

# Free Trade Area Agreement: Impact on the Fashion Industry and Environmental Protection in Indonesia

**Deny Andreas Krismawan**  
**Setyo Widagdo**  
**Dhiana Puspitawati**

Faculty of Law, Universitas Brawijaya, Malang

E-mail: denyandreas@student.ub.ac.id

## Abstract

The effect of globalization and free trade area agreement leads to the race by fashion companies to produce up to date and hasty apparels and footwear. These products, which are dubbed fast fashion, are commonly inexpensive as well as have high volume and plenteous designs. Furthermore, fast fashion companies may not design and make their clothing to last because they have to satisfy the appetite of the consumptive market era. In addition, the fast fashion industry delivers about 10% of world gas emissions because it needs 700 gallons of water to produce one cotton shirt. Moreover, recent mass production of fast fashion brands uses non-biodegradable materials, like polyester, which is harmful to the environment. This paper employs normative legal research to analyze how the principles of international environmental law can be implemented to protect the environment from pollution resulting from fast fashion waste. It also analyzes how the concept of eco-fashion, which is considered sustainable, can be applied to achieve an eco-friendly fashion industry. The results of the research indicate that the principles of international environmental law are able to protect the environment from fast fashion waste pollution. Also, the concept of eco-fashion should be implemented to ensure an eco-friendly fashion industry and make the environment sustainable by recycling fashion waste, producing clothes with green materials and repurposing old clothes.

**Keywords:** Free trade area, International environmental law principle, Eco-fashion.

## Introduction

International relations among states reflect globalization, which has brought several advantages and impacts to many sectors. Economic and commercial activities are the two aspects that have experienced the phenomenon. The results of globalization can be observed in the implementation of free trade area; the high demand for e-commerce; the rise of technology companies, which disrupted many aspects; the utilization of digital money; and the boom in the importation of goods and services.

The existence of international relations among states is marked by many agreements or conventions in different sectors. States, as subjects of international law, have rights and obligations that should be strictly obeyed and fulfilled in participating in international relations with other states. The embodiment of international relations among states is declared by international agreements in the form of bilateral, multilateral as well as regional agreements. The definition of international agreement is stated in the Vienna Convention of 1969, as follows:

“An agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation.”

The theory of international agreement explains that international agreement possesses elements of bilateral and multilateral agreements. These concepts are determined by the membership and scope of an international agreement (Pratomo, 2011: 61).

The participation of Indonesia in many international agreements is based on the philosophy of Indonesian legal norm to promote and maintain world order, as mentioned in the fourth paragraph of the Preamble of the 1945 Constitution of the Republic of Indonesia (UUD 1945) (Widagdo, 2019). From independence to 2020, it is recorded that Indonesia has signed 6619 international agreements with states and international organizations. The Foreign Ministry manages and stores all the agreements in a big room labelled Treaty Room ([treaty.kemlu.go.id](http://treaty.kemlu.go.id)).

The massive impact of globalization, the growth of information technology, and the improvement in international relations support the development of international agreements. Indonesia, a sovereign state, has joined several international agreements. Among the international agreements signed by Indonesia, more than 100 agreements involve collaboration in economy, commerce and investment (Agusman, 2010: 4). One of the economic cooperation agreements that has been signed by the Indonesian government is a free trade area (FTA) agreement. It constitutes an international agreement that is only applied and obligatory in the region. An FTA is a means of trade liberalization, where all states are not allowed to hinder access because states have to take a part in international relations ([fiskal.kemenkeu.go.id](http://fiskal.kemenkeu.go.id)).

Meanwhile, the implementation of the FTA approved by Indonesia has numerous consequences. An example is the entrance of plenteous imported products to Indonesia. Imported products of the creative economic sector are flooding the market in Indonesia. The fashion industry, which is one of the industries that make up the creative sector, has experienced increased competition. Since the global fashion industry is growing fast and producing many products to entice consumers to buy, leading fashion companies race to produce up to date and hasty apparels and footwear. These products, dubbed fast fashion, are commonly inexpensive as well as have high volume and plenteous design. Furthermore, fast fashion companies may not design and make their clothing to last because they have to satisfy the appetite of the consumptive market era. “Fast fashion” is a contemporary term used by fashion retailers for designs that flow from the catwalk quickly to capture current fashion trends (Hines et al, 2007). Its collections are based on the most recent fashion trends presented at fashion weeks in the spring and autumn of every year.

Regarding the impact of the above trend, various clothes bought by consumers that are no longer worn will become waste. This adds to the waste produced during the production of the clothes. The fast fashion industry contributes about 10% of world gas emissions because it needs 700 gallons of water to produce one cotton shirt. Moreover, recent mass production of fast fashion brands uses non-biodegradable materials, like polyester, which is harmful to the environment. More than 60% of fabric fibers are now synthetics derived from fossil fuels, so when clothing ends up in a landfill, they will not decay ([www.nytimes.com](http://www.nytimes.com)). The production of fast fashion also produces wastewater from factories, which transforms the environment into biologically dead zones replete with cancer-causing chemicals. Also, laundry process spills tiny microplastic from microfibers, which are inundating and polluting water food chain ([www.fox.com](http://www.fox.com)). The growth of the global economy leads to increased international commerce to cater for the rise in the demand of goods, including a massive demand of fashion products. In order to fulfill this demand, manufactures need large quantities of fibers. The mass production of clothes that are inexpensive and the rapid change in terms of fashion designs make fashion companies to produce apparels in developing and middle income countries with cheaper labour.

Further, 80 billion pieces of new clothing are purchased each year globally. It means that the global fashion industry generates a revenue of \$1.2 trillion annually. The majority of these products are produced in China and Bangladesh, while the United States consumes more clothes and textiles than any other nation in the world (Claudio, 2007). Approximately 85% of clothes that are not worn anymore are dumped in the landfills as solid waste, which cause water pollution, thereby harmful the environment (Hobson, 2013).

Effort needs to be made to overcome the global fast fashion waste. Firstly, regulations and principles of international environmental law should be the main tool to handle environmental problems caused by fast fashion

manufacturing process and waste. The second action is to manifest innovation and appropriate policies to make the global environment sustainable.

### **Research Method**

This research employs normative legal research method and uses statutory approach to analyze laws regarding free trade area agreement and environmental protection. It also uses conceptual approach to analyze doctrines in legal theory to solve the problems.

### **Result and Discussion**

#### **A. Implementation of International Environmental Law Principles in Overcoming Global Fast Fashion Waste and Pollution**

International environmental law is part of international law, which is beneficial in regulating aspects related to the environment, such as pollution, waste problems, environmental law enforcement and environmental protection. It is a branch of public international law created by states to regulate environmental problems emerging from activities of states and multinational companies. The core value of international environmental law is environmental protection in order to keep our planet safe.

International environmental law is related to population, biodiversity, climate change, ozone depletion, toxic and hazardous substances, air, land, sea, transboundary water pollution, conservation of marine resources, desertification and nuclear damage (Guruswamy, 2012). Under traditional views, public international law is derived from several sources, namely international conventions, international customs, general principles of law recognized by civilized nations, and judicial decisions (*see* ICJ Statute and Henkin et al, 1986). Therefore, international environmental law has general principles that can be applied to the efforts of protecting the global environment (Soto, 1997: 193):

1. The Principle of Sovereignty and Responsibility

This principle stipulates that states have sovereign right over their natural resources and should not cause damage to the environment of other states or to areas beyond a state's national jurisdiction. The 1992 Rio Declaration is the international environmental law that contains this principle.

2. The Principles of Good Neighbourliness and International Cooperation

The principle of good neighbourliness places on states a responsibility not to damage the environment. The principle of international cooperation places an obligation on states to prohibit activities within the

state's territory that are contrary to the rights of other states and which could harm other states or their inhabitants.

### 3. The Principle of Preventive Action

The prevention principle requires action to protect the environment at the initial phase. It is not only a question of repairing the damages after they have occurred but to prevent those damages from occurring at all. It also means that it is better to prevent than to repair (Oskam et al, 1997). The principle of prevention was introduced in the 1972 Stockholm Declaration on the Human Environment, which stated as follows:

*State has the sovereign right to exploit their own resources and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other states or area beyond limits of national jurisdiction.*

### 4. The Principle of Sustainable Development

Sustainable development means that the primary focus of environmental protection efforts is to improve the human condition (*see* Rio Declaration *supra* note 7, at princ.1). It also defines two main goals, which are environmental protection and economic development. Economic development can also be considered as a means of poverty alleviation (Viriyō, 2012). This principle was first acknowledged in the Stockholm Declaration, which refers to the balance between environmental protection and economic development, i.e. in order to provide the maximum benefit to the people, states should integrate economic development into protection of the environment (Principle 13). Secondly, the Rio Declaration emphasizes the principle of the Stockholm Declaration. It declares that states have obligation to apply the precautionary principle in balancing between economic development and environmental protection (Principle 15).

The development of environmental protection through implementation of the principles of international environmental law was enhanced by the establishment of an expert group, the World Commission on Environment and Development (WCED). This follows the results of the 1972 Stockholm Declaration, which reported about *Strengthening the Legal and Institutional Frame work for Environmental Protection and Sustainable Development*. The environmental law principles approved by WCED have contributed in compiling a new conservation strategy in protecting global environment by issuing *Caring for Earth: A Strategy for Sustainable Living* (Akib, 2014: 63 – 65).

To achieve protection for the environment from the massive waste caused by the fast fashion industry, the general principles of international

environmental law needs to be implemented. States must apply the principles in order to cope with the damage to water, land and sea that are full of such waste. First, the sovereignty and responsibility principle is the appropriate principle to ensure that states create regulations that emphasize action of utilization of natural and green materials and fabrics to produce fashion products that are not harmful to the environment during the manufacturing process. Second, the principle of international cooperation is suitable to control the production of fast fashion products so that the apparels and shoes manufactured do not endanger other states and their national environment. The principle of prevention is the third principle in preventing and overcoming pollution, gas emission, and environmental damage because fashion waste dumped into landfills cannot decay. The governments of states should implement these principles to regulate their national environmental law. The effective rule to hinder the contamination and pollution of the environment is to ban the production of fast fashion, which uses non-biodegradable and synthetic materials, and promote the use of sustainable fabrics that are eco-friendly.

Lastly, the sustainable development principle is compatible to the efforts in balancing economic development and environmental sustainability. It can become the legal basis to create norms in protecting the environment from damage as a result of fast fashion waste and promoting the goals of sustainable development.

#### B. Eco-Fashion (Sustainable Fashion)

In recent years, sustainability has become a buzzword. Just as consumers are taking a closer look at the food they consume and the chemicals they put into their body, they are also shifting their purchasing decisions to create a cleaner environment through the clothes they wear. Eco-fashion takes into account the entire supply chain and life cycle of a garment from where and how it is made to when it ends up in our landfills. It is important for consumers to think about how their purchases affect the environment, the lifecycle of their garment, and how to invest in clothes that last longer ([www.forbes.com](http://www.forbes.com)).

In order to tackle the challenges of the fast fashion industry, which endangers the environment and neglects the rights of labourers, it is imperative to develop an eco-friendly fashion industry to make the planet green and safe. Through eco-fashion, consumers are able to determine where their apparels and footwear come from, the fabrics or materials that were used to produce the clothes, how green or eco-friendly the manufacturing of their purchased clothes is, and how the fashion companies treat and pay their labour force.

Eco-fashion has to become a movement to ensure that our planet remains green and safe. It is supposed to be the principle and action in addressing the irresponsible fast fashion industry and preventing environmental pollution. The irresponsible fast fashion industry is among the world's most polluting industries; it requires an enormous quantity of raw materials, creates a

considerable level of pollution, leaves a significant carbon footprint, and generates an alarming level of waste (Brewer, 2019: 2). Additionally, industrial wastewater from the textile industry often contains high levels of dangerous dyes and other chemicals, which may be toxic to aquatic wildlife and harmful to human health. Particularly, a number of dyes are known to contain carcinogens, which have been shown to cause several cancers (Ghaly et al, 2014: 11). Moreover, disused and unwanted clothing is creating ever-increasing rubbish heaps, as society is consuming and discarding new garments at unprecedented rates. In the United States, the Environmental Protection Agency's most recently available estimates indicate that 11.9 million tons of clothing and footwear were discarded in 2015, of which 8.2 million tons ended up in landfills ([www.epa.gov](http://www.epa.gov)). Many fast fashion companies ignore the rights of their labour force while producing the clothes. They often do not adhere to the appropriate standards, policies, and programmes to protect the rights of workers as provided by the International Labour Organization (Brewer, 2019: 4).

In response to the environmental problems stated above, an eco-friendly fashion industry should replace the fast fashion industry. An eco-friendly fashion industry enables the use of biodegradable green materials as well as ethical materials and fabrics to produce clothes. Hence, if apparels and footwear come from a sustainable fashion industry, the environment will be favourably impacted. Another concept of eco-fashion is to recycle unwanted and disused clothes and footwear. The recycling process makes old or wrecked fashion products to have a second life; they "reincarnate" to become novel and useful products again. Slow fashion companies, i.e. enterprises that use ecofriendly, biodegradable and sustainable fabrics, manufacture apparels and footwear by recycling and repurposing old products. They turn unwanted clothes into new products, which also can be sold to consumers. Many enterprises indicate that their products originate from biodegradable green fabrics and materials. Such collections are from high-end brands, such as Stella McCartney, Maggie Marilyn and Mother of Pearl, and accessory specialists, including Brother Vellies and Allbirds ([www.harpersbazaar.com](http://www.harpersbazaar.com)).

Notwithstanding, the use of ecofriendly fabrics, like organic cotton, is not enough to make the fashion industry really sustainable because producing clothes involves a very complex production chain. After being grown in the fields, cotton fibers have to be separated from their seeds, spun, dyed, printed and sewn to create finished items of clothing. Ecological and social standards are important at every stage of production, including minimizing the use of harmful chemicals, managing water usage and waste, limiting CO<sub>2</sub> emissions, ensuring human rights, implementing fair wages, and protecting workers ([amp.dw.com](http://amp.dw.com)). Besides the movement to apply sustainable fashion, innovation and technology play a significant role in building a fashion business that is more advanced, sustainable, and responsible. Innovative entrepreneurs have established fashion-tech startups that are able to ease the processes in manufacturing fashion products. This method enables fashion-tech companies to create, design and market apparels, accessories

and footwear using devices or applications equipped with artificial intelligence, Internet of things and automation system.

### C. Incorporation Theory

Dualism theory in international law refers to the concept that international law and national law are two different legal systems that have no connection and exist separately. It is related to legal positivism theory where the approval from a state plays a principal role. It also generates the transformation theory. The transformation doctrine explains that the rules of one legal system do not derive or originate from other legal systems. Therefore, international law, such as international agreements, needs to be transformed into national law in order to be applied in the domestic legal system (Ariadno, 2008). According to the transformation theory, to solve the problems related to environmental pollution caused by the large quantity of imported goods in the fashion industry, the international agreement of free trade area (FTA), which is an international law, needs to be re-analyzed and transformed so that it will correspond to Indonesian environmental law and law related investments.

### Conclusion

Due to the fast growth in economic and commercial activities caused by globalization, many free trade area agreements have been signed. Indonesia also participates in the concept of free trade area (FTA) agreement. Numerous imported products can quickly and easily enter Indonesian territory because the rules of free trade area allow products from states that are signatories to the agreement. The concept of free trade area also accelerates the growth in the creative sector. The fashion industry, as an aspect of the creative sector, has developed fast. Changes in fashion trends lead to the production of large quantities of clothes so that fashion companies can sell their products to consumers as soon as possible. This brought about the fast fashion industry, which grew quickly without regulation, causing social and environmental problems, such as harmful waste from fashion manufacturing factories and disused clothes ending up in landfills. Hence, international environmental law principles have to be enforced so that states can regulate the operators of the industry to overcome pollution and environmental damage in order to ensure that the planet remains green and sustainable. Meanwhile, the concept of slow fashion industry, which refers to the production of sustainable products derived from biodegradable and ecofriendly fabrics, will be an innovative method to promote sustainable and responsible global development.\*\*\*



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