

BACHELOR ESSAY IN EUROPEAN STUDIES

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# Sustainable development and free trade

*What are the grounds for potential conflicting objectives between sustainable development and free trade, and how could this be understood within the frame of European integration.*



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# Abstract

This thesis' purpose is to illustrate the potential conflict between free trade and sustainable development. The thesis will introduce a three-dimensional theorization, which will be applied to an analysis of two court cases. Further on this thesis will outline how these conflicts could be understood within the frame of European integration. Environmental politics within the European Union (EU) had its starting point later than the economic cooperation. Growing ecological awareness together with the argument that different environmental standards in the member states could lead to trade barriers were two of the main arguments to introduce a common environmental policy within the EU. It was thought that such potential trade barriers, created by the potential conflicts between free trade and sustainable development, could make the free market unbalanced. Since the launching of the Single European Act in 1986 sustainable development objectives became more equal to other objectives such as free trade. In this study three theoretically derived dimensions will be used to analyze two court cases, which includes an interplay between sustainable development and free trade and potential conflicts between the two objectives, using Fairclough's three dimensional method for critical discourse analysis. In the discussions the premises for European Integration based on the results will be discussed, how these potential conflicting objectives can be understood within the frame of European Integration.

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# 1. Introduction

This thesis' purpose is to illustrate the potential conflict between free trade and sustainable development, the thesis will introduce a three-dimensional theorization, which will then be applied to an analysis of two court cases. And further on, how these conflicts could be understood within the frame of European integration.

The European Union (EU) is much more than just a common market, nevertheless "the economic deal of a common or single market lies at its core".<sup>1</sup> Bache et al. (2011) argues that avoiding the return of national protectionism and creating a large internal market in Europe that could rival with the US market was two of the main incentives for the European common market and the European Economic Community (EEC) itself.<sup>2</sup> Environmental politics within the EU had its starting point later than the economic cooperation. In 1973 the Environmental Action program emerged due to forces within the Commission which eventually resulted in the Directorate General for the Environment.<sup>3</sup> Growing ecological awareness together with the argument that different environmental standards in the member states could lead to trade barriers were two of the main arguments for introducing a common environmental policy within the EU. Arguments were made that conflicts between sustainable development and free trade could potentially result in trade barriers and make the internal market unbalanced. Since launching of the Single European Act in 1986 sustainable development objectives became more equal to other objectives such as free trade within the EU. Today one of the main objectives for the EU is sustainable development; to tackle climate change with actions such as fulfilling the Kyoto protocol (and now the Paris agreement from 2016), to increase ecological awareness and increase environmental protection both internally and internationally. To integrate sustainable development in European policy has however not been without friction. Since both free trade and sustainable development are inherently inter-crossing issues that relate to one another there is a recurrent potential for these two to become conflicting objectives as well as creating breeding grounds for potential conflicts. This thesis will discuss the breeding grounds for potential conflicts between sustainable development and free trade and how this could be analyzed and understood within the frame of European integration.

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<sup>1</sup> Bache et al (2011) Politics in the European Union, Oxford; Oxford University press, p.384.

<sup>2</sup> Bache et al (2011) Politics in the European Union, Oxford; Oxford University press, p.384.

<sup>3</sup> Jordan & Adele (ed.) (2012) Environmental Policy in the European Union: Contexts, Actors and Policy Dynamics (3e). Earthscan: London.

## 1.1 Research questions

*What are the grounds for the potential conflicting objectives between sustainable development and free trade?*

- *How could the potential conflicting objectives of sustainable development and free trade be understood within the frame of European integration?*

## 1.2 Delimitation of the thesis

To illustrate the potential conflicts between sustainable development and free trade this thesis will introduce a three-dimensional theorization, which then will be applied to an analysis of two court cases. The two court cases are; The Danish bottle case (Case 302/86)<sup>4</sup> and the Renewable Energy Case (Case 573/12).<sup>5</sup> Both cases includes an interplay between free trade and sustainable development. These two cases will be used as empirical illustrations when investigating European integration and the grounds for potential conflicts between free trade and sustainable development. One document will be used from each case; Report from the hearing from the Danish Bottle Case and Judgement from the Court from the Renewable Energy case. Three dimensions will be used to analyze the cases. These will be theoretically derived from previous research which analyzes and discuss the interplay between sustainable development and free trade.

## 1.3 Outline of the thesis

The thesis is divided into five sections. In the first section the thesis is introduced, as well as the research questions and the outline of the thesis. The second section includes the presentation of previous research about the interplay between free trade and sustainable development as well as the presentation of the three theoretically derived dimensions; Convergence or divergence, Protectionism and Prosperity or ideology?. Method is presented and argued for in the third section which is Fairclough's three dimensional model for Critical discourse analysis.<sup>6</sup> In the fourth section

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<sup>4</sup> Report for the Hearing, case C-302/86, Commission of the European Communities v Kingdom of Denmark, ECLI:EU:C:1988:421.

<sup>5</sup> Judgement of the Court, case C-573/12, Ålands Vindkraft AB v Energimyndigheten, ECLI:EU:C:2014:2037

<sup>6</sup> Winther Jörgensen, Marianne & Phillips, Louise (2002): Discourse Analysis as Theory and Method, London: SAGE Publications, p. 61.

the analysis of the two cases, the Danish Bottle Case<sup>7</sup> and the Renewable Energy Case<sup>8</sup>, is made using the three dimensions. Discussion and conclusions are conveyed in section five.

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<sup>7</sup> Report for the Hearing, case C-302/86, Commission of the European Communities v Kingdom of Denmark, ECLI:EU:C:1988:421.

<sup>8</sup> Judgement of the Court, case C-573/12, Ålands Vindkraft AB v Energimyndigheten, ECLI:EU:C:2014:2037

## 2. Theory and previous research

Researchers aim at answering the question if free trade could be harmful or beneficial for sustainable development. This research will be helpful when discussing European integration and how the two objectives, free trade and sustainable development, interplay in the EU. In the first sub-section previous research will be presented and discussed, and in the second sub-section theoretical aspects derived from previous research will be discussed. Three theoretically derived dimensions will be presented and discussed; Convergence or divergence, Protectionism and Prosperity or ideology?.

### 2.1 Previous research

Jagdish Bhagwati (1995) discusses four arguments and concerns that is often expressed when discussing the interplay between sustainable development and free trade. Firstly that the more globalized the economy becomes the more fierce the competition. One risk is that the market becomes unfair if some countries have less stringent environmental regulations than others. Secondly protectionists might use such an unfairness as an argument for not opening up their markets "simply clamming that you cannot hack it and therefore need protection".<sup>9</sup> Thirdly that environmental organizations and labour movements will worry about that free trade might cause a race to the bottom since countries with different environmental regulations and standards are competing economically in the same market. Countries with stricter regulations might lower their standards to not become economically disadvantaged.<sup>10</sup> Bhagwati also mentions the moral argument, that organizations and countries feel an obligation not only to the people nearby, but also for people abroad to have a decent environment. Significantly that countries and companies does not only care about being economically successful but is also morally concerned with human wellbeing, which does not support the Race-to-the-bottom theory.<sup>11</sup> To conclude and summarize

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<sup>9</sup> Bhagwati (1995) Trade Liberlisation and "Fair Trade" Demands: Addressing the Environmental and Labour Standards Issues, Blackwell Publishers Ltd: Oxford, UK, p.746.

<sup>10</sup> Bhagwati (1995) Trade Liberlisation and "Fair Trade" Demands: Addressing the Environmental and Labour Standards Issues, Blackwell Publishers Ltd: Oxford, UK, p.746.

<sup>11</sup> Bhagwati (1995) Trade Liberlisation and "Fair Trade" Demands: Addressing the Environmental and Labour Standards Issues, Blackwell Publishers Ltd: Oxford, UK, p.748.

these arguments Bhagwati argues that "it is hardly likely that as a systematic tendency, countries would be actually lowering environmental regulations and standards in order to attract capital".<sup>12</sup>

Roberto Burguet and Jaume Sempere (2003) discuss whether the effect of a reduction in trade barriers, and an increase in free trade, could also result in lower environmental regulations. They state that "environmentalists have generally considered international trade flows a threat to adequate environmental regulation".<sup>13</sup> Further on they discuss that "free trade will lead governments to relax their environmental standards in order to gain a competitive edge over their trading partners", but concludes that there is no such tendency and it is therefore an unlikely outcome.<sup>14</sup> If governments are committing to less stringent environmental regulations, it would reduce the marginal cost for domestic firms as well as making them more competitive in the global market.<sup>15</sup> Burguet and Sempere conclude that there is no reason to expect, nor seems to be any tendencies, that environmental regulations would be less stringent because of free trade. On the contrary one could expect stricter environmental regulations and a convergence to the top since countries with stricter environmental regulations will set the standards in the common market.

Jeffrey A. Frankel and Andrew K. Rose (2004) discuss whether free trade affect sustainable development positively or negatively and states that "opponents of globalization often fear adverse effects of trade on environmental quality".<sup>16</sup> Frankel and Rose presents two theories regarding the interplay between free trade and sustainable development. The first one is the Race-to-the-bottom theory; that openness could reduce the levels of environmental protection and as a result be harmful for sustainable development since countries with strict environmental regulations might diverge to lower levels in order to not become economically disadvantaged. Also that poor countries could become "pollution havens".<sup>17</sup> In their conclusions though Frankel and Rose states that overall there seem to be little evidence of that free trade would have a detrimental effect on environmental

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<sup>12</sup> Bhagwati (1995) Trade Liberalisation and "Fair Trade" Demands: Addressing the Environmental and Labour Standards Issues, Blackwell Publishers Ltd: Oxford, UK, p.749.

<sup>13</sup> Burguet and Sempere (2003) Trade liberalization, environmental policy and welfare, Journal of environmental economics and management, Elsevier Science, USA, p.25.

<sup>14</sup> Burguet and Sempere (2003) Trade liberalization, environmental policy and welfare, Journal of environmental economics and management, Elsevier Science, USA, p.25.

<sup>15</sup> Burguet and Sempere (2003) Trade liberalization, environmental policy and welfare, Journal of environmental economics and management, Elsevier Science, USA, p.26.

<sup>16</sup> Frankel and Rose (2004) Is Trade Good or Bad for the Environment? Sorting Out the Casualty, The Review of Economics and Statistics, Vol. 87, No 1, p.1.

<sup>17</sup> Frankel and Rose (2004) Is Trade Good or Bad for the Environment? Sorting Out the Casualty, The Review of Economics and Statistics, Vol. 87, No 1, p.2.



regulations and sustainable development, hence a rejection of the race to the bottom theory. And that results indicate that free trade rather appears to have beneficial effects on sustainable development since it increases how strict environmental regulations are which support a convergence to the top. They argue that this might be the result of the realization that free trade is more efficient and successful if all countries have the same, or similar, environmental regulations together with an unwillingness of lowering environmental regulations in countries with stricter environmental regulations.<sup>18</sup> Frankel and Rose also further question whether free trade actually is the factor that promotes stricter environmental regulations or if it is openness, the more democratic a country is the more it seems to be willing to support a sustainable development and have stricter environmental regulations. In conclusion the results generally support that free trade is beneficial for sustainable development.<sup>19</sup>

Daniel C. Etsy (2001) states that there are grounds for potential conflicts between free trade and sustainable development and that the interplay is a fact. In the last decade international trade disputes has concerned the clash between trade rules and domestic regulations regarding issues such as sustainable development<sup>20</sup> Etsy states that it is nothing strange in conflicts appearing since free trade and sustainable development are two different perspectives coming from two different cultures, they are in many ways competing perspectives and objectives. In the EU these types of conflicts has appeared when trying to harmonize the environmental standards over the last decades.<sup>21</sup> National governments, no matter how well intended, cannot address inherently international problems such as climate change or fisheries depletion unilaterally. Since sustainable development and climate change are transnational problems there is an ecological interdependence. Further on Etsy argues that if a country, or a member state, would dismiss the environmental concerns in order to gain economic advantage, that it could result in community opposition which might even limit free trade.<sup>22</sup> There are two opposite views; those who believe that sustainable development will be a barrier to free trade and certain environmentalist that will always be opposed

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<sup>18</sup> Frankel and Rose (2004) Is Trade Good or Bad for the Environment? Sorting Out the Casualty, The Review of Economics and Statistics, Vol. 87, No 1, p.11.

<sup>19</sup> Frankel and Rose (2004) Is Trade Good or Bad for the Environment? Sorting Out the Casualty, The Review of Economics and Statistics, Vol. 87, No 1, p.9.

<sup>20</sup> Etsy (2001) Bridging the Trade-Environment Divide, Journal of Economic Perspectives, Volume 15, Number 3, pages 113-130, p.114.

<sup>21</sup> Etsy (2001) Bridging the Trade-Environment Divide, Journal of Economic Perspectives, Volume 15, Number 3, pages 113-130, p.113.

<sup>22</sup> Etsy (2001) Bridging the Trade-Environment Divide, Journal of Economic Perspectives, Volume 15, Number 3, pages 113-130, p.116.

to trade liberalization because of the belief that there is a limit to growth, hence that sustainable development cannot be successful in an economic system based on free trade. Etsy, however states that "there is no empirical support for the suggestion that environmental linkages detract from trade agreements or trade liberalization". As a conclusion Etsy suggest that a mainstream sustainable development seems to be the best solution. To build environmental sensitivity into the trade regime.<sup>23</sup>

## 2.2 Theorizing the interplay between free trade and sustainable development

In the previous research presented above the interplay between free trade and sustainable development as well as grounds for potential conflicts have been discussed and three theoretically derived dimensions have been identified which will be used to analyze the two court cases.

### 2.2.1 Convergence or divergence

One common discussion in European integration research is the one of convergence or divergence, which is also relevant in the discussion concerning the interplay between free trade and sustainable development. Three scenarios relating to convergence and divergence are possible within the EU. First; convergence to a common European level regarding environmental regulations, which will be more strict for some member states and less stringent for other member states, hence harmonization of policy. Second; that harmonization of policy is not possible and that free trade is considered over sustainable development which would lead to that member states with strict environmental regulations choose or are forced to diverge in order not to become economically disadvantaged in the common market. Third possible scenario is that sustainable development is considered even if free trade could as a result be limited. Hence that member states with strict environment regulations will not be punished for supporting a sustainable development, supporting a convergence to the top. Convergence and harmonization of policy is the ultimate goal for the European common market. Which would benefit free trade since all member states would have the same conditions in the common market having the same environmental regulations. However convergence only means to harmonize which could lead to member states with stricter environmental regulations having to

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<sup>23</sup> Etsy (2001) Bridging the Trade-Environment Divide, Journal of Economic Perspectives, Volume 15, Number 3, pages 113-130, p.126-127.

lower their standards. In a common market, such as the EU's, countries are in different stages regarding sustainable development and some will have more strict environmental regulations than others. One ground for potential conflict, that the research discuss, is if countries with less stringent environmental regulations will converge and adept to those countries with stricter regulations. From such a perspective one may wonder if member states with stricter environmental protection will have to diverge to less stringent environmental regulations in order to be no become economically disadvantaged if harmonization of policy is not possible and free trade is considered over sustainable development. This discussion have emerged in other policy areas as well, Fritz W. Scharpf (2009) for example discusses convergence and divergence in relation to social policy versus free trade within the EU.<sup>24</sup> Often the race to the bottom theory is discussed, the hypothesis is that free trade will force countries to accept less stringent environmental regulations and focus less on sustainable development in order to not become economically disadvantaged. However looking at the research presented the conclusions seems to be that that this is an unlikely scenario, research claim that convergence to the top is a more likely outcome that that countries with stricter environmental regulations have to diverge due to lack of an European common policy regarding sustainable development. Meaning that the overall pattern seems to be that countries operating within the same market, such as within the EU, accepts stricter environmental regulations.

### **2.2.2 Protectionism**

One question that is discussed within European integration research is the levels of self-determination in the member states versus how much should be decided at a European level. Protectionism is another aspect that is commonly discussed and it is also relevant in the discussion of the interplay between free trade and sustainable development. According to research the term protectionism has different connotations for different actors. Protectionism could be a positive term if it means protection the environment, supporting sustainable development which includes stricter environmental regulations. It could be negative for free trade and for the same reason if stricter environmental regulations would result in trade barriers.<sup>25</sup> Actors who protect free trade fear that countries could use protectionist argument in order to not opening up their markets, fearing

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<sup>24</sup> Scharpf (2009) *The Asymmetry of European Integration: or why the EU cannot be a "Social Market Economy"*, Freie Universität: Berlin.

<sup>25</sup> Etsy (2001) *Bridging the Trade-Environment Divide*, *Journal of Economic Perspectives*, Volume 15, Number 3, pages 113-130, p.113.

”environmentalists burdens” on the market.<sup>26</sup> While actors who protects sustainable development fear that free trade will force countries with stricter environmental regulations to lower their environmental standards.<sup>27</sup> Researchers argue that it could be difficult to agree on common standards for sustainable development and the levels of environmental regulations if actors supporting sustainable development and actors supporting free trade do not have the same point of reference of what protectionism indicates, whether positive or negative. Etsy states that ”trade has a positive effect on the environment (...) only if environmental policy advances alongside trade liberalization”.<sup>28</sup> Arguably stating that avoiding conflicts between sustainable development relating to protectionism would require at least an agreement of what protectionism indicates and what the results and consequences could be. There are breeding grounds for conflicts since sustainable development and free trade are two policy areas that inherently come from two different cultures.

Protectionism is historically defined as being negative and limiting on free trade since protectionism results in trade barriers. In this thesis this is also discussed since protection of the environment could potentially result in trade barriers and be limiting on free trade. However this essay takes the term protectionism one step further and also discuss this from another angle, since if protecting a sustainable development will result in limiting free trade, will the same be true for consideration and protection of free trade? That protection of free trade will limit a sustainable development. Hence, in this thesis the term protectionism is discussed in an unorthodox manner, that protection of a sustainable development is not only limiting on free trade, but that protection of free trade could be limiting on a sustainable development.

### **2.2.3 Prosperity or ideology?**

The EU is an ideological project as well as an economic union. If the objective of sustainable development or the objective of free trade should be considered could be a ground for potential conflict between sustainable development and free trade which have been highlighted in European integration research. There is a pattern of prioritizing sustainable development the more wealthy a country is, meaning that prosperity could affect how strict the environmental regulations are. The

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<sup>26</sup> Etsy (2001) Bridging the Trade-Environment Divide, Journal of Economic Perspectives, Volume 15, Number 3, pages 113-130, p.117.

<sup>27</sup> Etsy (2001) Bridging the Trade-Environment Divide, Journal of Economic Perspectives, Volume 15, Number 3, 113-130, p. 116.

<sup>28</sup>Etsy (2001) Bridging the Trade-Environment Divide, Journal of Economic Perspectives, Volume 15, Number 3, 113-130, p. 119.

problem is direct and indirect effect. Initially when countries get access to free trade there is a tendency for certain industries to move to those countries and that will initially make the levels of environmental regulations lower, contribute to less sustainable development. However as prosperity rises the same countries will prioritize sustainable development more since it enhances life quality of its inhabitants. Then they tend to export those jobs and industries that destroy their environment.<sup>29</sup> Directly the effect is that free trade has created better stricter levels of environmental regulations as a result these countries and an increased focus on sustainable development over time since entreating the common market. However the indirect effect is that pollution is made elsewhere, in poorer countries that still prefer job opportunities and increasing their prosperity over sustainable development. Hence, the more prosperity rises the stricter environmental regulations become but as a result consumption also rises resulting in a larger ecological footprint than before. Meaning that more resources are consumed per capita the more prosperity increases. But the impact on the environment is also larger since more resources are consumed. Prosperity do not indirect contribute to a sustainable development if pollution is exported to other countries because climate change cannot be tackled nationally or only within the EU. Since sustainable development can only be achieved internationally due to that environmental problems are transnational. Directly the effect is stricter environmental regulations and what is perceived as a step towards a more sustainable development but indirect its worse for sustainable development since more of the resources are consumed globally. If prosperity do not result in more protection of the environment and a more sustainable development globally then perhaps the solution would be that change need to be ideological. Because earth only have limited amount of resources and the ideological argument would be that people living in the west need to lower their high living standards in order for everyone on earth to have a decent living standard. Meaning the West cannot "remove the ladder" for less developed countries relying on them to solve climate change while continuously increasing their own living standards. To conclude, when analyzing European integration, looking at the interplay between free trade and sustainable development, the question is how much of European integration is driven by ideology and how much of it is because of prosperity.

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<sup>29</sup> Frankel and Rose (2004) Is Trade Good or Bad for the Environment? Sorting Out the Casualty, The Review of Economics and Statistics, Vol. 87, No 1, p.3.

# 3. Method

In this section Critical discourse analysis (CDA) will be explained and discussed. Examples from research on how this method is used will be given. In the second sub-section explanations and arguments will be given to why CDA is a suitable method for investigating and answering the questions in this thesis. In the third sub-section Fairclough's three-dimensional model will be presented, it is the model used to analyze the results in this thesis. Fairclough's model contains three parts; text, discursive practice and social practice. And in the fourth sub-section the cases will be presented and arguments will be made of why these two cases are suitable to use in this thesis.

## 3.1 Critical discourse analysis

Texts and other types of human expressions are important regarding how people perceive the world, discourse analysis observe aspects of society that are often taken for granted and are difficult to research empirically. Esaiasson et al. (2012) describes discourse analysis as distinguished by the interests of power relations but also the apprehension of that language is a part of shaping reality.<sup>30</sup> Göran Bergström and Kristina Boréus (2012) define discourse as "samples of spoken dialogue, in contrast to written texts". They also state that discourse analysis is different from simply text analysis since discourse analysis covers the context in which a text is part of.<sup>31</sup>

Rebecka Rogers (2001) states that CDA is different from other discourse analysis methods since it includes both a description and an interpretation of discourse in context as well as it offers an explanation of why and how discourses work. She defines CDA as "both a theory and a method".<sup>32</sup> Researchers who are interested in the relationship between language and society use CDA to help them describe, interpret and explain such relationship".<sup>33</sup> Marianne Winther Jörgensen and Louise Phillips (2002) state that CDA "provided theories and methods for the empirical study of the relations between social and cultural developments in different societal domains".<sup>34</sup> Within CDA

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<sup>30</sup> Esaiasson et al (2012) *Metodpraktikan: konsten att studera samhälle, individ och marknad*, Visby: Norstedts Juridik AB, p. 212-213.

<sup>31</sup> Bergström & Boréus (2012) *Textens makt och mening: metodbok i samhällsvetenskaplig text-och diskursanalys*, Lund: Studentlitteratur AB, p. 356.

<sup>32</sup> Rogers, Rebecka (2001) *An Introduction to Critical Discourse Analysis in Education*, New York: Routledge, p.10.

<sup>33</sup> Rogers, Rebecka (2001) *An Introduction to Critical Discourse Analysis in Education*, New York: Routledge, p.10.

<sup>34</sup> Winther Jörgensen, Marianne & Phillips, Louise (2002): *Discourse Analysis as Theory and Method*, London: SAGE Publications, p. 55.

the meaning of 'discourse' is understood as a form of social practice which constitutes the world as well as is constituted by other social practices. Winther Jørgensen and Phillips describes this as if discourse; "does not just contribute to the shaping and reshaping of social structures but also reflects them".<sup>35</sup> Meaning that discourse is shaped by what happens in the social world but also shapes the social world and our perception of it. Rogers explains this by stating that CDA analysts "believe there is a relationship between the form and function of language".<sup>36</sup>

Fairclough (2000) uses CDA in a study called *The politics of new Labour*. In this thesis a distinction is made between what new Labour says and does. Fairclough has several different operationalizations such as Tony Blairs style as a leader or usage of certain words. The empirical material in this study is party programs, manifests and so on. Fairclough's thesis is that a new type of language also indicated as new Labour, that the language indicates a difference in politics.<sup>37</sup>

Haley Woodside-Jiron (2001) uses CDA in her study *Language, Power, and Participation: Using Critical Discourse Analysis to Make Sense of Public Policy* in which she tries to make sense of reading policy in public schools and what those policies could indicate about public policy.<sup>38</sup> She concludes that "Political discourse, by its very nature, is designed to influence people's representations of cultural norms and the principles of classification which underlie them". By using CDA to study public policy to analyze reading in public schools as an example of this she could make conclusions regarding the nature of public policy itself.<sup>39</sup>

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<sup>35</sup> Winther Jørgensen, Marianne & Phillips, Louise (2002): *Discourse Analysis as Theory and Method*, London: SAGE Publications, p. 56.

<sup>36</sup> Rogers, Rebecka (2001) *An Introduction to Critical Discourse Analysis in Education*, New York: Routledge, p.12.

<sup>37</sup> Bergström & Boréus (2012) *Textens makt och mening: metodbok i samhällsvetenskaplig text-och diskursanalys*, Lund: Studentlitteratur AB, p. 391-392.

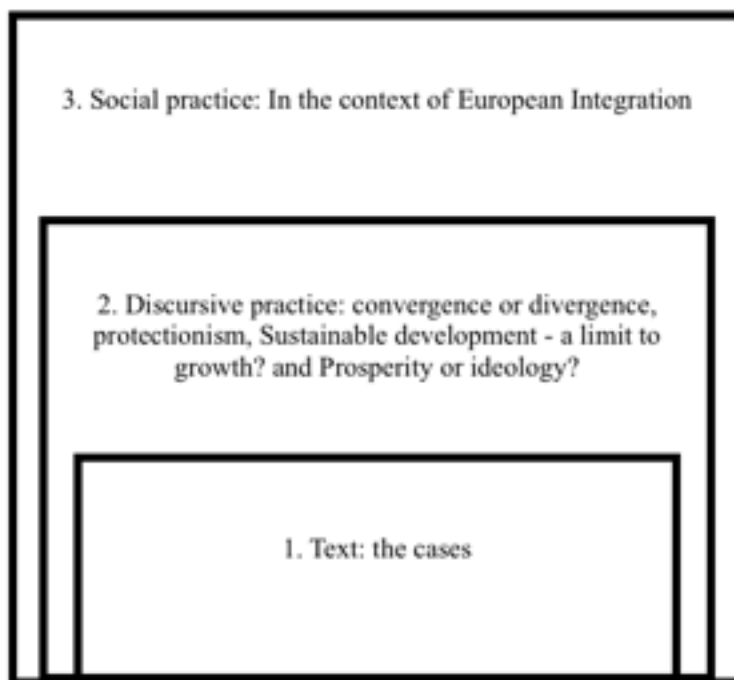
<sup>38</sup> Rogers, Rebecka (2001) *An Introduction to Critical Discourse Analysis in Education*, New York: Routledge, p.154-178

<sup>39</sup> Rogers, Rebecka (2001) *An Introduction to Critical Discourse Analysis in Education*, New York: Routledge, p.178.

## 3.2 Why using Critical Discourse analysis

This section aims to explain how CDA could be used to answer the research question in this thesis.

Three dimensions will be used to analyze two cases in this thesis, the dimensions are; Convergence or divergence, Protectionism and Prosperity or ideology? Critical discourse analysis is, as described by Winther Jørgensen and Phillips engaged in "concrete linguistic textual analysis of language use in social interaction".<sup>40</sup> This thesis' purpose is to illustrate the potential conflicts between free trade and sustainable development, the thesis will introduce



a three-dimensional theorization, which then will be applied to an analysis of two court cases and how these conflicts could be understood within the frame of European Integration. CDA is a suitable method since in CDA one part is the interest in modality, a mapping of what could be understood explicitly as well as what could be understood implicitly.<sup>41</sup> To understand the significance of what is said or written, one has to literally read between the lines. In this thesis CDA will be helpful when analyzing the two cases looking at the interplay between free trade and sustainable development and then, using the dimensions, analyze the results within the frame of European integration.<sup>42</sup>

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<sup>40</sup> Winther Jørgensen, Marianne & Phillips, Louise (2002): *Discourse Analysis as Theory and Method*, London: SAGE Publications, p. 57

<sup>41</sup> Bergström & Boréus (2012) *Textens makt och mening: metodbok i samhällsvetenskaplig text-och diskursanalys*, Lund: Studentlitteratur AB, p. 356.

<sup>42</sup> Bergström & Boréus (2012) *Textens makt och mening: metodbok i samhällsvetenskaplig text-och diskursanalys*, Lund: Studentlitteratur AB, p. 391.



## 3.3 Fairclough's three- dimensional model for Critical Discourse Analysis

This thesis will use Fairclough's three-dimensional model for Critical discourse analysis when analyzing the empirical material. An analytical scheme will also be used and presented in this section .

First step in Fairclough's three dimension model is the text; looking at the linguistic features of the text. If that text is suitable to analyze, for answering the research questions and investigating the purpose of this thesis. In this thesis the empirical material was suitable if it included an interplay between free trade and sustainable development and which could be related to European integration. The second step is the discursive practice which is a process treating to the production and consumption of the text. In this step the dimensions are used to find arguments for the analysis. In the third step, social practice, the communicative events is analyzed in a bigger picture in this thesis within the frame of European integration.<sup>43</sup> Fairclough states that "the general purpose of the three-dimensional model is...to provide an analytical framework for discourse analysis. The model is based on, and promotes the principle of, that texts can never be understood or analyzed in isolation, they can only be understood in relation to webs other texts in relate to the social context".<sup>44</sup> When the empirical material is analyzed in this thesis the interest is not the text itself but what the analysis of the texts, using the dimensions presented, indicates about European integration. The texts are read, the discursive practice is performed, and analyzed within the frame of European Integration.

## 3.4 The cases

Two cases have been chosen to illustrate this thesis' theorization. In the Danish bottle case the Commission had questioned whether the Danish system for returning cans and bottles was proportional to consider over free trade since Denmark claimed that the system was important for sustainable development. The system included that all cans and bottles had to be returnable and each can or bottle gave the consumer a small revenue when returned. The Commission argued that his constituted a barrier to trade, which made it difficult to for foreign producers to penetrate the

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<sup>43</sup> Winther Jørgensen, Marianne & Phillips, Louise (2002): *Discourse Analysis as Theory and Method*, London: SAGE Publications, p. 61.

<sup>44</sup> Winther Jørgensen, Marianne & Phillips, Louise (2002): *Discourse Analysis as Theory and Method*, London: SAGE Publications, p. 62.

Danish market, which gave Danish companies an economic advantage. The Court ruled in favor of Denmark's pursuance with the argument that considering the objective of sustainable development, the measure taking by Denmark was considered proportional. In the Renewable energy case Ålands Vindkraft, a Finish electrical company, wanted to gain access to the Swedish support schemes for green energy. These types of schemes are not harmonized in EU so the Referring court in Sweden had asked the Court for a preliminary hearing. Since it would be difficult for Sweden to maintain these schemes if they would be open for all member states the Referring court asked if refusing access could be understood as supporting sustainable development or if it was a barrier to trade since it would be limiting on free trade. In this case the Court ruled that it should be proportional to consider sustainable development in this case even though it would constitute a limitation on free trade and hence that it should not be considered as a barrier to trade.

Both these cases are characterized by the interplay between sustainable development and free trade. The cases are from two different time periods which was a deliberate choice to illustrate that different types of cases, from for example different time periods, can be analyzed using the method and theory presented in this thesis. However the focus of this thesis is not to investigate how arguments and discussions have changed over time relating to the interplay between sustainable development and free trade. Neither is the focus of this thesis to compare the two cases. Comparisons will be made for the purpose of arguing that the tree dimensions presented in this thesis could be fruitful to use in an analysis on different types of cases also when analyzing different types documents as long as they contain arguments relating to the potential grounds for conflicts between sustainable development and free trade. These cases are simply examples of the interplay between sustainable development and free trade and the grounds potential conflicts between the. And the results should be generally applicable to any case and could be used to analyze any document including this interplay and potential conflicts. Likewise any document from cases could be used as long as they contain arguments and a discussion about the interplay between sustainable development and free trade.

One document will be chosen for the analysis from each case. From the Danish bottle case it is a document called Report from the hearing<sup>45</sup>. This document include and outline the arguments made from different actors before the judgment. This document was arguably suitable to choose from this

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<sup>45</sup> Report for the Hearing, case C-302/86, Commission of the European Communities v Kingdom of Denmark, ECLI:EU:C:1988:421.

case since it included the most information and arguments of all the documents from this case. From the Renewable energy case the document Judgement from the Court<sup>46</sup> was chosen, hence a document from after the judgement. Why this document was chosen from this case is because of its content, it is the document from this case with most information and suitable content for the analysis in this thesis. Hence the reason why the same document, for example the judgement, was not chosen from each case is because the content was not the same, while it was in the two document chosen. The content that is important in this thesis is the arguments from different actors relating to the interplay between sustainable development and free trade, and this is found in both the chosen documents.

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<sup>46</sup> Judgement of the Court, case C-573/12, Ålands Vindkraft AB v Energimyndigheten, ECLI:EU:C:2014:2037

# 4. Analysis of the interplay between sustainable development and free trade

Analysis of the two cases will be made in this section using the three dimensions; convergence or divergence, protectionism and prosperity or ideology, presented in section two.

## 4.1 Convergence or divergence

Member states in the EU are in different stages regarding their environmental regulations, but still they operate within the same market. Will countries with less stringent environmental regulations converge and adapt to countries with stricter environmental regulations, or will countries with stricter environmental regulations need to diverge in order to not be disadvantaged in the common market. How are convergence and divergence discussed in the two court cases? Is there potential grounds for conflicts between sustainable development and free trade? And how could this be understood within the frame of European integration?

Denmark's system of collecting bottles and cans is challenged in the Danish Bottle case<sup>47</sup> for being too restrictive on the market and a possible barrier to trade. Denmark is a member state with stricter environmental regulations than most member states in the EU, and is challenged because of this. The Commission states that the collection system, which was justified by Denmark on the grounds of protection of the environment and supporting a sustainable development, cannot be justified since it is discriminatory on free trade. And further on the Commission states that even if it would be regarded proportional to consider sustainable development over free trade in this case that the environmental regulations should not be set too high. Preferably sustainable development should be achieved by less restrictive means.<sup>48</sup> This could be analyzed as the Commission recognizing sustainable development is important to consider but that convergence to perhaps a lower but common level would be preferable since Denmark's levels are very ambitious but difficult for most member states in the EU to converge to. If the Court had followed the Commission in this case

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<sup>47</sup> Report for the Hearing, case C-302/86, Commission of the European Communities v Kingdom of Denmark, ECLI:EU:C:1988:421.

<sup>48</sup> Report for the Hearing, case C-302/86, Commission of the European Communities v Kingdom of Denmark, ECLI:EU:C:1988:421, p. 3-4.

perhaps the result could have been that Denmark would have had to diverge in order not to become economically disadvantaged in the common market since sustainable development policy was not harmonized. The United Kingdom, an intervener in this case argued similarly and stated that "measures intended to achieve extremely high aims must be regarded as means of arbitrary discrimination or a disguised restriction on trade between Member States".<sup>49</sup> As stated by The United Kingdom, The Commission had also started to develop an European systems for collecting bottles and cans, hence a convergence to a common level. But this system were not regarded as being in any aspect as effective as the Danish system, which was an argument that the Court made in support of Denmark in this case. Arguably the Court did not agree with that Denmark's environmental regulations were too strict for other member states to converge to and also that Denmark should not have to diverge to a lower level because of the lack of harmonized policy in this area. That Denmark should not be punished for having stricter environmental regulations and greater aspirations to support a sustainable development. However the Court also stressed that "the Commission has simply stated that the protection of the environment can be 'sufficiently' assured by a less effective system than the Danish system".<sup>50</sup> Meaning that the Commission realizes that sustainable development is important and that it should be encouraged, but that free trade needs to be considered as well. The Danish government agreed to this but stressed that it was "quite ready to accept alternative solutions which are equally effective but, until such solutions are found, it cannot be required to accept weakening of legitimate and effective rules for the protection of the environment".<sup>51</sup> This means that the Danish government did not want to converge to a European level if it would result in less stringent environmental regulations which would not contribute as much to a sustainable development as the Danish system. Rather Denmark argued that their strict environmental regulations should be accepted and encouraged and not regarded as a barrier to trade, a convergence to the top. The Commission was asked in this case to explain which level of sustainable development would be regarded as 'appropriate'. The Commission answered that it is not a particular standard or level of environmental protection that is appropriate and that the member states themselves are "free to fix the level of protection which they consider appropriate. Nevertheless, if the measures adopted by a state may affect free trade with other member states, that

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<sup>49</sup> Report for the Hearing, case C-302/86, Commission of the European Communities v Kingdom of Denmark, ECLI:EU:C:1988:421, p. 6.

<sup>50</sup> Report for the Hearing, case C-302/86, Commission of the European Communities v Kingdom of Denmark, ECLI:EU:C:1988:421, p. 9.

<sup>51</sup> Report for the Hearing, case C-302/86, Commission of the European Communities v Kingdom of Denmark, ECLI:EU:C:1988:421, p.10.

is obliged to adopt only necessary measures and to choose if possible other means which do not adversely affect intra-community trade”.<sup>52</sup> Hence the Commission states that member states are allowed to have stricter environmental regulations but that it could lead to member states being challenged if it would limit free trade. Perhaps having to accept and converge to less stringent harmonized environmental regulations or diverge if harmonization is not possible. This last statement from the Commission well reflects how the EU has to deal with the member states being in different stages regarding their standards and environmental regulations. And that these different standards could become grounds for potential conflicts between sustainable development and free trade. While stating that the member states are allowed to them selves decide if they want to have stricter environmental regulations. EU also has to deal with that it might result in restrictions on free trade. Harmonization of policy however would be most optimal for the functioning of free trade and the common market. Nevertheless the question is if a convergence to the top is possible or if member states with stricter environmental regulations will have to diverge to a lower common level. Even if it is possible to agree upon a common level that all member states converge towards then the result would either be that member states with stricter environmental regulations could possibly be forced to diverge in order not to become economically disadvantaged. Or it could be as in this case that it is accepted that member states have stricter environmental regulations and that this could affect trade since sustainable development is an important objective for the EU.

In the renewable energy case the Court states that the member states have different starting points regarding sustainable development and that they have ”different renewable energy potentials”.<sup>53</sup> This means that it is acceptable that member states have different environmental regulations. Hence that member states with with stricter environmental regulations should not have to converge to a common level that is less strict or that they should have to diverge due to lack of harmonized policy. Further on the Court discussed how the support schemes for renewable energy should be treated to function properly and aid in the production of green energy which would support a sustainable development. It stated that ”It is important that Member States be able to determine whether and, if so, to what extent their national support schemes are to apply to green energy produced in other Member States”.<sup>54</sup> The Court further stated that it is important ”to ensure proper functioning of the

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<sup>52</sup> Report for the Hearing, case C-302/86, Commission of the European Communities v Kingdom of Denmark, ECLI:EU:C:1988:421, p.10.

<sup>53</sup> Judgement of the Court, case C-573/12, Ålands Vindkraft AB v Energimyndigheten, ECLI:EU:C:2014:2037, p.2.

<sup>54</sup> Judgement of the Court, case C-573/12, Ålands Vindkraft AB v Energimyndigheten, ECLI:EU:C:2014:2037. p.9.

national support schemes, and that member states be able to control the effect and costs of their national support schemes according to their different potentials while maintaining investor confidence”.<sup>55</sup> Arguably what the Court is stating is that it would be expensive for those member states with stricter environmental regulations if the support schemes would be open for any producer in the EU. Perhaps resulting in uncertainty about if that member states in the future would be able to afford to continue their support schemes. This would then result in insecurity for producers of green energy which would be bad for the production of green energy. Therefore member states should be able to limit access to their national support schemes until European law has harmonized these types of schemes.<sup>56</sup> Since there is no common level to converge to the result would be that Sweden, in this case, would have to diverge in order not to become economically disadvantaged if they not allowing access their support schemes would be regarded as a barrier to trade. The judgement in this case hence support a convergence to the top and not a Race-to-the-bottom. Analyzing these statements made one could argue that member states with stricter environmental regulations are protected and that they do not need to diverge due to lack of common policy or converge to a lower level in order to not become economically disadvantaged in the common market, that sustainable development is considered an important objective even if it results in limit in free trade. That the tendency rather seems to be a convergence to the top with the consideration of that member states are at different stages regarding sustainable development and that some member states will need time in order to adept to more stricter levels. This indicates that there are grounds for potential conflicts between sustainable development and free trade when investigating convergence and divergence in this case. And the findings could be understood within the frame of European integration since grounds for conflicts are found in other policy areas in the EU as well.

## 4.2 Protectionism

How much self-determination the member states should have versus how much should be decided on a European level is discussed in European integration research. Protectionism have different connotations for actors in favor of protecting the environment versus actors in favor of extending and protecting the free market. How is protectionism discussed on the two court cases? Is there potential grounds for conflicts between sustainable development and free trade? And how could this

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<sup>55</sup> Judgement of the Court, case C-573/12, Ålands Vindkraft AB v Energimyndigheten, ECLI:EU:C:2014:2037, p.14.

<sup>56</sup> Judgement of the Court, case C-573/12, Ålands Vindkraft AB v Energimyndigheten, ECLI:EU:C:2014:2037, p.14.

be understood within the frame of European integration? In this section the term environmental protection will be used and discussed frequently, note that this term is considered to be the same as sustainable development in this thesis. And that the term protection has been interpreted as being linked to protectionism.

Protection is a term that is mentioned in the Danish bottle case. Environmental protection is often mentioned together with a discussion of restrictions on free trade and how protecting the environment is the opposite of protecting free trade. The Commission states that the requirement of protecting the environment does not exclude the fact that the effect is equivalent to a quantitative restriction even if it is a proportional aim in this case. Further on the Commission also states that it is "justified only if any restricting effects on trade are not disproportional".<sup>57</sup> This means that protecting the environment could potentially result in limitations on free trade, but the Commission also agrees "that protection of the environment may have prevalence over the free movement of goods".<sup>58</sup> Though the Commission in this case accept that protection of the environment must be accepted it could still be argued that the view is that protection of the environment , processing a sustainable development, results in less protection of free trade. The United Kingdom states that Denmark gives absolute priority to the protection of the environment almost totally neglecting free trade.<sup>59</sup> It is also stated by United Kingdom that there must be a balance between protection of the environment and protecting free trade and argues that perfect protection cannot be possible.<sup>60</sup> This indicates that perfect protection of the environment and perfect protection of free trade cannot coexist, that it has to be one or the other, or limitations on both. If protection of the environment means deterioration of free trade or if free trade is limited if sustainable development is considered. To conclude the interpretation of that protectionism means and what the consequences of protectionism could be is a potential ground for conflict between sustainable development and free trade. And it could be understood within the frame of European integration since sustainable development and free trade are two objectives that needs to co-exist within the EU but they come from two different cultures and so protectionism have different connotations.

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<sup>57</sup> Report for the Hearing, case C-302/86, Commission of the European Communities v Kingdom of Denmark, ECLI:EU:C:1988:421, p.3.

<sup>58</sup> Report for the Hearing, case C-302/86, Commission of the European Communities v Kingdom of Denmark, ECLI:EU:C:1988:421, p.8.

<sup>59</sup> Report for the Hearing, case C-302/86, Commission of the European Communities v Kingdom of Denmark, ECLI:EU:C:1988:421, p.5.

<sup>60</sup> Report for the Hearing, case C-302/86, Commission of the European Communities v Kingdom of Denmark, ECLI:EU:C:1988:421, p.6.



Protectionism is also discussed in the Renewable Energy Case, the Referring court of Sweden had asked the Court to what extent the support schemes for renewable energy could be compatible with free trade, if considering sustainable development in this case would limit free trade.<sup>61</sup> Arguably if protection of the environment would result in the opposite regarding free trade. The Court answered that; "national measures that are capable of hindering intra-Community trade may inter alia be justified by overriding requirements relating to protection of the environment".<sup>62</sup> One could argue that even if it is justified to consider sustainable development over protecting free trade, the argument is still that one have to be discriminated against or limited if the other one is considered. Ålands Vindkraft did not agree that their refused access to support schemes would be proportional with considerations to sustainable development and argued that "a barrier to trade of that nature cannot be justified by considerations relating to protection of the environment, given, in particular, that the consumption of green electricity in Sweden would be promoted just as effectively through the award of electricity certificates for green electricity consumed in Sweden but produced in other Member States."<sup>63</sup> And the referring Court of Sweden had asked the Court if the support schemes resulted in discriminating free trade and if it could "be justified by overriding reasons relating to the protection of the environment."<sup>64</sup> The Referring court and Ålands Vindkraft seems to argue that sustainable developments cannot be considered over free trade if the reasons are "overriding" since too much consideration for sustainable development would result in less protection of free trade. Yet again this is an example of the potential grounds for conflicts between these two objectives and this could be understood within the frame of European integration since harmonizing policy from two different cultures is difficult it could cause tension and conflicts.

### 4.3 Prosperity or ideology?

The EU is an ideological project as well as an economic union. There is a pattern, a direct effect of stricter environmental regulations the more wealthy a country is. Directly the effect is that free trade has created more support for a sustainable development since these countries have increasingly stricter environmental regulations since entering the Common Market. However the indirect effect

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<sup>61</sup> Judgement of the Court, case C-573/12, Ålands Vindkraft AB v Energimyndigheten, ECLI:EU:C:2014:2037, p.7.

<sup>62</sup> Judgement of the Court, case C-573/12, Ålands Vindkraft AB v Energimyndigheten, ECLI:EU:C:2014:2037, p.12.

<sup>63</sup> Judgement of the Court, case C-573/12, Ålands Vindkraft AB v Energimyndigheten, ECLI:EU:C:2014:2037, p.6.

<sup>64</sup> Judgement of the Court, case C-573/12, Ålands Vindkraft AB v Energimyndigheten, ECLI:EU:C:2014:2037, p.7.

is that pollution is made elsewhere, prosperity do not contribute to a sustainable development if pollution is exported to other countries. The question is how much of European integration is driven by ideology and how much of it is because of prosperity. How is prosperity and ideology discussed in the two court cases? Are there potential grounds for conflicts between sustainable development and free trade? And how could this be understood within the frame of European integration?

Sustainable development and free trade are two of the main objectives in the EU which is argued for in both cases. However the responsibility that the EU have globally is not argued in the Danish bottle case. The Commission states that sustainable development is a mandatory requirement for the EU. But if it should be considered over free trade it needs to be a proportional aim and that environmental regulations should not be fixed exaggeratedly high.<sup>65</sup> This statement demonstrates how there is a discussion if the objective of sustainable development or the objective free trade should be considered. It illustrates how there are grounds for potential conflicts between sustainable development and free trade if the interplay between the two objectives are characterized by an apprehension that one limits the other. The United Kingdom supported the Commission in this case and stated that it "accepts that protection of the environment are one of the essential objectives of the Community". However questions to what extent any measure relating to the objective of sustainable development should be accepted if the result would be a restriction on free trade. The United Kingdom also stated that "there must be a point beyond which measures for the protection of the environment can no longer be regarded as fulfilling one of the Community's essential objectives".<sup>66</sup> The Court criticized this and states that "the Commission has not followed the increasing ecological awareness".<sup>67</sup> Analyzing these arguments one could question to what extent sustainable development is considered to be an important objective. Or if environmental protection can only be considered as an important objective as long as the objective of free trade is not limited. The United Kingdom that supported the Commission stated that "Even if such measures... (sustainable development)...do fall within the scope of the Community's essential objective of protecting the environment, they must satisfy certain criteria".<sup>68</sup> These arguments and statements

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<sup>65</sup> Report for the Hearing, case C-302/86, Commission of the European Communities v Kingdom of Denmark, ECLI:EU:C:1988:421, p.3, 5.

<sup>66</sup> Report for the Hearing, case C-302/86, Commission of the European Communities v Kingdom of Denmark, ECLI:EU:C:1988:421, p.6.

<sup>67</sup> Report for the Hearing, case C-302/86, Commission of the European Communities v Kingdom of Denmark, ECLI:EU:C:1988:421, p.8.

<sup>68</sup> Report for the Hearing, case C-302/86, Commission of the European Communities v Kingdom of Denmark, ECLI:EU:C:1988:421, p.7.

could be understood within the frame of European integration since the EU is both an economic and an ideological union but sustainable development and free trade are inter-crossing issues which causes grounds for potential conflicts.

In the Renewable Energy case it is stated that the EU has a target that 20% of the total production of energy should be from renewable sources. This is one of the ways that the EU can, as stated by the Court; "comply with the Kyoto Protocol to the United Nations Framework Convention on Climate Change, and with further Community and international greenhouse gas emission reduction commitments beyond 2012".<sup>69</sup> To ensure the implementation of international sustainable development commitments, the EU has assigned mandatory national targets to all member states regarding green energy.<sup>70</sup> This statement by the Court indicates that the EU takes responsibility not only for a sustainable development in Europe but globally.<sup>71</sup> To combat climate change is not only a global interest but of a public interest in the member states that have an interest in protecting the "health and life of humans, animal and plants".<sup>72</sup> However the "free movement of goods between member states are also an fundamental principle" in the EU.<sup>73</sup> But this objective of free trade is at risk of being limited since with the "renewable energy obligation"<sup>74</sup> and "in the absence...of an international agreement...only certificates awarded under the national scheme can be used to meet that obligation".<sup>75</sup> This objective is promoting the use of renewable energy is a possible trade barrier but is justified due to its goal of protecting the environment.<sup>76</sup> Considering these statements, one could argue that it supports that the EU is both an ideological project caring about and taking responsibility for climate change and a sustainable development globally, as well an economic union when supporting and promoting free trade and the common market. The EU is using trade as an instance to improve sustainable development for example having a mandatory target of 20% of its energy being green energy by 2020. A good example of the interplay between sustainable development and free trade within the EU. But considering sustainable development in this case

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<sup>69</sup> Judgement of the Court, case C-573/12, Ålands Vindkraft AB v Energimyndigheten, ECLI:EU:C:2014:2037, p.2.

<sup>70</sup> Judgement of the Court, case C-573/12, Ålands Vindkraft AB v Energimyndigheten, ECLI:EU:C:2014:2037, p.14.

<sup>71</sup> Judgement of the Court, case C-573/12, Ålands Vindkraft AB v Energimyndigheten, ECLI:EU:C:2014:2037, p.12.

<sup>72</sup> Judgement of the Court, case C-573/12, Ålands Vindkraft AB v Energimyndigheten, ECLI:EU:C:2014:2037, p.12.

<sup>73</sup> Judgement of the Court, case C-573/12, Ålands Vindkraft AB v Energimyndigheten, ECLI:EU:C:2014:2037, p.11.

<sup>74</sup> Judgement of the Court, case C-573/12, Ålands Vindkraft AB v Energimyndigheten, ECLI:EU:C:2014:2037, p.9.

<sup>75</sup> Judgement of the Court, case C-573/12, Ålands Vindkraft AB v Energimyndigheten, ECLI:EU:C:2014:2037, p.11.

<sup>76</sup> Judgement of the Court, case C-573/12, Ålands Vindkraft AB v Energimyndigheten, ECLI:EU:C:2014:2037, p.12.

could result in discriminating free trade. One could argue that the pattern seems to be that the EU is committing to combat climate change, having targets to produce green energy is only one example of this, and the direct result should be reduced amount of green house gases. However, EU is still the one part in the world which consumes most resources globally. Which makes one arguing if there is an indirect effect of pollution made elsewhere even though the EU is, as stated in this case, committed to take responsibility for a sustainable development internationally.

# 5. Discussion and Conclusions

In this section the results will be presented and the procedure, the method, will be evaluated. European integration will be discussed in relation to the results. And lastly there will be some concluding arguments.

## 5.1 Results

One ground for potential conflict identified in the research and found in these two cases was if member states would have to converge or diverge or if difference in environmental regulations would be accepted as proportional even if it would possibly limit free trade. Similarly in both cases the Court ruled in favor of that Denmark and Sweden did not have to converge to a lower harmonized level and that they should not need to diverge and become economically disadvantaged for supporting a sustainable development. However arguments arguing for the opposite that both Sweden and Denmark should converge or take the consequences and diverge for having stricter environmental regulations which limited free trade were also made. Especially in the Danish bottle case arguments was made stating that environmental regulations were too strict and disproportional to its aim of supporting a sustainable development. Arguably these arguments did not support member states that are frontrunners regarding sustainable development. In the Renewable energy case similar arguments existed, however it was stated how important it is to accept that member states have different potentials in supporting and promoting a sustainable development. And also that the expectation was that member states with less stringent environmental regulations will eventually catch up, converge to those member states with stricter environmental regulations. Hence supporting a convergence to the top. That it wont be harmful for free trade long term if some member states have stricter environmental regulations short term. And that member states will catch up eventually and converge to the top.

Protectionism was identified as another ground for potential conflicts between sustainable development and free trade. If protection of the environment resulted less protection of free trade or if these inter-crossing issues could co-exist. The Danish bottle case discussed the concern that protection of the environment, protecting a sustainable development, could result in limitations on free trade, and that too much concern for protection of the environment and a sustainable development would be disproportional. In the Renewable energy case sustainable development was

accepted as being proportional to consider over free trade, however the discussion where similar, environmental protection and supporting a sustainable development will result in less protection of free trade. Using the research presented one could argue that protectionism means different things and have different connotations for actors supporting a sustainable development and this supporting free trade. Protectionism has a negative connotation for free trade since it results in trade barriers and restrictions on the market, hence it limits free trade. While at the same time the same consequences of protectionism, protecting the environment, could be regarded as positive for a sustainable development. In this thesis it has been argued that protectionism could also be used as a term to illustrate cases where considerations of free trade limit a sustainable development not only when describing the opposite scenario; that protecting a sustainable development will result in limitations on free trade. These types of arguments do exist in both cases discussed in this thesis. Which indicated that there are grounds for potential conflicts between sustainable development and free trade since protection of one of these objectives could result in limitations and less protection of the other.

Lastly prosperity or ideology will be discussed as another ground for potential conflict between sustainable development and free trade. That sustainable development is one of the main objectives for the EU is stated in both cases and that EU also has and wants to take responsibility globally is clear in the Renewable energy case. One could also argue that the support is strong that the EU also is an economic union since free trade and the common market are one of the most important objectives, this is stated in both cases. However increased prosperity leads to a larger consumption of resources, hence it is not compatible with reducing green house gases, fighting climate change and supporting a sustainable development. Even if EU's responsibility as a global actor and its commitment to tackle climate change internationally is highlighted especially in the Renewable Energy Case. However this is not explicitly discussed in either of the cases.

## 5.2 Procedure

This thesis has used Fairclough's three dimensional model for critical discourse analysis. the first step; is to identify the pieces of texts that will be analyzed, in this thesis the two court cases. The second step; is the discursive practice, using the theoretically derived three dimensions to analyze

the cases and the third step; is to put the result within a social practice, within the frame of European integration. These three dimensions have proved to be quite sustainable when analyzing these two cases, the dimensions complete each other well and provides an in-depth analysis. When analyzing the cases using these three dimensions there were both similarities and differences and they are sometimes overlapping. One difficulty when using these dimensions have been to not confuse them with one another. Same statement have, for example, been used when analyzing both protectionism and convergence and divergence however the same statement can be analyzed in two different ways. Both how the term protection is used and if this argument could be analyzed as affecting convergence and divergence. The strength has been that the same statement have been analyzed from several different angles providing an in-depth analysis. Ideology or prosperity was the one dimension that was most difficult to use when analyzing the documents, that sustainable development and free trade are two main objectives in the EU as well as the EU being a global actor was obvious in both cases. Nonetheless it was more challenging to find discourse that indicated that actors within the EU was mindful of and considered the challenges that improved economy and increased BNP results in. Perhaps it would have been more fruitful to analyze this dimension separately in another study, backing up the discourse with statistics. Other dimensions could have been fruitful to use in the analysis one suggestion would have been to investigate how different actors such as the Commission and the Court are arguing in cases which include an interplay between sustainable development and free trade. It would also be interesting to use these three dimensions and apply them to another case and investigate how durable and useful these dimensions would be in another case with similar conflicts or also within other policy areas. Perhaps analyzing if there are grounds for potential conflicts between free trade and for example social policy and how this could be understood within the frame of European integration.

The cases and the chosen documents has been suitable for this thesis. Similar results has been found in both cases even though the content of the documents was not of the exact same character. The three dimensions have been applicable to the cases and the documents. However in order to make the results even clearer it would had been fruitful to perhaps use the same type of document. It would also in another thesis have been interesting to make a historical comparison between these two cases. However for the purpose of this thesis one could argue that these two cases and the chosen documents have been suitable and useable for answering the questions and using the dimensions.

## 5.3 European Integration

Regarding the premises for European integration based on the results in this thesis one could conclude that there are certainly grounds for conflicts in the interplay between sustainable development and free trade, non the less within the EU. There are several different ways that these potentially conflicting objectives could be understood within the frame of European integration. Harmonization is one aspect which is lifted in these two cases and which is commonly discussed in European integration research. The question is to what extent member states should adept their policies to the European level without making member states with stricter environment regulations, having to converge to a lower level. Or having to chose to diverge in order to not to become economically disadvantaged. This is especially clear when analyzing the interplay between sustainable development and free trade using the dimension of convergence and divergence, it derived from member states having different standards due to different national traditions but also being in different stages regarding development. This conflict exists in other policy areas as all in which member states have very different levels and standards, for example in social policy. There are grounds for potential conflict when discussing protectionism. Since if protecting a sustainable development is regarded as being limiting on free trade and on the opposite side if considering and protecting free trade is considered as being limiting and unsupportive of a sustainable development. Then, it is arguably not surprising that there are grounds for potential conflicts between sustainable development and free trade. Which could also be understood within the frame of European Integration since it illustrates the difficulty of actors within EU not having the same point of reference regarding the term protectionism.

Since free trade and sustainable development are intercrossing issues they affect and could possibly limit one another, arguments are made in both cases that it is possible that protecting sustainable development could result in less protection of free trade. Looking at how discourse is used in these cases, analyzing the term protection, free trade and sustainable development are described as being conflicting objectives. Having conflicting objectives is not unusual and happens within the EU as well as in other areas as well since these two policy areas are intercrossing in the EU. These grounds for potential conflicts between sustainable development and free trade could therefor be understood within the frame of European integration. When two objectives in the EU are limiting one another and one has to be considered over the other, the question is which one that has to be limited. Potential grounds for conflicts between sustainable development and free trade could be understood within the frame of European integration since it illustrates how EU has to balance



being both an ideological and an economic union, and what happens when these two become intercrossing and one has to be given priority over the other.

Overall however the premises for free trade and sustainable development seems rather positive and co-existence seems possible to a large extent looking at both the result from the cases and the research presented. Conditions for the premises to be positive seems to include that member states are able to develop in their own pace and an acceptance of that member states are in different stages regarding development both economically and regarding sustainable development. Globally EU is an important driving actor who take s great responsibility for protection of the environment and combating climate change. This is indicated in the above mentioned cases, especially in the Renewable energy case.

To conclude, this thesis has introduced a three-dimensional theorization which have been applied to an analysis of two court cases, and how the grounds for potential conflicts between sustainable development and free trade could be understood within the frame of European integration.

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