



DIRECTORATE-GENERAL FOR EXTERNAL POLICIES
POLICY DEPARTMENT



**THE TRADE CHAPTER OF
THE EUROPEAN UNION
ASSOCIATION
AGREEMENT WITH
CENTRAL AMERICA**

INTA



DIRECTORATE-GENERAL FOR EXTERNAL POLICIES OF THE UNION

DIRECTORATE B

POLICY DEPARTMENT

STUDY

THE TRADE CHAPTER OF THE EUROPEAN UNION ASSOCIATION AGREEMENT WITH CENTRAL AMERICA

Abstract

The EU Central America Association Agreement is an example of the successful completion of a region-to-region agreement and therefore in line with the EU's aim of promoting regional integration in other regions through trade and association agreements.

For the EU, economic welfare gains and employment effects from the trade chapter of the Agreement are because of the relative small size of the Central American market expected to be negligible. However, EU exporters will benefit from lower tariffs on manufactured goods especially in automobiles. For the Central American countries (CA), there is the potential of significant gains, but these are not evenly spread. The fact that CA exporters already benefited from zero tariffs on almost all exports to the EU under the extended Generalised System of Preferences (GSP+) means that there are relatively few sectors that will have enhanced access with the exception of bananas, raw cane sugar and shrimps. Above all, the Agreement will provide legally secure access to the EU market. The Agreement also tackles cross border services and establishment, technical barriers to trade (TBT), sanitary and phytosanitary (SPS) issues as well as trade remedies in the shape of anti-dumping, countervailing duties or multilateral safeguards. The provisions on intellectual property rights include Geographic Indications (GIs). The trade chapter furthermore contains a human rights clause which stipulates that the parties must ensure that human rights are respected within their jurisdiction. Furthermore there are provisions on sustainable development.

This study was requested by the European Parliament's Committee on International Trade.

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1. EXECUTIVE SUMMARY

The EU Central America Association Agreement (henceforth 'the Agreement') is an example of the successful completion of a region-to region agreement and therefore in line with the EU's aim of promoting regional integration in other regions through trade and association agreements. This is in no small measure due to the existing momentum in Central America (CA) integration.

The trade chapter of the Agreement is in line with the EU's policy as expressed in the 2010 statement on Trade, Growth and World Affairs (European Commission, 2010) and the provisions are broadly equivalent to those of the US CAFTA-DR¹ and the Canadian– agreements,² so that EU interests are not disadvantaged by preferences granted to the US or Canada. This does not exclude the possibility of specific differences in coverage of the agreements that may impact EU firms or sectors.

The economic welfare gains from the Agreement have been estimated on the basis of assumptions concerning MFN tariffs that may no longer be valid. Nevertheless these provide an indication of the likely gains. For the EU there are negligible welfare and employment effects. For the Central American (CA) parties there is the potential of significant gains, but these are not evenly spread. Costa Rica is estimated to stand to make the greatest gains from increased trade, but it should be recalled that a significant share of the welfare gains come from increased imports. In terms of trade gains the fact that CA exporters already benefited from zero tariffs on almost all exports to the EU under the extended Generalised System of Preferences (GSP+) means that there are relatively few sectors that will have enhanced access. The 'export gains' for CA are concentrated in bananas, raw cane sugar and shrimp. The EU exporters will benefit from lower tariffs on manufactures especially in automobiles, which is likely to have most effect according to the SIA study in Panama.

Apart from offering reduced tariffs in a few sectors compared to the GSP + the Agreement provides legally secure access to the EU market. This will prove important if GSP reform by the EU results in the graduation of middle income countries out of the scheme.

With regard to cross border services and establishment the Agreement is GATS plus and again broadly in line with the commitments of the CA parties under the US CAFTA-DR. Again detailed analysis of the schedules for any given sector is required to establish what sector specific differences exist. On technical barriers to trade (TBT) and sanitary and phytosanitary (SPS) issues as well as on trade remedies in the shape of anti-dumping, countervailing duties or multilateral safeguards, the Agreement restates rights and obligations under the WTO/GATT, or includes provisions (as in the case of SPS) that seek to ensure the effective application of WTO rules. The provisions on intellectual property rights are broadly TRIPs conform, with the exception of the provisions on Geographic Indications (GIs) which are WTO/TRIPs plus

The Agreement is also WTO plus with regard to competition policy in that it requires the parties to maintain competition policies, but it does not prescribe the content of such policies. Cooperation between competition authorities is provided for in line with existing EU FTA and other bilateral competition agreements. Significantly, the Agreement envisages the establishment of a regional level competition authority in CA: an example of where it promotes regional integration. With regard to public procurement the Agreement effectively extends the WTO Government Procurement Agreement

¹ For the text of the CAFTA –DR see <http://www.ustr.gov/trade-agreements/free-trade-agreements/cafta-dr-dominican-republic-central-america-fta>

² For the Canadian Central American agreements see <http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/index.aspx?lang=en&view=d>

(GPA) approach to the CA parties. This had already been the case for the US. But entity coverage is GPA minus for the EU in that the EU has not included all non-central government in its schedules.

With regard to human rights, labour standards and environmental/sustainable development issues the Agreement includes in Art 1 (1) a positive human rights obligation meaning that the parties must ensure that human rights are respected in their territories. Although there is no specialist body to monitor compliance with this obligation (unlike various other parts of the Agreement for the trade rules) the Association Council, Association Parliamentary Committee, and Joint Consultative Committee (including civil society on both sides)³, as well as the Civil Society Dialogue Forum and the Board on Trade and Sustainable Development on the specific aspects of sustainable development, could all play a role in monitoring. The Agreement requires the parties to effectively implement the International Labour Office (ILO) Declaration on Fundamental Principles and Rights at Work of 1998 as well as a number of multilateral environment agreements. Unlike the US DR-CAFTA however, there is no dispute settlement provision for labour standards, but the human rights obligation (which can be enforced through Art 355 of the Agreement) could be applicable to core labour standards and some environmental rights. The Agreement also omits any significant reference to Corporate Social Responsibility (something the European Parliament has called for) as well as any reference to ILO C169 Indigenous and Tribal peoples Convention, 1989.

1.1 Inter-regionalism and the EU CA Association Agreement

Regional integration in Central America has a long history dating back to the Central American Federation in the 19th century. In modern times the Central American Common Market (CACM) initiative was launched in 1960, in part inspired by the EEC in the first phase of regionalisation during the 1960s. But the CACM ran into difficulties in the late 1960s due to tensions within the region and the inability of import substitution policies to maintain growth. By the early 1970s integration was at a standstill.

The revival began with the 1991 Protocol of Tegucigalpa, which established the Central American Integration System (SICA).⁴ Again the efforts in Central America paralleled those within the EU in terms of deeper integration. The SICA has political and economic objectives. In terms of the political objectives it has established an institutional structure in the form of a Central American Parliament and Central American Bank for Economic Development. The CACM remains the main trade related institutional structure. The revival of the CACM along with shifts in national policy positions brought the average tariff of members of the CACM down from 45% in 1985 to 6% in 2002. Efforts were also redoubled with regard to harmonising external tariffs and creating a customs union. The CACM has four tariff bands of 0, 5, 10 and 15 % with an average of 7.5% and more than 75% of tariffs are harmonized. The sectors excluded from liberalisation within the CACM have also been reduced in number. As a result intra-regional trade progressed from less than \$500 million in 1987 to \$ 3000 million in 2003.

In other words there was a process of dynamic integration underway at the time when the EU and Central America agreed, at the EU Latin America and Caribbean Summit in 2004, to start region-to-region trade negotiations. The aim of the region-to-region negotiations was to reinforce political and economic stability in the Central American region, to foster sustainable development and to deepen

³ The Joint Consultative Committee will include equal members of the European Economic and Social Committee and the Comité Consultivo del Sistema de la Integración Centroamericana (CC-SICA) and the Comité Consultivo de Integración Económica CCIA.

⁴ For the Protocol see www.sica.int/busqueda_archivo.aspx

regional integration further. Formal negotiations were launched in 2007 and the negotiations between the European Union, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panamá were concluded in May 2010. The Agreement contains three pillars: political dialogue, cooperation and the trade agreement. Since agreement was reached on the political dialogue and cooperation pillars of the agreement in 2003, the trade component constitutes the substantial change in bilateral trade relations between the EU and Central America.

The Agreement is presented as one of the first region-to-region agreements to be successfully negotiated by the EU, the others being the EPA agreements with CARIFORUM and (the less comprehensive) agreements with the East African Community (EAC) and Southern Africa Development Community (SADC) in Africa.⁵ In actual fact it is a multiparty agreement that applies to all parties, including among the CA countries. This approach provides an impetus to CA integration, but does not prevent the CA parties providing more favourable treatment to one another. It should come as no surprise that success in negotiating and concluding region-to-region agreements has been achieved with regions that have already advanced well with integration. EU efforts to negotiate with The Andean Community, MERCOSUR and the African, Caribbean and Pacific (ACP) regions in west and central Africa have all foundered due in large part to the lack of integration in the EU's partner region. This does not mean the policy of negotiating region-to-region agreements is no longer valid. The external pressure of such negotiations may help to promote regional integration in other regions. Various provisions, such as those concerning non-tariff barriers, customs procedures, government procurement and competition will promote CA integration. The Agreement also effectively brings Panama into the CA integration process.

1.2 EU trade strategy

The EU strategy on FTAs as expressed in the 2006 position (European Commission, 2006) and confirmed in the 2010 position (European Commission, 2010) has been to negotiate comprehensive FTAs that are compatible with the WTO rules, with markets of significant potential growth.⁶ So the EU policy can be assessed in terms of WTO consistency, the content of the FTAs negotiated and the trading partners selected.

In terms of WTO consistency the coverage of the Agreement, with over 95% of tariff lines and trade, meets the EU's definition of 'substantially all trade' required by Art XXIV of the GATT (1994). The Agreement is comprehensive covering cross border services, establishment (but not investment protection), public procurement, intellectual property rights, regulatory barriers (such as in the form of TBT and SPS).

The Trade Growth and World Affairs policy statement of 2010 also stressed to need to monitor implementation and enforcement. For non-tariff measures the conclusion of a trade agreement is normally only the first step. Benefits then accrue from effective and continuous work implementing the agreement. In this regard the AA provides for an Association Council to oversee implementation, and sub-committees on most aspects of the agreement that facilitate such follow-up work (European Commission, 2010).

⁵ There is one agreement, but the Agreement is not region-to-region in the sense that the EU exporters get automatic free circulation within the CACM, due to the remaining incomplete nature of the efforts to create a customs union and the nature of the CACM.

⁶ Trade Growth and World Affairs does not stress market potential a great deal, but this appears to have been a factor in shaping EU FTA strategy in the second half of the 2000s.

The trade remedy provisions in the Agreement are in line with the (albeit) general policy objectives in the Trade Growth and World Affairs statement (ibid) and it includes provisions on competition and enhanced transparency of state subsidies. Finally, a dispute settlement mechanism is established and a mediation mechanism to deal with barriers introduced to trade expeditiously will benefit SMEs that might otherwise be discouraged from seeking to export to markets that have non tariff or technical barriers to trade.

In terms of the size of the markets concerned Central America does not represent a major trading partner for the EU as tables 1.2 and 1.3 show the importance of the region for key EU exporting sectors is less than half of 1% of exports. In this sense therefore there could be a question mark as to whether the Agreement is a good fit with the policy of negotiating with markets of potential. On the other hand trade has grown at an average rate of 5% and if one takes a broader view it is possible to argue that the Agreement sets a precedent for further 'new generation' FTAs within South America, such as the now restarted negotiations with Mercosur. Taken together with the other agreements the EU has negotiated with Colombia and Peru, the Agreement clearly consolidates the EU's trade relations with the region and as chapter 2 below points out, it matches the access achieved by the US and China in their FTAs.

1.3 Trade Patterns

The trade balance between the EU and its partners in the trade Agreement with Central America was negative in 2010, with the EU importing €7.6 billion worth of goods from the region and exporting €4.5 billion.⁷ The annual growth rate of trade between the EU and Central America averaged around 5% over the period 2006–10 (see Table 1.1). The year on year variations have, however, been fairly high for both imports and exports.

Table 1.1 : EU27: trade with Central America, 2006–1st Quarter 2011

Period	2006	2007	2008	2009	2010	2011 Q1	Avg. annual growth (2006–10)
Imports (€ mn)	5,129	4,731	5,311	4,581	7,576	1,919	10.2
Variation (% , y-o-y)	6.2	-7.8	12.3	-13.8	65.4	8.1	
Share of total EU imports (%)	0.4	0.3	0.3	0.4	0.5	0.5	
Exports	4,860	5,251	5,079	4,215	4,505	1,110	-1.9
Variation (% , y-o-y)	31.0	8.0	-3.3	-17.0	6.9	-12.1	
Share of total EU exports (%)	0.4	0.4	0.4	0.4	0.3	0.3	
Balance (€ mn)	-269	520	-232	-366	-3,071	-808	
Trade (€ mn)	9,989	9,982	10,39	8,796	12,08	3,029	4.9

⁷ <http://ec.europa.eu/trade/creating-opportunities/bilateral-relations/regions/central-america/>

Note Eurostat trade statistics have a regional section for Central America that includes Mexico and Belize as well as the six partners in the Agreement. With this region the EU has a surplus.

EU imports from the EU Central American partners in the Agreement in 2010 were dominated by machinery and transport equipment, which accounted for 60.1 % of the value of total imports. Within this category, the value of office and telecommunication equipment soared in 2010; electronic assemblies of automatic data-processing machines, is Costa Rica's major export, with an average value between 2008-2010 of €2.3 billion that increased to €4billion in 2010.⁸ This aggregate category also includes sea-going vessels, which are Panama's largest export to the EU. The second most important import into the EU from partners in the Agreement in value terms was food and live animals, accounting for 31.8% of the total, followed by miscellaneous manufactured articles 3 % (see Table 1.2).

Table 1.2: EU27: imports from Central America Common Market (CACM) by SITC Section, 2010

SITC Codes	SITC Sections	Value (€ mn)	Share of total imports from CACM	Share of total section imports from Extra-EU
SITC T	TOTAL	7,576	100.0%	0.5%
SITC 7	Machinery and transport equipment	4,556	60.1%	1.0%
SITC 0	Food and live animals	2,411	31.8%	3.3%
SITC 8	Miscellaneous manufactured articles	225	3.0%	0.1%
SITC 2	Crude materials, inedible, except fuels	201	2.7%	0.3%
SITC 1	Beverages and tobacco	53	0.7%	0.8%
SITC 6	Manufactured goods classified chiefly by material	41	0.5%	0.0%
SITC 5	Chemicals and related prod, n.e.s.	31	0.4%	0.0%
SITC 4	Animal and vegetable oils, fats and waxes	29	0.4%	0.4%
SITC 3	Mineral fuels, lubricants and related materials	19	0.2%	0.0%
SITC 9	Commodities and transactions .	6	0.1%	0.0%

Note:

The sum of the individual SITC product categories may be less than the total for reasons of confidentiality.

Source: DG-Trade 2011. Data on trade with CACM from Eurostat COMEXT.

EU exports to the CACM in 2010 were also dominated by machinery and transport equipment (49%), followed by chemicals and related products (21.1%) and other manufactured goods classified chiefly by material (8.4%) (Table 1.3). The share of EU exports to the CACM as a share of total exports to extra-EU markets was 0.3% – lower than Central America's share of total EU imports (0.5%).

⁸ In such cases the apparent surge of X may be due to an one-off event that does not accurately represent underlying trade.

Table 1.3: EU27: exports to Central America by SITC Section, 2010

SITC Codes	SITC Sections	Value (€ mn)	Share of total exports to CACM	Share of total section exports to Extra-EU
SITC T	TOTAL	4,505	100.0%	0.3%
SITC 7	Machinery and transport equipment	2,208	49.0%	0.4%
SITC 5	Chemicals and related prod, n.e.s.	949	21.1%	0.4%
SITC 6	Manufactured goods classified chiefly by material	378	8.4%	0.2%
SITC 8	Miscellaneous manufactured articles	353	7.8%	0.3%
SITC 3	Mineral fuels, lubricants and related materials	188	4.2%	0.2%
SITC 0	Food and live animals	158	3.5%	0.3%
SITC 1	Beverages and tobacco	124	2.8%	0.6%
SITC 9	Commodities and transactions n.c.e.	64	1.4%	0.2%
SITC 2	Crude materials, inedible, except fuels	46	1.0%	0.1%
SITC 4	Animal and vegetable oils, fats and waxes	9	0.2%	0.3%

Note:

The sum of the individual SITC product categories may be less than the total for reasons of confidentiality.

Source: DG-Trade 2011.

2. COMPARATIVE ANALYSIS AND REGIONAL ISSUES

2.1 Summary comparison of the EU CA AA and the US DR-CAFTA

The US led in negotiating and signing an FTA with Central America. The United States started negotiations in 2003 and the Dominican Republic-Central America-United States Free Trade Agreement, or DR-CAFTA, was signed on August 5 2004 with Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. By January 2009, all signatory countries had ratified the agreement. Similar trade preferences were present under the Caribbean Basin Trade Partnership Act (CBTPA) until it expired in 2008. The CAFTA-DR maintained and consolidated these unilateral provisions, and extended market access for US exports. The sensitive areas for the US were labour provisions, the treatment of certain sensitive industries (sugar and textiles), and to a lesser degree, investor-state dispute settlement, pharmaceutical data protection, and basic sovereignty issues. It should be noted that unlike the EU – CA Agreement, the US CAFTA-DR agreement is a framework agreement, but not really a region-to-region agreement as the US negotiated bilateral preferential agreements with each country.

Overall, the EU agreement ensures a 'level playing field' with the United States. They both obtain tariff elimination for most exports, tackle technical barriers to trade, as well as labour and environmental standards, and establish dispute settlement procedures. Both sets of agreements secure greater market access for cross border services and establishment and government procurement. Regarding cross-border services, they both allow for flexibility by excluding certain sensitive sectors.

The bulk of agricultural tariff liberalisation is achieved by the EU in 10 years and in 15 years by the US. Agricultural products received the most generous tariff phase-out schedules in the US, with up to 20 years for some products. This acknowledges the sensitivity of CA rural economies to trade adjustment costs. The US made more concessions to CA countries by eliminating virtually all agricultural tariff lines immediately compared to the EU which excluded a greater number of agricultural tariff lines and obtained longer phase-out periods. They both maintained quotas on sensitive (mostly agricultural) products. Conversely, CA countries have tended to maintain slightly more Tariff Rate Quotas (TRQs) for EU goods than US goods.

Both the US and EU agreements provide for safeguards, including for agriculture. with scope for duties to be imposed on imports of certain agricultural products that exceed specified volume thresholds (TRQs) over the period of duty phase out. Both also reaffirm GATT/WTO obligations and commitments on other trade remedies such as anti-dumping, countervailing duties and safeguards.

With regards to cross-border services and establishment the commitments offered to the EU are at least as good as the ones offered in the US deal. The EU obtained access to many services with key EU interests being secured by the deal.

With regards to SPS and TBT, both the EU and US agreements are WTO consistent. However, the EU agreement contains more WTO+ clauses interpreting WTO SPS provisions or providing scope for bilateral consultations on SPS related barriers to trade.

With regards to public procurement, the US and EU both liberalised their markets, but the EU CA Agreement covers more procurement.

With regards to rules of origin, both agreements include comprehensive provisions to ensure that only EU, US, and CA goods benefit from the agreement. By allowing diagonal and bilateral cumulation, both deals will facilitate intra-regional trade.

On intellectual Property Rights IPR protection is largely comparable, but the EU promoted its case for TRIPs-plus protection of geographical indications (GI) in the form of an extensive register of GIs and provisions on their protection.

Table 2.1 Overview comparison of the EU Trade Chapter Agreement and the US DR-CAFTA

Issue area	EU Central America Agreement	US CAFTA-DR
Agricultural trade	<p>CA eliminates tariffs on most EU exports in 10 years; wine liberalised immediately, whisky within 6 years and fish products within 7 years. Excluded sensitive sectors are beef, pork, prep. meat; sugar; rice; some vegetables and dairy products; and CA retain TRQs on: cured hams and bacon, powdered milk, whey, and cheese).</p> <p>EU: most duty free immediately or within 7 years. Excluding various meat products; powdered-milk, yoghurt, butter; fresh tomatoes, grapes, apricots, nectarines, plums; cereals; rice; grain sorghum; some sugars; and certain animal feed; TRQs remain on bananas, garlic, manioc starch, sweet corn, mushrooms, beef, sugar, and bulk rum.</p>	<p>CA tariffs on over 50% of U.S. exports eliminated immediately (incl. high quality cuts of beef, cotton, wheat, soybeans, certain fruits, and vegetables, processed food products, and wine); remainder phased out over a period of up to 20 years. Some backloading with liberalisation beginning 7 or 12 years after the agreement takes effect. CA countries maintain TRQs (e.g. chicken breasts, milk powder, and white corn).</p> <p>US: zero tariffs on virtually all agricultural goods from C A confirmed (already the case under the CBTPA). But 15 year transition on tobacco and US retains TRQs on sugar (the most controversial issue) and ethyl alcohol. Only slight increase in sugar TRQ with prohibitive tariffs (nearly doubling the price) for out of quota exports.</p>
Manufactures	<p>CA offer duty free access for products within 10 years and all within 15 years. More than two-thirds of EU exports will be duty-free upon entry into force of the agreement, 96% of tariff lines within 10 years and virtually all tariff lines reduced to zero within 15 years.</p> <p>EU offers secure duty free entry immediately.</p>	<p>CA offers zero tariffs within 10 years for most products and 15 years for all.</p> <p>US zero tariffs immediately (as under CBTPA) (ex. paper products that maintain MFN rates). This holds for textiles and clothing where diagonal cumulation (replacing bilateral) is used in the application of the “yarn forward” rule of origin.</p>
Rules of origin	<p>Pan-Euro system: mainly change of tariff heading (CTH) at HS 4 level; domestic value content (DVC); or technical requirements; “either/or” option; de minimis rule; bilateral and diagonal cumulation; public (certificate) or private (invoice declaration): customs cooperation with aim of single administrative document and harmonised system within 2 years.</p>	<p>NAFTA system: CTH at HS 2 and HS 4 level; domestic and regional value content (RVC); de minimis rule; public certification only (written or electronic); diagonal cumulation across the region.</p>
TBT and SPS	<p>Reaffirms WTO rights and obligations: WTO+ procedures including a “Joint Committee” on SPS and guidelines for implementation (verifications, certification); cooperation; and dispute settlement through the “joint committee”.</p>	<p>Reaffirms WTO rights and obligations and strengthens procedures.</p>

Services	Hybrid listing CA commitments significantly GATS plus in coverage; some exclusions allowing specific regulations in financial services in most CA partners; exclusions on landownership in some countries.	Negative listing in which CA makes significant GATS plus concessions; E-commerce rules are also clearly defined; exclusions of insurance companies in Guatemala; "heavy" regulation of foreign professionals in Honduras; local partner requirements in some financial services in Nicaragua; and numerous services monopolies in Costa Rica (insurance and telecommunications);
Investment	CA commitments on establishment with some exclusions in sensitive sectors; EU some member states retain exceptions on land ownership; no investment protection provision	A comprehensive agreement including establishment and investment protection as per NAFTA;
Intellectual property rights	Broadly TRIPs consistent provisions; but 200 EU geographical indications GIs gain protection incl. champagne, parma ham and Scotch whisky;	Broadly TRIPs consistent with some TRIPs plus provisions on copyright protection; data exclusivity for pharmaceuticals and agricultural chemical products; criminal proceedings allowing authorities to initiate legal action without the need for private complaint.
Public procurement	Framework rules (transparency) in government procurement broadly as in GPA; CA coverage of entities varies, with Costa Rica and Panama opening their markets more significantly than the others; EU liberalises its public procurement to CA immediately.	Rules as in GPA but rather less entity coverage due to less sub-federal entity coverage;
Competition	CA is to establish a regional competition authority to be supported by the EU	Cooperation in enforcement
Sustainable development	Human rights clause; peer review based provisions on sustainable development provisions covering labour and environmental standards with obligation to comply with international conventions.	Provision on labour and environmental standards with specific dispute settlement provisions.
Institutional provisions	Association Council; specialist sub-committees; Association Parliamentary Committee; Joint Consultative Committee and Board on Trade and Sustainable Development; Dispute settlement with 'arbitration panel', open hearings, amicus curiae briefs, and sequencing (no right to impose retaliation until such time as non-compliance is verified) Mediation mechanism for non-tariff barriers is also foreseen	Trade Council and specialist committees to monitor implementation; NAFTA style dispute settlement procedures;

2.2 Impact on Central American regional Integration

The Association Agreement has as one of its aims the promotion of further regional integration in Central America. Given the high degree of tariff harmonisation of the CACM, something the Agreement would further promote, and the diagonal cumulation of rules of origin there is no reason why the Agreement should not provide additional impetus for the establishment and maintenance of an effective customs union in Central America. There is scope for tariff increases in order to establish a common external tariff, provided the CA parties have excluded the relevant sectors in the tariff schedules.

The comprehensive nature of the Agreement should also provide an impetus towards opening of services markets and a move towards adopting transparent, rules-based approaches to regulatory and non-tariff barriers to trade within the CACM. This should promote further intra-regional market opening and transparency. The fact that many deeper integration provisions are not preferential in nature does not then deflect the CACM from its open regionalism approach.

Provision for continued cooperation between the EU and SICA provides a means for the EU to support integration in Central America. This would include, for example cooperation between the European Parliament and the Central American Parliament as well as between the Commission and CACM.

2.3 The views of non-governmental third parties

The balance of business opinion in the EU is strongly in favour of a rapid consent to the Agreement. *Business Europe* favours a speedy adoption of the Agreement.⁹ The European services sector as represented by the *European Services Forum* (ESF) strongly supports the early ratification of the Agreement. Contrary to arguments that the markets concerned are small, the ESF argues that taken together Colombia, Peru and the Central American parties to the Association Agreement have a combined population of 118 million with a growing demand for services. The services sector also welcomes the significant commitments made by CA in the service sector that go far beyond these countries' binding commitments under GATS. The main sectors benefiting would be business, telecommunications, construction, distribution and financial services. Beyond the specific commitments in terms of access the ESF sees the agreements with CA as a positive model for EU trade relations with other countries. Given that the US has now moved to ratify its agreements, a delay on the part of the EU is seen as having negative consequences for EU service exporters. Finally the ESF believes increased trade will also benefit economic development in CA as more efficient services promote productivity in the countries.

Juan Carlos Paiz, the President of the Exporters' Association of Guatemala (Asociacion Gremial de Exportadores de Guatemala AGEXPORT) considers that his country has a low level of trade with the European Union, and that the Agreement with Europe would encourage Guatemalan exports. Coexport, the Salvadorean export's Agency, has highlighted that the small and medium firms should be trained in order to be competitive and to take full advantage of the new market, which is being opened to them. Central American business sectors recognize the potential advantages of the Agreement but are more skeptical about region-to-region agreements, as Jesus Canahuati, the President of the Honduran Association of Assembly Plants has highlighted. Business sees Central American countries as still divergent in many aspects, such as the productive structure. Adolfo Facusse, President of the

⁹ See Business Europe comments on the Public Consultation on Future Trade Policy (of the EU), 4th August 2010. Accessible at <http://www.buinesseurope.eu/content/default.asp?PageID=659#Library>

Association of National Industries of Honduras (ANDI), hopes that the Association Agreement with Europe will boost the formation of a customs union in Central America, a project that has been on the table for more than four decades and which they consider vital for the successful implementation of the Association Agreement. The business sector is pushing for completion of a custom union, as it would facilitate exporting to the neighbouring countries.

Civil society NGOs in the EU and Central America have criticized the lack of symmetry with CA removing more tariffs that will affect employment and tariff revenue. Civil society NGOs also seem to favour infant industry protection. The main employment effects will be in sectors that have been highly protected, such as automobiles in Panama, but this is where liberalisation (of some very high tariffs) will bring most welfare gains. Tariffs in sensitive sectors will be reduced over a number of years. If liberalisation threatens serious injury to an industry a bilateral safeguard action may be used, in line with normal practice in FTAs. There is scope for discussion of bilateral safeguard actions being applied more specifically to the 'extremely underdeveloped regions of the CA republics' (Art 109). The argument for infant industry protection remains questionable.

There has been concern expressed about the impact on the dairy sector in CA. But apart from regional quotas for EU exports of milk powder (1.9 metric tonnes) and cheese (excluding fresh cheese) (3.000 metric tonnes) with annual increases of 5% there is little liberalisation of CA agricultural tariffs. On the other hand, access to the EU market is limited. The EU's tariffs on CA cheese exports are reduced linearly over seven years, but many dairy products have been excluded (GrupoSur 2010).

With regard to services the desire of CA civil society NGOs that essential services, such as health, water, education and culture should be excluded and universal service by the state ensured, has been accommodated by the hybrid scheduling in the services and establishment schedules. The Agreement clearly states there is no obligation to privatize service provision and that states have the right to regulate and introduce new regulation of services. In terms of financial services and capital movements the criticism that liberalisation would make CA more vulnerability to financial crises, has been addressed by the general prudential waiver in Art 195 and by the safeguard allowing for capital controls in Art 207. (See Chapter 4)

Civil society NGOs have lobbied against strict provisions on intellectual property rights provisions arguing that these should contribute to "the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations", as clearly stated in article 7 of TRIPs (Gruposur 2010). The final Agreement reflects these concerns by including reference to the flexibilities available under the Doha Declaration on TRIPs and Public Health (of 2001) and the 2003 General Council Decision on the interpretation of the TRIPs agreement.

Civil society NGOs have also opposed the inclusion of the 'Singapore issues' in a rather undifferentiated fashion. Excluding provisions on investment, competition, public procurement and trade facilitation per se does not necessarily reflect the interests of the CA. More transparency, predictable and competitive regulation in these policy areas could well promote the deepening of the CACM. With regard to investment, all CA countries apart from Honduras have explicit exemptions for policies aimed at helping economically or socially disadvantaged or indigenous peoples. Government policy in the region clearly favours attracting foreign investment as one means of promoting development. Rather than opposing liberalisation of procurement markets per se, one could make the case for phased liberalisation starting with liberalisation within the region and then subsequently liberalising externally.

Finally, with regard to the increased pressure on land and water resources due to the predicted growth in agricultural output following the Agreement, it is unlikely that output will increase substantially

because most CA exports already have duty free access to the EU under the GSP+ for controversial products such as bio ethanol in Guatemala, which in any case must comply with EU sustainability criteria.

3. LEGAL ASSESSMENT

3.1 Comparison between the Agreement and the GSP +

For the most part CA has duty free access to the EU under the GSP+ scheme. The adoption of the Agreement will therefore simply provide a more secure legal basis for trade at a time when reform of the EU's GSP+ scheme could result in some CA countries graduating out of the scheme as middle income countries. As shown by Annex I Table 1, only a limited number of the CA exports to the EU currently face duties. For these products the Agreement offers an improvement in market access for bananas for Costa Rica; molasses and raw sugar for El Salvador; frozen shrimps, bananas and molasses for Honduras; frozen shrimps for Nicaragua; bananas and shrimps for Panama; and all of the aforementioned (except raw sugar) and rum for Guatemala.

The GSP + also offers conditional preferential access to the EU market for CA exports subject to the beneficiaries ratifying and be effectively implementing 27 international conventions relevant to sustainable development, including basic human rights conventions (agreements designed to uphold political and economic and social rights, combat torture and discrimination on grounds of race and gender, and protect women's and children's rights), labour rights conventions and certain conventions relating to environmental protection (e.g. conventions designed to combat trafficking in endangered species and to protect the ozone layer), as well as the various conventions relating to the fight against illegal drugs production and trafficking. Beneficiaries must provide comprehensive information on the legislation and other measures taken to effect implementation. Failure to comply can result in GSP+ concessions being suspended, as has happened with Sri Lanka.

The Agreement includes a section (Title VIII) on Trade and Sustainable Development which 'embodies a co-operative approach based on common values and interests, taking account of the differences in their level of development' (Article 284:3). But the scope of this Title is narrower and the enforcement mechanism arguably weaker than is the case with GSP+. The international conventions and agreements referred to in Title VIII are listed in Articles 286 (labour) and 287 (environmental). Article 287 includes the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, which is not included in the current GSP+. Table 3.1 lists the conventions included in the GSP+ to which there is no reference in Articles 286 and 287 of the Agreement. Items 1-7 of the table 3.1 could however, be interpreted as falling under the human rights clause in Art. 1 of the Agreement (see section 6 for discussion). Whilst Title VIII includes no reference to the 1992 UNFCCC, the Kyoto Protocol is included. So the difference between the Agreement and the GSP+ listed conventions is then the drugs trafficking and corrupt practices conventions only.

Table 3.1: GSP+ Conventions not mentioned in the FTA Title VIII

Core human and labour rights UN/ILO Conventions
1. Convention on the Prevention and Punishment of the Crime of Genocide (1948)
2. International Convention on the Elimination of All Forms of Racial Discrimination (1965)
3. International Covenant on Civil and Political Rights (1966)
4. International Covenant on Economic Social and Cultural Rights (1966)
5. Convention on the Elimination of All Forms of Discrimination Against Women (1979)
6. Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
7. Convention on the Rights of the Child (1989)
Conventions related to the environment and to governance principles
20. The United Nations Framework Convention on Climate Change (1992)
24. United Nations Single Convention on Narcotic Drugs (1961)
25. United Nations Convention on Psychotropic Substances (1971)
26. United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988)
27. United Nations Convention against Corruption (2004)

Another difference between the GSP and the Agreement is in enforcement. Whereas the GSP+ can be withdrawn in case of violation of these requirements, Title VIII is subject neither to the Agreement's normal dispute settlement procedures (that include provision for compensation or withdrawal of concessions) nor the mediation provisions of Article 284 (see chapter 6 for details). Instead, there is recourse to the general powers under Art.355 to 'adopt general or specific measures' to enforce the agreement or the provision for dialogue and consultations if one party considers another to be in breach of the sustainable development provisions. This can involve referral of the issue to a Group of Experts (Article 297) selected from a list of independent nominees put forward by the parties on entry into force of the agreement. Experts present their conclusions and recommendations and the party concerned must then respond and inform the Board on Trade and Sustainable Development created under Title VIII 'as regards its intentions ... including, where appropriate, by presenting an action plan', with the Board monitoring 'the implementation of the actions that the Party has determined' (Article 301).

3.2 Trade Remedies

The Agreement provides for a number of remedies including anti-dumping and countervailing duties. As with other EU FTAs, these reaffirm existing rights and obligations under the WTO agreements on Subsidies and Countervailing Duties Agreement and the Anti-dumping provisions of the GATT in Article VI. The Agreement also includes a public interest criterion (Art 94) and the use of the lesser duty rule (Art 95). The criteria used for determining dumping and causality of injury are as in the WTO/GATT provisions. The dispute settlement provisions of the Agreement do not apply to these trade remedies, meaning that the WTO dispute settlement would be used in a dispute as required.

The Agreement also provides for multilateral and bilateral safeguard measures. These are to be subject to judicial review in each of the parties (Art 99) and there is to be no parallel application of bilateral and multilateral safeguards actions. The multilateral safeguards are based on GATT Article XIX and Art 5 of the Agreement on Agriculture for the agricultural safeguard measures (Art 101). Bilateral safeguards (Art 104) may be taken for two years. The safeguard can take the form of a tariff up to the level of the

MFN rate or the base tariff before liberalisation under the Agreement began. The EU can take a safeguard action with regard to a single outermost region (i.e. The Canary Islands, or Martinique etc).

3.3 Dispute settlement clauses

The dispute settlement provisions for the agreement in Art 308 and following are similar to those in WTO and consistent with those in other EU FTAs. These dispute settlement procedures are to apply to all provisions in the Agreement unless otherwise stated. A number of chapters or headings are excluded, such as trade remedies, the competition provisions and the provisions on Geographic Indications. As is the normal practice in disputes there is an emphasis on finding mutually agreed solutions before resorting to the arbitration panel. Requests to establish a panel are made to the Association Council. The arbitration panel is to consist of 3 members drawn from a list of 36 suitably qualified experts. Each party appoints 12 experts and a further 12 non-national (of any party) experts are appointed by mutual agreement.

Time limits for the various stages or any dispute settlement procedure are set in much the same way as WTO dispute settlement. The panel is to seek a consensus, but if necessary a ruling of can be made by majority. There is no provision for dissenting opinions. Interpretation of the agreement is to take account of customary rules of international public law. Art 321 provides for amicus curiae submissions (in other words submissions by parties with an interest in the issues who are not necessarily parties). If the provisions concerned are the same as those in the WTO, WTO interpretations (of the WTO Appellate Body) are to be followed. A code of conduct for the panel is to be agreed by the Association Council.

An associated provision on dispute settlement concerns the establishment in Art 329 of a mediator mechanism for a range of potential barriers to trade. Mediation is intended to provide a speedy resolution of disputes to save the costly and lengthy process of challenging technical regulations or other barriers to trade through the form dispute settlement procedure. The mediation does not prejudice any future dispute settlement issue.

3.4 An assessment of the Agreement in the context of current EU FTA policy

The content of the trade chapter of the EU CA Association Agreement is consistent with the new generation of FTAs that have been negotiated or are being negotiated by the EU.

- more than 95% of tariff lines will be covered after the transition period. There is protection for sensitive EU agricultural sectors (more than in the Korea agreement because of the nature of trade with CA);
- rules of origin are based on the Pan-Euro system and provide for diagonal cumulation across the region;
- the TBT provisions seek to improve but are consistent with WTO provisions;
- the SPS rules are likewise based on existing EU policy established with the EU Chile FTA that reaffirm rights and obligations under the WTO SPS Agreement whilst providing WTO – plus procedural measures to promote effective implementation;
- there are GATS – plus commitments on services using a hybrid listing system;
- there are fairly extensive provisions on the protection of intellectual property including geographic indications. These are also consistent with the redoubled effort to ensure implementation of existing IP conventions since the Global Europe strategy of 2006;

- all the Singapore issues are included, which is again in line with the EU policy in FTAs. Procurement measures effectively extend the GPA rules to CA and entity coverage reaches beyond central government to sub-central government. On investment there are provisions on establishment, current payment and capital movement but no investment protection;
- finally, the institutional provisions covering the establishment of committees to ensure the effective implementation of the provisions is also compatible with the EU approach to new FTAs.

4. ECONOMICAL AND COMMERCIAL IMPACT

This section summarises the available secondary literature on the potential economic effects of the Agreement. It then analyses the liberalisation schedules of the agreement and their potential trade effects and compares these results to those of the SIA in order to ascertain the validity of some of the issues raised by NGOs.

4.1 Results of Sustainability Impact Assessment (SIA)

The SIA for the EU-Central America AA was undertaken in 2009 before the full details of the Agreement were known. In the SIA two scenarios were analysed (Ecorys, 2009). The first envisaged a comprehensive free trade agreement including: 90 % bilateral tariff reductions in the agriculture and manufacturing sectors; 25% reduction in trade costs to services trade,¹⁰ and trade facilitation provided of up to 1% of the value of trade. The second scenario was more comprehensive still with: 97% of bilateral tariff duty free; 75% reduction in trade costs to services trade; and trade facilitation up to 3% of the value of trade. Within both scenarios a distinction was made between short-run static and long-run dynamic effects. In the short-run scenario, it is assumed that capital stocks are fixed and not mobile across sectors; in the long-run scenario, capital stocks are linked to growth in investment. While the outcome in terms of the agreement could well match the optimistic scenario for tariffs, the likelihood of a 75% reduction in trade costs of services seems less likely. With services as with many non-tariff aspects of the Agreement, much will depend on implementation. On balance therefore something in between the first and second scenarios seems most likely.

The scenarios as defined were run including Panama, and then excluding it.¹¹ The modelling was undertaken using a general equilibrium approach, but some partial equilibrium modelling was also incorporated so as to assess the trade effects of the agreement on particular sectors of interest, such as bananas and sugar. However, it is important to note that in all cases the modelling assumed the completion of the Doha round of WTO trade negotiations. That is, the analysis employs a representation of a notional world economy in 2018, where many of the trade policy reforms that have taken place since 2004 are incorporated into the baseline data used. This includes post-Doha Development Agenda (DDA) tariff rates, the continuation (and reform) of the GSP+, and the Central American Free Trade Area.

4.2 Overall Results

The aggregate picture presented by the SIA is one in which Central America as a whole benefits more from the agreement than the EU. It is estimated that the Central American region (including Panama) could benefit by up to €2.6 billion. The national level gains posited range from €44 million (0.5% of national income) for Nicaragua - the smallest economy in the region - compared to almost €920 million (3.5% of national income) in the case of Costa Rica, the largest economy. In comparison, the EU is expected to gain €2.3 billion per annum (+0.0% of EU national income).

Table 4.1 summarises the macroeconomic changes expected as a result of the implementation of the agreement. As can be seen the largest percentage change in national income is estimated for Costa Rica, followed by Honduras and El Salvador, the largest economies in Central America. In most cases the

¹⁰ On services liberalisation, the approach taken was to reduce trade costs. The baseline data used assumes that a 25% reduction in barriers implies a 6.25% trade cost saving (as a share of traded service prices) while a 75% reduction implies trade cost savings equal to 18.75% of the cost of services delivered to the region by EU suppliers.

¹¹ Prior to the FTA, Panama had only observer status to the AA. The new agreement however, now encompasses Panama. As noted within the SIA for Central America, the EU made it clear that no separate EU-Panama FTA will be considered.

increases in wages posited as a result of the implementation of the agreement are positive and tend to be higher for skilled workers than for unskilled. The exception to this general rule however, is in the case of Panama where a negative change in wages for both skilled and unskilled workers is projected.

For all countries in Central America except Costa Rica, the increase in exports expected as a result of the implementation of the agreement is larger than the projected increase in imports. The projected increases in exports range from a low of 4.2% in the case of El Salvador to a high of 17.7% for Costa Rica, and 14.2% in the case of Panama. Although the anticipated increase in imports relative to exports is highest for Costa Rica where imports are expected to rise by 20.9%, compared to an increase of 17.% for exports, it is proportionately greatest for Panama, where imports are expected to increase by 10.9% compared to an increase of 14.2% for exports. Unfortunately the SIA does not report more disaggregated data at the sectoral level in terms of expected changes in output and exports, so in the subsections below we merely highlight the key points that are raised in the text regarding agricultural goods, industrial goods and services.

Table 4.1: Summary of Macroeconomic Changes

Scenario	Costa Rica	Nicaragua	Guatemala	El Salvador	Honduras	Panama	EU-27	LDC	ROW
Very comprehensive agreement, including Panama									
National income (% change)	3.5	0.5	0.6	1.6	2.2	1.3	0.0	0.0	0.0
National income (€million)	919	44	368	502	422	380	2286	82	411
Unskilled wages (% change)	3.2	0.9	0.7	0.0	0.0	-0.5	0.0	0.0	0.0
Skilled wages (% change)	2.8	0.6	0.2	0.0	0.0	-0.8	0.0	0.0	0.0
Total exports (% change)	17.7	3.4	4.6	4.2	8.2	14.2	0.1	0.0	0.0
Total imports (% change)	20.9	2.0	2.8	0.0	0.0	10.9	0.1	0.0	0.0
Very comprehensive agreement, excluding Panama									
National income (% change)	3.5	0.5	0.6	1.6	2.2	0.0	0.0	0.0	0.0
National income (€million)	925	47	347	503	423	-5.9	2018	29	671
Unskilled wages (% change)	3.2	0.9	0.7	0.0	0.0	0.0	0.0	0.0	0.0
Skilled wages (% change)	2.8	0.6	0.2	0.0	0.0	0.0	0.0	0.0	0.0
Total exports (% change)	17.8	3.6	4.8	4.3	8.4	-0.1	0.1	0.0	0.0
Total imports (% change)	21.1	2.1	2.8	0.0	0.0	-0.1	0.1	0.0	0.0

Source: Adapted from Ecorys (2009).

4.2.1 Agricultural Products

The greatest gains out of all sectors for Central American countries fall within the category of vegetables, fruits and nuts, with this sector projected to experience an increase of more than 10% on average; the effects are reported to be most pronounced for Panama and Costa Rica. With respect to the product group bananas, the partial equilibrium model estimates a decline in output for the EU of 2.0% in the comprehensive scenario and 2.1% in the very comprehensive scenario. It is assumed that most of the growth in the vegetables, fruits and nuts sector for Central America is accounted for by bananas, though this is not explicitly stated in the SIA. In the case of the EU, a very small decline in output is expected in the vegetables, fruits and nuts sector, whilst increases are projected for grains, other agriculture and other primary foods. Because the changes are negligible in the case of the EU, only very minor price effects are anticipated.

For sugar in the more limited scenario, Honduras, Costa Rica and El Salvador gain marginally in terms of expected production increases (just 0.1%). The EU faces a decline due to the negative effects on producer surplus and tariff revenue, while consumers benefit from lower sugar prices; most of the positive welfare effects for Costa Rica, El Salvador, Honduras and Guatemala stem from the positive effects on producers, rather than consumers.

For forestry only a limited impact on output is expected with subsequent effects on exports from all countries. Small increases in output for paper and pulp are expected in Guatemala, Nicaragua, El Salvador and Honduras. The overall economic impacts on the forestry sector are however, expected to be limited as a consequence of the relatively small size and importance of the sector and generally low value of trade flows.

4.2.2 Industrial Goods

Output of processed foods (including processed fish products), beverages and tobacco is expected to increase within the region, but this total increase masks some country differences with production and exports of this category of goods declining in Costa Rica and Panama and growing in Guatemala, Nicaragua, Honduras and El Salvador. The SIA envisages these increases and decreases in output having subsequent effects on the prices of land for the countries considered, in addition to employment – as higher wages attract more workers into the vegetables, fruits and nut sector.

Electronic equipment is a sector that is projected to grow for the region as a whole as a result of the implementation of the Agreement. However, as is the case in some of the agricultural sectors analysed, winners and losers are expected within the region; this includes Panama and Nicaragua which are likely to see declines in the level of their output, whilst El Salvador, Honduras and Costa Rica are likely to experience increases with a resultant decline in output from the EU's electronic equipment sector is expected.

Enhanced access for more competitive EU suppliers will affect output in transport equipment which is projected to decline across all countries in Central America, ranging from -25% in Panama to -1.8% for Nicaragua. Declines are also anticipated for the motor vehicles and parts sector, in addition to the output of other manufactured goods, across all Central American countries with the exception of Costa Rica. The total employment effects of these shifts are in the long run aggregate reductions in employment in the motor vehicles and parts of 0.5% and the transport equipment of 22.3% for Central America. At a more disaggregated level however, Costa Rica and Panama see employment gains in electronic equipment. For the EU, the employment effects, both in the long-run and short-run, are reported to be negligible.

4.2.3 Services

According to the projections of the SIA the Central American region is expected to experience an increase in the output of public services, whilst the output of insurance services is expected to decline as a result of the implementation of the agreement as more competitive EU suppliers gain market share. Prices for financial services and insurance services are expected to decline because of pressure from imported services from the EU, with subsequent effects on employment. Generally for most services sectors in Central America, both imports and exports are expected to increase (though mixed results are observed for Nicaragua) which as noted in the SIA, implies increased intra-sectoral trade in services.

4.3 Agreement on Trade in Goods

Based on what has actually been agreed this section provides some of the main highlights of the agreement in terms of where the Agreement goes beyond the market access already available to Central America under the EU's GSP+, and then compared to the MFN regime of Central America.

4.3.1 EU trade gains from tariff liberalisation in CA

Over 75% of current EU exports to Costa Rica and Honduras enter duty free, compared to just 28% in the case of Panama; the market in which the highest share of EU exports face very high duties (of up to 40%) is El Salvador (see Annex I Table 3). The key EU current exports to CA that will benefit from tariff reductions are listed in Annex table 4. This shows current imports from the EU (at each country's national tariff line (NTL) 8 or 10-digit level) which face the highest tariffs (and which also account for at least 0.5% of the country's total imports from the EU) are listed in Annex Table 4.

The main EU exporters to benefit will be motor vehicles in most CA countries but especially in Panama where applied tariffs are up to 40%, but there will be gains in other markets also where tariffs are typically 10-15% on automobiles. Ceramics products (tiles etc) appear to benefit from enhanced access and tariff reductions in a number of countries as do various processed foods and whisky. Cosmetics benefit from significantly lower tariffs in Nicaragua as do paper exporters. Chemicals, such as polymers also benefit from the elimination of relatively high tariffs.

Few of these products will be liberalised upon entry into force (EIF) of the agreement. Those that will include coffee extracts (imported by Guatemala), perfumes (Nicaragua), and boring machinery (Panama). Perfumes will be liberalised upon EIF in the case of Nicaragua; sinking and boring material will be liberalised upon EIF for Panama. In all other cases, tariff elimination is phased over 5 to 15 years. Products such as motor vehicles will be fully liberalised in year ten, as will paper boards some processed foods and other types of industrial goods such as ceramic products.

4.3.2 Central American trade gains from tariff liberalisation in EU

The value of EU imports from the individual Central American countries which are not currently duty-free as a share of total imports is highest for Nicaragua and Panama, and lowest for El Salvador, followed by Guatemala (Table 4.2). In absolute terms, Costa Rica followed by Panama has the most to gain.

Table 4.2: Summary of EU imports from Central America not currently duty free under GSP+

Country		Average 2008-10 (€mn)	Share of total
Costa Rica	Total imports	3,830.5	100.0%
	Total 63 non duty-free items	502.7	13.1%
	Of which total of items accounting for =>0.5% of total import value	482.8	12.6%
El Salvador	Total imports	211.8	100.0%
	Total 15 non duty-free items	4.4	2.1%
	Of which total of items accounting for =>0.5% of total import value	3.4	1.6%
Guatemala	Total imports	372.6	100.0%
	Total 45 non duty-free items	26.5	7.1%
	Of which total of items accounting for =>0.5% of total import value	24.6	6.6%
Honduras	Total imports	528.8	100.0%
	Total 26 non duty-free items	50.0	9.5%
	Of which total of items accounting for =>0.5% of total import value	48.8	9.2%
Nicaragua	Total imports	175.2	100.0%
	Total 16 non duty-free items	34.5	19.7%
	Of which total of items accounting for =>0.5% of total import value	32.8	18.7%
Panama	Total imports	669.7	100.0%
	Total 44 non duty-free items	128.9	19.2%
	Of which total of items accounting for =>0.5% of total import value	124.2	18.5%

Sources: Eurostat COMEXT database; UNCTAD TRAINS database; EC TARIC Consultation.

Annex I Table 2 identifies the treatment which will be accorded in the Agreement to all EU imports from each of the Central American countries at the CN eight digit level¹² and do not currently enter duty free. It is clear that all will benefit from improved access under the Agreement. Bananas (of particular

¹² And which comprise at least 0.5% of the total value of imports.

importance to Costa Rica, Guatemala, Honduras and Panama) will benefit from a reduction in duty; sugar (El Salvador) will be duty free within an enhanced regional quota, Panama gets its own exclusive sugar quota. Other improvements on the status quo include in the case of frozen shrimps (Guatemala, Honduras, Nicaragua and Panama), molasses (El Salvador, Guatemala, Honduras) and rum (Guatemala) which will all become duty free (shrimps and molasses on entry into force (EIF) of the agreement, rum in Year 3).

4.4 Agreement on Trade in Services

The major difference in market access between the status quo and upon EIF of the Agreement will in fact be in the services sector, since the GSP+ does not include services and CA commitments under the GATS Agreement were modest and more than 16 years ago. This section highlights the main aspects of the services provisions actually included in the Agreement.

4.4.1 Highlights of Services Liberalisation

The Agreement includes Title III on Establishment, Trade in Services and Electronic Commerce. Within this chapter it is clearly stated under the general provisions¹³ that nothing in the agreement shall be construed to require the privatization of public undertakings or public utilities services supply in the exercise of governmental authority. Consistent with the provisions of this Title, each Party retains the right to regulate and to introduce new regulations to meet legitimate national policy objectives in the services sector. Finally, that the chapter shall not apply to measures affecting natural persons seeking access to the employment market of a Party, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.

Table 4.3 summarises the definition and scope of services liberalisation in relation to the cross border supply of services (Mode 1 and 2) and establishment (Mode 3). In both cases, a positive list approach has been adopted in listing the sectors and related services to be liberalised. The general provisions in the accompanying chapter list the specific exceptions to which the general provisions of the chapter do not apply under the respective articles on sectoral coverage. In this sense, the overall negotiating modality adopted is a mixed or hybrid approach.

¹³ Article 159, Objective, Coverage and Scope.

Table 4.3 : Approach Towards: Cross-Border Supply of Services and Establishment

Scope	Cross Border Supply of Services (Modes 1 an2)	Establishment (Mode 3)
Definition	Supply of a service: (i) from the territory of a Party into the territory of the other Party (Mode 1); (ii) in the territory of a Party to the service consumer of the other Party (Mode 2); (b) "services" includes any service in any sector except services supplied in the exercise of governmental authority; a "service supplied in the exercise of governmental authority" means any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers; (c) "service supplier of a Party" means any natural or juridical person of a Party seeking to supply or supplies a service; and (d) "supply of a service" includes the production, distribution, marketing, sale and delivery of a service.	(i) the constitution, acquisition or maintenance of a juridical person; or (ii) the creation or maintenance of a branch or representative office, within the territory of a Party for the purpose of performing an economic activity.
Sectoral Coverage	Universal except audio-visual, national and inland waterway cabotage transport, national and international air transport services.	Universal except mining or manufacturing of nuclear materials, production or trade in arms and ammunition, audio-visual services, waterway cabotage transport, and national and international air transport services.
Negotiating Modality/method of listing	Hybrid/Mixed	Hybrid/Mixed
Most Favoured Nation	No general provision	No general provision. Article 167 states that nothing in the agreement shall be taken to limit the rights of investors of the Parties to benefit from any more favourable treatment provided for in any existing or future international investment agreement to which a Member State of the European Union and a Republic of the CA Party are Parties. Nothing in this

		Agreement shall be subject, directly or indirectly, to any investor-to-state dispute settlement procedures established in those agreements.
National Treatment	General provision, Article 171	General Provision, Article 165
Market Access	General provision with respect to commitments on cross-border supply of services listed, Article 170.	General provision with respect to specific commitments listed, Article 164.
Mutual Recognition Agreements	Yes	Yes
Dispute Settlement	Yes, unless covered by WTO	No

Establishment is defined as a branch of a judicial person, economic activity, branch or representative office, investor of a party or subsidiary of a judicial person of another party. With respect to Market Access, Article 164 states that each Party shall accord to establishments and investors of the other Party a treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in the specific commitments contained in Annex X under Lists of Commitments on Establishment. In those sectors where market access commitments have been undertaken, the measures which a Party shall NOT maintain or adopt either on the basis of a regional subdivision or on the basis of its entire territory, unless otherwise specified in Annex X, are defined as:

- (a) limitations on the number of establishments whether in the form of numerical quotas, monopolies, exclusive rights or the requirements of an economic needs test;
- (b) limitations on the total value of transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
- (c) limitations on the total number of operations or on the total quantity of output expressed in the terms of designated numerical units in the form of quotas or the requirement of an economic needs test;
- (d) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment; and
- (e) measures which restrict or require specific types of establishment (subsidiary, branch, representative office) or joint ventures through which an investor of the other Party may perform an economic activity.

Under Article 168, a commitment is made to review the investment (legal framework, environment and flow), no later than three years after the entry into force of the Agreement and at regular intervals thereafter. Investment protection, other than the treatment deriving from Article 165 on National Treatment, including investor-state dispute settlement procedures, is not covered by this Chapter. The negotiating mandate for the EU was drawn up before the adoption of the Lisbon treaty that extended EU exclusive competence to investment. Member state bilateral investment treaties currently provide for investment protection.

Table 4.4 shows that the CA commitments on the cross-border supply of services under the Agreement are far greater than those made under the GATS.

Table 4.4: Commitments on Cross-Border Services

Country	Commitments	Mode	Business services	Communication services	Construction and related engineering services	Distributional services	Educational services	Environmental services	Financial services	Health related and social services	Travel related services	Recreational, cultural and sporting services	Transport services	Other transport services	Energy services	Other	
Costa Rica	AA	Mode 1	X		X	X			X				X	X	X		
		Mode 2	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	GATS	Mode 1															
		Mode 2	X									X					
El Salvador	AA	Mode 1	X	X		X			X		X	X	X	X	X	X	
		Mode 2	X	X		X	X	X	X		X	X	X	X	X	X	X
	GATS	Mode 1	X	X													
		Mode 2	X	X								X					
Guatemala	AA	Mode 1	X	X	X	X	X		X	X	X	X	X	X	X		
		Mode 2	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	GATS	Mode 1	X	X					X				X				
		Mode 2		X					X		X						
Honduras	AA	Mode 1	X	X		X	X		X	X	X	X	X	X	X		
		Mode 2	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	GATS	Mode 1	X														
		Mode 2	X									X		X			
Nicaragua	AA	Mode 1	X	X		X			X		X	X	X		X		
		Mode 2	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	GATS	Mode 1	X	X									X				
		Mode 2	X	X								X		X			
Panama	AA	Mode 1	X	X		X	X		X		X	X	X	X	X		
		Mode 2	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	GATS	Mode 1	X	X		X	X	X	X								
		Mode 2	X	X	X	X	X	X	X			X					

Note: For the AA a cross designates a sector in which there are at least three sub-sectors with no restrictions in either Mode (i.e. no negative listing). For GATS a cross designates a sector positively listed under the respective mode, but other restrictions (negative listing) on national treatment or market access might still apply.

Source: Annex XI List of Commitments on Cross-Border Supply; GATS schedules.

In terms of mode 4 the agreement provides for the temporary movement of natural persons for business purposes under chapter four. This chapter applies to measures of the Parties concerning the

entry into and temporary stay in their territories of key personnel, graduate trainees, business services sellers, contractual services suppliers and independent professionals in accordance with the objective, scope and coverage of the services chapter. For every sector liberalised (i.e. included in the schedules) both parties agree to allow investors to employ in their establishment natural persons provided that such employees are key personnel or graduate trainees.¹⁴ Article 175 on business services sellers states that for every sector liberalised under chapters of establishment and cross-border supply, the EU will allow the temporary entry and stay of business sellers from Central American countries for a period of up to 90 days in any 12 month period. Likewise, Central American countries will allow the temporary entry and stay of business sellers of the EU Party for a period of up to 90 days in any 12 month period. Under Article 176, both parties reaffirm their respective commitments under GATS as regards the entry and temporary stay of contractual service suppliers and independent professionals.

4.4.2 Key exclusions

The hybrid listing of liberalisation means that liberalisation is limited and that sensitive sectors are excluded. The following are the main exceptions listed by the CA countries.

All CA countries have scheduled horizontal reservations related to the achievement of socioeconomic objectives including measures to protect socially or economically disadvantaged groups or indigenous peoples.

Other exclusions include:

- a general ‘prudential carve out’ in financial services, which is a feature of all services trade agreements provides for measures aimed at (a) protecting investors, depositors, financial market users, policy-holders or persons to whom a fiduciary duty is owed by a financial service supplier; (b) maintaining the safety, soundness, integrity or financial responsibility of financial services suppliers; and (c) ensuring the integrity and stability of a Party's financial system;
- Costa Rica excludes: the public monopoly for compulsory automobile insurance and occupational risk insurance until January 1, 2011. Private retail banks must maintain a permanent minimum loan balance with the state bank or alternatively establish at least four agencies or branches to provide basic banking services in selected regions;
- El Salvador: excludes rural land, which may not be owned by foreign [legal] persons, including a branch of a foreign legal person; has a 75% (Central American) nationality requirement for insurance companies and a 50% (Central American) ownership requirement for banks unless these financial institutions are approved by an internationally recognised risk classification entity;
- Guatemala: lists no reservations;
- Honduras: require foreign insurance institutions establishing in Honduras to deposit at least ten percent of the minimum capital of the proposed company in either the Banco Central de Honduras or invest the above amount in State securities. Foreign financial service suppliers must establish as corporations (sociedades anónimas), as branches, or as representative offices;
- Nicaragua: reserves the right to accord benefits to financial services suppliers or public entities (wholly or majority owned by the State) that pursue public policy objectives through the supply of financial services (including but not limited) to agriculture, housing for low income families or

¹⁴ The temporary entry and stay of key personnel and graduate trainees shall be for a period of up to three years for intra-corporate transfers, ninety days in any twelve month period for business visitors, and one year for graduate trainees.

small and medium size enterprises. It also reserves the right to adopt or maintain measures requiring the incorporation in Nicaragua of foreign financial services suppliers. Insurance and reinsurance requires legal personality constituted and domiciled in Nicaragua in the form of public corporations (sociedades anónimas).

- Panama: requires at least 49% national ownership for insurance brokers.

5. SECTOR SPECIFIC ANALYSIS

Chapter 4 has presented the broad picture in terms of market access commitments. This chapter looks at the rules also included in the Agreement. The impact of the Agreement will depend significantly on how rules on transparency, national treatment and other measures are applied to non-tariff, regulatory or behind the border measures. The impact of such measures depends especially on their application. How will parties exercise any discretion that the agreement grants them, are any barriers that will be removed critical to business or peripheral, how do the changes relate to the institutional structure of the markets in each the national markets? Although a high level review such as this cannot respond to all of these questions, the answers to which may be critical for specific businesses, it can set the scene by analysing the principal features of the new agreement.

5.1 National Treatment and market access for goods

National Treatment is relatively uncontroversial in relation to goods (unlike the situation for services) since it is the norm for WTO members. Accordingly, Article 85 of the Agreement confirms the parties' WTO obligations.

In relation to non-tariff measures (NTMs), all parties agree to:

- not adopt or maintain quotas (any prohibition or restriction on the importation of any good from another party or on the exportation or sale for export of any good destined for the territory of another party);
- not maintain or adopt any duties or taxes imposed on or in connection with the exportation of goods to the other Party.

There are few specific sectoral disciplines, but in the case of agricultural goods the parties are prohibited from maintaining, introducing or reintroducing export subsidies on agricultural goods covered by the agreement and its liberalisation schedule.

5.2 Customs and Trade Facilitation, Technical Barriers to Trade and Sanitary and Phytosanitary Measures

Chapter 3 covers customs related procedures and trade facilitation. This urges the parties to comply with agreed international codes such as the Kyoto Convention on customs procedures.

Chapter 4 deals with technical barriers to trade (TBT) and broadly follows the provisions of the TBT Agreement in the WTO in requiring national treatment for technical regulations and conformance assessment. There are provisions (Art 129 (b)) on the promotion of the development of regional technical regulations to replace national regulations to facilitate trade. Art 134 also envisages regulatory dialogues at both the horizontal and vertical levels between the EU and CA.

Chapter 5 covers sanitary and phytosanitary standards (SPS), which again confirm the parties' rights and obligations under the WTO SPS Agreement. In line with EU provisions in other FTAs there are detailed procedural and interpretive measures in Annexes VII and VIII. For TBT and SPS there are special and differential treatment articles that for example place an onus on the EU to assist the CA exporters to comply with EU regulations. Sub-Committees are established for Customs, TBT and SPS that will play a key role in the implementation of the agreement.

These chapters cover a range of useful, practical provisions to expedite trade but they are best viewed as a framework within which likeminded authorities can dialogue (with themselves and with business),

learn about new problems and take steps to deal with them if they are so minded. In the main, the commitments are not phrased in such specific and mandatory terms as to allow a dissatisfied party to seek redress through the Agreements dispute settlement mechanism if it believes that the other party has not lived up to its obligations. Indeed, in the case of SPS there are special provisions on dispute settlement (Article 157) that involve 'consultations' within the SPS Subcommittee, which can replace the normal dispute settlement provisions 'unless otherwise agreed by the Parties to the dispute'.

The main 'actionable' provisions relate to specific time limits for certain actions to take place but the parties retain discretion in many areas. Phrase like 'strengthen co-operation', 'enter into consultations', and 'give appropriate consideration' occur at many places. There is no special article on Animal Welfare and the promotion of 'co-operation on animal welfare between the Parties' is simply one of the subjects to be considered by the SPS Subcommittee (Article 156:2f).

5.3 Intellectual property rights and geographical indications

The provisions on intellectual property are covered in Title VI of the Agreement and further detail on the important, specific area of geographical indications (GIs) is provide in Annexes XVII and XVIII. The Agreement reaffirms the parties' commitments to the TRIPS agreement and the Convention on Biodiversity (CBD) and accords them both national treatment and most favoured nation (MFN) treatment. In other words, owners of intellectual property will be treated no less favourably than a country's own nationals or those of any other country. It also reaffirms the parties' commitments to relevant agreements on copyright (the Berne and Rome Conventions and the WIPO copyright and performances and phonograms treaties) and patents (the Budapest Treaty).

But there are few specific, enforceable commitments that go beyond these general disciplines. In the case of biodiversity, for example, the agreement does not go even as far as the requirement to 'co-operate'. Article 229:5 simply notes that 'the Parties recognize the importance of respecting, preserving and maintaining the indigenous and local communities' knowledge, innovations and practices...related to the preservation and the sustainable use of biological diversity.' On Trademarks, the Agreement commits both parties only to make 'all reasonable efforts' to adhere to the 1989 'Madrid Protocol' and to comply with the 1994 Geneva Trademark Law Treaty (Article 238).

The provisions on GIs are much more explicit and rigorous. All parties must support the GIs set out in the Annex and future agreed additions and refuse to register trademarks for supplies of the same or like product from another source. In terms of obligations, the commitments are symmetric. But, perhaps unsurprisingly, the list of goods on which the EU wishes to claim GIs is very much longer than that of Central American states. Because the task of agreeing the products has not been completed, the Agreement contains two Annexes. Annex XVIII will list the items on which geographical indicators have been agreed but, for the moment, it is blank. Annex XVII lists items still under review that must have been finalised by entry into force and the successful candidates transferred to Annex XVII. The Central American countries have between them listed 10 items in Annex XVII whilst the EU's list runs to over 6 pages. GIs are excluded from the Agreement's dispute settlement mechanism: the 'final decision' regarding 'the registration or protection of a geographical indication' shall be issued by 'a national or regional competent authority' under its own legislation (Article 250).

Other areas in which the Agreement may provide for more specific commitments than under existing international agreements are in respect of agreed time periods for copyright and patent protection and on the procedures for the enforcement of intellectual property rights that are spelled out in some detail (Chapter 3). As with the TRIPS Agreement, however, it will be for each party's courts to adjudicate on any alleged infringement of intellectual property. All that an inter-governmental agreement like the

Agreement can achieve is to establish the obligation of governments to ensure that the system for the administration of justice recognises intellectual property rights and that foreign rights holders have access to it as much as citizens. Many of the clauses simply require parties to ensure that the judicial bodies have the authority to take action, and in some cases it is merely stated that they 'may provide' such authority.

5.4 Competition, anti-competitive practices, state aid and subsidies

Competition issues are dealt with in Title VII. It requires each Central American state to have established competition laws and a competition authority within three years of entry into force (Article 279:3) and for a Central American regional authority and competition laws to be in place within seven years of entry into force (Article 279:2). Once such competition laws and institutions are in place the Title provides a framework for co-operation between the competition authorities in the parties in order to deal with anti-competitive practices that have a bearing on more than one of them. There is provision, for example, for the exchange of information (which may be important to allow the competition authorities in one country to compile a case) but no requirement that they do so (Article 281:1 and 281:3). There is also provision for one country to request assistance in enforcement by a partner 'though this co-operation shall not prevent the Parties from taking autonomous decisions (Article 281:1). The Title is excluded from the dispute settlement provisions of the Agreement (Article 283).

The Agreement does not prescribe the form of market organisation. It explicitly allows a party to maintain monopolies and state enterprises where this is in accordance with its domestic legislation (Article 280). Indeed, these bodies will be subject to competition law only as far as this 'does not obstruct the performance, in law or in fact, of the particular tasks assigned to them' (Article 280:2).

General (as opposed to selective) subsidies are explicitly allowed in Title X, which aims to ensure transparency in such cases (Article 344). Remedies in relation to such subsidies are restricted to those available to all WTO members and the Article is explicitly removed from the purview of the Agreement's dispute settlement provisions. There are restrictions, though, on agricultural export subsidies in Title II Section D. Parties can retain or impose export subsidies on some agricultural goods traded between them, but not those that are being substantially liberalised under the FTA. These are items which are fully liberalised on entry into force of the agreement or will be fully liberalised after an implementation period but benefit immediately from a duty free quota; or (in the case of HS codes 0402 and 0406 covering some dairy product) will only be partially liberalised under the Agreement but are covered by a duty free quota; or other items that are fully liberalised following the date of the liberalisation (Article 89).

5.5 Transparency issues

Questions of transparency are covered in Title XII and also in parts of Titles II, III and V. Like most of the other Titles reviewed in this chapter, the Title XII lays down a framework within which willing governments can ensure certain minimum standards and, if agreeable, advance these over time. It establishes the basic requirements for the provision of trade-related information (such as the requirement, for example, that each party publishes promptly information that is relevant to the Agreements provisions). Each party must also have in place a forum in which appeals may be made against allegedly untransparent behaviour (Article 342).

The Title also calls for co-operation to increase transparency but does not mandate any changes in this direction. But it also includes phraseology that could allow an unwilling government to keep certain matters untransparent. Article 339 excludes from its purview confidential information defined in various

ways including cases where a government deems that publication would 'be contrary to the public interest'.

There are several references to transparency in respect of specific areas of action covered by Title II on Trade in goods, Title III on Establishment, Trade in Services, and Title V on Government Procurement. Article 93, for example, specifies that anti-dumping and countervailing duty actions should be transparent and in accordance with WTO rules and there are similar requirements in Article 102 on multilateral safeguard measures. But, once again, these requirements are mainly excluded from the dispute settlement mechanism. The information requirements are more specific and enforceable in relation to bilateral safeguards covered in Trade Remedies Section B4 (and described in Chapter 4).

5.6 Public procurement

Government procurement is covered by Title V and Annex XVI of the Agreement. The main text sets out the general principles and procedures which are compatible with the WTO's Government Purchasing Agreement (GPA). The Annex establishes the procurement entities covered and the thresholds for the value of contracts above which the provisions apply, which are also in line with the GPA thresholds. The Annex also establishes key features of the process for awarding procurement contracts: where tenders are to be published, documentary requirements, contract awards and time periods.

In broad terms, the agreement opens up a broad swathe of public procurement to companies from any of the Agreement states which will be treated in the same way as national firms. These liberalisation commitments cover central and some sub-central government and other entities. Generally speaking the coverage is GPA minus for the EU in that sub-central government is not included in any systematic fashion as it is in the EU's schedules for the GPA. This no-doubt reflects a desire to have some degree of reciprocity, although the scale of the EU central government procurement market is of course far in excess of that offered by the CA partners. To an extent, these differences simply reflect a different organisation of public spending bodies. But given that these differences also apply at each level of commitment, including utilities and transport organisations, detailed analysis in each of the EU member states as well as in the Central American parties is needed to determine the share of public expenditure that will be covered by open procurement.

5.7 Rules of origin

The rules of origin (RoO) are the critical 'small print' that determine how far the tariff cuts set out in Title III actually translate into greater export opportunities. They have the important function of preventing trade deflection, whereby a supplier in a country that is not a party to the Agreement routes their goods with minimal processing through the territory of a party in order to take advantage of the tariff concessions. The RoO aim to ensure that a good is actually 'produced' within a party by setting out that a certain process must be undertaken domestically, or that a certain value is added to any imported inputs, or that the exported item is clearly distinct from any inputs imported from a non-signatory. But setting the rules at a level that is sufficient to rule out trade deflection but does not also exclude legitimate trade is fraught with difficulty, particularly as globalisation has altered very substantially the way in which goods are produced so that many final products are now assemblies of components produced in widely varying locations.

For this reason it is not possible to provide an across-the-board view of whether the RoO in the Agreement (or any other trade regime) are 'good' or 'bad'. The RoO (set out in Annex II of the Agreement) must be examined on a product by product basis – and compared both to what is in other

trade agreements affecting the parties and, ideally, to an objective assessment of what is considered to be commercially viable practice in cases where trade deflection is not an issue (Stevens, 2006).

With this caveat it is possible to make some general points. The RoO in the Agreement and in GSP+ for the goods identified in Chapter 4 is of particular relevance. The main Central American merchandise export gains identified in Chapter 4 are bananas, sugar and shrimp. All three of these, being unprocessed primary commodities, are subject in both the GSP and the Agreement to the rule that they must have been 'wholly obtained' to acquire originating status.

The RoO in the Agreement broadly follow the format of the EU's 'traditional rules' rather than the format foreseen for future GSP rules as set out in the EU's 2010 reform of these rules (European Commission 2010b). But in item by item negotiations some simplification appears to have been agreed. One change in the GSP rules is to move towards the use of value added as the normal criterion for establishing whether an exporter has undertaken 'sufficient processing'. The Agreement follows the previous rules in the GSP (and in the EPAs) that apply a mix of criteria – some relating to the tariff code of inputs, some to the processes that must be undertaken, and some to the share of value that must be added. Another change to the GSP rules is to shift responsibility for applying and monitoring the system from the Customs Dept of the exporting countries to the private sector exporting firms through a system of approved exporters (although obligatory implementation of this change is deferred to 2017). The Agreement recognises that whilst such a list of approved exporters can be compiled (Article 20) the role of the customs authorities and the EUR 1 certificate is also retained.

A second general point concerns what is known as 'cumulation'. This allows imported inputs produced in a country with which there is cumulation to and thus count towards meeting any RoO threshold as if they were produced in the exporting state. Under the GSP all the Andean and Central American states can cumulate with each other as well as the EU. This diagonal cumulation has been carried into the Agreement (Annex II Article 3:3) subject to certain restrictions, despite the fact that at present only Peru and Colombia among the Andean states have signed a multi-party agreement. There is also provision for the extension of cumulation to other Latin American states with which the EU has concluded AAs, such as Chile and Mexico (Article 3:7).

5.8 Institutional provisions

An Association Council is established to oversee the functioning of the Association Agreement as a whole and there are specialist sub-committees dealing with functional aspects of the trade agreement. An Association Parliamentary Committee is established to oversee the cooperation between the European Parliament and the Central American Parliament. In the field of sustainable development there are also two bodies established; The Joint Consultative Committee and the Board of Trade and Sustainable Development to oversee and monitor the application of this section of the Agreement.

Title XI establishes a non-binding mediation mechanism for most NTMs in addition to the dispute settlement mechanism that covers many, but not all, of the chapters of the Agreement (described in full in Chapter 3). This mechanism offers the interested parties a more rapid remedy to trade barriers than the formal dispute settlement provisions for problems that arise under any aspect of Part IV of the Agreement that relates to trade. Some areas of the agreement, though, are explicitly excluded from this mechanism such as: trade and sustainable development (Title VIII), regional economic integration (Title IX), and integration processes in either the EU or Central America.

6. SOCIAL PROVISIONS - HUMAN RIGHTS AND SUSTAINABLE DEVELOPMENT

6.1 Introduction

The EU-Central America Association Agreement (AA) is ambitious, with significant political and social dimensions. The Agreement creates a framework for political dialogue (Part II), it foresees financial and technical cooperation on social issues (Part III), and it establishes enforceable human rights obligations (Part I and Part V) as well as labour and environmental standards (Part IV, Title VIII and Part V).

These social provisions are for the most part independent of the economic aspects of the agreement. However, as noted in the sustainability impact assessment conducted for the European Commission,¹⁵ the implementation of the agreement may have impacts on human rights, as well as labour and environmental standards, particularly in the Central American countries. Accordingly, this chapter examines both the general application of these social provisions and their specific role in relation to any negative social impacts that may result from the implementation of the Agreement.

6.2 Mechanisms for voluntary action: dialogue and cooperation

The Agreement contains a set of mechanisms which are available to the parties for dialogue and cooperation on a voluntary basis on social issues. To begin with, it aims to 'develop a privileged political partnership based on values, principles and common objectives, in particular the respect for and the promotion of democracy and human rights, sustainable development, good governance and the rule of law' (Article 2(b)). To this end, Part II of the Agreement establishes a permanent political dialogue on areas of mutual interest to the parties.¹⁶ As noted in its preamble, in this respect the Agreement seeks to build upon the still to be ratified 2003 EU-Central America Political Dialogue and Cooperation Agreement and the earlier 1993 Framework Cooperation Agreement.

Alongside political and social dialogue, Part III envisages cooperation in various areas. Title I elaborates on cooperation in relation to democracy, human rights and good governance, Title II on cooperation on data protection, illicit drugs, money laundering, including the financing of terrorism, organized crime and citizen security, corruption, traffic in small arms and light weapons and terrorism, Title III on social development and social cohesion, and Title VI on trade and sustainable development. Cooperation is also envisaged on migration, environment, natural disasters and climate change, regional integration, culture and audiovisual services, and the knowledge society. It is to be expected that financial and technical assistance will be provided under the relevant EU instruments for this purpose.

¹⁵ Ecorys et al, *Trade Sustainability Impact Assessment of the Association Agreement to be negotiated between the EU and Central America*, 18 September 2009 ('SIA'). The following draws on this SIA, but there is a vast literature, predominantly from non-governmental organizations, detailing the potentially negative impacts of the agreement on human rights and labour and environmental standards. A useful summary of the main concerns is in ALOP, APRODEV, ODHACO, CIVCA and GRUPO SUR, *EU Trade Agreements with Central America, Colombia and Peru: Roadblocks for Sustainable Development – Briefing for MEPs* (July, 2011), at <http://www.oidhaco.org/uploaded/content/category/888766297.pdf>.

¹⁶ Specific mention is made of human rights, democracy, the rule of law, indigenous peoples, as well as migration; poverty reduction and social cohesion; core labour standards; the protection of the environment and the sustainable management of natural resources; regional security and stability, including the fight against citizens' insecurity; corruption; drugs; trans-national organised crime; the trafficking of small arms and light weapons as well as their ammunition; the fight against terrorism; the prevention and peaceful resolution of conflicts' (Article 13(2)) and Part II passim).

6.3 Human rights and democratic principles and obligations

The Agreement contains a human rights clause, of a standard type.¹⁷ Article 1(1) states that:

Respect for democratic principles and fundamental human rights, as laid down in the Universal Declaration of Human Rights, and for the principle of the rule of law, underpins the internal and international policies of both Parties and constitutes an essential element of this Agreement.

These are positive obligations. Article 355(1) states that '[t]he Parties shall adopt any general or specific measures required for them to fulfil their obligations under this Agreement ...'. It is not therefore sufficient that the parties do not themselves act in a manner that violates democratic principles and human rights; they must ensure that these are respected within their jurisdiction.¹⁸

6.3.1 Monitoring

There is no specific mechanism for monitoring the implementation of the human rights clause, nor a subcommittee dedicated to human rights and democracy issues. Such a subcommittee might later be established, as they have been under certain other EU trade agreements.¹⁹ The omission of a dedicated subcommittee on human rights and democratic principles contrasts unfavourably with the market access subcommittees that have been created by the Agreement (cf Annex XXI). At the moment, it appears that human rights and democracy issues are to be discussed within the organs established by the Agreement, such as the Association Council, the Association Parliamentary Committee, which has recommendatory powers, and the Joint Consultative Committee, representing civil society and drawn from the European Economic and Social Committee (EESC) and pre-existing Central American consultative committees,²⁰ which has a consultative role. The agreement also envisages that the parties will 'promote meetings of representatives of the European Union's and of Central America's civil societies' (Article 11). It is also possible that human rights and democracy issues will be raised in the context of the organs established under the sustainable development title (discussed below).

6.3.2 Enforcement

The great strength of the human rights clause lies in the fact that it is so robustly enforceable (Article 355). A violation of the human right clause ipso facto constitutes a 'material breach' which in turn is deemed to be a 'case of special urgency' entitling the other party to adopt 'appropriate measures'. These measures are undefined, but they certainly extend to the suspension of any measures or action adopted under the Agreement, as well as the suspension of any obligations set out in the Agreement. There are some generic restrictions. The measures chosen must be taken in accordance with international law (i.e. proportional), and must be the least disruptive to the implementation of the agreement. It is also agreed that 'suspension would be a measure of last resort'. Finally, the enforcement of the human rights clause is not subject to and consultation or dispute settlement preconditions. It can be enforced unilaterally, without either the alleged violation or the adequacy of the enforcement being subject to external scrutiny. It is worth noting in this respect that the clause is bilateral.

¹⁷ Lorand Bartels, *Application of Human Rights Conditionality in the EU's Bilateral Trade Agreements and Other Trade Agreements with Third Countries* (Committee on International Trade, European Parliament, Dec 2008) EXPO/B/INTA/2008/57.

¹⁸ Lorand Bartels, *Human Rights Conditionality in the EU's International Agreements* (Oxford: OUP, 2005), 147-149.

¹⁹ The first of these was established in the EU-Morocco Association Agreement, by Association Council Decision No 1/2003 [2003] OJ L79/14, Annex 1.

²⁰ The Comité Consultivo de Integración Económica (CCIE) and Comité Consultivo del Sistema de la Integración Centroamericana (CC-SICA).

6.3.3 Application

The Central American region is not without human rights and democracy challenges, including some that could be relevant under the human rights clause in this agreement.²¹ To take one particularly relevant example, on 9 August 2011 the United States Trade Representative requested the first ever dispute settlement panel under the US- DR-CAFTA in response to violations by Guatemala of core labour rights, namely, the right of association, the right to organize and bargain collectively, and acceptable conditions of work.²² There is no reason why such violations could not trigger the application of the human rights clause in the EU Agreement. The same could be said of violations of indigenous rights, and certain environmental rights, both of which can be classed as human rights.

6.4 Sustainable development

A separate set of provisions on labour and environmental standards is contained in Title XIII of Part IV, entitled 'Trade and Sustainable Development'. There are several specific provisions on cooperation, particularly in areas in which trade liberalization and foreign investment can be positive for sustainability. The Agreement specifically mentions fair and ethical trade schemes, organic production, corporate social responsibility, and eco-tourism (Article 288). The parties also agree to develop and implement, as appropriate, specific standards and obligations in relation to trade in forestry and fish products (Articles 289 and 290).

The Agreement also contains general obligations based on international labour and environmental norms. The parties affirm their commitments to the ILO core labour principles (Article 286(1))²³ and they undertake to 'effectively implement' the fundamental ILO Conventions referred to the ILO Declaration of Fundamental Principles and Rights at Work of 1998 (Article 286(2))²⁴ as well as a certain multilateral environmental agreements (Article 287(2)).²⁵ Above this baseline, the parties undertake not to lower their levels of protection to encourage trade or investment, or to fail to effectively enforce their labour and environmental legislation in a manner affecting trade or investment between the parties (Article 291). They will 'strive to ensure' that their laws and policies provide for and encourage appropriate but

²¹ Detailed analyses of the region are found in the US Department of Labor Rights Reports and Laws Governing Exploitative Child Labor Report, at <http://www.dol.gov/ilab/media/reports/usfta/main.htm>.

²² Letter from Ambassador Ron Kirk to Guatemala requesting an Arbitral Panel, 9 August 2011, available at <http://www.ustr.gov/trade-topics/labor/bilateral-and-regional-trade-agreements/guatemala-submission-under-cafta-dr>. For background see 'United States Seeks Arbitration with Guatemalan Government over CAFTA Labor Violations', 12 August 2011, at <http://usleap.org/united-states-seeks-arbitration-guatemalan-government-over-cafta-labor-violations>.

²³ These are (a) the freedom of association and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labour; (c) the effective abolition of child labour; and (d) the elimination of discrimination in respect of employment and occupation.

²⁴ These are (a) Convention 138 concerning Minimum Age for Admission to Employment; (b) Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour; (c) Convention 105 concerning the Abolition of Forced Labour; (d) Convention 29 concerning Forced or Compulsory Labour; (e) Convention 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; (f) Convention 111 concerning Discrimination in Respect of Employment and Occupation; (g) Convention 87 concerning Freedom of Association and Protection of the Right to Organise; and (h) Convention 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively.

²⁵ These are (a) Montreal Protocol on Substances that Deplete the Ozone Layer; (b) Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal; (c) Stockholm Convention on Persistent Organic Pollutants; (d) Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); (e) Convention on Biological Diversity; (f) Cartagena Protocol on Biosafety to the Convention on Biological Diversity; and (g) Kyoto Protocol to the United Nations Framework Convention on Climate Change. Article 287(3) and (4) provide that the Amendment to Article XXI of CITES must be ratified, and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade must be ratified and implemented.

high levels of environmental and labour protection and will 'strive to improve' these laws and policies (Article 285). For labour standards, though not for environmental standards, there is also a clause preventing abuse: 'labour standards should never be invoked or otherwise used for protectionist trade purposes and ... the comparative advantage of any Party should not be questioned' (Article 286(4)).

These obligations are similar to those found in other free trade agreements, but there are certain omissions. In particular, contrary to the European Parliament's position, the Agreement contains only the most limited references to corporate social responsibility (as areas for cooperation).²⁶ Nor does it make any reference to ILO Convention No 169 on indigenous and tribal rights,²⁷ as specifically recommended by the sustainability impact assessment (SIA, p91).

6.4.1 Monitoring

These sustainable development obligations are monitored and enforced by a dedicated mechanism. The implementation of the agreement is monitored by a joint Trade and Sustainable Development Board (Article 294). Civil society is also involved, both through national Advisory Groups (Article 294), and in a bi-regional Civil Society Dialogue Forum (Article 295). As mentioned above, it is conceivable that these organs might discuss issues relating to human rights and democratic principles. The Trade and Sustainable Development Board has an overall responsibility for resolving disputes arising under the sustainable development obligations. In cases involving the general obligations, though apparently not the specific obligations on fisheries and forestry products (Article 299(3)), an unresolved dispute may be referred to a Panel of Experts. A Panel has the power to examine whether there has been a failure to comply with the relevant obligations, and to make non-binding recommendations for the solution of the matter (Article 299). A report is published, and the relevant party must respond with an appropriate action plan, the implementation of which is then monitored by the Trade and Sustainable Development Board (Article 301). There are no specific remedies for non-compliance,²⁸ There is also no mechanism for triggering an investigation or a dispute by way of individual petition, as is common in US free trade agreements including CAFTA-DR. This differs from the GSP+ scheme under which preferences can be unilaterally withdrawn, but is consistent with the other EU FTAs and with trade agreements in general. It is also consistent with the international debate on trade and labour and environmental standards, both within the EU and internationally, which has come down against a 'social clause' or trade sanctions for non-compliance with labour standards in particular.

6.4.2 Application

As indicated above, there is a substantial overlap between the human rights clause and the sustainable development title. Core labour standards and certain environmental rights, all fall under the human rights clause, and are enforceable by 'appropriate measures' while at the same time falling under the sustainable development title. The result is that for these issues it is essentially immaterial that the

²⁶ European Parliament resolution of 25 November 2010 on corporate social responsibility in international trade agreements ([2009/2201\(INI\)](#)), paras 7-8.

²⁷ This convention has not been ratified by El Salvador or Panama, or by any EU Member State except for Denmark, the Netherlands and Spain, but this does not preclude its obligations from being incorporated into this agreement by reference. The European Parliament has referred to the Convention, for example, in the preamble of its European Parliament resolution of 7 July 2011 on EU external policies in favour of democratisation ([2011/2032\(INI\)](#)).

²⁸ The Canadian free trade agreements now regularly provide for the possibility of fines of up to USD 15 million annually, to be paid into a cooperation fund to address the issue of non-compliance. See eg Annex 3 of the Canada-Panama Labour Cooperation Agreement and (with more limited jurisdiction), Chapters 16 (Labor), 17 (Environment) and 20 (Dispute Settlement) of the US-CAFTA/DR free trade agreement. Article 20.17 provides for a maximum of \$15m annually for violations of the relevant labour and environmental obligations.

obligations set out in the sustainable development title are essentially unenforceable. On the other hand, the weakness of enforcement makes a difference in the case of social issues that do not rise to the level of human rights violations. These include general environmental issues, as well as certain non-core labour issues, and other social impacts.

6.5 Implications for the EU

The EU has an obligation, in the development and implementation of its external action, to respect human rights and foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty (Article 21(2) and (3) TEU and Article 207 TFEU). It emerges clearly from the foregoing that, regardless of the aggregate benefits of the agreement, there may be certain cases in which the Agreement has negative effects contrary to these principles. These effects should be targeted with appropriate cooperation and flanking measures. It is however necessary to ensure that this is done. The primary responsibility for such measures rests with the EU's trading partner. But the EU remains responsible for contributing to such effects. The EU also has a responsibility to ensure that the provisions of the Agreement are enforced. In this respect, there are no difficulties in connection with the human rights clause. However, the weakness of the enforcement mechanisms in relation to non-human rights labour and environmental standards means that all the EU bodies involved must make a concerted effort to ensure that the EU lives up to its own legal responsibilities with respect to human rights and poverty, and the protection of labour and environmental standards in third countries.

7. CONCLUSIONS AND RECOMMENDATIONS

The Trade Chapter of the EU Central America Association Agreement (the Agreement) is consistent with recent EU FTA policy.

- The Agreement is one of the few cases in which the EU has successfully negotiated a comprehensive region-to-region Agreement.
- The Agreement can therefore be expected to promote regional integration in Central America. It should be recognised however, that the successful conclusion of the region-to-region agreement probably owes as much to the dynamic integration process already underway in Central America, rather than negotiations with the EU being the catalyst for CA integration.
- Coverage is comprehensive; it satisfies the EU aim of negotiating agreements that are consistent with the current WTO interpretation of rules on FTAs, such as covering substantially all trade. The substantive provisions on non-tariff and regulatory barriers to trade are WTO consistent and procedural measures in these fields promise more effective application of WTO norms in EU – CA trade and investment relations.
- The Agreement will ensure that the EU retains at least equivalent access to the CACM as its main competitors in the region (i.e. the USA through the US –DR CAFTA).
- The Agreement also provides a building bloc for wider EU trade and investment relations with Central and Latin America.

There are real if modest economic benefits to be had from the Agreement.

- There are welfare gains for Central America from the Agreement. But these are not evenly spread across the region.
- CA is also projected to have real trade gains in the form of increased exports to the EU that will further enhance its trade surplus with the EU.
- EU trade gains will be in the traditional EU export sectors of machinery (including automobiles) and especially services, where the most potential gains are to be had.
- With regard to services there are some horizontal and sector specific exceptions that limit EU access to the CACM market, in sectors such as real estate and some limitations on access to financial services. However, CA commitments are significantly GATS plus and thus represent important progress in services markets liberalisation.

The European Parliament should therefore ratify the Agreement without delay in order to ensure that the welfare and trade gains can be realised, and the EU exporters can benefit from first mover advantages that open up as a result of the Agreement.

The Agreement offers comprehensive coverage of non-tariff and regulatory barriers.

- The Agreement's provisions covering technical barriers to trade, sanitary and phytosanitary measures, customs cooperation, competition and public procurement provide a basis for addressing non-tariff and regulatory barriers to trade in goods. But the Agreement is itself just the start. The follow up in terms of implementation will determine the effectiveness of such provisions. In this regard the Agreement includes a number of specialist sub-committees.

The Parliament should monitor the work of the various specialist sub-committees on market access to ensure that they are effective.

A positive human rights clause in the Agreement provides sufficient means to enforce the human rights clauses in the Agreement, but the question is whether the powers in the Agreement will be used?

- A positive human rights clause in the Agreement means that parties must ensure human rights are respected within their jurisdiction, it is not enough to avoid abuse of human rights by the states.
- There are powers to withdraw benefits under the Agreement in cases of non-compliance, but there is no committee or body dedicated to monitor compliance.
- It is possible that other bodies such as the Association Committee, the Association Parliamentary Committee or other bodies monitoring compliance in the field of sustainable development could be used to monitor human rights. But this remains to be seen.

The European Parliament should review the question of monitoring compliance with human rights once the Agreement is implemented and if not satisfied press for the establishment of committee dedicated to this task.

The provisions on sustainable development that have been included in the Agreement are consistent with the norm in trade agreements.

- Sustainable development provisions in the Agreement maintain the momentum towards a greater recognition of the goals of sustainable development in FTAs.
- The provisions include the ILO Declaration of Fundamental Principles and Rights at Work and many environmental conventions and protocols.
- As with the human rights clause the key issue is of course how to monitor and ensure compliance.
- There is adequate provision for monitoring the sustainable development provisions in the form of the Trade and Sustainable Development Board and a Joint Consultative Committee that can include non-governmental organisations (NGOs) as well as the Association Parliamentary Committee.
- Enforcement of the sustainable development provisions is however through peer pressure. The Agreement includes the use of a Group of Experts to enhance peer pressure but it stops short of a 'social clause' i.e. scope to use trade sanctions in the case of non-compliance. The overlap between sustainable development and human rights does however offer the ability to use the powers in Art 355 to suspend benefits under the Agreement.

The European Parliament should ensure that compliance with the sustainable development provisions of the Agreement is monitored and that peer pressure is effective in cases of non-compliance.

Bibliography

ALOP, APRODEV, CIFCA and Grupo Sur. A European Union - Central America association agreement oriented towards human development is possible. Position paper. October 2006.

http://www.aprodev.eu/files/Central_America/200610_Position_AdA_CS0_networks_EU.pdf

ALOP, APRODEV, CIFCA, Friends of the Earth Europe, Grupo Sur and 11.11.11 (January 2007) Recommendations on the negotiation directives of the EU for negotiations of an Association Agreement with Central America. Letter to the EU.

http://www.aprodev.eu/files/Central_America/200701_cso_letter_eu-ca_negotiation_directives.pdf

APRODEV (2006) A Manifesto from European, Central American and Andean Civil Society organizations on the Future Negotiations of the Association Agreements:

http://www.aprodev.eu/files/Central_America/2006_CS0_manifesto_for_fair_agreements.pdf

APRODEV (2007) Concerns at the start of negotiations on an Association Agreement between EU and Central America. Letter to the European Commission. ALOP, APRODEV, CIFCA, Friends of the Earth, Grupo Sur and Oxfam Internacional. October 2007:

http://www.aprodev.eu/files/Central_America/200710_Letter_I_round_EU_networks.pdf

Balbis Jorge, ¿Algo más que un TLC? El Acuerdo de Asociación Centroamérica-Unión Europea, revista Nueva Sociedad No. 209.

Bartels, L Application of Human Rights Conditionality in the EU's Bilateral Trade Agreements and Other Trade Agreements with Third Countries (Committee on International Trade, European Parliament, Dec 2008) EXPO/B/INTA/2008/57.

Ecorys (2009) Trade Sustainability Impact Assessment: EU-Andean Countries, available at:

<http://www.tsia.ecorys.com/images/Centralamerica/documents/ac18985%20final%20report.pdf>

European Commission (2006) Global Europe: competing in the world European Commission.

European Commission (2010a) Trade, Growth and World Affairs: Trade Policy as a Core Component of the EU's 2020 Strategy, COM (2010) 612

European Commission (2010b): European Commission, 'Commission Regulation (EU) No 1063/2010 concerning the GSP rules of origin (+ impact assessment)', regulation regarding the adoption of reform of the rules of origin for the UE GSP, 18 November 2010, available at: http://www.acp-eu-trade.org/library/library_detail.php?library_detail_id=5496&doc_language=Both

European Commission, TARIC Consultation, available at:

http://ec.europa.eu/taxation_customs/dds2/taric/taric_consultation.jsp?Lang=en&Screen=0&redirectio nDate=20101026

European Commission, Directorate General for Trade (2011), Bilateral Relations Statistics, available at

<http://ec.europa.eu/trade/creating-opportunities/bilateral-relations/statistics>

Eurostat COMEXT (commerce extérieur) database, available at

<http://epp.eurostat.ec.europa.eu/newxtweb/mainxtnet.do>

FIDH, EU Association Agreement with Central American Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, <http://www.fidh.org/EU-Association-Agreement-with-Central-American,5261>

Gruposur (2010) The EU is the Big Cheese. EU Trade Agreements with Latin America, available at:

http://www.gruposur.eu.org/IMG/pdf/ENG- la_mala_leche_def .pdf

Gruposur (2011) EU Trade Agreements with Central America, Colombia and Peru: Roadblocks for Sustainable Development, available at:

<http://www.oidhaco.org/uploaded/content/category/888766297.pdf>

ITC (International Trade Centre) Trade Map (<http://www.trademap.org/>).

Stevens, C. (2006) 'Creating development friendly Rules of Origin', ODI Briefing Papers 12, London, November, available at: <http://www.odi.org.uk/resources/details.asp?id=83&title=creating-development-friendly-rules-origin>

[Tegucigalpa Declaration](#) (2007); International Popular Forum Central America-European Union "Trade with justice and equity is possible" (Spanish). ASC, ALOP, Iniciativa CID, CAD, Grupo Sur, APRODEV, CIFCA, CAD, Oxfam Internacional, Vía Campesina Centroamérica, CHAAC, Bloque Popular and CODECOH. March 2007.

http://www.aprodev.eu/files/Central_America/200703_declaraciontegucigalpa_ca_ue.jpg

UNCTAD TRAINS (Trade Analysis and Information System) database, available via the World Bank's

WITS (World Integrated Trade Solution) site (<http://wits.worldbank.org/WITS/>).

Annex I

Table 1: EU27: main imports from Central America, average 2008–10

Country/ CN8	Description	Average 2008-10 (€ mn)	Share	GSP+	Liberalisation
Costa Rica					
84733020	electronic assemblies of automatic data-processing machines or for other machines of heading 8471, n.e.s.	2,347.4	61.3%	0	Duty free on EIF
08030019	bananas, fresh (excl. plantains)	482.8	12.6%	143 €/1000 kg/net	Reduction in annual stages to reach 75€/1000kg on 1 Jan. 2020. If a 'trigger volume' (which increases each year) is exceeded during any year before then, the EU may suspend the pref. for up to 3 mths during that calendar year and charge MFN rate. Review in 2019.
08043000	fresh or dried pineapples	420.5	11.0%	0	Duty free on EIF
09011100	coffee (excl. roasted and decaffeinated)	53.0	1.4%	0	Duty free on EIF
06049190	foliage, branches and other parts of plants, without flowers or flower buds, grasses, fresh, for bouquets or ornamental	49.9	1.3%	0	Duty free on EIF
90189085	instruments and appliances used in medical, surgical or veterinary sciences, n.e.s.	44.9	1.2%	0	Duty free on EIF
08071900	fresh melons (excl. watermelons)	36.2	0.9%	0	Duty free on EIF
85423190	electronic integrated circuits as processors and controllers, whether or not combined with memories, converters, logic circuits, amplifiers, clock and timing circuits, or other circuits	34.6	0.9%	0	Duty free on EIF
90213990	artificial parts of the body	27.3	0.7%	0	Duty free on EIF

Country/ CN8	Description	Average 2008-10 (€ mn)	Share	GSP+	Liberalisation
20094199	pineapple juice, unfermented, brix value <= 20 at 20°C	24.2	0.6%	0	Duty free on EIF
20089949	fruit and other edible parts of plants, prepared or preserved, containing no spirit but with added sugar, in packings of > 1 kg, n.e.s.	22.6	0.6%	0	Duty free on EIF
06029070	indoor rooted cuttings and young plants (excl. cacti)	20.7	0.5%	0	Duty free on EIF
El Salvador					
09011100	coffee (excl. roasted and decaffeinated)	93.7	44.2%	0	Duty free on EIF
16041416	fillets known as "loins" of tunas or skipjack, prepared or preserved	45.7	21.6%	0	Duty free on EIF
85322100	fixed electrical capacitors, tantalum (excl. power capacitors)	14.7	6.9%	0	Duty free on EIF
61091000	t-shirts, singlets and other vests of cotton, knitted or crocheted	9.1	4.3%	0	Duty free on EIF
16041411	tuna and bonito 'sarda spp.', prepared or preserved, whole or in pieces, in vegetable oil (excl. minced fish)	9.0	4.2%	0	Duty free on EIF
22071000	undenatured ethyl alcohol, of actual alcoholic strength of >= 80%	7.8	3.7%	0	Duty free on EIF
40111000	new pneumatic tyres, of rubber, of a kind used for motor cars, incl. station wagons and racing cars	3.2	1.5%	0	Duty free on EIF
04090000	natural honey	2.6	1.2%	0	Duty free on EIF
17031000	cane molasses resulting from the extraction or refining of sugar	1.9	0.9%	0.35 €/100 kg/net	Duty free on EIF

Country/ CN8	Description	Average 2008-10 (€ mn)	Share	GSP+	Liberalisation
17011190	raw cane sugar (excl. for refining and added flavouring or colouring)	1.6	0.7%	41.9 €/100 kg/net	Free within a regional (excl. Panama) TRQ of 150,000 tonnes raw sugar equivalent (increasing by 4,500 tonnes p.a.). Aggregate imports in excess of the TRQ enter at the base rate shown in the schedule (which is the same as currently paid under GSP+).
06049190	foliage, branches and other parts of plants, without flowers or flower buds, grasses, fresh, for bouquets or ornamental purposes	1.5	0.7%	0	Duty free on EIF
85322400	fixed electrical capacitors, ceramic dielectric, multilayer	1.5	0.7%	0	Duty free on EIF
06029070	indoor rooted cuttings and young plants (excl. cacti)	1.3	0.6%	0	Duty free on EIF
84091000	parts suitable for use solely or principally with internal combustion piston engine for aircraft, n.e.s.	1.3	0.6%	0	Duty free on EIF
Guatemala					
09011100	coffee (excl. roasted and decaffeinated)	133.9	35.9%	0	Duty free on EIF
22071000	undenatured ethyl alcohol, of actual alcoholic strength of $\geq 80\%$	29.7	8.0%	0	Duty free on EIF
06049190	foliage, branches and other parts of plants, without flowers or flower buds, grasses, fresh, for bouquets or ornamental purposes	22.9	6.2%	0	Duty free on EIF
16041416	fillets known as "loins" of tunas or skipjack, prepared or preserved (excl. such products in vegetable oil)	19.5	5.2%	0	Duty free on EIF
24012035	partly or wholly stemmed or stripped light air-cured tobacco, otherwise unmanufactured	12.3	3.3%	0	Duty free on EIF

Country/ CN8	Description	Average 2008-10 (€ mn)	Share	GSP+	Liberalisation
09083000	cardamoms	12.0	3.2%	0	Duty free on EIF
07081000	fresh or chilled peas "pisum sativum", shelled or unshelled	11.9	3.2%	0	Duty free on EIF
15111090	crude palm oil (excl. for technical or industrial uses)	10.3	2.8%	0	Duty free on EIF
03061350	frozen shrimps of the genus "penaeus", whether in shell or not, incl. shrimps in shell, cooked by steaming or by boiling in water	9.3	2.5%	3.6	Duty free on EIF
12074090	sesamum seeds, whether or not broken (excl. for sowing)	7.0	1.9%	0	Duty free on EIF
22084031	rum and tafia, of a value > 7,9 €/l of pure alcohol, in containers holding ≤ 2 l	5.8	1.5%	0	Duty free on EIF
17031000	cane molasses resulting from the extraction or refining of sugar	5.3	1.4%	0.35 €/100 kg/net	Duty free on EIF
03034212	frozen yellowfin tunas "thunnus albacares" for industrial manufacture of products of 1604, whole, weighing > 10 kg each	4.9	1.3%	0	Duty free on EIF
06029099	live indoor plants and cacti	4.6	1.2%	0	Duty free on EIF
06029070	indoor rooted cuttings and young plants (excl. cacti)	4.5	1.2%	0	Duty free on EIF
40011000	natural rubber latex, whether or not prevulcanised	4.3	1.2%	0	Duty free on EIF
08030019	bananas, fresh (excl. plantains)	3.7	1.0%	143 €/1000 kg/net	Reduction in annual stages to reach 75€/1000kg on 1 Jan. 2020. If a 'trigger volume' (which increases each year) is exceeded during any year before then, the EU may suspend the pref. for up to 3 mths during that calendar year and charge MFN rate. Review in 2019.

Country/ CN8	Description	Average 2008-10 (€ mn)	Share	GSP+	Liberalisation
22084011	rum with a content of volatile substances (other than ethyl and methyl alcohol) of ≥ 225 g/hl of pure alcohol "with a 10% tolerance", in containers holding ≤ 2 l	3.6	1.0%	0.6 €/ % vol/ hl + 3.2 €/hl	Duty free 1 Jan. Yr 3
04090000	natural honey	3.5	0.9%	0	Duty free on EIF
03034311	frozen skipjack or stripe-bellied bonito "euthynnus - katsuwonus- pelamis" for industrial processing or preservation, whole	3.3	0.9%	0	Duty free on EIF
20089949	fruit and other edible parts of plants, prepared or preserved, containing no spirit but with added sugar, in packings of > 1 kg, n.e.s.	3.2	0.9%	0	Duty free on EIF
24012050	partly or wholly stemmed or stripped light air-cured tobacco, otherwise unmanufactured (excl. burley or maryland type)	2.9	0.8%	0	Duty free on EIF
03061380	frozen shrimps and prawns, whether in shell or not, incl. shrimps and prawns in shell, cooked by steaming or by boiling in water	2.7	0.7%	3.6	Duty free on EIF
12099190	vegetable seeds for sowing	2.3	0.6%	0	Duty free on EIF
44219098	articles of wood, n.e.s.	2.2	0.6%	0	Duty free on EIF
03034218	frozen yellowfin tunas "thunnus albacares" for industrial manufacture of products of 1604, whole, weighing ≤ 10 kg each	2.1	0.6%	0	Duty free on EIF
61091000	t-shirts, singlets and other vests of cotton, knitted or crocheted	2.0	0.5%	0	Duty free on EIF

Country/ CN8	Description	Average 2008-10 (€ mn)	Share	GSP+	Liberalisation
Honduras					
09011100	coffee (excl. roasted and decaffeinated)	330.9	62.6%	0	Duty free on EIF
03061350	frozen shrimps of the genus "penaeus", whether in shell or not, incl. shrimps in shell, cooked by steaming or by boiling in water	29.4	5.6%	3.6	Duty free on EIF
15111090	crude palm oil (excl. for technical or industrial uses)	21.0	4.0%	0	Duty free on EIF
08071900	fresh melons (excl. watermelons)	16.9	3.2%	0	Duty free on EIF
61091000	t-shirts, singlets and other vests of cotton, knitted or crocheted	16.4	3.1%	0	Duty free on EIF
08043000	fresh or dried pineapples	11.3	2.1%	0	Duty free on EIF
61103091	men's or boys' jerseys, pullovers, cardigans, waistcoats and similar articles, of man-made fibres, knitted or crocheted	10.6	2.0%	0	Duty free on EIF
08030019	bananas, fresh (excl. plantains)	10.1	1.9%	143 €/1000 kg/net	Reduction in annual stages to reach 75€/1000kg on 1 Jan. 2020. If a 'trigger volume' (which increases each year) is exceeded during any year before then, the EU may suspend the pref. for up to 3 mths during that calendar year and charge MFN rate. Review in 2019.
16052099	shrimps and prawns, prepared or preserved, in immediate packings of a net content of > 2 kg	8.0	1.5%	0	Duty free on EIF
17031000	cane molasses resulting from the extraction or refining of sugar	6.4	1.2%	0.35 €/100 kg/net	Duty free on EIF
26080000	zinc ores and concentrates	5.9	1.1%	0	Duty free on EIF
06029070	indoor rooted cuttings and young plants (excl. cacti)	5.1	1.0%	0	Duty free on EIF

Country/ CN8	Description	Average 2008-10 (€ mn)	Share	GSP+	Liberalisation
16052091	shrimps and prawns, prepared or preserved, in immediate packings of a net content of <= 2 kg	4.6	0.9%	0	Duty free on EIF
24021000	cigars, cheroots and cigarillos containing tobacco	4.0	0.8%	0	Duty free on EIF
08054000	fresh or dried grapefruit	3.5	0.7%	0	Duty free on EIF
89019010	sea-going vessels for the transport of goods and seagoing vessels for the transport of both persons and goods	3.0	0.6%	0	Duty free on EIF
03061380	frozen shrimps and prawns, whether in shell or not, incl. shrimps and prawns in shell, cooked by steaming or by boiling in water	2.9	0.5%	3.6	Duty free on EIF
Nicaragua					
09011100	coffee (excl. roasted and decaffeinated)	81.7	46.7%	0	Duty free on EIF
03061350	frozen shrimps of the genus "penaeus", whether in shell or not, incl. shrimps in shell, cooked by steaming or by boiling in water	25.4	14.5%	3.6	Duty free on EIF
12022000	shelled groundnuts, whether or not broken (excl. roasted or otherwise cooked)	10.4	6.0%	0	Duty free on EIF
22071000	undenatured ethyl alcohol, of actual alcoholic strength of >= 80%	8.2	4.7%	0	Duty free on EIF
03061380	frozen shrimps and prawns, whether in shell or not, incl. shrimps and prawns in shell, cooked by steaming or by boiling in water	7.3	4.2%	3.6	Duty free on EIF
18010000	cocoa beans, whole or broken, raw or roasted	5.3	3.0%	0	Duty free on EIF
27101190	light oils and preparations, of petroleum or bituminous minerals, n.e.s.	5.2	3.0%	0	Duty free on EIF

Country/ CN8	Description	Average 2008-10 (€ mn)	Share	GSP+	Liberalisation
03061110	frozen crawfish tails "palinurus spp., panulirus spp., jасus spp.", whether in shell or not, incl. crawfish tails in their shell, cooked by steaming or by boiling in water	4.3	2.5%	0	Duty free on EIF
24021000	cigars, cheroots and cigarillos containing tobacco	3.6	2.1%	0	Duty free on EIF
07099090	fresh or chilled vegetables	3.6	2.1%	0	Duty free on EIF
61091000	t-shirts, singlets and other vests of cotton, knitted or crocheted	2.4	1.4%	0	Duty free on EIF
41041151	full grains, unsplit and grain splits, in the wet state "incl. wet-blue", of the whole hides and skins of bovine "incl. buffalo" animals, with a surface area of > 2,6 m ² , tanned, without hair on	1.7	1.0%	0	Duty free on EIF
06049190	foliage, branches and other parts of plants, without flowers or flower buds, grasses, fresh, for bouquets or ornamental purposes	1.3	0.7%	0	Duty free on EIF
12074090	sesamum seeds, whether or not broken (excl. for sowing)	1.3	0.7%	0	Duty free on EIF
22084031	rum and tafia, of a value > 7,9 €/l of pure alcohol, in containers holding ≤ 2 l	1.0	0.5%	0	Duty free on EIF
Panama					
89019010	sea-going vessels for the transport of goods and seagoing vessels for the transport of both persons and goods	299.4	44.7%	0	Duty free on EIF

Country/ CN8	Description	Average 2008-10 (€ mn)	Share	GSP+	Liberalisation
08030019	bananas, fresh (excl. plantains)	110.4	16.5%	143 €/1000 kg/net	Reduction in annual stages to reach 75€/1000kg on 1 Jan. 2020. If a 'trigger volume' (which increases each year) is exceeded during any year before then, the EU may suspend the pref. for up to 3 mths during that calendar year and charge MFN rate. Review in 2019.
89012010	sea-going tankers	79.5	11.9%	0	Duty free on EIF
08043000	fresh or dried pineapples	19.1	2.9%	0	Duty free on EIF
03061350	frozen shrimps of the genus "penaeus", whether in shell or not, incl. shrimps in shell, cooked by steaming or by boiling in water	13.8	2.1%	3.6	Duty free on EIF
08071100	fresh watermelons	13.8	2.1%	0	Duty free on EIF
89039210	sea-going motor boats and motor yachts, for pleasure or sports	13.2	2.0%	0	Duty free on EIF
08071900	fresh melons (excl. watermelons)	10.5	1.6%	0	Duty free on EIF
03034290	frozen yellowfin tunas "thunnus albacares"	7.8	1.2%	0	Duty free on EIF
27101941	gas oils of petroleum or bituminous minerals, with a sulphur content of <= 0,05% by weight	6.3	0.9%	0	Duty free 1 Jan. Yr 3 (but as already duty-free under GSP+, assume that it will be on EIF)
22083052	blended scotch whisky, in containers holding <= 2 l	5.7	0.8%	0	Duty free on EIF
03036100	frozen swordfish "xiphius gladius"	5.3	0.8%	0	Duty free on EIF
22087010	liqueurs and cordials, in containers holding <= 2 l	3.5	0.5%	0	Duty free on EIF

Note: All items accounting for 0.5% or more of the total value of imports from the country concerned.

Source: Eurostat COMEXT database; UNCTAD TRAINS database; EC TARIC Consultation.

Table 2: Major EU imports from Central America not currently duty-free under GSP+

Country/ CN code	Description	Average 2008-10 (€ mn)	Share of total	GSP+	Treatment by EU in FTA
Costa Rica					
08030019	Bananas, fresh (excl. plantains)	482.8	12.6%	143 €/1000 kg/net	Reduction in annual stages to reach 75€/1000kg on 1 Jan. 2020. If a 'trigger volume' (which increases each year) is exceeded during any year before then, the EU may suspend the pref. for up to 3 mths during that calendar year and charge MFN rate. Review in 2019. This is an improvement on the status quo.
El Salvador					
17031000	Cane molasses resulting from the extraction or refining of sugar	1.9	0.9%	0.35 €/100 kg/net	Free on EIF
17011190	Raw cane sugar (excl. for refining and added flavouring or colouring)	1.6	0.7%	41.9 €/100 kg/net	Free within a regional (excl. Panama) TRQ of 150,000 tonnes raw sugar equivalent (increasing by 4,500 tonnes p.a.). Aggregate imports in excess of the TRQ enter at the base rate shown in the schedule (which is the same as currently paid under GSP+). Better within quota, same outside quota.
Guatemala					
03061350	Frozen shrimps of the genus "penaeus", whether in shell or not, incl. shrimps in shell, cooked by steaming or by boiling in water	9.3	2.5%	3.6	Free on EIF
17031000	Cane molasses resulting from the extraction or refining of sugar	5.3	1.4%	0.35 €/100 kg/net	Free on EIF

Country/ CN code	Description	Average 2008-10 (€ mn)	Share of total	GSP+	Treatment by EU in FTA
08030019	Bananas, fresh (excl. plantains)	3.7	1.0%	143 €/1000 kg/net	Reduction in annual stages to reach 75€/1000kg on 1 Jan. 2020. If a 'trigger volume' (which increases each year) is exceeded during any year before then, the EU may suspend the pref. for up to 3 mths during that calendar year and charge MFN rate. Review in 2019.
22084011	Rum with a content of volatile substances (other than ethyl and methyl alcohol) of ≥ 225 g/hl of pure alcohol "with a 10% tolerance", in containers holding ≤ 2 l	3.6	1.0%	0.6 €/ % vol/hl + 3.2 €/hl	Free 1 Jan. Yr 3
03061380	Frozen shrimps and prawns, whether in shell or not, incl. shrimps and prawns in shell, cooked by steaming or by boiling in water	2.7	0.7%	3.6	Free on EIF
Honduras					
03061350	Frozen shrimps of the genus "penaeus", whether in shell or not, incl. shrimps in shell, cooked by steaming or by boiling in water	29.4	5.6%	3.6	Free on EIF
08030019	Bananas, fresh (excl. plantains)	10.1	1.9%	143 €/1000 kg/net	Reduction in annual stages to reach 75€/1000kg on 1 Jan. 2020. If a 'trigger volume' (which increases each year) is exceeded during any year before then, the EU may suspend the pref. for up to 3 mths during that calendar year and charge MFN rate. Review in 2019. Better than status quo.

Country/ CN code	Description	Average 2008-10 (€ mn)	Share of total	GSP+	Treatment by EU in FTA
17031000	Cane molasses resulting from the extraction or refining of sugar	6.4	1.2%	0.35 €/100 kg/net	Free on EIF
03061380	Frozen shrimps and prawns, whether in shell or not, incl. shrimps and prawns in shell, cooked by steaming or by boiling in water	2.9	0.5%	3.6	Free on EIF
Nicaragua					
03061350	Frozen shrimps of the genus "penaeus", whether in shell or not, incl. shrimps in shell, cooked by steaming or by boiling in water	25.4	14.5%	3.6	Free on EIF
03061380	Frozen shrimps and prawns, whether in shell or not, incl. shrimps and prawns in shell, cooked by steaming or by boiling in water	7.3	4.2%	3.6	Free on EIF
Panama					
08030019	Bananas, fresh (excl. plantains)	110.4	16.5%	143 €/1000 kg/net	Reduction in annual stages to reach 75€/1000kg on 1 Jan. 2020. If a 'trigger volume' (which increases each year) is exceeded during any year before then, the EU may suspend the pref. for up to 3 mths during that calendar year and charge MFN rate. Review in 2019. Better than status quo.

Country/ CN code	Description	Average 2008-10 (€ mn)	Share of total	GSP+	Treatment by EU in FTA
03061350	Frozen shrimps of the genus "penaeus", whether in shell or not, incl. shrimps in shell, cooked by steaming or by boiling in water	13.8	2.1%	3.6	Free on EIF

Note: Only those goods which feature at the most disaggregated, national tariff line (NTL), level and which comprise at least 0.5% of total imports are presented.

Sources: Eurostat COMEXT database; UNCTAD TRAINS database; EC TARIC Consultation.

Table 3: Central American imports from the EU by tariff band

	Value, average 2008–10 (€ mn)	Share	No. of tariff lines	
			Total	Accounting for ≥0.5% of total value
Costa Rica				
Total in HS 1-97	784.8	100.0%	5,381	24
Tariff unknown	32.2	4.1%	572	-
Tariff =>34%	0.6	0.1%	32	-
Tariff 14%	68.1	8.7%	1,123	2
Tariff 9%	45.3	5.8%	687	-
Tariff 5%	44.5	5.7%	474	1
Duty free	594.2	75.7%	2,493	21
El Salvador				
Total in HS 1-97	357.2	100.0%	3,274	28
Tariff 30 or 40%	4.1	1.1%	39	-
Tariff 20 or 25%	5.0	1.4%	21	1
Tariff 10 or 15%	50.8	14.2%	1,115	2
Tariff 1 or 5%	56.6	15.9%	365	2
Duty free	240.7	67.4%	1,734	23
Guatemala				
Total in HS 1-97	654.3	100.0%	3,844	26
Tariff 30 or 40%	0.6	0.1%	9	-
Tariff 20 or 23.7%	18.7	2.9%	31	1
Tariff 10 or 15%	134.7	20.6%	1,459	4
Tariff 5%	83.4	12.7%	385	4
Duty free	416.9	63.7%	1,960	17
Honduras				
Total in HS 1-97	303.5	100.0%	3,041	32
Tariff 35 or 45%	0.0	0.0%	6	-
Tariff 20%	0.1	0.0%	4	-
Tariff 10 or 15%	51.3	16.9%	1,090	3
Tariff 5%	23.6	7.8%	342	3
Duty free	228.5	75.3%	1,599	26

	Value, average 2008–10 (€ mn)	Share	No. of tariff lines	
			Total	Accounting for ≥0.5% of total value
Nicaragua				
Total in 1-97	1,408.1	100.0%	2,801	32
Tariff unknown	0.0	0.0%	1	-
Tariff 35% or over	2.7	0.2%	11	-
Tariff 15%	161.1	11.4%	619	6
Tariff 10%	130.8	9.3%	358	4
Tariff 5%	137.0	9.7%	307	3
Duty free	976.5	69.3%	1,505	19
Panama				
Total	375.4	100.0%	4,174	35
Tariff unknown	7.1	1.9%	156	-
Tariff 30% or more	0.7	0.2%	29	-
Tariff 20 or 25%	17.3	4.6%	24	2
Tariff 15 or 18%	67.8	18.1%	1,170	5
Tariff 10 or 12.5%	60.3	16.1%	853	3
Tariff ≥5% and <10%	51.5	13.7%	458	7
Tariff >0 and <5%	64.7	17.2%	411	5
Duty free	105.9	28.2%	1,073	13

Table 4: High-tariff Central American imports from the EU

Country/ NTL code	Description	Av. Value 2008–10 (€ mn)	Share of total	Applied MFN	Treatment in FTA
Costa Rica					
2208309030	Whiskies	5.4	0.7%	14	Duty free 1 Jan. Yr 6 (6 equal annual stages)
6908900000	Glazed ceramic flags and paving, hearth or wall tiles	6.4	0.8%	14	Duty free 1 Jan. Yr 10 (10 equal annual stages)
El Salvador					
87032369	Motor cars and other motor vehicles principally designed for the transport of persons, incl. station wagons and racing cars, with spark-ignition internal combustion reciprocating piston engine of a cylinder capacity > 1.500 cm ³ but ≤ 3.000 cm ³	1.8	0.5%	25	Duty free 1 Jan. Yr 10 (10 unequal annual stages)
Guatemala					
21011100	extracts, essences and concentrates, of coffee	4.1	0.6%	15	Duty free on EIF
22083090	Whiskies	5.3	0.8%	15	Duty free 1 Jan. Yr 6 (6 equal annual stages)
27101991	medium oils and preparations, of petroleum or bituminous minerals, n.e.s.	4.7	0.7%	10	Duty free 1 Jan. Yr 5 (5 equal annual stages)
87032369	motor cars and other motor vehicles principally designed for the transport of persons, incl. station wagons and racing cars, with spark-ignition internal combustion reciprocating piston engine of a cylinder capacity > 1.500 cm ³ but ≤ 3.000 cm ³	7.0	1.1%	20	Duty free 1 Jan. Yr 10 (10 unequal annual stages)

Country/ NTL code	Description	Av. Value 2008–10 (€ mn)	Share of total	Applied MFN	Treatment in FTA
87033370	motor cars and other motor vehicles principally designed for the transport of persons, incl. station wagons and racing cars, with compression-ignition internal combustion piston engine "diesel or semi-diesel engine" of a cylinder capacity > 2.500 cm	4.4	0.7%	15	Duty free 1 Jan. Yr 10 (10 unequal annual stages)
Honduras					
2106907900	food preparations, n.e.s.	2.1	0.7%	10	Duty free 1 Jan. Yr 10 (10 equal annual stages)
6908900000	glazed ceramic flags and paving, hearth or wall tiles	1.6	0.5%	15	Duty free 1 Jan. Yr 10 (10 equal annual stages)
8529100000	aerials and aerial reflectors of all kinds; parts suitable for use therewith, n.e.s.	2.3	0.8%	10	Duty free 1 Jan. Yr 5 (5 equal annual stages)
Nicaragua					
21069079000	food preparations, n.e.s.	9.6	0.7%	10	Duty free 1 Jan. Yr 10 (10 equal annual stages)
27101991000	medium oils and preparations, of petroleum or bituminous minerals, n.e.s.	15.3	1.1%	10	Duty free 1 Jan. Yr 5 (5 equal annual stages)
33030000000	perfumes and toilet waters	14.5	1.0%	15	Duty free on EIF
33049900000	beauty or make-up preparations and preparations for the care of the skin (other than medicaments), incl. sunscreen or suntan preparations	9.8	0.7%	15	Duty free 1 Jan. Yr 13 (13 equal annual stages)
39172310000	rigid tubes, pipes and hoses, of polymers of vinyl chloride	10.3	0.7%	15	Duty free 1 Jan. Yr 10 (10 equal annual stages)
48211000000	paper or paperboard labels of all kinds, printed	7.7	0.5%	15	Duty free 1 Jan. Yr 15 (15 equal annual stages)
69089000000	glazed ceramic flags and paving, hearth or wall tiles	10.5	0.7%	15	Duty free 1 Jan. Yr 10 (10 equal annual stages)

Country/ NTL code	Description	Av. Value 2008–10 (€ mn)	Share of total	Applied MFN	Treatment in FTA
7308900000	structures and parts of structures, of iron or steel, n.e.s.	9.5	0.7%	10	Duty free 1 Jan. Yr 13 (13 equal annual stages)
87033380200	motor cars and other motor vehicles principally designed for the transport of persons, incl. station wagons and racing cars, with compression-ignition internal combustion piston engine "diesel or semi-diesel engine" of a cylinder capacity > 2.500 cm	8.4	0.6%	10	Duty free 1 Jan. Yr 10 (10 unequal annual stages)
94032000900	metal furniture (excl. for offices, seats and medical, surgical, dental or veterinary furniture)	8.8	0.6%	15	Duty free 1 Jan. Yr 13 (13 equal annual stages)
Panama					
69089029	glazed ceramic flags and paving, hearth or wall tiles	5.7	1.5%	10	Duty free 1 Jan. Yr 10 (10 equal annual stages)
84304100	self-propelled boring or sinking machinery for boring earth or extracting minerals or ores	3.5	0.9%	10	Duty free on EIF
87032333	motor cars and other motor vehicles principally designed for the transport of persons, incl. station wagons and racing cars, with spark-ignition internal combustion reciprocating piston engine of a cylinder capacity > 1.500 cm but <= 3.000 cm	4.0	1.1%	18	Duty free 1 Jan. Yr 10 (10 unequal annual stages)
87032395	motor cars and other motor vehicles principally designed for the transport of persons, incl. station wagons and racing cars, with spark-ignition internal combustion reciprocating piston engine of a cylinder capacity > 1.500 cm but <= 3.000 cm	8.3	2.2%	20	Duty free 1 Jan. Yr 10 (10 unequal annual stages)

Country/ code	NTL	Description	Av. Value 2008–10 (€ mn)	Share of total	Applied MFN	Treatment in FTA
87032433		motor cars and other motor vehicles principally designed for the transport of persons, incl. station wagons and racing cars, with spark-ignition internal combustion reciprocating piston engine of a cylinder capacity > 3.000 cm	2.3	0.6%	18	Duty free 1 Jan. Yr 10 (10 unequal annual stages)
87032494		motor cars and other motor vehicles principally designed for the transport of persons, incl. station wagons and racing cars, with spark-ignition internal combustion reciprocating piston engine of a cylinder capacity > 3.000 cm	2.2	0.6%	20	Duty free 1 Jan. Yr 10 (10 unequal annual stages)
87033233		motor cars and other motor vehicles principally designed for the transport of persons, incl. station wagons and racing cars, with compression-ignition internal combustion piston engine "diesel or semi-diesel engine" of a cylinder capacity > 1.500 cm	4.5	1.2%	18	Duty free 1 Jan. Yr 10 (10 unequal annual stages)
87033333		motor cars and other motor vehicles principally designed for the transport of persons, incl. station wagons and racing cars, with compression-ignition internal combustion piston engine "diesel or semi-diesel engine" of a cylinder capacity > 2.500 cm	4.8	1.3%	18	Duty free 1 Jan. Yr 10 (10 unequal annual stages)
87042310		motor vehicles for the transport of goods, with compression-ignition internal combustion piston engine "diesel or semi-diesel engine" of a gross vehicle weight > 20 t	2.8	0.7%	10	Duty free 1 Jan. Yr 10 (10 equal annual stages)
95043010		games with screens, flipper and other games, operated by coins, banknotes "paper currency", discs or other similar	5.1	1.4%	15	Duty free 1 Jan. Yr 10 (10 equal annual stages)

Note: Only those goods which feature at the most disaggregated, national tariff line (NTL), level and which comprise at least 0.5% of total imports are presented.

For all of the countries some of the NTL codes appearing in the import statistics are not listed in the latest tariff schedules available in UNCTAD's TRAINS database (2010 for El Salvador, Guatemala, Nicaragua; 2009 for Costa Rica, Honduras, Panama). Where this was the case for a few codes only (El Salvador, Guatemala, Honduras, Nicaragua), the rates currently applied were established by reference to other products in the same HS sub-headings. For Costa Rica and Panama, however, the number was too great (572 and 156 codes respectively) to permit identification of the rates applied within the time available for this study, and so the items concerned could not be taken into consideration when compiling this table.

Source: ITC Trade Map; UNCTAD TRAINS database.

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