; integrating environmental goals to other areas of policy; exploring alternative and innovative policy measures; and inventing, innovating and diffusing new clean technologies.<sup>71</sup> As notified earlier, this orientation is very heavily focusing on the normal functionings of the market and merely accents the role of technology as a source of “clean growth” without addressing the social sphere and the equitable goals of the sustainable development principle.

An influential document for the EU economic and environmental policy was the European Commission 1993 publication *White Paper on Growth, Competitiveness, and Employment*.<sup>72</sup> Its

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<sup>69</sup> Jordan 2005, 22–28

<sup>70</sup> Bretherton & Vogler 2008, 403

<sup>71</sup> Gouldson & Murphy 1996, 13

<sup>72</sup> CEC 1993

development was mostly driven by the EC President of the time Jacques Delors, who had called for a “new model of development” for Europe.<sup>73</sup> The paper essentially made the statement that development of clean technologies would lead to reduced environmental impact as well as improved performance on the economic sector.<sup>74</sup> The influence of the statements made in the White Paper can now be seen in other EU papers, such as the 1994 *Economic Growth and the Environment: Some Implications for Policy Making*, 1999 *Commission Staff Working Paper on Sustainable Industrial Development*, and the Sixth Environmental Action Programme adopted in 2001.<sup>75</sup>

Environmental Action Plans (EAPs) are a medium-term environmental policy tool that the EU uses to present its environmental thinking, and despite them not being legally binding, they offer strategic focus to turn commitments into policy. So far seven EAPs have been released. The first EAP was launched in 1973, and the latest is in effect for 2013–2020. According to Syngellakis, it was the third EAP (1982–1986) that paved way for the integration of economic development and economic concerns within the EC and “reflected at Community level a major development in contemporary environmental thinking: the progress from a view of environmental policy as being in direct conflict with economic development towards a perception of the two as complementary”.<sup>76</sup> The fifth EAP was the first one to have sustainable development as its central theme and it makes explicit references to the Brundtland report.<sup>77</sup> In there it was also linked to the stimulation of economic growth for the sake of eco-efficiency offering competitive advantages to European industries.<sup>78</sup> In the sixth EAP links were also made to the promotion of ecological modernization by linking of technical innovations and business opportunities with improvements to environmental standards.<sup>79</sup>

Currently, the European Commission itself views three internal documents as being central to its sustainable development policy: the 2001 sustainable development strategy *A Sustainable Europe for a Better World*, the EU 2020 Strategy, and the Better Regulation Agenda. Sustainable development also ought to be reflected in other policies such as its 7<sup>th</sup> Action Programme *Living*

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<sup>73</sup> Jones 1999, 360

<sup>74</sup> Gouldson & Murphy 1996, 16–17

<sup>75</sup> Baker 2007

<sup>76</sup> Syngellakis 1993, 64

<sup>77</sup> EC 1993, 21

<sup>78</sup> Baker 2007, 305

<sup>79</sup> Baker 2007, 305

*Well, Within the Limits of Our Planet*.<sup>80</sup> Besides these, the European Union is committed to achieving the aforementioned United Nations Sustainable Development Goals (SDGs).

The “three pillars” approach appears frequently in the sustainable development strategy. In one of its opening paragraphs, for example, it is stated that “in the long term, economic growth, social cohesion and environmental protection must go hand in hand”.<sup>81</sup> That same triadic constitution is betrayed in a claim that in order to achieve EU’s long-term of a sustainable society, it is required that “economic growth supports social progress and respects the environment, that social policy underpins economic performance, and that environmental policy is cost-effective”.<sup>82</sup> In the margins it is also stated that “The EU strategy must fully integrate the *economic, environmental and social pillars* of sustainable development”.<sup>83</sup> It becomes very apparent from these excerpts that the European Union views economic growth in equal terms with environmental sustainability and protection, something our interpretation moved away from in the previous chapter.

Baker claims, indeed, that EU’s commitment to sustainable development within the Brundtland definition is mainly symbolic only, although the EU itself has declared to be guided by both the Brundtland formulation and its related UNCED reports.<sup>84</sup> Baker’s approach is based on a deeper, transformative reading of the Brundtland report that suggests a strong definition of sustainable development against the weaker understanding that desires to maintain the economic status quo with current consumption levels and the disparities of global trade currently faced by the developing countries, of which the consumption is especially derided by the Brundtland report: “Sustainable global development requires that those who are more affluent adopt lifestyles within the planet’s ecological means”.<sup>85</sup> Baker therefore argues that “the promotion of sustainable development cannot be achieved by seeking to promote an ecologically modernized European economy” since economic modernization “seeks to encourage growth as a solution to the planet’s ecological crisis”.<sup>86</sup> Baker has elsewhere explored the EU understanding of sustainable development and agrees that it’s strongly tied to the idea of ecological modernization.<sup>87</sup> Starting

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<sup>80</sup> CEC 2019

<sup>81</sup> CEC 2001, 2

<sup>82</sup> CEC 2001, 2

<sup>83</sup> CEC 2001, 10; italics mine.

<sup>84</sup> Baker 2007; Baker and Eckerberg 2008, 1

<sup>85</sup> WCED 1987, 9

<sup>86</sup> Baker 2007, 304

<sup>87</sup> Baker 2006

from the predominantly economic growth-focused First Environmental Action Programme towards the Sixth and most recently, Seventh EAP, both environmental protection and economic development have become intertwined and mutually reinforced in the policies of the EU.

Through analysis of EAPs and environmental strategies, Baker has managed to identify a distinctly “EU” understanding of sustainable development consisting of six ideas: First, sustainable development has a strong link to stimulating economic growth. Second, promoting sustainable development is primarily a task for cross-sectoral policies. Third, sustainable development is a shared responsibility. Fourth, the social dimensions of sustainable development are concerned with issues of health and food safety. Fifth, sustainable development links to the resolving of global problems of environment. Sixth and final idea is that sustainable development is a moral obligation.<sup>88</sup>

Besides the idea of environmental protection as ecological modernization that is mutually compatible with economic growth, the EU brand of sustainable development promotes sustainability as a shared responsibility and a moral obligation. The economic growth component was especially present in the Europe 2020 strategy, which claimed “smart, sustainable and inclusive growths” as “mutually reinforcing priorities” for “Europe’s success”.<sup>89</sup> The Brundtland-esque development of social and economic improvements receives way less attention. This being said, the definition of sustainable development used by EU is by and large focused on distinctively *European* concerns and preferences while overlooking some of the interests more relevant globally, especially to the developing South. Still, the EU is keen on promoting sustainable development on multiple arenas as a major part of its foreign policy. Also, it does nowhere take explicitly into account the principles of inter- and intra-generational equity, especially in the necessary terms of adjusting the high consumption and use of resources that developed societies such the EU are indulging in.<sup>90</sup>

All this criticism being said, the EU still maintains a unique status with its relationship to sustainable development. Although its current policies run short of its ambitious rhetoric, it has still made a public commitment to achieving sustainable development in a way that no other developed society has done, making it one of the aims of the whole Union and bringing it into the

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<sup>88</sup> Baker 2006, 146

<sup>89</sup> CEC 2010a, 3

<sup>90</sup> Baker 2006, 145–147

discussion of all its policies. It also sets a benchmark for future attempts of integrating environmental and developmental concerns into other policy areas.<sup>91</sup> Internationally the Union has also been an important contributor, if not even the leading voice in sustainable development.<sup>92</sup>

It is also pointed out by Syngellakis that the EU has managed to translate the concept of sustainable development into specific actions by its integrating environmental into other policies.<sup>93</sup> It could be suggested that this long-standing principle of the EU – putting sustainability to action by implementing it in other policies – has also led to the integration of sustainable development principles in the EU–Vietnam Trade Agreement. EU’s environmental policy is, ultimately, the most developed and unique among all international and regional trade regimes. Alam goes even as far as to say that “the European institutions dealing with trade and the environment are better developed and perform more functions than those in the GATT/WTO”.<sup>94</sup>

## 2.4. Concluding remarks

If there is one phrase that describes the general view that researchers hold about the idea of sustainable development, it would be “to be able to have the cake and eat it, too”.<sup>95</sup> In the words of Syngellakis, it “offers the potential of bridging the chasm between two equally desirable, but apparently contradictory, goals and allowing humankind to break through their clash”, and makes it possible to discard “[t]he dichotomy between environment and development”.<sup>96</sup>

Andrea Ross sees historically different interpretations in how sustainable development has been understood.<sup>97</sup> To her, the earliest formulations of “weak” sustainability were vague and malleable, environment not having a special place within considerations of sustainability. While sustainability has been always viewed through three pillars of environment, economy and society, the emphasis on each pillar has varied and even in contemporary interpretations, where the three aspects are viewed as being interdependent, economic growth is being strongly favored.<sup>98</sup> Our application of the theories of “weak” and “strong” sustainability is conceptually grounded with a central

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<sup>91</sup> Baker 2006, 155

<sup>92</sup> Bretherton & Vogler 2008, 404

<sup>93</sup> Syngellakis 1993, 70

<sup>94</sup> Alam 2008, 143

<sup>95</sup> Syngellakis 1993, 61; Flint 2008, 41; Jacobs 1991, 59; Langhelle 1999, 141

<sup>96</sup> Syngellakis 1993, 61

<sup>97</sup> Ross 2009

<sup>98</sup> Ross 2009, 33–35

category of whether all of natural capital is equivalent and interchangeable with other types of capital. Indeed, we reject the concept of three pillars because, as Ross states, there is an internal contradiction within the three aspects of sustainability: as it simultaneously reaches out in three different directions, it also makes headway for very different policies; a policy that puts more weight on economic considerations might be labeled as sustainable like another policy favoring environmental factors.<sup>99</sup> The theoretical framework – as described above – avoids this problem by structuring it around the difference of one particular concept only. If the requirement of non-interchangeability, i.e. critical natural capital is fulfilled, we can talk of development that is truly ecologically sustainable.

Connecting sustainable development to law and rule-setting, Ross and Bosselmann both emphasize the importance of legislation in directing social change in sustainability.<sup>100</sup> Ross addresses that “to really make a difference, the ecological systems approach needs to be supported by a strong moral and legal normative framework”.<sup>101</sup> Given the EU’s strong (rhetorical) commitment to sustainable development and environmental protection and its very detailed system of legislation, it could be expected that the Union would attempt to implement ecological end environmental measurements in its agreements with countries that currently have looser norms than it. This is highlighted by Hoang, who says that the trade policy of EU is one of the “important elements of its normative agenda towards developing countries”.<sup>102</sup> Although he claims that Vietnam’s colonial history and its particular communist politics and culture have made Vietnam wary of attempts to ‘import’ human and labor rights, the latter – at least – are nevertheless strongly emphasized as being an aspect of sustainable development in free trade within the EU–Vietnam Free Trade Agreement.<sup>103</sup>

This discussion has helped us to develop a preliminary typology for qualitative analysis of sustainable development for an EU context. The established literature has continuously emphasized the EU as a pioneer of integrating environmental policy into other areas of government while also highlighting its several shortcomings and areas for improvement. The important divisions and conceptual classifications regarding the nature of the elements of

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<sup>99</sup> Ross 2009, 47

<sup>100</sup> Ross 2009, 37–40 Bosselmann 2008, 4,

<sup>101</sup> Ross 2009, 38

<sup>102</sup> Hoang 2016, 177

<sup>103</sup> Hoang 2016, 195

sustainable development and the different types of natural capital that I made in the course of this chapter will help in understanding these EU–Vietnam Trade Agreement as a semiotic artifact. In the next two chapters I will develop a theory on how to understand the Trade and Sustainable Development chapter as a cultural product and a carrier of meanings in a cultural context of law. I will also develop tools on how to understand sustainable development as a sign with an internal hierarchy of meaning so that it can be analyzed and elaborated with semiotics. Through semiotics I will be able to look at individual signs and messages and read into them and their potential substitutions to see what kind of meaning of sustainable development the TSD implies: Is the sustainability endorsed weak or strong quality? Does the TSD imply the concept of critical natural capital? Does it endorse sustainable development or ecological modernism? What are the environmental and social implications and how they pertain to sustainable development? These are the kind of questions that are pertinent to the primary goal of the research and that can be answered with semiotic analysis once they are operationalized to suit the methodology, which is what I will engage in next.

## Chapter 3: Semiotic theory for the study of free trade agreements

### 3.1. Introduction

“Semiotics is in principle the discipline studying everything which can be used in order to lie”, makes Umberto Eco his famous statement.<sup>104</sup> Even more significantly, continues he, “[i]f something cannot be used to tell a lie, conversely it cannot be used to tell the truth: it cannot in fact be used ‘to tell’ anything at all”.<sup>105</sup> Semiotics is a powerful research methodology that can be applied in numerous and diverse areas of human culture: language and speech; media such as television, cinema and advertising; the arts; even such seemingly mundane material things such as clothing, food, cars and furniture.<sup>106</sup> Ultimately, all of culture can be subjected to semiotic analysis.<sup>107</sup>

This chapter looks for a way to understand theoretically how legal texts, such as the Trade and Sustainable Development Chapter, can be understood in a manner that’s both operational and justified for semiotic analysis. What this means in practice is to analyze the preconditions of the meaning-making processes and acts of signification as well as communication acts by international institutions and the transmission of signs into different semantic fields. It needs to be clarified how the understanding of law and rule-based international agreements and institutions the basic concepts of signs, signification and communication are interpreted as semiotic, meaning-making entities. Knowledge of the basic concepts, relations and conditions that emerge in this chapter will be utilized later in our analysis.

I claim that in order to study legal texts semiotically, the institutions that create them must be treated to function as cultures that are governed by laws of signification.<sup>108</sup> Already the mere possibility of applying the principle of sustainable development to international trade rules and legislation happens in a social realm with actors who attach meanings to different ideas and principles and use them in free combination to create and express new messages and ideas. This application depends on the idea that there is someone who creates a message with a specific

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<sup>104</sup> Eco 1979, 7

<sup>105</sup> *ibid.*

<sup>106</sup> Barthes 1967, 23–30

<sup>107</sup> Eco 1979, 28

<sup>108</sup> Eco 1979, 8

content and communicates it to someone who is able to receive it by having a shared understanding of the meaning of that message's content.

I will flesh out our argument in the following way: first I present and go through some of the previous research done using a semiotic methodology that is relevant to this research project. Then I will define the basic meaning and mechanisms of the sign and how it relates to human behavior. I base my theory mostly on many of the prominent authors in the continental (Saussurean) "semiology" tradition of semiotics rather than the American (Peircean) "semeiotics" tradition. I will attempt to show that the use of signs is fundamentally bound to human cultures and that all communication includes both signs and a cultural dimension, as well as look at the actual process of communication within and across sign-systems, distinguish important elements of how it works and what is contained within. I must also make a few remarks about the nature of texts from a semiotic point of view to clarify its nature as an organization of signs that interacts with its cultural environment. I will also present one case of a cultural reality that is built with signs; the legal system and its specific legal language, that is. Finally, I will give a recap and summarize the topics together.

### **3.2. Previous studies in law, trade and semiotics**

Having been developed at the turn of the 20<sup>th</sup> century individually apart from each other by Swiss linguist Ferdinand de Saussure (1857–1913) and American philosopher C.S. Peirce (1839–1914), semiotics is widely embraced by the humanities and arts in different textual analyses. It can also be used to the same purpose in social sciences and political studies, but so far the case has been very much less so. There have been semiotic studies done in political science and International Relations ever since critical scholarship, textual analyses and post-structural and post-modern approaches gained popularity within the fields, but they still have not been adopted and approved in a widespread manner.

Within the field of International Relations, Luke applies Barthes's and Baudrillard's semiotic principles to the analysis of national security policy.<sup>109</sup> In the same volume, Fortin analyzes the language of antiterrorism and the terrorist image using the semiotic-based textual analysis of Roland Barthes in a very structuralist manner.<sup>110</sup> The study of terrorism seems to be fertile ground

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<sup>109</sup> Luke 1989

<sup>110</sup> Fortin 1989

for semiotic studies in general. O’Shaughnessy and Baines study Al-Qaeda’s propaganda with propaganda analysis and semiotics, while Tiefenbrun has attempted to analyze and define terrorism semiotically from an international law point of view.<sup>111</sup> A contribution very relevant and important to this study is Palmujoki’s semiotics-inspired analysis of how a Communist Vietnam has sought to integrate itself to the surrounding world and international trade regimes.<sup>112</sup> Anni Kangas applies Peircean sign theory to the study of popular culture in IR.<sup>113</sup> In political science, Turunen studied the politics in parliamentary talk with semiotics and hermeneutics of Lotman, Bakhtin and Gadamer.<sup>114</sup> A recent paper by Drieschova explores the possibilities of Peircean semiotics to establish a methodology for recent developments in materialist IR ontologies she calls “New Materialism”.<sup>115</sup> It is symptomatic about the state of semiotic research in IR that Drieschova, too, only has the article of Kangas to cite as previous semiotic research (due to both adhering strictly to Peircean sign theory in contrast to Luke and Fortin, whose theoretical underpinnings are rooted in Continental European traditions), thus further confirming that semiotics is not a part of IR research methodology toolkit.

Although semiotics is best known for its use in the research interests of humanities, there is some amount of application of it in the field of law, as described as “legal semiotics” or “semiotics of law”. Susan Tiefenbrun, however, claims that “the semiotics of law is still in the process of formation” and that “legal semiotics is still at the infant stage”<sup>116</sup>. Yet some examples of semiotic approaches to the study of law were made during the last two decades of the 20<sup>th</sup> century, for example the early ground-laying work of three-volume series *Law and Semiotics*, edited by Roberta Kevelson; Kevelson’s own work *Law as a System of Signs* and Bernard Jackson’s *Semiotics and Legal Theory*, which used the work of A.J. Greimas as the base for his reading for law as a semiotic system.<sup>117</sup> Tiefenbrun likely thinks of legal semiotics and semiotics of law as dispersed and un-unified research practices carried out by selected few outside the mainstream and not yet being a field of study on its own within the larger sphere of law sciences, a status that semiotics

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<sup>111</sup> O’Shaughnessy and Baines 2009, Tiefenbrun 2003

<sup>112</sup> Palmujoki 2007

<sup>113</sup> Kangas 2009

<sup>114</sup> Turunen 2015

<sup>115</sup> Drieschova 2017

<sup>116</sup> Tiefenbrun 2010, 24–25

<sup>117</sup> Kevelson 1987, 1988, 1989; Kevelson 1988, Jackson 1985

seems to have in International Relations as well, although the latter is even further underdeveloped.

After Tiefenbrun's remark, there have been some recent publications exploring semiotics within law theory. Jan M. Broekman, first with Mootz, and later with Backer, has been arguing for the importance of semiotics for law.<sup>118</sup> Legal semiotics is considered to be a promising field of research in law studies.<sup>119</sup> Particularly relevant to my research, Evandro Menezes de Carvalho has done work focusing on the international law on trade while also highlighting that "legal culture and language are two concepts that form the screen on which the Law is designed".<sup>120</sup> He takes a viewpoint to law similar to mine since he treats the sphere of law as one of culture, which also makes connections to Yuri Lotman's semiotics of culture and Eco's notion that the content of the sign is fundamentally and ultimately a cultural unit. For Carvalho, "legal culture" is a body of legal knowledge in which aspiring jurists are initiated; it is a "system of signification of law that is conceived to produce legal discourse", yet it is still a mere subset of a larger universe of cultures which follow different forms of organization.<sup>121</sup>

It seems that semiotic research is still not a widely established research tradition outside the humanities and among the study of law and International Relations even though the above shows that some attempts have been made to bring semiotics closer to the theory of these fields. In this vein, my research project will provide new insights to the application of semiotic analysis in international relations and reach out to different branches of social science in a multidisciplinary manner bound together by semiotics.

### **3.3. Signs, communication and text**

A more commonly used and – without a doubt – slightly less polemic definition for semiotics than the one included in the beginning is that of "a study of signs". It is fruitful to begin with the definition of what is actually meant by a "sign". A sign can be defined as the materialized replacement of things, phenomena and concepts in the transmission of information within a

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<sup>118</sup> Broekman & Mootz 2009; Broekman & Backer 2013, 2015

<sup>119</sup> Wagner & Broekman 2010

<sup>120</sup> Carvalho 2011, viii

<sup>121</sup> Carvalho 2011, 6; 11–12

community.<sup>122</sup> Signs are essential to us as human beings since we are only able to make and transfer meanings by creation and interpretation of the said signs.<sup>123</sup>

The originator of the European tradition of semiotics, Ferdinand de Saussure defines the linguistic sign as not linking things and names together, but rather combining a *concept* with a (sound) *pattern*.<sup>124</sup> In current established terminology, the concept is generally referred to as “signified” and the sound pattern as “signifier”. To be more exact, we can talk about an existence of a sign whenever a given expression has a correlation with a content that is recognized by the human society in a collective agreement. There is no limitation of signs to covering only spoken or written “word”, but the Saussurean division of the sign into a dyad of a signifier and signified anyway has its grounding in this mutual correlation. Eco, however, claims that strictly speaking there are no “signs”, but merely only *sign-functions*. This entails that the unit that makes the sign is realized of two *functives* (the expression and the content) that join in a mutual correlation; the same functive can also form other correlations, become a functive that is different from the previous one and give rise to new sign-functions.<sup>125</sup> “Sign” is therefore only the name for a unit that is the sign-function.<sup>126</sup> The name “sign-function” has also been attributed to objects that are utilitarian and functional but are still utilized in the society to signify something, so for the sake of convenience and clarity we shall only use the common term “sign”.<sup>127</sup>

In Saussurean semiotics, the linguistic signs can interact and have relationship on two distinct planes, namely those of *syntagm* and *paradigm*. (Instead of “paradigm”, Saussure uses the term “association”.<sup>128</sup>) A syntagm denotes the linear organization and combination of signs – a “spoken chain”, if you will; as one cannot simultaneously pronounce more than one word – where a sign receives its meaning and value in the opposition of what precedes and follows it. For example, in the sentence “A dog bites the man”, the value of man being the object is derived from its position as following the predicate verb; similarly the value of dog being the subject that is biting the man is derived from preceding the predicate verb. If we reverse the position of the nouns (“A man bites the dog”), the linear function of the syntagm causes the meaning to change as well, since the SVO

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<sup>122</sup> Lotman 1989, 10

<sup>123</sup> Chandler 2007, 13

<sup>124</sup> Saussure 1983, 66

<sup>125</sup> Eco 1979, 48–49

<sup>126</sup> Hjelmslev 1961, 58

<sup>127</sup> Barthes 1964, 41

<sup>128</sup> Saussure 1990, 170–192

order of English language itself is not reversible. The second axis, the one of paradigm, happens among individual units along the syntagm and the other units that can serve a similar function within the syntagm but are not present in it. In our example sentence “A dog bites the man”, the object can be replaced with either with another noun that denotes the same thing, e.g. “A dog bites the dude”, or with a noun denoting something else; e.g. “A dog bites the woman”. In both cases, the nouns’ syntagmatic function as the object of the action does not change; however, in the first case the signified does not necessarily change, but in the latter case it does.<sup>129</sup>

It should be noted that arranging signs happens in two modes or operations along these axes of language: combination and selection. In the case of combination, a linguistic unit itself creates a context for more simple units, but on the other hand the sign has a context of its own in a more complex linguistic unit. Selection, then, refers to a possibility of substituting alternative units with each other, implying part equivalence and part difference between the units. Any given message is therefore a combination of constituent parts selected from all possible constituent parts. Each of these operations “provides each linguistic sign with two sets of ‘interpretants’”, which means that the sign has two references for interpretations, one to the code and one to the context.<sup>130</sup> A unit can be replaced with a similar unit, showing the *general meaning* of the sign, whereas the unit receives its *contextual meaning* by its connection with the signs it surrounded in a message.<sup>131</sup> (This is what was done in the previous paragraph by replacing the word “man” with “dude”.) This tells that signs can be analyzed in two ways, either by their relationship with the other signs *present* in the syntagm, or by how it relates to other signs *absent* in the syntagm. By the fact that both operations of combination and selection are done through a conscious process, both operations should be treated as acts of intentional meaning-making.

Although these observations are important and relevant to understanding how and when signs carry meaning, it is not quite useful for the purposes our inquiry to stay on such an abstract level of semiotic systems and languages. If human language and communication through the semiotic sign-system theory are to be analyzed, observations on how humans transmit messages through the signs themselves need to be made. What is really interesting from the perspective of the study is the language in use, in the process of transmitting messages and meanings; the interest is really

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<sup>129</sup> Barthes 1967, 58

<sup>130</sup> Jakobson 1990/1956, 120

<sup>131</sup> Jakobson 1990/1956, 119–120

in *speech*. In the classic Saussurean tradition of semiotics, writing is subordinate to human speech, yet now the main consideration is with written text.<sup>132</sup> Saussure famously makes a distinction between two types of language, mainly *langue* and *parole*, which are sometimes translated as “a/the language” and “speech”, although Roman Jakobson, for example, prefers to use the original terms when he explains their differences.<sup>133</sup> Saussure’s perspective excluded the study of *parole* from linguistics; something that Jakobson strongly resisted and his own research was motivated by the study of *parole*.<sup>134</sup>

The difference between *langue* and *parole* is generally agreed as follows: *parole* is the act, where and individual engages in selection and actualization, whereas *langue* is “language without speech”. It is the “systematic set of conventions necessary to communication”, the nature of which is entirely social. Speech is an individual act because it’s a combinative activity. The combinative nature of speech also establishes the integration of signs to a language when identical signs are repeated in discourse(s). It is thus so that sign systems are created through the practice of speech communication and that they don’t spring up to existence fully formed and complete (the latter of which is likely not even a possibility nor a goal). Barthes continues that historically there are no language phenomena without speech phenomena preceding them as speech makes language evolve, although speech is always dependent on drawing on language.<sup>135</sup>

Communication is fundamentally an act and thus ultimately a *choice*, which entails that within a world of meaning, in each occasion it chooses certain meanings while simultaneously excluding others. Communication is therefore an actualization of a certain kind of limited freedom.<sup>136</sup>

Indeed, a speaker does not have a full freedom over his choice of words: it is restricted by the shared lexicon that the speaker and the addressee have in common.<sup>137</sup> This already implies an important point: the *parole* itself is a two-way act, a relationship that bridges the speaker and the addressee.<sup>138</sup>

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<sup>132</sup> Cobley & Jansz 1998, 90

<sup>133</sup> Jakobson 1990. I have chosen to align with the Jakobsonian terminology, but the reader should keep in mind the translated alternative nomenclature.

<sup>134</sup> Jakobson 1990, 9.

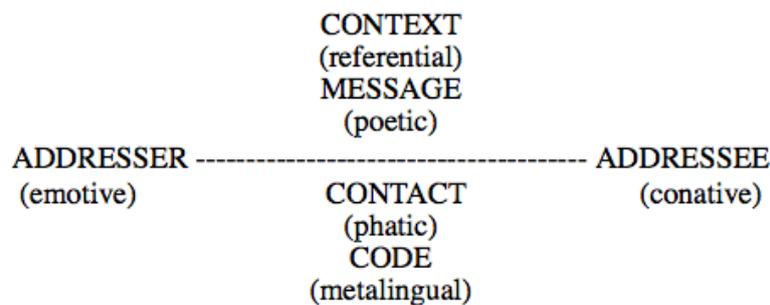
<sup>135</sup> Barthes 1967, 13–15

<sup>136</sup> Greimas 1979, 47

<sup>137</sup> Jakobson 1990, 117

<sup>138</sup> Jakobson 1990, 93

The qualities and dynamics of speech, however, are presupposed by the prerequisites of communication. Any act of communication demands a certain number of functions that are present in every possible case. There needs to be an *addressee*, to whom a *message* is sent by the *addresser*. The message also requires a *context*, which the addressee needs to be able to comprehend, as well as a *code* either fully or at least partially shared by both; finally some kind of *contact* must be made through a physical channel and a psychological connection.<sup>139</sup> He famously presented this in the following image:



There are six functions to a communication act and each of them correspond to a different function in the speech, which generate different ways of using language depending on how much emphasis is put on each function. The most important function in many messages is its *referential* function, which focuses on the context. The others are called the *emotive* function that focuses on creating an impression of an emotion of the *addresser*; the *conative* function is directed toward the *addressee* and is expressed in imperative sentences; in order to establish communication and maintain it, *phatic* function focused on the *contact* is necessary (e.g. “Can you hear me?”); metalanguage, speech focused on the *code* itself uses a *metalingual* function; and finally there is the *poetic* function, which is oriented at the *message* itself that expresses the aesthetic dimension of each text.<sup>140</sup>

As said before, not all types of functions are all equally present in all speech contexts, and this holds particularly true for the type of speech we have in mind: law text. The purpose of written law is, in fact, to put least emphasis on certain functions of the language. These de-emphasized functions are the emotive, phatic, and poetic functions, only leaving the referential and conative functions present. The presence of the referential function is clear – the law text aims to make

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<sup>139</sup> Jakobson 1960, 353

<sup>140</sup> Jakobson 1960, 353–356

easily understandable statements of the nature of regulated and acceptable behavior in a society – but the conative function is there as well, especially within the format of a free trade agreement. The mere purpose of judicial language and a statement of law is to command people even though the sentence structure be not in imperative mood, but in an *agreement* format the commitment and self-command of the signatory parties is made clear through the language of the agreement in expressions like “all of the Parties agree” and “each Party commits to” (which we will encounter in our analysis later on). The metalingual aspect is also present since the texts often refer to different passages to be found elsewhere within the same text; also, in the beginning of an agreement the text usually refers to its own use of language in terms of defining its abbreviations and other terms.

The de-emphasis of the aforementioned functions can be explained by the qualities and purposes of an agreement text. The poetic function puts a lot of emphasis on the combinative aspects of parole for aesthetic significance, but it is generally disregarded for the sake of clarity and mutual agreeableness, since the purpose of the text is to direct action. As the text is very impersonal in general, the emotive aspect from the addresser side is hardly there; peculiarly the text authored by the addresser(s) is also aimed at itself as the text aims to be a guideline of action for the addressers as well.

We have also made it clear that speech and the use of language constructs and creates it in a dialectical relationship. To understand the creation of a specific (sub-) system of signs such as a discourse surrounding sustainable development, we must submit to the fact that it has become a part of the language through repetition and combination with other signs. Also, when reading a free trade agreement text with analysis in mind, we should therefore keep in mind the functions of language that the text aims to convey at any given time. There also exists an interesting fact that we are, in fact, not reading or interpreting an actual human person or a group talking to us when we read a piece of text. The text stands autonomously without the person being present to us, yet it cannot entirely stand in for the message transmitted as a whole. This prevents viewing the text as a clear artifact of the original message, speaker and intention, but something rather distinct from it.

In order to deal with this problematique, the notion of Yuri Lotman that in human contexts, messages sometimes get coded more than once as parts of different semiotic systems, must be

acknowledged and admitted to. When this happens, the message transforms into a *text*. For example, a message that we interpret as “law” is at the same time a part of both natural language and judicial language. In the first case, it creates a sequence of signs with different meanings; in the second case a sort of single complex sign that has a coherent meaning.<sup>141</sup>

According to Lotman, a special feature of the text is that it contains features of an intellectually organized structure: not only it mediates information placed into it from the outside, but it also modifies messages and creates new ones. This is because the text creates multi-layered and semiotically heterogeneous relations with both its audience and the surrounding cultural contexts and ceases to be anymore a mere message directed from a sender to the addressee. A consequence of the increased complexity in the structure of the text is that it no longer only mediates information, but also creates *new* messages and modifies old ones.<sup>142</sup>

The intermingling and infiltration of additional meanings of the cultural contexts within which the text is read makes the text able to create new meanings from the messages already contained within. These meanings all interrelate and interact in larger semiotic relationships. Lotman elaborates five different interactive processes:

- 1) the interaction of sender and receiver (the function of the message);
- 2) the interaction of audience and cultural tradition (the function of collective cultural memory);
- 3) the interaction of the reader with himself (the text actualizes certain features in the personality of the addressee);
- 4) the interaction of the reader and the text (while displaying intellectual features, the text becomes an equal, autonomous interlocutor and ceases to be a mere mediator); and
- 5) the interaction of the text and cultural context.

In the last mode of interaction the text is no longer a mere intermediary in a communication event, but a full attendant of the act. The relationship can be either metaphoric (the text “stands

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<sup>141</sup> Lotman 1989, 151

<sup>142</sup> Lotman 1989, 153

in” for the context) or metonymic (the text represents context in a similar way how a part represents a whole) in nature.<sup>143</sup>

What this means for the general research process is that the TSD of the EU-Vietnam Free Trade Agreement very likely contains a unique case of how the text communicates the meaning of sustainable development, since the text itself creates new messages and meanings. This is first because the particular organization and structure of signs provides a unique case of relationships of similarity and difference between them, and second in the numerous interaction the collection of messages and signs that the text is constituted by has with other contexts. Thus later in the analysis we should be able to expect to uncover something particular to the TSD itself that is not necessarily present in other texts in a similar way.

### 3.4. The legal system as a cultural organization of signs

One of my major claims in this thesis is the socio-cultural ontology of the legal system and the sign-based transmission and maintenance of the system. The idea of a *cultural order of language* is based on the understanding of the sign as in fact not designating actual objects of reference but, according to Eco, rather as *cultural objects*.<sup>144</sup> Already in the early days of sign research Saussure emphasized that instead of real-life objects, the signs refer to abstract psychological objects in the speakers’ and receivers’ minds. Therefore, the actual object of the sign is not the referent (the real-life object understood to being referred by the sign), but rather the content which itself needs to be defined as *a cultural unit*. In society accepting different codes, it creates a ‘cultural’ world, one which is ontologically neither actual nor possible. Instead, the world depends on the ways how a society thinks and speaks. These ways create a cultural order, on the existence of which the cultural world is linked to.<sup>145</sup>

The legal system and the field of international law with it are, according to Evandro Menezes de Carvalho, cultural entities and orders since the existence of a culture depends on the ability of community to symbolize, signify and make meanings, thus an existence of a system of signs suggests a social production of the said sign-system. In other words, producing and sustaining cultures depend on signs and signification; therefore the occurrence of signs means that somewhere exists a culture that has produced them. Since international law is, in Carvalho’s

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<sup>143</sup> Lotman 1989, 153–154

<sup>144</sup> Eco 1979, 67

<sup>145</sup> Eco 1979, 60–62

words, “an objective reality of the social construct, marked by coherence and very particular features”, it can be (and needs to be) analyzed in cultural and semiotic terms.<sup>146</sup> Based on this assumption, he develops a definition of legal culture, which is “the system of signification of law that is conceived to produce legal discourse”.<sup>147</sup> International law is one kind of sign-system produced by this legal culture. Carvalho uses the word “dictionary” to describe the entirety of the socially shared legal sign-function lexicon; the meanings of the signs in this “dictionary” of international law are chosen by nation-states who use this power *to shape international order according to their interests*. The international law is specialized as the significations of the sign-carriers settle when used strictly in the case of legal-diplomatic discourse. It is also multilingual as “the expressions should be able to be translated into all the national languages”.<sup>148</sup>

On the other hand, the legal culture is realized through *material* instruments such as laws and treaties. These instruments contain linguistic signs taken from ordinary language that gain new meanings in the realm of law separate those of natural language. This specialized legal language is the practical, professional language of law. The signs that make legal language and the language of international law also make up a particular vocabulary or dictionary of international law, which has the essential features of being thematic, specialized and multilingual. I will look at the structure and formulation of this legal language in Chapter 4.5., as it directly relates to the research method of my thesis.

Ultimately, Carvalho defines international law in semiotic terms as “a legal language code created to enable different legal systems to coexist in regulating actions and situations pertaining to two or more States”.<sup>149</sup> This only highlights the fact that fundamental processes of interpretation are at work in every level of interaction, ranging from writing law text to reading them and acting upon them. According to Tiefenbrun, law entails “an exchange between two or more speakers through the medium of coded language”, and that “legal practice is a general exercise in interpretation”.<sup>150</sup> The signs and sign relations of law are made up by convention, and because of them a receiver of the code will only understand it if they are aware of the conventional particularities of that code. Also, unlike natural language, legal language only makes a

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<sup>146</sup> Carvalho 2011, 2

<sup>147</sup> Carvalho 2011, 11–12

<sup>148</sup> Carvalho 2011, 19–21

<sup>149</sup> Carvalho 2011, 56

<sup>150</sup> Tiefenbrun 2010, 20

representation of reality through the mediation by words. This mediation – a fundamental property of law – is explored with semiotics.<sup>151</sup> Based on the semiotic theory suggested by Eco, we should understand different representations of reality as different cultural worlds.

It should be made clear that although Carvalho's research is essentially based on the study of law, he makes an important admission that "the study of international law is not independent from the study of how international society operates".<sup>152</sup> How I interpret his words is that IR and international law can work and learn from each other and that IR can have an interest and a say in how international law works within the context of international society. On the other hand, though, it needs to be admitted that Carvalho does not think about the workings of the international society in political or social rather than legal terms. However, I believe that his opinion of importance of IR to international law – and vice versa – holds true.

The semiotic analysis of international law shows how the actors of international society engage in semiotic meaning-making processes in the field of international law and how this engagement is fundamentally cultural action. From an ontological point of view Carvalho is able to view states as actors themselves since he is – implicitly, as he never openly states it – treating states as being legal entities or legal persons rather than as actual real actors of the world with a self as done by some IR theorists, most famously by Alexander Wendt.<sup>153</sup>

As Carvalho argued before, the formation of legal frameworks and infrastructure is not devoid of politics, power and influence and the level of detail and the form of these details themselves can have unexpected results. The politics involved in the discursive form of these legal significations should not go unnoticed. This politics also includes the actors' own self-interest, values and goals that find their expression in their actions and speech. When we analyze the TSD with the intention of uncovering the conceptualization of sustainable development through semiotics we also engage in an operation of exposing the politics that is hidden in the structures of the text.

### **3.5. The Trade and Sustainable Chapter in semiotic analysis**

In this chapter, I have tried to clarify some of the major ideas and concepts of semiotic theory and how we can make it suitable for the analysis of the contents of the Trade and Sustainable

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<sup>151</sup> Tiefenbrun 2010, 24

<sup>152</sup> Carvalho 2011, 66

<sup>153</sup> Wendt 1999

Development chapter of the EU–Vietnam Free Trade Agreement. By following Eco’s claim that all cultural behavior can be subjected to semiotic analysis, I have interpreted the sphere of law as a cultural system governed by social understandings, which themselves are transmitted, carried, preserved and created by signs. Upholding sign systems creates a cultural world that has no real, ontologically applicable actuality, but rather it is a thought and speech-dependent image of a world that a social group culturally shares. It is the sign-system that makes meaning and understanding possible and facilitates communication.

Legal cultures, then, themselves create, preserve and disseminate knowledge within themselves and they can establish complicated set of binding rules and procedures. The coding of the Trade and Sustainable Development Chapter in two different languages – natural and legal – then makes them legal texts and products of a legal culture that concern the particularities of policies for sustainable development. Treaties and agreements, being the material means of sustaining legal culture, contain the legal codes that bring together different legal systems. The medium of international law language is by default based on interpretation, since the meaning of the codes contained within that language is established by convention only and since legal language only mediates reality through the words of the legal language. In analyzing this Trade and Sustainable Development Chapter contained in a free trade agreement, we are also delving into the territory of international relations, as it is still most often the states themselves who influence and create the meanings that are to be contained within international law. It would be a serious case of negligence to dismiss the politics of sign-formation as irrelevant and outside the interests of the study of International Relations.

The text of the TSD itself, in communication with its audience, emphasizes both the imperative function of command as well as the referential function of cognitive expression. This relates strongly to a type of text called autocommunication, which we will tackle with later in Chapter 5.1. Within the interactions of the agreement text, its cultural context of markets, law (and politics) and its audience, the different messages have the possibility to change and acquire new meanings. This has to be taken into account and admitted in the analysis: the outcomes of the research will have an impact to the interpretation of both the EU–Vietnam Trade Agreement as well as the understanding of sustainable development, the concept of which is still in constant development. This study will also add to that discussion.

Based on the structural explorations of Umberto Eco, Roman Jakobson's analysis of language as a medium of communication, and the semiotics of culture by Yuri Lotman, I have attempted to lay a theoretical foundation based on which I can establish a cultural and linguistically organized understanding of the EU–Vietnam Trade Agreement. These important authors that are visible in my text – Eco, Jakobson and Lotman – came to be used quite spontaneously through the course of my research and writing, but the choice was apparently not entirely accidental, since Tiefenbrun notes that they all claimed to the idea of an “organic link between culture and communication”.<sup>154</sup> They provide me a theoretical and methodological framework with which to approach the idea of sustainable development as a cultural product communicated through legal and material means, but which is still entangled in the politics between the states of the international society. The current 17 Sustainable Development Goals (SDGs) published by the UN, for example, represent a political compromise and agreement of what exactly is to be understood as sustainable, what is to be understood as development, and perhaps most importantly, what is to be understood as neither sustainable nor development. The chapter 13 of the EU–Vietnam Trade agreement in itself, then, represents *one* understanding of sustainable development, since it does not make an explicit claim of adherence to the definitions of the SDG agenda. This indeed can be understood through Lotman's understanding of how texts function individually as emitters of new messages, but which nevertheless are in interaction with each other through both their cultural context and the reader who himself has possibly been exposed to more than one document that reference either of texts.

While this chapter has been mostly a one of theorycrafting for setting up the specific understanding of the semiotic framework I will approach my subject with, in the next chapter I will develop some methodical principles based on the theoretical statements made in this chapter in order to have some means to carry out an operation of analysis for the TSD. I will engage more strongly with the idea of “difference creating meaning” as a research tool and the hierarchies of signs that are also in the heart of how legal *langue* functions. I will also refer to the challenge of operationalization that comes with semiotic methodologies.

## Chapter 4: Using semiotics as a research method

### 4.1. Conducting semiotic analysis

How do we actually proceed to do semiotic analysis? For any given analysis, we need to construct a dataset, or in case of textual analysis, a corpus, which then needs to be approached in a systematic manner. As we will find out, semiotics does not lend itself very straightforwardly to the latter task.

The construction of the dataset is in this case rather straightforward, since instructions to gathering data for semiotic analysis can be found from Barthes.<sup>155</sup> The analyzed corpus should be wide enough so that it will saturate into a system of resemblances and differences and the corpus should aim at maximum homogeneity in its substance and its time frame. Ideally the data would consist of only one type of document in a single moment of time instead of being very heterogeneous and spread out of a long time period. However, the temporal condition is more important than a narrow one: a varied corpus focused on documents close to each other in time should be preferred over a narrow but temporally stretched one.<sup>156</sup> For the purposes of this study, a corpus of those EU's "new generation FTAs" which contain trade and sustainable development chapters was used. It includes the EU–Korea free trade agreement, EU trade agreement with Peru and Colombia, the Central American trade agreement and the EU–Vietnam trade and investment agreement. They both satisfy Barthes' criteria of diachronicity and homogeneity very well; due to the small amount of contained documents it is however less certain that the requirement of saturation will be fulfilled. For the sake of brevity in reporting, only the EU–Vietnam Trade and Investment Agreement will appear in this text. The other agreements' role is only as background and reference material.

Semiotic analysis is by nature case-centric. This means that there are a limited number of cases, but multiple values and variables included. These values and variables are the meanings decoded from the signs found within the cases. A precondition for applying semiotics to a case or data is understanding the analytical 'toolbox' that goes into the analysis and knowing how to use these tools; Curtis and Curtis note that this often the most difficult part of semiotic analysis. To this I can personally concur. They also draw a conclusion that there is not a single standardized approach for semiotic analysis from a notion I have also come to across: majority of the important scholars of

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<sup>155</sup> Barthes 1967

<sup>156</sup> Barthes 1967, 97–98

semiotics do not discuss how a methodical analysis is conducted. Operational and technical instructions are eschewed in Eco, Barthes, Lotman and Jakobson in favor of theoretical inspirations, leaving a researcher keen on doing semiotic analysis desperately befuddled.<sup>157</sup>

In order to explain the difficulty of providing a clear logical sequence for semiotic research, Curtis & Curtis also draw on Derrida who claimed that the type of deconstruction that semiotics entails *cannot give* rise to methods understood as technical procedures of analysis. (Derrida himself was a staunch critic of Saussure, and deconstructive aspects have been hinted at in semiotics ever since Peirce introduced his idea of unlimited semiosis.<sup>158</sup>) However, it does suggest a methodology understood as a research-shaping logic. This method–methodology distinction was made famous and argued for by Sartori.<sup>159</sup>

Contrasting with Curtis & Curtis, Manning makes a distinction between semiotics as *a technique* and as *a method*.<sup>160</sup> This is a distinction of a methodological nature that describes the nature and the status of application of semiotics within research. Manning does not make a clear explanation of the difference between the two, but it becomes clear from analyzing his examples. When he talks of semiotics as a method, he approaches the whole subject of his research semiotically and completes all the stages of the analysis being guided by it, from deciding on the units of analysis to classifying and interpreting them. When he uses semiotics as a technique, he applies a semiotic interpretation to a prepared set of data, in the collection of which semiotics has not been used. In our analysis, we shall use semiotics as a method, since we do not use a separate analytical tool to decide the units of analysis in our text.

Even if there are no strict step-by-step procedures to semiotic research, Manning describes a broad and rather open five-stage operation for conducting semiotic analysis.<sup>161</sup> These stages carry out as follows: First step is “a rich description” of the phenomenon at hand; it is followed by identifying the key features of that phenomena or its process. The third required operation is building a theory which enables the researcher to observe relevant domains of interest from the phenomenon. It is followed, naturally, by carrying out the isolation operation. After these stages have been completed, it is possible to present a “taxonomy or several taxonomies that combine a

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<sup>157</sup> Curtis & Curtis 2011, 252–253

<sup>158</sup> Cobley & Jansz 1998

<sup>159</sup> Sartori 1979

<sup>160</sup> Manning 2004, 578–583

<sup>161</sup> Manning 2004, 575–576

created classification, categories, items, and some specialized relationships within the described system of notation".<sup>162</sup> So far the steps from one to three have already been completed as how Manning describes, and from here onwards I shall do the isolation operation or, as it is in this case, a description and analysis of individual signs. Then a classification or "taxonomy" of meanings that make up the content of the signifier of "sustainable development" can be presented. In creating this taxonomy, I shall refer to the structuralist principles of A.J. Greimas, which shall be introduced next.

## 4.2. Structural organization of meaning

A.J. Greimas was able to create a basic structure for the instinctual framework of how we as humans understand meaning through differential relationships between objects. The basic explanation of semiotic structures is "the presence of two objects and their relationship". Two things follow from here: first, not one single object can themselves create meaning; and second, the presence of meaning requires the existence of a relationship, since a manifestation of a relationship between the two terms is a necessary condition for meaning.<sup>163</sup>

The concept of a relationship itself has two requirements: first, in order to understand to object terms as a whole, they need to share something in common. Second, in order to distinguish two object terms from each other, they need to be different in some manner. These two requirements display the dual nature of the relationship between terms: it is at the same time a relationship of *conjunction* and *disjunction*. The Greimasian *basic structure* is a type of relationship where there is inarguably a relationship between two terms, yet the two sides of the relationship are not immediately visible (Greimas gives the examples of "b (a voiced phoneme) vs p (a voiceless phoneme)" and "big vs small").<sup>164</sup>

Greimas suggests that a structure of two object terms *A* and *B* and their semantic content *S* can be represented as:

A / has a relationship (S) with / B.

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<sup>162</sup> Manning 2004, *ibid.*

<sup>163</sup> Greimas 1979, 28

<sup>164</sup> Greimas 1979, 29

He goes on to elaborate that the relationship itself can be further broken down to the semantic content *S* as well as to the sequence “has a relationship with”, which implies the admission of an abstract relationship *r*. Therefore, the structure can be simplified as:

$$A / r(S) / B. ^{165}$$

The common denominator of the basic structure, that basis along which the meaning is organized, is called a *semantic axis*. The basic structure itself, perceived outside any contextual meaning can only present itself as binary. It is organized into two meaning-making distinctive features, or *semes*:

$$s \text{ vs } non-s$$

This structure can be better described as a *semic category*. In any given language, the form of the language is given by its semic organizations, whereas its matter consists of the entirety of its semantic axes. The description of each expression to be analyzed can be done in two levels: on a semic level, i.e. the level of form; and on a semantic level, i.e. the level of matter.<sup>166</sup>

The takeaway from Greimas’ classification is that object terms, or simply “words” (or *lexemes*, as used in Greimas’ vocabulary) can be organized, distinguished and juxtaposed by the way the different semes manifest within them. They can also form hierarchies of meaning, ranging from general to more specific. Jakobson, too, stated that part-whole relations permeate language at all levels and even more so, that hierarchy is the fundamental structure of all signs.<sup>167</sup>

The goal in this analysis is to construct a hierarchical *semic system of sustainable development*. Greimas states that in order to build such a system there are three methodological statements that need to be admitted. First, there is an underlying assumption that concept of sustainable development has some kind of “essence”. Without this assumption we could not conduct an analysis exploring the “internal” contents of the concept of sustainable development. Second, the organization to categories is done according to the distinctive features of the expressions. The fact that there are oppositions on the lexemic level – e.g. between “environment” and “economy” – makes it possible to define oppositions such as “natural” and “man-made” (as in “capital”). Third,

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<sup>165</sup> Greimas 1979, 30

<sup>166</sup> Greimas 1979 28–36

<sup>167</sup> Jakobson 1960(1990), 110–115; Caton 1987, 230.

the result that displays the semic system is a metalingual description; this means that the none of the categories or the semes presented in the systems are identic with the lexemes (terms) in a discourse.

### 4.3. Reinterpreting the three pillars of sustainable development

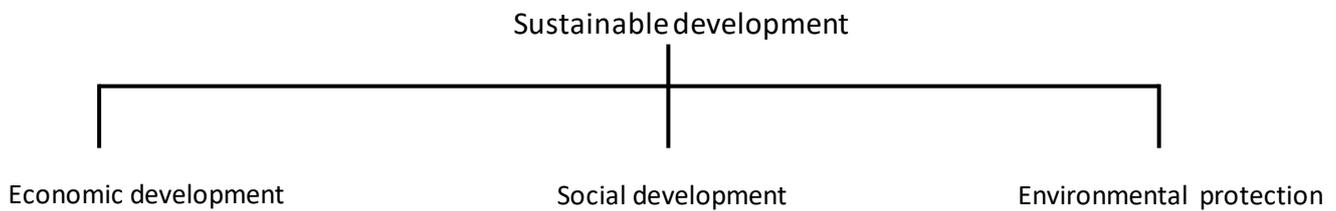
When analyzing a text semiotically, especially with one central principle or concept in mind, eventually one will have to try to look at what the idea *means* in the given text. Because signs receive their meaning only differentially – i.e. in reference to other signs – there is a likelihood suggested by Lotman’s theory of texts that every single text can create its own unique iteration of a particular sign. This is not to say that a word can never mean the same thing from one instance to another; very unlikely so, in fact, because most texts make references to other texts, thereby acquiring and sharing meanings with each other. Also, any given reader of the text is themselves likely to engage in the same meaning-sharing with those other texts and shape his understanding of the concept. It can be therefore said that the *different signs* that create meaning for *one given sign* are always unique and condition the referent of that sign in different ways. Then there is also the level of connotation that makes the entire sign (with it already having one referent) becoming the signifier for another content, which enables a sign to carry and imply different meanings even with its original signified remaining stable.

The polysemy and different interpretations that are given to “sustainable development” in general academia have now become apparent, and it needs to be admitted that one single interpretation cannot be given to it. However, there are some interpretations that are used more and endorsed over others. Similarly, I have attested that there is a distinctive quality to European Union’s sustainability thought. In this study I try to uncover that *one* interpretation which, according to the hypothesis, should tend towards the “weak” understanding of sustainable development. I am now looking more to the semantic sphere rather than the grammatical sphere of legal discourse.

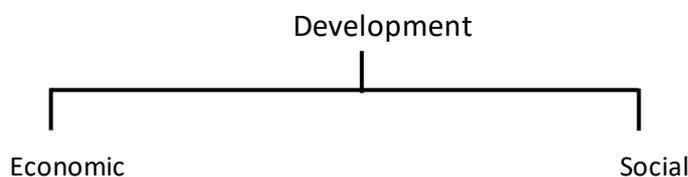
When looking at the academic attempts to define sustainable development, it was concluded that the upholding of environmental sustainability is to be preferred over the other pillars.

Bosselmann’s definition that was referred in the chapter of sustainable development was “no economic prosperity without social justice and no social justice without economic prosperity, and

both within the limits of ecological sustainability”.<sup>168</sup> Unfortunately, any boundary-setting for trade to function within these limits of ecological sustainability cannot be found in the three-pillar formulation, which has sustainable development clearly defined to have three pillars: economic development, social development and environmental protection. The same form is also found in Paragraph Three of Article One in the TSD of the EU–Vietnam Trade and Investment Agreement.<sup>169</sup> These pillars can be represented as having equal hierarchic importance as such:



However, it can be seen that the diagram does not accurately represent the true semantic value and content of the terms represented to make up the contents of the principle of sustainable development. Both “economic development” and “social development” actually share the signifier *development*. There is no reason to treat the economic and social aspects of development as dissimilar as to justify them being treated as separate semiotic objects of a same larger concept. In other words, the two aspects are connected by their *similarity* by virtue of them representing the *same concept* but *differentiated* by their *relationship* to that shared concept. The relationship of economic development and social development can be distinguished by the following diagram:

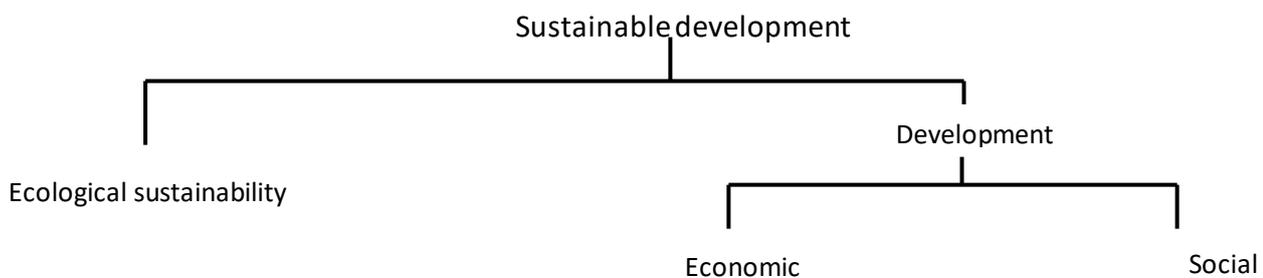


Since the two aspects are now treated as two distinguishing and distinct aspects of a same larger concept, the whole structure of the traditional three-pillar representation needs to be revised. Indeed, as Bosselmann’s theorizing suggests, it is the aspect of environmental protection juxtaposed against the aspect of development in economic and social sectors that is a qualifying

<sup>168</sup> Bosselmann 2008, 53.

<sup>169</sup> Article 13.1(3) EVTA

feature of *sustainable* development. Bosselmann also uses a different name for the environmental arm of the sustainability doctrine. He opts to use “ecological sustainability”, which in many ways has more conceptual integrity; using the traditional “environmental protection” along with “economic development” confuses the different uses of natural environment and resources across the two different “arms” of the graph. Bosselmann’s use of “ecological sustainability” in many ways sets more clear-cut preconditions on the use of natural environment, be it protection, recreation or extraction. The graph would now look like this:



The above graph suggests that the environmental side is of special importance in what makes any development sustainable and requires attention in any semiotic analysis of the concept. It was also earlier found that this sustainable environmental management has another important property: the major distinctive feature that was admitted to characterizing between qualities of sustainable development (and conceding to the idea that only “strong” versions of sustainable development can truly qualify as sustainable) was the idea of critical natural capital. This idea must be interpreted through semiotics, as well, in order to make it operational for the study.

#### 4.4. Semiotic representation of natural capital

It was asserted earlier that development is only sustainable if it seeks to uphold ecological sustainability, i.e. preserve the integrity and existence of Earth’s ecosystems, and it was decided that the fundamental difference and an important indicator between weak and strong versions of sustainable development is the manner in which they treat the limit and extent to which natural capital can be subjected to economic use. To recap, the two categories were called “critical natural capital” and “non-critical natural capital”.

We can express this as a semantic category of its own. This kind of category contrasts between *interchangeable* and *non-interchangeable* types of natural capital on its semantic axis, as the concept of critical natural capital implies that there is some kind of natural capital that is not

interchangeable with other types of capital. Along this semic category, the meaningful sense is the *interchangeability*, the presence which we mark by *s*. Non-interchangeability, then, references the presence of a negative *non-s*. This is the relationship along which we are able to organize the concepts of “critical” and “exploitable” natural type capitals:

exploitable (*s*) vs critical (*non-s*)

It is also possible to represent this category as a larger part of a semic system of capital in order to clarify the nature of the non-interchangeable natural capital. This rough estimation of the established types of capital considered to exist within society attempts only to provide an applicable classification of the ways they relate to each other hierarchically.

On the most abstract of levels that can be possibly imagined is the distinction of capital in economic terms and “social capital”, which refers to those features of social life and connections that enable participants to work together more effectively.<sup>170</sup> The latter can be regarded as not being immediately used to increase economic return unlike “human capital”, which has more direct connotations for economic value. Therefore, social capital ought to be treated separately from other types of capital. As other types of capital we are looking at are considered to have monetary value (labor produced by human capital is exchanged to salary), the top-level opposition can be established as:

monetarily valuable (*economic*) vs. not monetarily valuable (*social*)

The second level of distinction can be done on the level of economic capital based on whether the types of capital are based on quantifiable properties owned by humans or unquantifiable sets of knowledges and capabilities possessed by humans. There is no objective method of placing monetary value on “stocks” of human capital; wages cannot accurately account for it as it does not distinguish between the quantifiable value of each skill, experience, degree of education that a paid employee has. There is thus the opposition of

quantifiable (*owned*) vs non-quantifiable (*human*)

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<sup>170</sup> Putnam 1995, 664–665

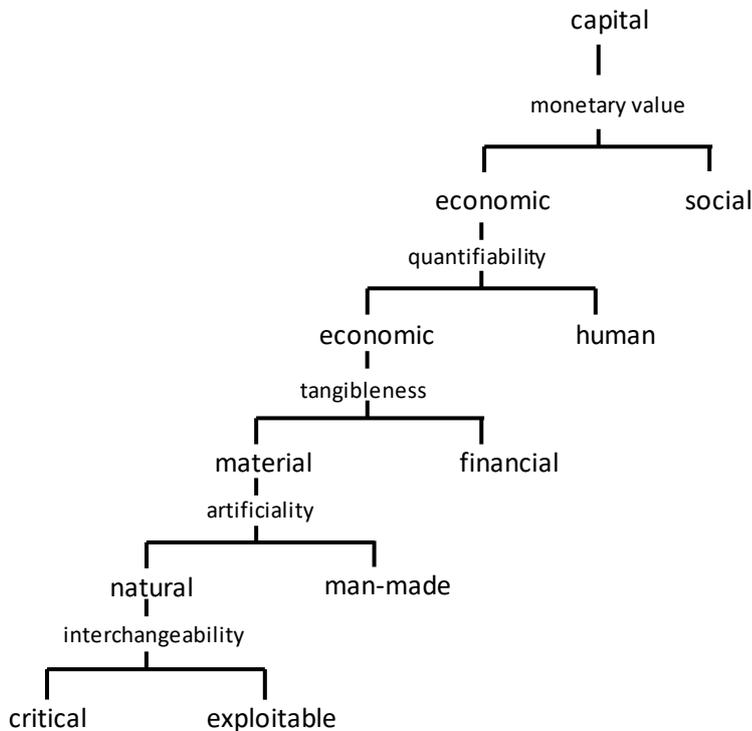
Owned capital can be organized into semes based on whether its value is based on the tangible or intangible properties of the type of capital; in other words, it is the distinction between financial and material capitals. Examples of the first can be stocks, derivatives and other financial instruments; in the second type are included land, natural resources, real estate, forests and means of production. Their opposition can be displayed as

tangible (material) vs intangible (financial)

Finally, we can organize material capital according to whether it is considered to be “natural” in its origin or man-made by production. The semiotic axis between them is *artificiality* and their opposition is

non-artificial (*natural*) vs artificial (*man-made*)

When combined with the already established opposition of critical vs exploitable capital, we are presented with this larger diagram:



The semic system of capital as presented here is intentionally incomplete on the right-hand items, as their elaboration is not necessary for the purposes of the research.

It needs to be stated that this semic system itself will not show up in the final semic system of sustainable development in the TSD chapter. The semic system of capital drafted above is only a theoretical device to extract *from* the text objects that exist *within* that very text.

#### 4.5. Greimasian legal discourse

If we desire analyze some specific legal texts such as the TSD at hand, we need first reflect on the whole status of legal discourse.<sup>171</sup> Without properly understanding the specific properties of legal language we cannot approach it operationally. Greimas treats legal language as “a secondary metasemiotics” based on natural language through connotation made of “secondary signifieds”.<sup>172</sup> This structure of different semiotic systems “layered” and built on top of each other can be explained as follows: all systems of signification are built on a plane of *expression* (signifier), a plane of *content* (signified) and a *relation* between two planes. We can now imagine situation where a whole semiotic sign system becomes an element of a second system, the content–expression sign-function becoming either the expression or the content of a new system. We can derive two qualitatively different systems based on whether the first system is inserted as either the expression or the content. In the first case, we are discussing of *connoted semiotic system* where the expression plane is constituted by another signifying system. In the second case, when the initial signifying system constitutes the plane of content of the new system, we are discussing of *metalanguage*.<sup>173</sup> Barthes describes that “the signifiers of connotation, which we shall call *connotators*, are made up of *signs* (signifiers and signifieds united) of the denoted system”.<sup>174</sup> The connotations, the signifieds, therefore constitute “an autonomous symbolic dimension that accounts for the weight of legal discourses and the credibility of legal institutions”.<sup>175</sup>

The level of connotation is very important, because it makes it possible to add more meanings to signs and their relationships than what the content of a single sign would allow. This is also exactly the very reason why we can expect a unique representation of the concept of sustainable development to arise from the text in the analysis: the internal configuration of meaning of sustainable development is built on connotation and not on the meanings the signs have in natural

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<sup>171</sup> Greimas 1990

<sup>172</sup> Greimas 1990, 107

<sup>173</sup> Barthes 1967, 89–90

<sup>174</sup> Barthes 1967, 91

<sup>175</sup> Greimas 1990, 107

language. Barthes calls the form of the signified of the connotated sign *ideology*, and the form of the signifier *rhetoric*.<sup>176</sup> Thus, the connotated configuration of sustainable development in the TSD is representative of the ideology underlying the production of the configuration.

In his analysis, Greimas also displays that the connoted system of legal discourse is made up of a legal grammar and a legal semantics, which are developed out of non-legal discourse consisting non-legal grammar and non-legal semantics. Greimas describes it as follows:

Legal discourse, which as we saw is the result of the convergence of its two components, a grammar and a lexicon, produces legal utterances [...] that are defined both by their canonical form (resulting from the application of the rules of grammatical construction[]) [...] and by their legal content, considered as part of the semantic universe that legal language covers [...]. Only utterances that satisfy *stricto sensu* the two criteria of grammaticality and semanticity will be recognized as being legal.<sup>177</sup>

Legal grammar has peculiar features that separate it from some other types of grammar. It is explicit, tries to exhibit the very rules it is made of and attempts to appear as if leaving no room for ambiguity. Therefore it is not a natural but a *constructed grammar*. Therefore, we ought to take into account both the meaning implied by the grammatical structures of legal texts beyond their semantic (i.e. lexical) contents.<sup>178</sup> This means that specific features of the grammar that we witness is *intentional* and thus carries inherent *meaning* in it. We can look at the grammar, identify a rule of how it works, and then try to analyze the implied meaning of that grammatical function. Another big takeaway here is that we can attempt to identify both the rules of the legal grammar instead of the legal lexicon alone.

One particular tool available to semiotic analysis is also utilized here: the commutation test, which was most famously endorsed by Barthes.<sup>179</sup> It consists of introducing an artificial change among the terms (signifiers) and observing whether there occurs an observable change in the field of content. Assuming a given structure (of signs), the varying of the term has the potential to create different readings or usages for that structure.<sup>180</sup> For example, a noun can be replaced with its antonym (opposite) to see what kind of effect it has on the signifieds of the other signs in its environment. This is in line with Curtis and Curtis, who indeed highlight the need to explore the

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<sup>176</sup> Barthes 1967, 92

<sup>177</sup> Greimas 1990, 111

<sup>178</sup> Greimas 1990, 108–109

<sup>179</sup> Barthes 1967; Barthes 1983

<sup>180</sup> Barthes 1983, 19

meanings of the signs in the context of relationships *with other signs*.<sup>181</sup> This kind of analysis is undoubtedly interpretive, but as Manning emphasizes, interpretation is fundamental in doing semiotic research, since no system is completely without indeterminacies, gaps or interpretive aspects.<sup>182</sup> Eco elaborated this as follows:

Semiotics must proceed *as if* a definitive general structure existed; but to be able to do this one must assume that this global structure is simply regulative hypothesis and that *every time a structure is described something occurs within the universe of signification which no longer is completely reliable*.<sup>183</sup>

According to Manning the purpose in semiotic analysis is not just description of parts and elements that make up sign systems, but to uncover the systems these parts constitute, “in order to produce explanations of those constraints in formal and differentiated terms”.<sup>184</sup> Therefore, in this analysis I will first explore the relevant content of the Trade and Sustainable Development Chapter text, and then organize our discoveries in these explorations into a systemic presentation.

The analysis of the Trade and Sustainable Development Chapter is carried out as follows: first I will make some general remarks about the nature of this legal text in general; to be more precise, I attempt to explain the very nature of how the text itself relates and communicates to its authors and audience by making remarks to Yuri Lotman’s account on autocommunication. Then I’ll look at Article 13.1 which contains not only objectives about what the Chapter tries to establish, but also makes important definitions to some central concepts, most importantly sustainable development in the context of the chapter itself. Then, based on that definition and our own previously established theory of sustainable development, I shall look at the dimensions of ecological sustainability/environmental protection and social development by reading and exploring carefully the relevant Articles and their contents to those areas. In the end, I will bring our findings together and present in the results a system of signs that springs forth of the findings.

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<sup>181</sup> Curtis & Curtis 2011, 250

<sup>182</sup> Manning 1987, 31

<sup>183</sup> Eco 1979, 129; italics original.

<sup>184</sup> Manning 1987, 34

## Chapter 5: Semiotic analysis of the Trade and Sustainable Development Chapter

### 5.1. The legal grammar of Trade and Sustainable Development chapters

A highly characteristic feature of a legal contract text is its authors' and signatories' habit of self-referentiality. Like the whole of these trade agreements, the TSDs are also filled to the brim with expressions that take the following form:

The Parties recognize...  
The Parties recall...  
Each Party shall...  
A Party not shall...  
Unless the Parties agree... etc.

This form has a clear dual communicative function. First of all, it is a message sent by the addressers ("The Parties", i.e. European Union and its partner) to an addressee or audience (all intended and non-intended readers of the text) through a medium of text. Besides this, expressions of this form can be approximated as a type of autocommunication, communication where the subject of communication transmits information back to itself. This autocommunication, which Lotman calls "paradoxical", is an important distinguishing factor of legal grammar from natural grammar. Lotman describes an "I-I" system of communication to restructure the "I" through qualitative transformation of information; it is not merely a transmission of a fixed quantity of information as in an "I-he/she" system of communication.<sup>185</sup>

Lotman considers that some texts addressed to a self, mainly those fulfilling a mnemonic purpose, are not autocommunication.<sup>186</sup> It is possible to take a view that a legal agreement is merely an archived listing of already negotiated and agreed upon matters, but there is without a doubt a distinctive cultural and discursive dimension to law. Also, there is the structured specificity and recurring properties of legal discourse that set it aside from other spheres of culture and cultured speech. Most importantly, however, the self-referentiality of the aforementioned grammatical structures is difficult to understand without interpreting them as proper autocommunication. The

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<sup>185</sup> Lotman 1990, 21–22

<sup>186</sup> Lotman 1990, 21

dual function of autocommunication and external communication in legal agreement text is a characteristic feature of this type of legal grammar.

This type of self-transformative function of international legal texts is important for the international community and its actors because it enables efficient diffusion of norms through language and communication. In the case of EU and its trade partners with which it has FTAs that contain TSDs (mostly developing countries with the exception of South Korea, which is a developed country), the fact that these two signatory parties exclaim their commitments, recognitions and volitional intents in the sector of sustainable development policies becomes an act of transformation dictated by the message and the text. This aligns with the overarching aim of establishing sustainable development in its external policies, suggesting even more the utilization of legal grammar for achieving political goals.

## **5.2. Objectives of the Trade and Sustainable Development Chapter**

The first Articles of the TSDs deserve special attention in terms of analysis, because they function as a framing device for the entirety of the chapters themselves. They therefore give an additional layer of meaning to all other articles that make up the text. Here we will look only at the first article of the EU–Vietnam Trade and Investment Agreement because its contents are almost verbatim already used in previous agreements, with the exception of its first paragraph. That is actually very interesting, because as the first paragraph of the first article it “sets the stage” for the entirety of the article as well as the chapter itself. The content of the paragraph is actually rather straightforward-looking:

1. The objective of this Chapter is to promote sustainable development, notably by fostering the contribution of trade and investment related aspects of labour and environmental issues.<sup>187</sup>

The objective is laid out in the first phrase, “to promote sustainable development” and then by the means of it, “fostering the contribution of trade and investment related aspects of labour and environmental issues”. There is a clear object to be defined, “labour and environmental issues” that has specific aspects of trade and investment, which are governed by the agreement itself. This paragraph, although seemingly simple and unremarkable-looking is actually peculiar as it completely new to the other “next generation FTAs”, which usually had what is now Paragraph 2 opening the Article. On the surface, its addition looks odd, but on a deeper analysis new details

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<sup>187</sup> Article 1(1) EVTA

emerge. Since its emergence is unique and obviously intentional, it must serve a specific function. The significance of this paragraph is in its syntagmatic organization and on specific semantic expressions, mainly “foster”.

The objective of the chapter as promoting sustainable development makes a normative claim: the articles written in the chapter *all work toward the goal of sustainable development*. And not only in any kind of way, but in a “fostering” way, an expression that has been heretofore not present in EU agreements’ TSDs. Merriam-Webster gives the verb “to foster” two definitions: “to give parental care to” and “to promote the growth or development of”. The word therefore implies a sense of nurture besides a more common encouragement; the polysemy is clearly present, but the difference in using this specific signifier emphasizes the meaning and significance of this “parental care” aspect. This “parental” fostering implies close and continued care as well as respect, worry, shelter and protection. Therefore, when this expression is intentionally chosen to be used in a place where a synonym having some shared signifieds such as “to encourage” would also be appropriate, we can suspect that this is second-level use of language to create specific meanings with distinct connotations. When the chapter aims to “foster” the contribution of trade and investment related aspects of labour and environmental issues, it is being implied that everything in it ought to be treated with long-term, careful and deliberate attention.

Another point of attention is the expression “trade and investment related aspects of labour and environmental issues”. This is only ever expressed once before in any agreement: mainly in the EU–Korea Free Trade Agreement, where it was in the Paragraph One of the Article Two (“Scope”) of that agreement. The context, however, was different and not exactly comparable to this. The meaning of the phrase, however, is clear: that the two things, trade and investment, and labour and environmental issues have a shared interface. In the context of the EU we came to find that sustainable development is often interpreted as a meta-policy that covers and governs many different policy areas. We can speculate that the formulation of the sign of trade and investment–labour and environment interface connects with the EU policy principles of sustainable development as a larger policy tool crossing over several issue areas.

This interface is expressed in the agreement so that either parts or the whole of the sector that “labour and environmental issues” covers is affected by trade and investment. So when sustainable development is being promoted under an agreement that governs trade and

investment, this chapter is there to obligate them to have beneficial impact – as implied by “the fostering to contribute” – on the issues of labour and environment.

Paragraph Two has a similar structure that has been employed in all the other agreements, almost all of its content as well. However, there are few phrase structures that change how the paragraph works. In the EU–Vietnam agreement the paragraph begins with a sentence that recalls many different international agreements, many of which are related to sustainable development:

2. The Parties recall the *Agenda 21 on Environment and Development* of 1992, the *Johannesburg Plan of Implementation of the World Summit on Sustainable Development* of 2002, the *Ministerial Declaration of the United Nations Economic and Social Council on Full Employment and Decent Work* of 2006, the *International Labour Organization* (hereinafter referred to as "ILO") *Decent Work Agenda*, the *Outcome Document of the United Nations Conference on Sustainable Development* of 2012, entitled "*The future we want*", and the *Outcome Document of the United Nations Summit on Sustainable Development* of 2015, entitled "*Transforming Our World: the 2030 Agenda for Sustainable Development*".<sup>188</sup>

The important word here is “to recall”. “To recall” means bringing something back to one’s mind and as such makes the sentence seem weird to an outside reader. But in the context of the agreement, the verb always actually functions as transitive, thus requiring an object to accompany itself.<sup>189</sup> When the Parties “recall” something, they invoke some *ontological object* – as the *linguistic object* of the transitive verb of “to recall” – to the semiotic field of the text that connects the Parties to the presence of this object. In the act of recalling commitments previously made by the parties are brought back by reference to the documents that contain those commitments, even though that the content of the documents are not present and shown to the reader. This is the intended effect of autocommunication in action: the Parties are reminded – or do they remind themselves? – that they have previously publicly upheld certain values and made commitments to certain actions in a semiotic operation that co-constitutes the identities of the Parties themselves.

In other words, the purpose of recalling is to re-enforce particular aspects of this identity by ontological objects summoned to the semantic field. Here we see legal discourse in action in two ways: the verb “to recall” is brought both into a legal semantic realm from the realm of natural language, where it is given a specific meaning within the legal culture and discourse (it does not stand for all of the uses in natural language, e.g. “I recall that when I was a child...”); on the other

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<sup>188</sup> Article 1(2) EVTA

<sup>189</sup> In ordinary language, the verb “to recall” does not always function as transitive. However, within the construction of the legal grammar in this text those functions are not allowed.

hand, its grammatical function is as well specific to legal grammar compared to natural language: the grammatical function and structure of a transitive verb's object affecting the subject instead of the opposite.

The second part of the paragraph goes as follows:

They affirm their commitment to promote the development of international trade in such a way as to contribute to the objective of sustainable development, for the welfare of present and future generations.

The objective of sustainable development shall be integrated in their bilateral trade relationship.<sup>190</sup>

This part is mostly copied verbatim of all the previous agreements with only few small changes.

Compare it with for example with the Central American Association Agreement:

The Parties reaffirm their commitment to promoting the development of international trade in such a way as to contribute to the objective of sustainable development and to ensuring that this objective is integrated and reflected at every level of their trade relationship.<sup>191</sup>

Paragraph Three also appears *almost* word-to-word in the Central American Association Agreement and only slightly less so in the EU–Korea Free Trade Agreement. Its function in the article is clear as it explains the function and *meaning* of sustainable development in how it relates to the chapter as a whole. The definition is classic:

3. The Parties affirm their commitment to pursue sustainable development, which consists of economic development, social development and environmental protection all three being inter-dependent and mutually reinforcing.<sup>192</sup>

Here we see the representation of the three pillars of sustainable development, represented as being equal in importance and scope. It is not surprising to find this definition, because it is so widespread, but on the other hand, it is not the most accurate way to represent the pillars as we found before. Besides the important purpose of definition, this chapter serves another function: it is the first notion where the Parties themselves commit to sustainable development.

Paragraph Four has a minuscule, yet interesting detail. Although its content has been used in all of the previous “next generation” FTAs, there is one change we should look at. The text of the paragraph is as follows:

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<sup>190</sup> Article 1(2) EVTA

<sup>191</sup> Article 284 EU-CAAA

<sup>192</sup> Article 1(3) EVTA

4. The Parties underline the benefits of cooperating on trade-related labour and environmental issues as part of the global approach to trade and sustainable development.<sup>193</sup>

The “big small change” that has been made to this revision of the staple text is changing the indefinite article “a” into a definite article “the” in the expression “*the* global approach to trade and sustainable development”. Again, this difference is very likely intentional and thus suggests different meaning. The semantic difference expressed here by indefinite and definite articles is that the addresser believes that both they and the addressee are aware of and know the identity of the noun. Per the case of autocommunication, the use of the definite article leads to suggest that the Parties both know and are aware of the global approach to trade and sustainable development and are part of this approach. The Parties are made part of this approach by two mechanisms, the first one being the cooperation through the sustainable development measures of the FTA, the other being the global-ness (i.e. encompassing all countries) of the said approach. The use of the definite article makes sense also because it emphasizes the shared-ness of the sustainable development project, which is one of the ways how the EU views sustainable development in general.

In the previous iteration the indefinite article gave an impression of a separate process of trade and sustainable development, this has come to change at least because of the United Nations’ Sustainable Development Goals agreed in September 2015, to which all countries in the world at that time agreed. Another change in the paradigmatic plane here is the replacement of the word “social” with “labor”. We will look at and explain this case later when we look at how the dimension of social development displays itself in the chapter.

Paragraph Five is syntactically straightforward without any features of particular interest, but its content in the context of autocommunication is again interesting:

5. This Chapter embodies a cooperative approach based on common values and interests, taking into account the differences in the Parties' respective levels of development.<sup>194</sup>

It suggests and paraphrases the principle of “common but differentiated responsibilities” of the Brundtland Report, which is generally considered to be important part of the concept of

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<sup>193</sup> Article 1(4) EVTA

<sup>194</sup> Article 1(5) EVTA

sustainable development. However, the reference to “embodying” “common values and interest” has far-reaching consequences. Thinking about this in terms of Lotman’s textual interactions, both the text and its surrounding cultural context can affect each other in a two-way relationship. In regards of this statement of embodying common values and interest, the text now imposes a constraint on how we ought to think about real relationship between the European Union and Vietnam. In practice, one possible interpretation of the interaction could be like this: the text frames the “values and interests” of both EU and Vietnam in terms of “sharedness”; i.e. we (and they themselves) need to believe and act to the extent that we believe they are shared. This will (or at least should, if the agreement is expected to have credibility, and this can be disputed) frame the policy design process of both Parties. On the other hand, though, we can only read into those “common values and interests” in the text to the extent that we perceive to be shared. In other words, if we consider that there are values and interest that clearly are different and not shared between the two Parties, we do not interpret those being referent to the signifier “common values and interest”.

### **5.3. The meaning of sustainable development in the Chapter**

As the semantic organization of the concept of sustainable development was established earlier as having a special status in the internal configuration of meaning within the concept alongside with the important idea of critical natural capital being the qualifying criteria for any development to be sustainable, I shall now make use of these ideas in analyzing the TSD. First and foremost, I will indeed analyze all the sections that deal with environment in one way or another, and after they have been exhausted, I will take a look at the social dimension of development and how it’s being presented in the TSD.

When analyzing environmental protection and the use of different natural resources, I shall look for expressions related to the management of the environment, and decide to which end of the semantic axis of interchangeability they fall in order to decide whether the contents of the text display critical or non-critical types of natural capital and therefore strong or weak types of sustainable development.

It needs to be kept in mind that not everything that can be classified sustainable development can be outright classified as trade-related, i.e. included in this TSD of a free trade agreement. For

example, reducing consumption in the developed part of the world that is the EU (as argued for by the Brundtland Report) is difficult to relate to international trade. Consumption patterns are affected by trade, but consumption and trade are not the same thing. In other words, there are more aspects to sustainable development than those presented here, but they will not be found in this text, because they do not relate to the trade framework that the TSD is subordinate to.

### 5.3.1. The extent of environmental protection

As it has been established before that environmental sustainability is the underlying, most important element of sustainable development, we should pay special attention to environment in the chapter. So, what kind of meaning does environmental protection have in the agreement? On a macro level we can distinguish two separate elements how it's being approached. The first one is by the *contents* of Article 13.5 ("Multilateral Environmental Agreements") and the second is by denotative meanings that give definitions on what constitutes "environment", from Articles 13.7, 13.8 and 13.9. These denotations are 1) biological diversity, 2) forest management and 3) management of living marine resources. As these three things are the main signifiers on the level of a title of an Article that relate to aspects understood as "environment", we can suggest that they form the lines along which environment and its protection is considered.

The most significant of these signifiers are the management of forests and the management of living marine resources, especially the modifier "management". "Management" implies rational human action of directing and handling; here it is combined with nouns that describe sections of natural environment, forests and (living) marine resources. There is no definite article to accompany either noun, for example in Article 13.8, Paragraphs One and Two:

The Parties recognise the importance of ensuring the conservation and sustainable management of forest resources...<sup>195</sup>

To this end, each Party shall [...] encourage the promotion of trade in forest products from sustainably managed forest...<sup>196</sup>

The field of reference here is therefore the general concept of "forests" instead of a specific range of both already existing commercial forests and yet untouched forests in their natural state. Therefore, by reference of expression, all domestic forests could in theory be subject to

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<sup>195</sup> Article 13.8(1) EVTA

<sup>196</sup> Article 13.8(2)(a) EVTA

commercial forest management as long as it is sustainable. This idea clearly points toward an underlining principle that all the natural capital in the form of forestry is *in theory* substitutable by human capital; that there is no particular area of forest coverage that could not be turned into commercial forest is being strongly implied even though forest *conservation* gets two (passing) mentions in the article. Why are the mentions only passing? The reason is that the two mentions are not elaborated or expanded with additional content and their meaning is therefore left rather empty. It is also rather clear that the economic activity (i.e. management) goes before conservation; applying a commutation test to the article title by replacing the word “management” with “conservation” would turn the article on its head: it would then become “Sustainable Forest *Conservation* and Trade in Forest Products”. This implication would be that all forests would be potentially safe from economic activity, leaning towards the concept of non-interchangeable critical natural capital and protecting the said natural capital from consumption.

The same goes for the management of living marine resources: all of them could potentially be seen as subject to economic activity. Additionally, the contents of the Article 13.9, in Paragraph 1, make a reference to marine ecosystems in the phrase “conservation and sustainable management of living marine resources and marine ecosystems”.<sup>197</sup> However, the contents of the article are noticeably different to the previous Article. Here the emphasis is more in the *existing* commercial activities on the seas than in the *potential* expansion on fishing (excluding aquaculture), the management of which is clearly laid out in a list of international agreements. Specific attention is paid to the work of Regional Fisheries Management Organization and Catch Documentation and Certification Schemes, as well as illegal, unregulated and unreported fishing (IUU).

The reason for this could be that the conservation of marine areas is by nature qualitatively different than for forests: oceans and seas are continuous and connected and their natural resources are either living (i.e. food) or energy sources (oil and natural gas). The living natural resources are also mobile and migratory, so their management requires action that is multilateral between actors unlike forests, which are always situated within the borders of a country. In this regard, there is not a clear semantic difference between the conservation and management of the “living marine resources” as they basically encompass the same thing: maintaining steady rates of edible catch instead of depleting it; this point is actually paraphrased in Article 13.14,

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<sup>197</sup> Article 13.9(1) EVTA

Subparagraph 1(l), where the subject is simply “sustainable *fishing* practices”.<sup>198</sup> In the cases of forestry, however, the resource goes through a qualitative, semantic and social–economic transformation from “untouched”, “natural” forest into a “touched”, less “natural” forest that is harvested and used for economic purposes.

Let’s look at now at the biological diversity article. How does it express the principle of environmental protection? Biological diversity is expressed to be of importance “in accordance” to international agreements, mainly the United Nations’ *Convention on Biological Diversity* of 1992 (“CBD”) , *Strategic Plan for Biodiversity 2011-2020 and the Aichi Biodiversity Targets* and the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (commonly known as CITES).<sup>199</sup> In the CBD, biological diversity is defined as follows:

“Biological diversity” means the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part: this includes diversity within species, between species and of ecosystems.<sup>200</sup>

The very first sentence of the CBD also states that biological diversity has intrinsic value in and of itself.<sup>201</sup> Having taken these two definitions into account, it is easier to analyze the contents of the article here. The most noticeable detail about this article is in the order of the paragraphs and their contents. In general, the order of contents in an article moves linearly along the horizontal axis, which represents several parameters depending on the context: an article progresses either from important to less important, abstract to concrete, ideas to actions or any combination of these. In Article 13.7, its Paragraph Two thus represents the second most relevant topic related to biological diversity, which in this case is as follows:

2. The Parties recognise, in accordance with Article 15 of the CBD, the sovereign *rights of states over their natural resources* and that the authority to determine access to *their genetic resources* rests with their respective governments and is subject to their domestic law. The Parties shall endeavor to create conditions to facilitate access to genetic resources for environmentally sound uses and not to impose restrictions that run counter to the objectives of the CBD. The Parties recognise that access to genetic resources shall be subject to the prior informed consent of the Party providing genetic resources, unless otherwise determined by that Party.<sup>202</sup>

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<sup>198</sup> Article 13.14(1)(l) EVTA

<sup>199</sup> Article 13.7(1) EVTA

<sup>200</sup> Article 2 CBD

<sup>201</sup> Preamble of the CBD

<sup>202</sup> Article 13.7(2) EVTA, italics mine.

The paragraph describes and establishes states' "rights over their natural resources", which include the genetic resources that are provided by and belong to biological diversity, i.e. plurality and variability of the natural species. Again we notice the mode of expression where there are *indefinite* natural and genetic resources that are in the general possession of the state, there being no caveats or restrictions. Absent are in it obligations to prioritize the preservation of biological diversity; these only come in later in Paragraph Three and its subparagraphs, for example in 3(f):

[The Parties shall] cooperate with the other Party at regional and global levels, as appropriate, with the aim of promoting the conservation and sustainable use of biological diversity in natural or agricultural ecosystems, including endangered species, their habitat, specially protected natural areas and genetic diversity; the restoration of ecosystems; the elimination or reduction of negative environmental impacts resulting from the use of living and non-living natural resources, including ecosystems; the access to genetic resources and the fair and equitable sharing of benefits arising from their utilization.<sup>203</sup>

These are all good in terms of environmental sustainability. The main attention in semiotic terms is that here, like many times before, conservation and protection are represented as interchangeable operations to a general concept of biological diversity and genetic resources. This implies that there is no specific concept of critical natural capital that cannot be subjected to economic operations; instead, all natural resources (as natural capital) are homogenous as not being differentiated among the axis of "critical–exploitable". Protection of endangered species and their habitats and restoration of ecosystems is important and commendable actions; however, they and (sustainable) economic use do not have a semiotic relation to oversee and govern between them.

### 5.3.2. The impact of Multilateral Environmental Agreements to environmental protection

Article 13.5 ("Multilateral Environmental Agreements") differs significantly from the three other articles we've looked at, as it relates to environmental protection only *indirectly* through the multilateral environmental agreements (MEAs) governance. It is mostly concerned with rhetoric commitment and institutional provisions between the Parties to achieve effective implementation of MEAs. However, Paragraph Two makes a statement which seems to describe the extent to how this implementation will come about:

2. Each Party reaffirms its commitment to effectively implement in its domestic law and practice the multilateral environmental agreements to which it is party.<sup>204</sup>

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<sup>203</sup> Article 13.7(3)(f) EVTA

<sup>204</sup> Article 13.5(2) EVTA

A valid criticism could be thrown at this Article for not employing the powerful phrase of “shall”, which holds lots of weight of obligation, more so than if it is not present. A commutation test with a “shall” phrase gives an impression and sense of “must do”:

2. Each Party *shall* effectively implement in its domestic law and practice the multilateral environmental agreements to which it is party.

“Shall” is a very powerful word, because it communicates and expresses a degree of necessity and inevitability; when something “shall” happen, there is no doubt of its occurrence. It would by all means result in improved and enhanced environmental governance, if only all countries would put the effort of implementing all the MEAs as agreed; a “shall” phrase would semantically push this forward. However, this phrasing has a problem with the semantic context of the paragraph. The expression “to effectively implement” and the adverb “effectively” are difficult to give a definite meaning, especially with a “shall” phrase. Implementation in itself is not a process with a clear ending point: Integrating provisions of an MEA to domestic law and putting them into practice does not mean the end of implementation, because the application and enforcing of the provisions will continue and possibly develop over time.

Similarly, the extent and quality of the implementation are a contingent variable dependent on the effort and commitment of the government conducting them. An act of implementation which has an(y) effect does not itself necessarily qualify semantically as “effective” in terms of meaning; Merriam–Webster gives “effective” a definition of “producing a decided, decisive, or desired effect”.<sup>205</sup> “Effective implementation” of an MEA is then, quite simply, implementation that produces the *effect that is considered to be decisive* by the Parties of the agreement, but how does that effect locate temporally when the implementation of the MEA itself is an open-ended process? We have to admit that this expression is at the level of the signified an arbitrary notion, which is why the “shall” phrase, which itself communicates conclusion, cannot be readily applied here. This is why another temporally open-ended expression, “commitment”, is required and needs to be used in the paragraph. We also need to adopt a different meaning for the expression “effective implementation”, because a simple reading in natural language provided only an arbitrarily defined signified.

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<sup>205</sup> <https://www.merriam-webster.com/dictionary/effective>

On one hand, the arbitrariness was created by the need of *someone* or *something* needing to verify the decidedness, decisiveness or desiredness of the effect of the implementation, per Merriam–Webster’s definition. On the other hand, since the Parties are likely to have individual disagreement as “each Party”<sup>206</sup> of what exactly “decided, decisive or desired” and “to the fullest extent” mean, we should not accept them as the reference for the verification of effect. The only other possible subject for that reference is the MEAs themselves, for several reasons. First, they concern themselves with different aspects of environmental governance and protection. Second; although being texts of interpretation themselves, MEAs’ role as aspects of environmental governance and protection makes them *de facto* representations of environmental protection and their *bona fide* interpretation requires reading them through the maxim of environmental protection. Thus, a possible definition arises for what “effective implementation” of MEAs can mean: it is “implementation that produces and realizes the full effects of what is described in the multilateral environmental agreements”.

If we compare with other next generation FTAs we see that some of them actually name specific MEAs to implement. This might seem like a good move, but in the Peru and Colombia agreement the implementation is only limited to the agreements listed therein; in the Central American agreement there are a list of named MEAs to implement, but implementation is not limited to those MEAs only.<sup>207</sup> The first approach is less than effective, because the Parties could be signatories to more MEAs than the ones mentioned in the agreement; the second approach gives priority to some given MEAs, but is otherwise somewhat unnecessary, because they would be striven to be implemented anyway, given them their belonging in the general category of “MEAs”. The United Nations Information Portal on Multilateral Environmental Agreements lists 53 regional and 34 global treaties and protocols on environmental governance, and University of Oregon’s International Environmental Agreements (IEA) Database Project lists 1,311 different MEAs.<sup>208</sup>

In this light, when different parties are signatories to different numbers of different agreements, it is difficult to pin down to how many MEAs a Party should be party to. Also, the sheer number and variance of different MEAs makes governing the membership to an MEA complex task: by what

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<sup>206</sup> While in natural language both singular and plural form of the word have the same signified, i.e. they refer to the same content, in legal language the meaning of “each Party” is actually different: it is a Party jointly acting on an issue but on its own accord and agency, without being intervened by the other party.

<sup>207</sup> Article 287(2) EU-CAAA; Article 270(2) EUTACP

<sup>208</sup> <https://www.informeia.org/en/treaties>, <https://iea.uoregon.edu/iea-project-contents>

argument should be a Party to be party to an MEA? Tropical countries do not need to be Party to MEAs concerning the Arctic; neither are mangrove forests a concern for countries in cold climates. Therefore it is a somewhat disappointing limitation – but a realistic one to admit – that this current iteration of the article cannot readily account for much more than the MEAs parties are already involved in.

### 5.3.3. Climate change and environmental protection

Article 13.6 concerns measures and actions against climate change, and it was not mentioned beginning of this environment-focused section, because some thought should be spent in what kind of way climate action should be classified as sustainable development. The definition for sustainable development used in the beginning of the TSD was that it has three inter-dependent and mutually reinforcing pillars.<sup>209</sup> The pillars are clearly written and understood in positive terms: economic development should *foster* social development and environmental protection; similarly, environmental protection should *help* economic and social development. Climate change threatens numerous natural environments and lives and livelihoods of peoples living in these environments, in this way fighting it tries to prevent these adverse and negative effects to social development and the environment. However, in this sense climate action does *not* have a reinforcing effect in positive terms; it's only concerned with the reduction of negative effects. Reducing a negative effect on the environment (since climate is part of our natural environment) is not a positive effect in itself and nor does it necessarily intentionally seek to reinforce nor add to both social and economic development.

However, the contents of the Article are not dealing with explicit *use* of the climate to economic purposes, but rather with the action of *conserving* the climate from the effects of economic action. This is the only case of a signifier relevant to the sustainability that is not connected to economic use in any way, so its analysis actually represents an important dimension besides its brevity. Indeed: Article 13.6 is a quite short, consisting of two paragraphs; the other making reference to the most significant international climate agreements, the other expressing the role of domestic policies and identifying issues of mutual interest.

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<sup>209</sup> Article 13.1(3) EVTA

Paragraph One is structurally somewhat similar to Paragraph Two of Article 13.5, but with an important difference. This paragraph, too, expresses commitment to effective implementation, but this time it is modified with the words “to reaching the ultimate objective of the United Nations Framework Convention on Climate Change of 1992” (UNFCCC):

In order to address the urgent threat of climate change, the Parties reaffirm their commitment to reaching the ultimate objective of the *United Nations Framework Convention on Climate Change* of 1992 (hereinafter referred to as "UNFCCC") and to effectively implementing the UNFCCC [...].<sup>210</sup>

This “ultimate objective” is of enormous importance, because unlike 13.5, which struggled with having not a solid reference to what should be considered “effective implementation”, here it is immediately referenced with the “ultimate” objective of the UNFCCC. This should be taken to mean the Article 2 (“Objective”) of the Convention, which is as follows:

The *ultimate* objective of this Convention and any related legal instruments that the Conference of the Parties may adopt is to achieve, in accordance with the relevant provisions of the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.<sup>211</sup>

Although this article *itself* does not specify in a detailed manner what is “the level of greenhouse gas concentrations in the atmosphere that does not cause dangerous anthropogenic interference with the climate system”, it has been by now established by climate science and the IPCC climate reports. Having such a clear objective gives essential clarity to what the “effective implementation” of this article would be. This “small” addition of commitment to an “(ultimate) objective” of a given convention gives this article in principle a very ambitious environmental goal. This is unsurprising, given that EU has consistently been vocal and active in the matters of international climate governance and climate policy.

The later part of Paragraph One is also of some interest. It makes reference to the TSD and suggests that it has can serve a role in climate action:

The Parties shall, as appropriate, cooperate and promote the positive contribution of this Chapter to enhance the capacities of the Parties in the transition to low greenhouse gas emissions and climate-resilient economies, in accordance with the Paris Agreement.<sup>212</sup>

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<sup>210</sup> Article 13.6(1) EVTA

<sup>211</sup> Article 2 of UNFCCC; italics mine.

<sup>212</sup> Article 13.6(1) EVTA

A single choice of word in this sentence betrays the line of thinking that is working behind it. As it has been suggested before, sustainable development thinking of the European Union is based on an economic modernization model, where the economy is central to the project of “fixing” environmental problems. The text of this Article highlights that approach by striving towards “climate-resilient *economies*”. In terms of the three pillars of sustainability that the EU uses itself, this term could be also replaced by either “society” or “environment”. Out of these, the latter is less often considered as a signifier for the human sphere of state governance like “economy” and “society” are, therefore we could only use “the economy” as a paradigmatic signifier here. Even in that scenario the commutation test would give us “climate-resilient *societies*”, which puts a very different emphasis to what (and whom) should be the primary subject in transition to climate resilience. It needs to be pointed out that this discussion of economies does not relate or contradict the conservation of climate; it rather describes the end *goal* of the sustainable conservation action that relates to climate.

Another point of concern is the expressed thought of “the positive contribution of [the TSD] Chapter” to low levels of greenhouse gas production and climate resilience. This makes the interesting initial assumption that the effect of the trade and sustainable development *chapter*, rather than the agreement itself will provide beneficial effects. We ought to attempt to investigate the actual signified of the sign “positive contribution of this chapter”, since the mere signifier does not tell what it actually *refers to*. On a large scale, we can assume that all economic action that is (environmentally) sustainable takes into account decreasing levels of greenhouse gas production, but not all sustainable economic activity is aimed at climate resilience. This means that we need to find *inside* the TSD those *contents* that reference and claim to lead to climate resilience and greenhouse gases, as they are the ones providing the desired positive effects. These contents are as follows:

- Commitment to UNFCCC, the Kyoto Protocol and the Paris Agreements;<sup>213</sup>
- best practices and lessons in carbon pricing;
- promotion of carbon markets;
- promotion of energy efficiency, low-emission technology and renewable energy;

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<sup>213</sup> Article 13.6(1) EVTA

- sustainable management of forest resources<sup>214</sup>;
- combatting illegal logging and related trade;
- facilitating and promoting trade and investment in environmental goods and services;
- facilitating trade and investment in goods and services of particular relevance for climate change mitigation;
- promoting corporate social responsibility;
- working together in trade-related aspects of the current and future international climate change regime;
- having a view to reduce deforestation and illegal logging; and
- sharing information and experience about trade-related aspects concerning the definition and implementation of green growth strategies and policies.

As we can see, these contents do not cover the whole of the Chapter, but rather provide a somewhat narrow snapshot of what is directly and indirectly related to climate action in it. This can be also proven semiotically by observing the internal structure of the chapter in how it references to itself. As it has been already discussed, in Article One, the text explicitly states that the Chapter (as a coherent whole and as a unit of the larger Agreement) aims at promoting *sustainable development* in its three aspects. Under this precondition, the climate change related subset of paragraphs and prescribed actions – which do not appear in the text in any way before Article 13.6. – contribute to this larger concept of sustainable development and not the other way around, as the Paragraph seems to suggest. This is due to fact that climate change policy is not explicitly established in the Objectives Article in the same way as the principle of sustainable development was. In other words, under these circumstances all climate action is subsumed to sustainable development, but not all sustainable development action (as in “the positive contribution of the *Chapter*”) now contributes to climate policy. The exact boundaries of these two things might be fuzzy in practice, but on semantic terms the divide is solid.

#### 5.3.4. Social development in the Trade and Sustainable Development Chapter

When starting to analyze the meaning of social dimension of sustainable development, or social development, as it is defined in the TSD, the first thing and a major change that stands out is that in the EU–Vietnam Trade and Investment Agreement – in comparison to previous agreements –

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<sup>214</sup> Forests act as a carbon sink by absorbing CO<sub>2</sub>, and deforestation is one component contributing to the ongoing climate change.

the emphasis on the use of the word “labor” instead of the word “social”. For example, in Article One, Paragraph Four, in a phrase where there used to be the word “social” in the Korean and Central American agreements, it is no longer there:

The Parties underline the benefits of cooperating on trade-related *labour* and environmental issues as part of the global approach to trade and sustainable development.<sup>215</sup>

The semantic field of “labor” is inarguably smaller than that of “social”, with the latter apparently containing the former: the area of labor is a smaller aspect of broader human social life. It therefore seems that the noun change means narrowing the scope of “the social” in this FTA. However, by comparing to the other agreements, it seems that the use of “social” has been rather inconsistent in comparison to “labor”. “Labor” is often used as a technical term that has the content of “employment, unemployment and work” but the exact meaning of “social” has not been elaborated on. Instead, the definition of “labor” has been defined in an interesting way in Article One, Paragraph Four, where there is a mention of “trade-related labor and environmental issues” with a footnote elaborating that:

For the purposes of this Chapter, “labour issues” mean those under the Decent Work Agenda, as referred to in the *ILO Declaration on Social Justice for a Fair Globalization*, adopted by the International Labour Conference at its 97th Session, in Geneva on 10 June 2008.<sup>216</sup>

No other EU FTA contains this mention in their TSDs, thus creating a unique reference of meaning in the Vietnam agreement. All agreements do, however, make routine references to the 2006 United Nations Economic and Social Council’s *Ministerial Declaration on Attainment of Full, Productive Employment and Decent Work*. What separates it and the ILO Declaration apart is the latter’s emphasis and elaboration of its four objectives: promoting employment, developing and enhancing social protection, promoting social dialogue and tripartism, and respecting the fundamental principles and rights at work.<sup>217</sup> What the ILO Declaration does is that it expands the semantic field of meaning of the term “labor” to broader areas of social life. Even besides this, the signifier “labor” dominates over “social” in the Chapter as the latter occurs almost twice as often as the latter. Because there are clearly two competing signifiers in opposition with each other, we

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<sup>215</sup> Article 13.1(4) EVTA

<sup>216</sup> Article 13.1(4), footnote 1, of EVTA

<sup>217</sup> ILO 2008

can contrast between them as a semantic category of *labor* and “social” signifying its negation that is *non-labor*.

Yet the case of what “social *development*” containing both spheres of *labor* and *non-labor* entails and how it’s pursued in the Chapter is relatively scarce and under-elaborated. This is not a surprising trend; even within sustainability studies the social aspects of sustainable development are often left under-developed.<sup>218</sup> Even the occurrences of the word “social” are sporadic and differentiated within the chapter: in total, only less than ten times it is either a signifier relating to social aspects or a part of a bigger signifier relating to sustainable development. The only article that openly relates to social issues is Article 13.4 (“Multilateral Standards and Agreements”); besides that, we need to look into small sections of several other Articles.

The main focus of Article 13.4 is “full and productive employment” and “decent work for all”, presented in Paragraph One, and they are established as the comprehensive frame of reference for other *trade-related* labor issues. In other words, within this Chapter the semiotic field of *labor* is to be viewed through the content of these two signifiers:

The Parties recognise the importance of *full and productive employment* and *decent work for all*, in particular as a response to globalisation. The Parties reaffirm their commitment to promote the development of their bilateral trade in a way that is conducive to *full and productive employment* and *decent work for all*, including for women and young people. *In this context*, the Parties shall consult and cooperate, as appropriate, on trade-related labour issues of mutual interest.<sup>219</sup>

The decisive expression here is “in this context”. This expression conditions the preceding message(s) as authoritative over the ones following it, in this case the “trade-related labor issues of mutual interest”. Some other principles, drawn from the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up*, are freedom of association and right to collective bargaining, the elimination of forced and compulsory labor, abolition of child labor and the elimination of discrimination in regards to employment and occupation.<sup>220</sup> These all, indeed, fall under the common understanding of decent work. In essence, these are the main contents related to social development within that article. Of special relevance and interest is, instead, subparagraph 2(a) in Article 13.10, in which the Parties:

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<sup>218</sup> Lehtonen 2004, 199–200

<sup>219</sup> Article 13.4(1) EVTA, italics mine.

<sup>220</sup> ILO 2019a

[R]ecognise the beneficial role that decent work may have for economic efficiency, innovation and productivity, and they shall encourage greater policy coherence between trade policies, on the one hand, and labour policies on the other.<sup>221</sup>

Here decent work is explicitly connected to not only economic *efficiency*, but also *innovation* and *productivity*. While there is nothing inherently debatable about the interdependency of the social and economic aspects of sustainable development, it's the occurrence of the words "efficiency" and "innovation" that betray the underlying approach that hints at ecological modernization. Ecological modernization, after all, viewed economy and its increased efficiency and entrepreneurial innovation as one of the key aspects to combat environmental harms. Especially within a context of sustainable development the use of these signifiers suggests a different mode of ecological thinking than the radical and rapid restructuring of economic and social structure and practices that what was originally suggested.

The only section in the whole Chapter where "social" issues outside are expanded strictly those involved with work and employment is Subparagraph 2(e) of Article 13.14. It is written in the Chapter as follows:

[Parties may work together in] trade-related aspects of the ILO Decent Work Agenda, in particular the inter-linkage between trade and full and productive employment for all, including youth, women and people with disabilities, labour market adjustment, core and other international labour standards, labour statistics, human resources development and lifelong learning, social protection for all including for vulnerable and disadvantaged groups, such as migrant workers, women, youth and people with disabilities, and social inclusion, social dialogue and gender equality.<sup>222</sup>

This paragraph is unfortunately muddled by imprecise punctuation and it is very difficult to get a grasp which of the listed signifiers are actually connected to which and in what kind of manner: are all of the signifiers mentioned "trade-related aspects of the ILO Decent Work Agenda", or are they a subset of the "interlinkage between trade and full and productive employment for all"? To make matters worse, social protection, social inclusion and gender equality could be classified as signs belonging to both *labor* and *non-labor*, but now there is no tangible way to make the distinction from the text. Especially the three signifiers could represent phenomena outside trade, labor, economy and environment and instead belong firmly to the social sphere. World Bank defines social inclusion as "the process of improving the terms on which individuals and groups

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<sup>221</sup> 13.10(2)(a)

<sup>222</sup> Article 13.14(2)(e) EVTA

take part in society”.<sup>223</sup> Social dialogue is defined by ILO as “all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers and workers, on issues of common interest relating to economic and social policy”.<sup>224</sup> Now they seem to fall under the category of *labor* because of the presence of the signifier of “decent work”.

It stands out that the social dimension of sustainable development is not clear-cut or well defined in the TSD. The use of terminology appears to be arbitrary: there is no absolutely clear distinction whether “labor” and “social” refer to the same content or different content in any given setting. For example, labor and social are sometimes combined with the environment to represent the interaction of different pillars of sustainable development, but there is no apparent logic to when one is chosen over another. In Article 13.1, Paragraph One, the reference is to “trade and investment related aspects of labour and environmental issues” and in Paragraph Four to “the benefits of cooperating on trade-related labour and environmental issues”.<sup>225</sup> In Article 13.14, Paragraph One, the talk of the impact “trade or investment rules on labour and environment” and in Article 13.15 there are “economic, *social* and environmental stakeholders”, which however may consist of “employers’ and *workers*’ organisations, business groups, and environmental organisations”.<sup>226</sup> This displays a very labor-dominated image of what “social” entails.

Yet also in Articles 13.8 and 13.9 there are mentioned the contribution of sustainable forestry to “economic, environmental and social objectives” and “economic, social and environmental aspects” of sustainable aquaculture. Both of these have possible effects on a larger social scale including for example issues of land use and indigenous rights, which cannot be comfortably placed under the “labor issues” umbrella.” We were therefore only able to say that there are two aspects to social development that is contained within this Chapter: that pertaining to labor, and that which “social” in being anything that is “not-labor”. This shows that the extent of the social aspect of sustainable development is not well understood, leaving issues of health, human rights, nutrition, food security, land ownership; economic, social, ethnic, gender and class inequality, corruption, crime, violence etc. outside the scope of the chapter.

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<sup>223</sup> World Bank 2019

<sup>224</sup> ILO 2019

<sup>225</sup> Article 13.1(1) EVTA; Article 13.1(4) EVTA

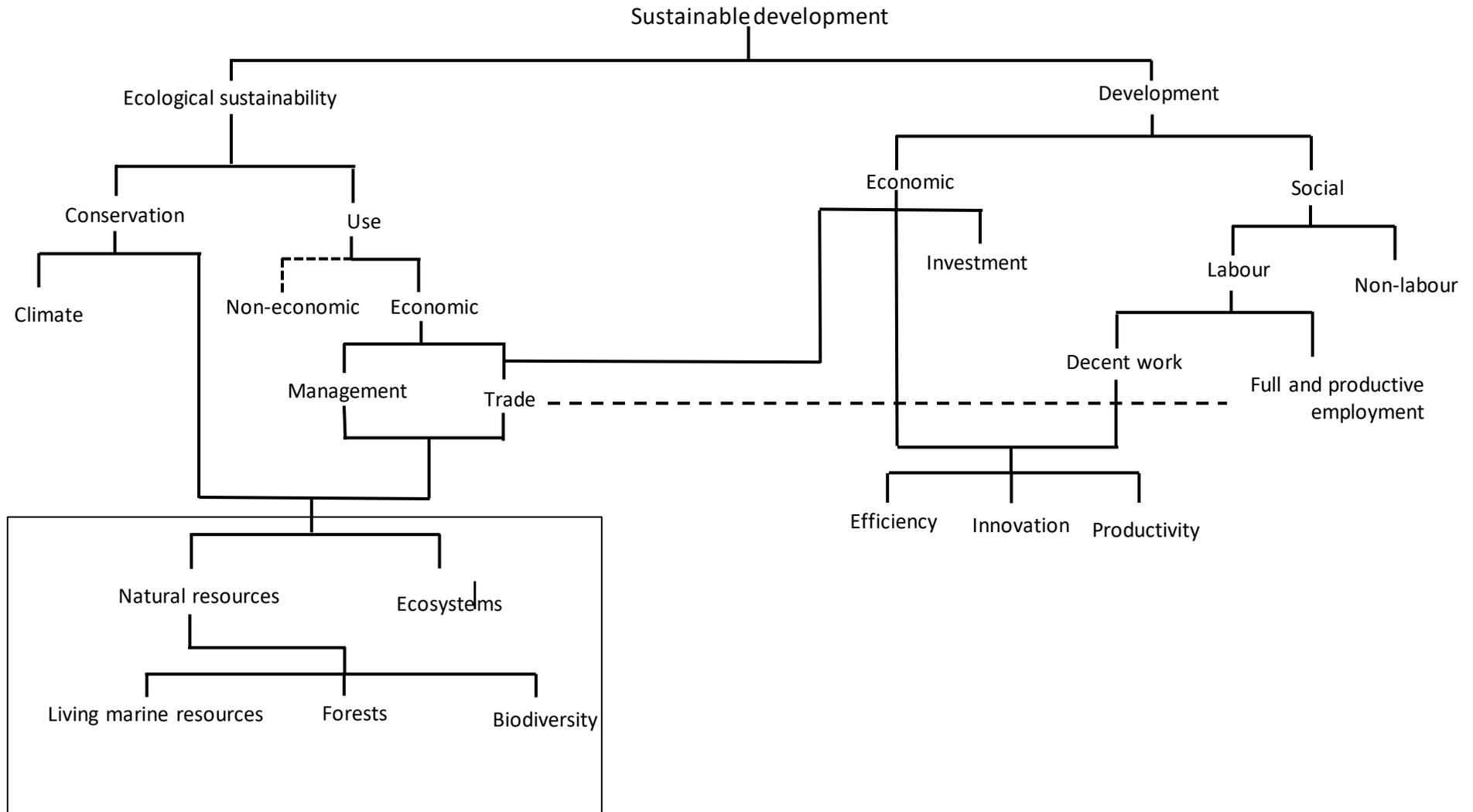
<sup>226</sup> Article 13.14(1) EVTA ; Article 13.15(4) EVTA

## 5.4. Results

After having analyzed the TSD and discovered many different signs, they can finally be ordered to a hierarchical representation. I have kept the top-level distinction between *ecological sustainability* and *development* from Chapter 4 – including its economic and social aspects – and enriched it with the findings reported above. The organization was based on the principle of semantic hierarchies adapted from Greimas, where I order signs based on their conjunction and/or disjunction according to their semantic categories and what their relationships are to other signs. The final result can be seen on the graph on the following page.

The most critical notion here is that there is no established distinction between of which natural resources and ecosystems, or natural capital, needs to be protected; neither is there a mechanism to determine them. The squared items in the lowest tier of the tree graph are the ones distinguished in the Articles 13.7–13.10 of the Chapter: biodiversity and ecosystems are treated in Article 13.7, forests in Article 13.8 and living marine resources in 13.9. As we mentioned earlier, all of these were posited to be possible subjects to both (sustainable) economic use and conservation in an equal manner. Therefore they are first of all ultimately connected to two different aspects of development – economic development and ecological sustainability – and secondly making the distinction of conservation and sustainable use a mostly flawed distinction. Why is the distinction flawed? We can see from the graph that only climate is the only semantic object that belongs to the category of sustainable conservation; thus there is no critical natural capital in the strong sense of sustainable development that should be excluded and left outside of economic use.

It should be emphasized that this organization is only provided by and resulted from the contents of the Chapter. Had the articles suggested specific classes of forests, ecosystems or fisheries that should be left outside the category of economic use, they could be included as such; now the situation is unfortunately not so. The criticism in here is *not* that economic development is *connected* to sustainable use; this is, after all, a natural feature following from the principle of mutual reinforcement that is a part of EU's definition of sustainable development. Instead, the problem is that there is no *disconnect* between the objects of sustainable use and non-use, since it does not delimit any natural capital and phenomena as having any status of special or critical importance.



There is one element in the tree graph that cannot be explicitly found in the Chapter. It is the category of “sustainable non-economic use” which contrasts with the category of “sustainable economic use”. It’s an addition that was considered to be a necessary semantic category, since without it there would be a false equivalency between “conservation” and “*economic use*”, which are actually not part of the same semantic category. “Conservation” is a signifier for the category of “non-use” that is the natural negative of the category “use”, so in order to specify different qualities of use, the un-referred category of “non-economic” use had to be embedded.

In the category of development I have distinguished the shortcomings of the category of “labor” and “non-labor” and how the latter has remained unspecified and under-elaborated in the Chapter, dismissing and hiding away numerous different possible issues of social development. The former, however, was given more attention, being defined by “full and productive employment” and “decent work” per terminology adopted by ILO. The economic connections and linkages of these to both trade and investment were established to both; the former had inter-linkages established to trade, while the latter was described as having “a beneficial role” to economic efficiency, innovation and productivity.

The economic sector was also under-elaborated and presented only in the context to how it relates to the other (perceived) aspects of sustainable development. Since the TSD is only one chapter in a bigger agreement devoted only to trade and investment, it is not surprising that they are not dealt with in detail in this chapter. They are almost certainly developed and defined elsewhere and are kept outside the confines of the Trade and Sustainable Development Chapter, so a thorough and conclusive commentary about the economic sector is difficult to make here.

Here we see that there are hardly any aspects of sustainable development that would not be interconnected in some way. Unfortunately, there are no connections between the ecological and social spheres, as both of them only connect to the economic sphere. This, in conjunction with the fact that there was no category of critical natural capital presented in the Chapter, seems to suggest that the meaning of sustainable development of the Trade and Development Chapter in the EU–Vietnam Trade and Investment Agreement is firmly embedded in the idea of “weak” sustainable development that does adhere to the principle of critical, non-interchangeable natural capital, but (with the exception of climate) considers all types of natural capital as implicitly interchangeable with other types of capital. However, the implications pointing towards ecological

modernization were somewhat less present and distinguishable, which goes slightly against some earlier arguments, especially that of Baker's.<sup>227</sup> One example supporting the ecological modernization thesis would be the under-emphasis of the non-labor-related aspects of social development, since ecological modernization was primarily an economy-driven doctrine of decoupling economic growth from pollution and other ecological problems by the means of industrial innovation and improvement, and the elaboration of employment and labor rights as found in the Chapter actually focus on the economic (and even more so, the production-oriented) sphere of social life. Also, the explicit inclusion of specific vocabulary of "efficiency, innovation and productivity" describes precisely the means that ecological modernization seeks to reach its goals.

However, because only describing something being "under-emphasized", i.e. characterized more by absence of signs rather than their presence, these results cannot yet count as conclusive evidence and they cannot give a concrete answer to whether we should classify this policy as being not sustainable development but rather ecological modernization in disguise. This text was simply not enough to give a concrete answer. Yet there are some evidence hinting at it and that possibility still exists because, as it was mentioned in the beginning, semiotics is the study of everything that can be used in order to lie.

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<sup>227</sup> Baker 2006, 2007

## Chapter 6: Conclusions

This thesis has examined the idea of sustainable development as how it manifests in the Trade and Sustainable Development Chapter (“TSD”) of the Vietnam–EU Trade and Investment Agreement using semiotics, which is a branch of linguistics and philosophy focused around the idea of signs as carriers and transmitters of meaning. It is as flexible as it is powerful, both a methodology and a theory, and it can be utilized either as an overarching research method or as an analysis tool for different types of data.

Sustainable development has been a central topic in international discussions of environmental, ecological and economic issues ever since it gained significant traction with the publication of the *Our Common Future* report in the early 1980s, and ever since there have been struggles to grasp the central meaning of the idea. Multiple interpretations of sustainable development exist; some have suggested up to 40 different explanations to it.<sup>228</sup> One definition often found in the language and documents of international organizations and states is the idea of three mutually constituting pillars of “economic development, social development and environmental protection.” I challenged this definition based on previous findings that claimed that this conceptualization has no rigorous or historically inspired basis, as well as from a semantic point of view, where there exists an internal dichotomy between environment and development; the “three pillars” are not created equal, but rather juxtapose environment with human activity that involves the use of the environment.

This thesis then focused on an often-used classification of two different images of the principle, called “weak” and “strong” versions of sustainable development. The weak version of sustainable development suggests, simply put, that the environmental damage caused by economic and industrial expansion can be negated and offset by advancements in human knowledge and technology; in other words, replacing natural capital with other types of capital. The strong version, on the other hand, posits that progress itself cannot fix the ecological problems and crises that occur from the maintenance and growth of the industrial-cultural order of mankind. It suggests that economic action intrinsically causes damage to the environment, and thus environmental affairs ought to precede economic affairs. These two positions were then identified

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<sup>228</sup> This often-cited estimation is found in Pearce, Markandya & Barbier (1989). Depending whether one considers each commentator presented in it espousing either a single or multiple descriptions of sustainable development, one can actually find either 38 or 23 definitions in their compilation.

to be reducible to how they treat the meaning of natural capital. I stated that weak versions of sustainable development understand all natural capital as interchangeable to other types of non-natural capital, whereas strong version of sustainable development establishes a category of “critical natural capital” that is not interchangeable to other capitals. Then I proceeded to analyze European Union, which is an important actor in the field of sustainable development policies even though its own policies have been criticized for actually endorsing neither weak nor strong sustainable development, but rather an approach called ecological modernization that emphasizes the role of economy industry and entrepreneurial innovation in solving ecological challenges.

The methodological understanding of both the concept of sustainable development as well as the textual environment where it shows up – the Trade and Sustainable Development Chapter of the EU–Vietnam Free Trade Agreement – is firmly based on the European tradition of semiotics: Saussure’s seminal theory of a sign consisting of a *signifier* and a *signified*. Signifier is the material form that the sign takes (image, sound, object) and signified is the content that the sign stands for (“working class” for blue jeans, the command to “stop” for a red traffic light, the direction “right” for the symbol “→”). The signs cannot create meaning alone, but instead receive their meaning by the *difference* they have to other signs which also share some degree of *similarity*. These signs exist in combination with each other along different linguistic axes and are able to create additional meanings by how they act with other signs.

Important cues from Umberto Eco’s view of the signified of the sign as cultural content were also taken. Eco’s work suggests that cultural units and cultural contents of the sign leads to the existence of different cultural communities that are characterized by its individuals’ participation and shared contribution in meaning-making by using specific signs in their communication. It was also argued that legal texts and legal language are also a type of cultural sphere with its own principles and rules of meaning-making and signification despite the often-evoked popular image that legal language is somehow less affected by cultural peculiarities and inconsistent application of words. However, even though that law turned out to be a “general exercise in interpretation”, there is a specific structure of connoted signs that makes up legal language. This, combined with the fact that while the practice of law as an “exercise in interpretation”, the semiotic analysis of legal text in itself is *not* a practice of law, but rather a metalinguistic operation to learn something distinctive about it, makes it possible to examine the text in a non-legal way. The method for this

particular case was A.J. Greimas' structural semiotics that treats signs having semantic categories of meaning and that posits the possibility of hierarchical relationships between signs.

In the analysis of the TSD I approached the text semiotically by viewing it as a form of "legal autocommunication" that functions by transforming the addresser itself and explored it through the syntagmatic and paradigmatic planes. I looked for unique signifiers related to sustainable development and analyzed their meanings in conjunction with the other signs in the text; this approach was based on the Saussurean principle that signs only receive their meanings differentially and not in and of themselves. Based on the present signifiers and their relationships with other signs it became possible to form a distinctive meaning of sustainable development that the text creates and endorses in multiple interactions. The result of the analysis displays that the version of sustainable development in the Chapter belongs to the "weak" form of sustainability while showing some signs of ecological modernization, but not the most distinctive principles tenets of the approach.

This thesis presents a rare contribution to applications of continental semiotic theory in the field of International Relations. There has been some recent interest in Peircean semiotics in the last few years, but rigorous applications of structural semiotic analyses have been scarce. This result shows that using sign theory can be a viable tool to analyze policies by actors of interest to International Relations, this time the European Union: a global leader in sustainability and environmental legislation, but one that struggles to live up to its ambitious rhetoric. The result of the analysis shows weaknesses not only in EU sustainability policies, but also in their approaches to establishing sustainable development in their trade policies; this is a concern raised already by other researchers as well.<sup>229</sup> The result suggests that the EU still puts economy before environment in its trade policies, no matter its public rhetoric; the citation from EU Trade Commissioner Cecilia Malmström presented in the introduction might be true that it has included sustainable development more than other FTAs by EU, but this analysis shows that the assimilation of sustainability is still only limited and weak at best. In fact, according to the theoretical framework I have used in this thesis, "weak" sustainable development does not even yet make a pass to qualify as "sustainable" sustainable development. Some findings could even suggest a case for ecological modernism being the more influential M.O. in EU policy, but as stated

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<sup>229</sup> Marx, Lein & Brando 2016

before, most evidence for this is in the form of a glaring absence especially in the rule-setting regarding social development; it's just that absence should not be treated as evidence too lightly, and that is why I'm hesitant to make a full claim for ecological modernism.

Like all studies and findings, this one is not without doubts and caveats, however. As this is only a single-case study, it looks deep into a single phenomenon and tries to explain only it; the question whether it can be generalized is a pertinent challenge for the result. On the contrary, the study assumes that the case is a historically unique emergent occurrence; the most similar objects of study are limited to other EU's "next generation" FTAs and even then they stand as representation of development, change and evolution in EU's policy design for trade and sustainable development. The result could in principle be attempted to replicate on the other trade agreements, but it would also require putting them in the correct historical context.

Another possible criticism is the plausibility and objectivity of the study; by what account can another researcher come to the same conclusion and is it possible to generalize that conclusion? A reply to this criticism could be that the result was obtained using a specific methodology and theory and all inferences and results were drawn from the text only: the signifiers and their relationships were "uncovered" from the text using the semiotic method. To challenge the objectivity of the study would require positing a counterexample of a different structure of signs within the Trade and Sustainability Chapter. Another criticism could be pointed at the methodology of semiotic research employed here, which makes the assumption for an underlying structure and hierarchy that orders the "pure language" (*langue* in Saussure's and Jakobson's terminology) that we use. Most post-structural research traditions and so inclined scholars would likely disagree with these axioms of my thesis. However, I believe they would not come to radically different conclusions regarding the outcome of the analysis.

During the course of writing this thesis, the agreement was re-negotiated once, changing from a "standard" Free Trade Agreement into a Trade and Investment Agreement. This came as a surprise, as the first trade negotiations had been finalized already in 2015. Also, the Agreement is still waiting European Council's signature and a Parliament vote. Besides no agreed schedule for the vote and signature, concerns about the effects of the Agreement as well as doubts of Socialist Republic of Vietnam's commitment to follow through on the recommended human rights actions by the EU and international NGOs have urged both MEPs and organizations to voice their

opposition to its signature.<sup>230</sup> In this light, the results of this thesis offer more chances to address and discuss the shortcomings in the policies for ecological sustainability and social development to be implemented in the near future between the two actors.

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<sup>230</sup>see, for example European Parliament 2018; Tremos 2018; Human Rights Watch 2019

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