



The Trade Pillar in the EU-Central America Association Agreement

European
Implementation
Assessment

STUDY

EPRS | European Parliamentary Research Service

Author: Isabelle Ioannides
Ex-Post Evaluation Unit
PE 621.852 – October 2018

EN

The Trade Pillar in the EU-Central America Association Agreement

European Implementation Assessment

On 17 April 2018, the Conference of Committee Chairs approved a request made by the Committee on International Trade (INTA) to draft an implementation report on the trade pillar of the Association Agreement (AA) with Central America (rapporteur: Reimer Böge, EPP, Germany). This European implementation assessment (EIA), which has been prepared internally by the Ex-Post Evaluation (EVAL) Unit of the European Parliamentary Research Service (EPRS), seeks to accompany the scrutiny work of the INTA committee and the preparation of the aforementioned implementation report.

Abstract

The EU-Central America Association Agreement was signed in June 2012 and its trade pillar has been provisionally in force since December 2013. This evaluation assesses specifically the implementation of the trade and sustainable development (TSD) chapter of the trade pillar of this agreement during the five years of its operation.

After briefly outlining the trade interests of this agreement, this study situates sustainable development by explaining its legal foundations in the Association Agreement and reviewing the ex-ante impact assessment conclusions on the issue. It then focuses on the monitoring mechanisms of the Association Agreement, including the European Commission annual reports, Parliament's oversight work, the civil society dialogue, and the results of the meetings of the specialised committee and annual Association Committee and Association Council meetings.

Through this review it identifies strengths and shortcomings in the implementation of the TSD chapter and ends by suggesting a number of ways to enhance efforts to support sustainable development in Central America.

AUTHOR

Dr Isabelle Ioannides, Ex-Post Evaluation Unit, EPRS

This paper has been drawn up by the Ex-Post Evaluation Unit of the Directorate for Impact Assessment and European Added Value, within the Directorate-General for Parliamentary Research Services (EPRS) of the Secretariat of the European Parliament.

To contact the author, please email: EPRS-ExPostEvaluation@ep.europa.eu

ACKNOWLEDGMENTS

The author would like to thank the Directorate-General for Trade in the European Commission for their time, cooperation and insights into the topic examined.

LINGUISTIC VERSIONS

Original: EN

Manuscript completed in September 2018.

DISCLAIMER AND COPYRIGHT

This document is prepared for, and addressed to, the Members and staff of the European Parliament as background material to assist them in their parliamentary work. The content of the document is the sole responsibility of its author(s) and any opinions expressed herein should not be taken to represent an official position of the Parliament.

Reproduction and translation for non-commercial purposes are authorised, provided the source is acknowledged and the European Parliament is given prior notice and sent a copy.

Brussels © European Union, 2018.

PE 621.852
ISBN: 978-92-846-3308-1
DOI: 10.2861/341125
CAT: QA-01-18-809-EN-N

eprs@ep.europa.eu

<http://www.eprs.ep.parl.union.eu> (intranet)

<http://www.europarl.europa.eu/thinktank> (internet)

<http://epthinktank.eu> (blog)

Executive summary

Trade relations between the European Union and the Central American region are determined by an association agreement signed in June 2012. Pending the agreement's ratification, the trade pillar of the agreement has been provisionally implemented since 1 August 2013 with Honduras, Nicaragua and Panama, since 1 October 2013 with Costa Rica and El Salvador, and since 1 December with Guatemala. With a five-year view on its implementation, the time is ripe to examine the impact that this agreement has had on the Central American region.

In the light of time concerns, this study has focused on assessing the implementation of the trade and sustainable development (TSD) chapter of the agreement's trade pillar. The analysis points to the following possible options for enhancing the effectiveness and impact of these provisions.

1. The importance of political dialogue and engagement with the six Central American signatories to the AA: implementation of the TSD chapter is ultimately linked to the political commitment of partners in Central America towards their citizens. In that sense, the EU's influence has its limits and pressure needs to come at the level of the Association Council and the Association Committee to encourage the authorities to commit to the implementation of these important provisions. At the moment, labour rights and environmental protection hardly figure in discussions at high political level.

2. In that spirit, ratification of the EU-Central America Association Agreement by the EU Member States who have not done so yet, would send a strong message as to the commitment of the EU and facilitate implementation of the TSD provisions (e.g. by pushing forward social cohesion and further supporting regional integration).

3. It is important to improve information and sponsor awareness campaigns, something that should be strengthened at local level in Central America by capitalising on the potential of the relevant EU delegations. Moreover, while the merits of digital technologies are recognised, civil society representatives recommend establishing political contacts, face-to-face exchanges, between European politicians engaged in cross-border cooperation and the competent authorities in target countries.

4. Better coordination of the various instruments that the EU has at its disposal and better cooperation between the EU and other donors will further push forward the sustainable development agenda in Central America. This translates into stronger policies for regional integration, a streamlined exchange of information among stakeholders, and coherence on the interpretation of the environmental and labour provisions in the different trade agreements that Central America has signed (beyond the one with the EU) and the relevant international environmental and labour conventions.

5. Stronger monitoring mechanisms are needed. Firstly, this entails ensuring substantive (not just substantial) civil society participation in the monitoring of the EU-Central America Agreement. Although joint consultative structures that include local partners and civil society in monitoring the implementation of the sustainable development chapters are in place, it is not clear to what extent their contribution actually feeds into policy-making. Secondly, there is evidence of the benefits of providing for capacity-building projects (for example, on labour inspections) in third countries to help the relevant national and local authorities in the Central American countries in their efforts to monitor, apply and enforce environmental and social obligations. Thirdly, stronger evaluations that are ongoing, have clear benchmarks from the outset and engage local actors (both local authorities and civil society) in the design, monitoring and evaluation phase are key. Fourthly, appropriate funding and facilitating of private-public partnerships would help involve business more concretely in the implementation of the TSD provisions.

6. There is a need for clearer enforcement mechanisms. Experts recommend both the consistent and forceful application of the existing mechanisms and the combination (when appropriate) of promotional and conditional approaches. It is important to create incentives for implementation rather than sanctioning non-compliance, thus building on engagement, cooperation and capacity-building with Central American partners. In order to address labour violations more directly, experts suggest creating a 'collective complaint mechanism' that would enable civil society, unions and social partners – independently from their governments – to initiate a complaint procedure. Other experts have called for use to be made of paragraph 161 (on sustainable development) of the landmark opinion of the European Court of Justice (May 2017) on the powers to conclude the EU-Singapore free trade agreement. Yet others focus on dispute settlement in the wider context, in which implementation would be enforced through compliance with international rules. Accordingly, they call for the use of key performance indicator scorecards, information on compliance from the ILO, voluntary sustainability standards and OECD guidelines.

Table of contents

Executive summary	5
1. Background	11
1.1. Trade picture	12
1.2. Objectives and structure	14
1.3. Methodology	16
2. EU-Central America AA and sustainable development	17
2.1. Sustainable development in the ex-ante impact assessment	17
2.2. The legal foundations	18
2.3. Parallel development aid	20
3. Monitoring implementation	22
3.1. Monitoring mechanisms	23
3.2. European Commission assessment	25
3.3. European Parliament monitoring	26
3.3.1. Human rights violations	27
3.3.2. Tackling the consequences of conflict	28
3.3.3. Promoting environmental protection rights	29
3.5. Civil society consultation	31
3.6. Government-to-civil society relations	32
3.7. Other relevant monitoring activities	33
4. Complexities linked to implementing the TSD chapter	35
4.1. Lack of enforceability of the TSD chapter	35
4.2. Challenges to intra-regional cross-border cooperation	36
4.3. Weak coordination	37
4.4. Representativeness of civil society	39

5. Options for the future	40
5.1. Completing the ratification process	40
5.2. Strengthening communication	41
5.3. Enhancing coordination	42
5.4. Better monitoring of compliance	43
5.5. Strengthening the enforcement mechanism	44
6. Conclusions	47
References	49
Annex 1 – The TSD chapter in the EU-Central America Association Agreement	53
Annex 2 – Rules of procedure of the EU Advisory Group, created pursuant to Title VIII (Article 294) of the EU-Central America Association Agreement	61

Table of figures

Figure 1 – Map of Central America _____	11
Figure 2 – EU28 trade in goods with Central America, 2007-2017 (€ millions) _____	13
Figure 3 – EU28 trade in services with Central America, 2010-2016 (€ millions) _____	14
Figure 4 – Institutional set-up for civil society organisation consultation _____	24

Table of tables

Table 1 – Sustainable development in the EU-Central America Association Agreement _____	19
---	----

Table of boxes

Box 1 – What dispute settlement? _____	23
--	----

List of acronyms

AA	Association Agreement
AEBR	Association of European Border Regions
CABEI	Central American Bank for Economic Integration
CAFTA-DR	Dominican Republic-Central America Free Trade Agreement (with the United States)
CC-SICA	Consultative Committee of the Central American Integration System
CCEI	Consultative Committee for Economic Integration
CITES	Convention on International Trade in Endangered Species of Wild Flora and Fauna
CSDF	Civil Society Dialogue Forum
CSR	Corporate social responsibility
CSOs	Civil society organisations
DAGs	Domestic advisory groups
DEVE	Committee on Development, European Parliament
DG TRADE	Directorate-General for Trade, European Commission
DG REGIO	Directorate-General for Regional and Urban Policy, European Commission
EEAS	European External Action Service
EESC	European Economic and Social Committee
EIA	European implementation assessment
EPP	European People's Party, European Parliament
EPRS	European Parliamentary Research Service
EU	European Union
EuroLat	Euro-Latin American Parliamentary Assembly
EVAL	Ex-Post Evaluation Unit, EPRS
EUSFTA	EU-Singapore FTA
FDI	Foreign direct investment
FTA	Free trade agreement
GSP	General Scheme of Preferences
HS	'Harmonised System' trade nomenclature
ILO	International Labour Organization
INTA	Committee on International Trade, European Parliament
MSMEs	Micro-, small and medium-sized enterprises
MEAs	Multilateral environmental agreements
NGOs	Non-governmental organisations
OECD	Organisation for Economic Co-operation and Development
PARLACEN	Central American Parliament (Parlamento centroamericano)
PROCUENCA	Plan for the integrated management of water resources and the sustainable development of the San Juan river basin
SDG	Sustainable development goals
SICA	Central American Integration System (Sistema de Integración Centroamericana)
SMEs	Small and medium enterprises
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
TSD	Trade and sustainable development
UK	United Kingdom
UN	United Nations
WTO	World Health Organization

1. Background

Trade relations between the European Union (EU) and the Central American region are determined by an Association Agreement (AA) signed in June 2012.¹ The Central American countries included in the agreement are Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama (see Figure 1 below). The AA builds on the San José Dialogue of 1984, the Framework Cooperation Agreement (signed in 1993 and in force since 1999) and the Agreement on Political Dialogue and Cooperation (signed in 2003 and in force since 2014).

The EU-Central America AA covers, inter alia, trade, political dialogue and cooperation. Pending the agreement's ratification, the trade pillar of the AA has been provisionally implemented since 1 August 2013 with Honduras, Nicaragua and Panama, since 1 October 2013 with Costa Rica and El Salvador, and since 1 December with Guatemala. It has replaced the unilateral preferential access to the EU market that was granted to Central America under the EU's Generalised Scheme of Preferences (GSP).

The agreement only applies provisionally in the EU until all Member States have ratified it. To date, Austria, Belgium, Greece and the United Kingdom (UK) have not yet ratified the EU-Central America agreement.² The completion of the AA ratification process by all the EU Member States will activate the political dialogue and cooperation pillars, which, in the meantime, are addressed in the framework of the 1999 political dialogue and cooperation agreement.

Figure 1 – Map of Central America



Source: EPRS.

¹ The European Parliament gave its consent to conclusion of the agreement on 10 December 2012 (by 557 votes to 100, with 21 abstentions). European Parliament, [MEPs back two major pacts with Latin America](#), Press release, 11 December 2012.

² The status of the ratification is posted on the Council's [website](#). Croatia, which joined the EU after the signature of the EU-Central America AA, in 2013, granted Central America all preferences as provided in the AA then. However, it was still necessary to make the necessary adjustments to the AA to allow Croatia to enjoy preferential access to Central American markets. The conditions for the full inclusion of Croatia in the AA have therefore been under discussion between the Parties since 2013 and in all Association Committee meetings. In the latest Association Committee meeting of 14 June 2018, which took place in Brussels, all six Central American Republics accepted the EU offer of compensation, which had been on the table for consideration for some time. This offer has been calculated according to the methodology used for similar discussions in the framework of the WTO and in all EU bilateral agreements. On this basis, the Parties will now start the administrative and institutional procedures to adopt the relevant Protocol to the Association Agreement. See European Commission, [EU-Central America Association Agreement, Summary Report of the fourth meeting of the Association Committee – Trade part: Brussels, 14 June 2018](#).

The trade pillar of the EU-Central America AA contains a separate chapter on trade and sustainable development (hereafter referred to as the 'TSD chapter'), under which, as is the case in other recent EU trade agreements, the parties to a given agreement pledge to abide by a number of social (including labour) and environmental principles. In that light, the EU has committed itself to ensuring that its trade policy is not only supportive of the economic development of the Union, but also of broader, non-trade issues. More specifically, TSD chapters can:

- reflect international labour and environment standards and agreements;
- enforce their environmental and labour laws;
- ensure there is no deviation from environmental or labour laws to encourage trade or investment, and thereby prevent a 'race to the bottom';
- promote the sustainable trade of natural resources, such as timber and fish;
- combat illegal trade in threatened and endangered species of fauna and flora;
- encourage trade that helps to tackle climate change; and
- promote practices such as corporate social responsibility.³

TSD provisions are underpinned by the logic of the Lisbon Treaty that links 'fair' to 'free' trade as one of the Union's external policy objectives (Article 3(5) TEU) and stipulates that the EU's trade policy 'shall be conducted in the context of the principles and objectives of the Union's external action' (Article 207(1) TFEU). The European Commission's 'Trade for All' communication also strongly emphasises 'values' and 'responsible trade'.⁴

These provisions are seen as constituting a new form of conditionality and contain obligations, modelled on similar provisions in United States and Canadian free trade agreements requiring the parties to comply with labour and environmental standards (including ILO core labour standards). This conversely means that parties are not to use labour and environmental regulation as a means of economic protection.⁵

1.1. Trade picture

It is difficult to draw conclusions on trade with Central America as a region because intra-regional social and economic development is heterogeneous. Panama and Costa Rica are middle income countries while Nicaragua is the poorest country. This means that economic growth, food security and access to food, and average wages, among other factors, vary widely within the region.

The European Commission-contracted ex-ante trade sustainability impact assessment for the trade part of the Association Agreement between the EU and the six Central American republics showed, for example, that Panama would benefit from participating in the Association Agreement in terms of changes in national income and trade.⁶ Access to the EU market was expected to generate major economic and social benefits in Central America with gains in national income for Central America as a whole expected to amount to €2.6 billion. Estimates of change in national income varied between 0.5 % in Nicaragua to 3.5 % for Costa Rica in the long term. This would be the result of large sectoral gains in the fruit, vegetable, and nut sector in Costa Rica and Panama. Guatemala and Nicaragua were expected to become more competitive in the textiles and clothing sector, while El

³ [Sustainable development](#), Directorate General for Trade, European Commission, 9 April 2018 (accessed 17 July 2018).

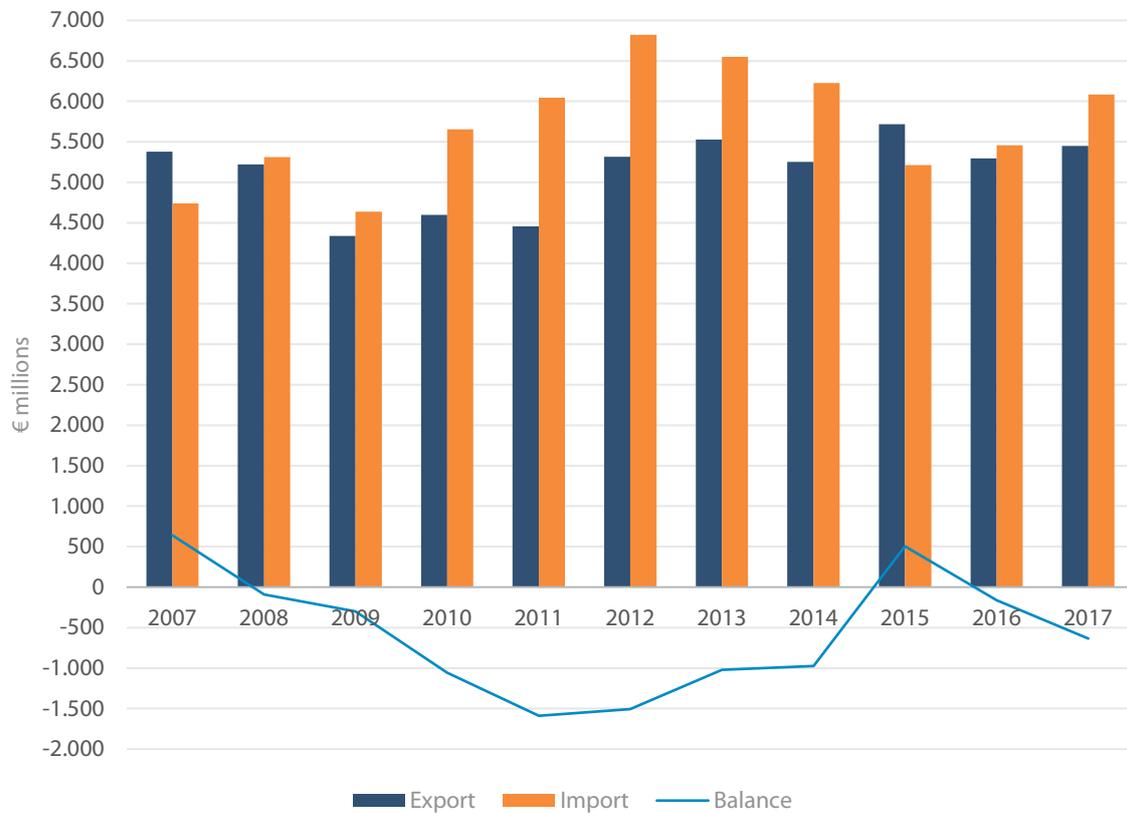
⁴ European Commission, [Trade for All: Towards a More Responsible Trade and Investment Policy](#), COM(2015) 497, 14 October 2014 (see especially p. 5).

⁵ Isabelle Ioannides, [The effects of human rights related clauses in the EU-Mexico Global Agreement and the EU-Chile Association Agreement](#), EPRS, European Parliament, February 2017.

⁶ Ecorys and Corporate Solutions, [Trade Sustainability Impact Assessment of the Association Agreement to be negotiated between the EU and Central America](#), TRADE08/C1/C14 & C15 - Lot 2, Final Report, (Evaluation commissioned by the Directorate General on Trade, European Commission), 18 September 2009.

Salvador and Honduras would see an increase in their exports of transport equipment. Accordingly, the agreement was expected to have an overall poverty-reducing effect across the Central American region.⁷

Figure 2 – EU28 trade in goods with Central America, 2007-2017 (€ millions)



Source: [EU trade since 1988 by SITC](#), Eurostat.

Overall, experts argued that the impact of the agreement on the economy and trade flows of the EU would be negligible due to the small size of the Central American economies.⁸ This has indeed been the pattern of trade flows. In the countries of the region, the biggest impact of the Association Agreement on production and trade has been in the fruit, vegetables and nuts sector, something that experts had pointed to even before the signature of the agreement.⁹ According to Eurostat data, the trade flow between the EU and Central America amounted to €10.7 billion in 2016. The EU's trade balance with Central America presented a deficit equal to €0.13 billion in 2016. In 2015, there was a surplus of €0.5 billion, but in 2014 there was a deficit of €1.7 billion and in 2013 a deficit of €2.2 billion.¹⁰ EU exports to Central America decreased by 7.8 % in 2016. This could be explained mainly by exports of products of the chemical or allied industries and transport equipment, which decreased by 7.3 % and 36.1 % respectively (see Figure 2.)

⁷ European Commission, [Highlights of the trade pillar of the Association Agreement between Central America and the European Union](#), Press release, Brussels, 20 June 2011, p. 3.

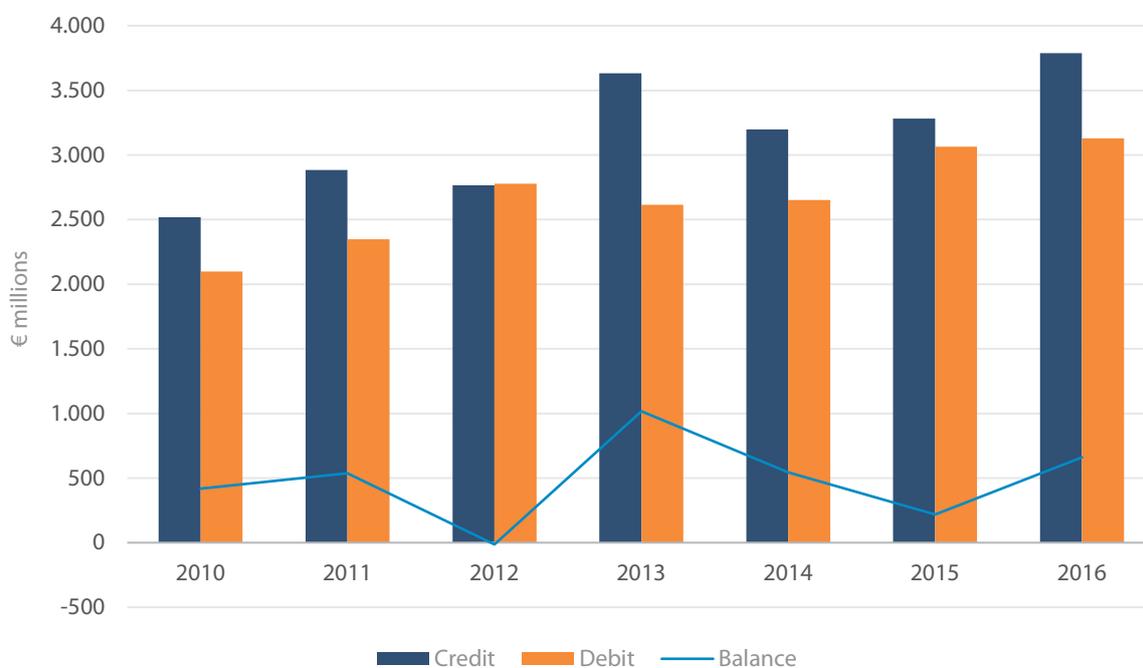
⁸ EU - Central America Association Agreement - Free Trade Chapter, Policy Briefing, Directorate-General for external Policies of the Union Policy Department, European Parliament, May 2011.

⁹ Ibid.

¹⁰ European Commission, [Report from the Commission to the European Parliament and the Council, Annual Report on the Implementation of Part IV of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other](#), COM(2016) 73 final, Brussels, 18 February 2016, p. 3.

During the same year, the main EU imports from Central America by harmonised system (HS)¹¹ section were, in order of importance: vegetable products; foodstuffs, beverages, tobacco; optical and photographic instruments, etc.; and animal or vegetable fats and oils. The main EU exports to Central America by HS section were, in order of importance: machinery and appliances; products of the chemical or allied industries; transport equipment; and foodstuffs, beverages and tobacco.¹²

Figure 3 – EU28 trade in services with Central America, 2010-2016 (€ millions)



Source: [Total services, detailed geographical breakdown by EU Member State \(since 2010\) \(BPM6\)](#), Eurostat.

The European Commission annual reports do not provide much information on trade in services, which admittedly is complicated to measure and which at a global level may give a biased picture. While Honduras and Nicaragua saw very significant fluctuations, the larger markets of Panama, Costa Rica and Guatemala saw more moderate variations (generally under 10 %) as did El Salvador. In this study, an attempt is nonetheless made to provide readers with an overview of trade in services between the EU and Central America (aggregated figures for trade in services of all the countries that are party to this AA) using data from Eurostat (see Figure 3 below.)

1.2. Objectives and structure

Recent studies have expressed doubt as to whether the TSD chapters included in EU free trade agreements (FTAs) live up to the expectations they create.¹³ In terms of structures for monitoring the agreement, civil society organisations have – at least on paper – been granted an important role

¹¹ The Harmonised Commodity Description and Coding System, also known as the Harmonised System (HS) of tariff nomenclature, is an internationally standardised system of names and numbers to classify traded products.

¹² [European Union, Trade in goods with Central America 6](#), Directorate-General for Trade, European Commission, 16 April 2018.

¹³ See, for example, I. Ioannides, [The effects of human rights related clauses in the EU-Mexico Global Agreement and the EU-Chile Association Agreement](#), EPRS, European Parliament, February 2017; W. Douma, 'The Promotion of Sustainable Development through EU Trade Instruments', in L. Pantaleo and A. Mads (eds.), *The European Union as a Global Model for Trade and Investment*, Research Paper Series No 2016-02, University of Oslo, Faculty of Law Legal Studies, 2016.

in the follow-up and monitoring of these chapters. Civil society meetings have become a standard and quite prominent feature of EU free trade agreements, specifically with a view to promoting labour and environmental principles.¹⁴

In addition, while the inclusion of labour rights in EU trade agreements has become an 'unobjectionable norm',¹⁵ analyses of their impact remains difficult and limited.¹⁶ Critics have argued that current trade sustainability impact assessment methodology and practice fail to yield an adequate assessment of the social impact of a given trade agreement.¹⁷ They have argued that the monitoring and enforcement of the sustainable development chapters that specifically address labour rights are particularly erratic, leading to suspicions of weak political commitment and double standards.¹⁸ The debates focus on the negative social, environmental, and health consequences of international trade and a potential 'race to the bottom' in environmental and social standards. The main added value of TSD chapters may therefore not lie in the 'harmonisation' of social and environmental standards between the partners, but rather in fostering dialogue and cooperation to achieve sustainable trade in the long run.¹⁹

In response to these concerns, the European Commission launched a debate on the performance of existing TSD chapters in EU trade agreements and, in this context, issued a non-paper on this topic²⁰ in July 2017, which was sent to the European Parliament and the Council intended to contribute to the debate. More specifically, the non-paper hopes to address:

- whether the current TSD chapters meet expectations, and what could be done to improve them;
- whether a more assertive partnership on trade and sustainable development in bilateral FTAs should be pursued;
- whether a sanction-based approach would address the shortcomings identified; and
- whether any other issues related to trade and sustainable development need to be addressed.

This study examines and assesses the TSD chapter in the trade pillar of the EU-Central America AA against these four objectives that the European Commission has set for itself and that it uses as benchmarks. It is, however, beyond the scope of this study to evaluate how successful the EU has been at implementing sustainable development in individual countries of the Central American region.

¹⁴ See J. Orbie et al., [Civil Society Meetings in European Union Trade Agreements: Features, Purposes, and Evaluation](#), CLEER PAPERS 2016/3, Centre for the Law of EU External Relations, Asser Institute, The Hague, The Netherlands, 2016.

¹⁵ L. Van den Putte and J. Orbie, 'EU Bilateral Trade Agreements and the Surprising Rise of Labour Provisions', *International Journal of Comparative Labour Law and Industrial Relations*, Vol. 31(3), 2015, pp. 263–283.

¹⁶ J. Orbie et al., 'The Impact of Labour Rights Commitments in EU Trade Agreements: The Case of Peru', *Politics and Governance*, Vol. 5(4), 2017.

¹⁷ E. Bürgi Bonanomi, [EU Trade Agreements and Their Impacts on Human Rights](#), Study commissioned by the German Federal Ministry for Economic Cooperation and Development (BMZ), CDE Working Paper No 1, Centre for Development and Environment, University of Bern, Switzerland, 2014, p. 9.

¹⁸ L. Beke et al., [Report on the Integration of Human Rights in EU Development and Trade Policies](#), Large-Scale FP7 Collaborative Project GA No 320000: Fostering Human Rights among European Policies, Work Package No 9 – Deliverable No 1, Leuven Centre for Global Governance Studies, Leuven, September 2014.

¹⁹ A. Marx et al., [Dispute Settlement in the Trade and Sustainable Development Chapters of EU Trade Agreements](#), Leuven Centre for Global Governance Studies, Leuven, 2017.

²⁰ European Commission, [Trade and Sustainable Development \(TSD\) chapters in EU Free Trade Agreements \(FTAs\)](#), Non-paper of the Commission services, 11 July 2017.

1.3. Methodology

Owing to time constraints, the analysis in this study is based essentially on available secondary literature. It includes a review of academic and think tank analysis of ambitions, successes and challenges in EU-Central America relations, European Commission reports on the implementation of the EU-Central America agreement, and reports and opinions produced by the European Parliament and the EU advisory bodies, namely the European Economic and Social Committee, on the strengths and shortcomings of this agreement. The author has also consulted EU national parliamentary registers to find relevant literature on the implementation of the AA. Moreover, discussions with DG TRADE in the European Commission complemented the analysis of secondary literature and answered any questions that arose.

It should be noted that at the time of writing this study, the European Commission had not published its 2018 annual report on the implementation of the EU-Central America AA, which was due in September 2018.²¹ Unlike previous years, the annual implementation report will include all EU trade agreements rather than assessing them individually in separate reports.

Moreover, it is important to note the limitations of the quantitative data on regional trade flows between the EU and Central America. While the EU and Central America exchange their respective statistics annually to elaborate a joint analysis,²² given the importance of the Panamanian Trade Free Zone (the second in the world), the European Commission admits that Eurostat data tends to overestimate EU exports to Central America.²³ Another limitation to keep in mind is the difficulty of dissociating the impact that trade activities conducted in the context of the EU-Central America AA may have had on sustainable development from the specific impact that trade with other countries or EU development aid may have had on promoting labour rights and environmental sustainability.²⁴

²¹ The European Commission hopes to publish its 2018 report on the implementation of all the EU FTAs by the end of October 2018.

²² The EU uses the statistics published by the Secretariat for Central American Economic Integration (SIECA).

²³ See, for example, [Report from the Commission to the European Parliament and the Council, Third Annual Report on the Implementation of Part IV of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other](#), COM(2017) 160 final, Brussels, 5 April 2017.

²⁴ Ioannides, Isabelle, [The effects of human rights related clauses in the EU-Mexico Global Agreement and the EU-Chile Association Agreement](#), EPRS, European Parliament, February 2017.

2. EU-Central America AA and sustainable development

The EU's central trade policy objective for Central America is to increase bilateral trade and use it to strengthen the process of regional integration between the region's countries. In practical terms, this means the creation of a customs union and economic integration in Central America. The EU has supported this process through its trade agreement and its trade-related technical cooperation programmes. This closer economic integration between the countries of the Central American region is important for attracting investment to the region and helping local businesses develop the necessary capacity in their regional market to be able to compete internationally. When doing so, fostering sustainable development is key.

2.1. Sustainable development in the ex-ante impact assessment

The ex-ante impact assessment of the EU-Central America AA commissioned by the European Commission argued that the deal could stimulate implementation of effective EU-Central America cooperation and policies on illegal logging, among other issues, which would have positive effects in mitigating deforestation and biodiversity loss. The assessment argued that, in general, 'specific sustainable development provisions in the AA can stimulate the commitment to and implementation of international and multilateral environmental agreements (MEAs), thereby encouraging further progress on issues of international concern such as climate change, biodiversity and natural resources'.²⁵

The assessment also pointed out, however, that 'the effects on other environmental quality indicators [were] not clear-cut'. More trade and marine transport as well as more consumption (i.e. waste generation) could put a pressure on environmental and water quality. Nonetheless, FDI flows and the inclusion of Central American firms in global production networks as well as specific sustainable development provisions included in the AA, could potentially enhance 'green' production and help bring about improvements in environmental quality.²⁶

In that context, the trade and sustainability impact assessment had recommended that the sustainability development chapter in the AA address social and environmental issues related to the trade-part of the deal, supported by an appropriate incentive structure. Social issues would include: (enforcement of) international labour standards; small and medium-sized enterprises (SMEs); strict monitoring and evaluation systems; positive indirect effects on labour standards (in relation to the ILO conventions) and working conditions (e.g. in the *maquilas*),²⁷ including in domestically oriented sectors. Environmental issues that the AA could cover include: multilateral environmental agreements (MEAs); regional approaches; impact monitoring mechanisms; environmental standards; wildlife and biodiversity; and sector-specific issues (e.g. on forests, fishery, biofuels, organic farming, etc.).²⁸ The same impact assessment highlighted that 'if the EU insists upon standards being met in the production of goods to be exported there and the implementation of ILO conventions, then this could benefit Central American workers, in particular the most vulnerable

²⁵ Ecorys and Corporate Solutions, [Trade Sustainability Impact Assessment of the Association Agreement to be negotiated between the EU and Central America](#), TRADE08/C1/C14 & C15 - Lot 2, Final Report, (Evaluation commissioned by the Directorate General on Trade, European Commission), 18 September 2009, p. 17.

²⁶ Ibid.

²⁷ The *maquila* (or *maquiladora*) is a sub-contractor, manufacturing operation, where factories import certain material and equipment on a duty-free and tariff-free basis for assembly, processing, or manufacturing and then export the assembled, processed or manufactured products, sometimes back to the raw materials' country of origin. They are often accused of subjecting workers to unsafe and unsanitary working conditions.

²⁸ Ecorys and Corporate Solutions, [Trade Sustainability Impact Assessment of the Association Agreement to be negotiated between the EU and Central America](#), TRADE08/C1/C14 & C15 - Lot 2, Final Report, (Evaluation commissioned by the Directorate General on Trade, European Commission), 18 September 2009, pp. 18-19.

groups (women, children and indigenous populations)'.²⁹ The importance of including employees' health in the sustainable development chapter was also recommended in the ex-ante assessment.³⁰

On monitoring implementation of the sustainable development chapter, the ex-ante impact assessment called for a system to monitor and evaluate labour issues, 'such as that included in the EU-Chile agreement' once the agreement had been implemented. It argued that the TSD chapter could also use the enforcement mechanisms implemented as a result of the CAFTA-DR white paper,³¹ which envisages employer sanctions and the provision of direct support for labour unions, and urges governments to create laws to regulate employment subcontracting.³² The role of civil society in monitoring sustainable development was stressed and an emphasis was put on the importance of it playing 'a responsible and vocal role so as to ensure the broad and often varying interests are adequately represented'.³³

2.2. The legal foundations

The very premise of the TSD chapter – provisions to protect labour, social and environmental rights – resonates with a growing concern that trade agreements should not only promote economic interests but should also take broader values into account. Accordingly, an overarching objective of the EU-Central America AA is to contribute to sustainable development in both Central America and the European Union, taking due account of the differences and specificities of each region.

This objective is embedded in all the sections of the agreement. The AA starts with its 'essential elements' clause by stressing the underlying principles, which include respect for democratic rule and fundamental human rights as well as the promotion of sustainable development, good governance and the rule of law. This is further developed and the commitment to sustainable development is reaffirmed in the TSD chapter. It addresses the interrelation between trade and social and environmental policies and the Parties' commitments to labour and environment-related matters. These include commitments to internationally recognised core labour standards and multilateral agreements addressing environmental issues of international concern, amongst other things, implementation of the fundamental ILO conventions and multilateral environmental agreements such as the Convention on Biological Diversity, the UN Framework Convention on Climate Change and the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES).

More specifically, in the TSD chapter of the AA (see Annex I), the EU and Central American countries have made commitments to ensure a high level of labour and environmental protection in their domestic legislation, to strive to improve laws and policies in these areas, and not to lower these levels in order to attract trade or investment. They have also expressed their will to cooperate in areas related to trade and, respectively, labour, the environment and sustainable development. This comprises facilitation of trade and investment in environmental technologies and services, the promotion of renewable energy and energy-efficient products and the promotion of corporate

²⁹ Ecorys and Corporate Solutions, [Trade Sustainability Impact Assessment of the Association Agreement to be negotiated between the EU and Central America](#), TRADE08/C1/C14 & C15 - Lot 2, Final Report, (Evaluation commissioned by the Directorate General on Trade, European Commission), 18 September 2009, p. 77.

³⁰ Ibid., p. 80.

³¹ This refers to the following paper of the Office of the United States Trade Representative, [The Labor Dimension in Central America and the Dominican Republic, Building on Progress: Strengthening Compliance and Enhancing Capacity](#), 2005.

³² Ecorys and Corporate Solutions, [Trade Sustainability Impact Assessment of the Association Agreement to be negotiated between the EU and Central America](#), TRADE08/C1/C14 & C15 - Lot 2, Final Report, (Evaluation commissioned by the Directorate General on Trade, European Commission), 18 September 2009, p. 77.

³³ Ibid., p. 86.

social responsibility (CSR) and of trade in products subject to ethical or fair trade schemes. Cooperation may also include trade-related aspects of the sustainable management of forest resources, the promotion of sustainable fishing and other relevant areas.

Table 1 below illustrates the extent to which sustainable development is enforceable and the limits of implementation. Having explicitly put in the 'essential elements' clause, the promotion of sustainable development as a guiding principle for the implementation of this agreement, demonstrates a strong commitment to this objective by all signatory parties. However, the wording in the TSD chapter is softer. The use of such terms as 'shall strive to ensure [...]' (see Article 285 in Annex I) ultimately does not ensure that declarations of intent are actually implemented. While the intentions are noble, the conservative way in which the title is written does not do enough to ensure their implementation.

Table 1 – Sustainable development in the EU-Central America Association Agreement

Type of clause	Articles linked to sustainable development
'Essential elements' clause	Article 2 2. The Parties confirm their commitment to the promotion of sustainable development, which is a guiding principle for the implementation of this Agreement, taking notably into account the Millennium Development Goals. The Parties shall ensure that an appropriate balance is struck between the economic, social and environmental components of sustainable development.
When appropriate measures may be taken	Article 355 2. If a Party considers that another Party has failed to fulfil an obligation under this Agreement, it may have recourse to appropriate measures.
Meaning of 'special urgency'	Article 355 3. The Parties agree that the term 'cases of special urgency' in paragraph 2 means a case of material breach of this Agreement by one of the Parties. 4. A material breach of this Agreement consists in: (a) repudiation of this Agreement not sanctioned by general rules of international law; (b) violation of the essential elements of this Agreement.
Proportionality conditions on appropriate measures	Article 355 2. In selecting which measures to adopt, priority shall be given to those which are least disruptive to the implementation of this Agreement. 3. The Parties further agree that the term appropriate measures, referred to in paragraph 2 means measures taken in accordance with international law. It is understood that suspension would be a measure of last resort.
Notifications and consultations	Article 355 2. Such measures shall be notified immediately to the Association Committee and shall be the subject of consultations in the Committee if a Party so requests. 5. If a Party has recourse to a measure in case of special urgency, the other Party may request that an urgent meeting be called to convene the Parties within fifteen days.

Source: [Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other](#), Official Journal L 346, 15 December 2012.

In addition, while climate change has gradually emerged as the key cooperation priority in the EU-Central America relationship, it is not explicitly mentioned in the AA even though it is a distinct and

ambitious area of environmental cooperation. Experts also question the effectiveness of the 'implementation' clause (Article 355 of the EU-Central America agreement), arguing that 'the exact meaning of this clause is unclear'.³⁴ According to Bartels 'it could have the effect of imposing on the parties not only a negative duty to ensure that ... democratic principles are respected but also a positive duty to ensure that these norms are ensured and fulfilled'.³⁵

The cooperation part of the AA contains a non-exhaustive list (see Article 27: Evolution Clause) of areas of cooperation such as, democracy and human rights, good governance, modernisation of the state and public administration, conflict prevention and resolution, reinforcement of institutions and rule of law, justice, freedom and security (e.g. money laundering, including the financing of terrorism and the fight against corruption), social development and social cohesion (e.g. employment and social protection, education and training), migration, environment, natural disasters and climate change, economic and trade development (e.g. customs and trade facilitation, technical assistance on various trade aspects such as, intellectual property, technology transfer, artisanal goods, food safety, sanitary and phytosanitary matters and animal welfare, renewable energy, fair and sustainable tourism, SMEs, and microcredit and microfinance).

2.3. Parallel development aid³⁶

Implementation of the cooperation agreed is supported by the European Commission's Regional Strategy Paper for Central America and bilateral aid to each of the six signatories to the EU-Central America AA. In the light of new needs that emerged during the Association Agreement negotiations (possible new financial mechanism for regional development, cross-border action, etc.) and given the increasing vulnerability of the region in terms of security and cross-border criminality, the European Commission's Regional Indicative Programme for Central America increased funding for the 2011 to 2013 period to €61 million.³⁷

As part of the Agenda for Change,³⁸ with a view to increasing the impact of EU development policy, the EU refocused its aid to enhance results and sustainable development. For the 2014 to 2020 period, the EU maintains bilateral cooperation with El Salvador, Guatemala, Honduras and Nicaragua. For Costa Rica and Panama, the EU engages in a more strategic relationship, in which it seeks solutions on matters of common concern via regional cooperation, thematic programmes and new financial instruments.

In financial terms, an indicative amount of €775 million has been allocated for bilateral cooperation with Guatemala (€186.8 million), El Salvador (€149 million), Honduras (€235 million) and Nicaragua (€204 million). In addition, €120 million have been earmarked for sub-regional programmes in Central America in three key areas:

³⁴ S. Velluti, 'The Promotion and Integration of Human Rights in EU External Trade Relations', *Utrecht Journal of International and European Law*, Vol. 32(83), 2016, pp. 41-68.

³⁵ L. Bartels, 'Human Rights and Sustainable Development Obligations in EU Free Trade Agreements', *Legal Issues of Economic Integration Law*, Vol. 40(4), 2013, p. 301.

³⁶ The European Commission disburses aid to the Central American countries that are party to this AA on a bilateral basis. It is, however, beyond the scope of this paper to analyse the impact of this funding on EU-Central America trade relations or to examine how it interacts with the trade activities on sustainable development. Nevertheless, it is worth noting this EU assistance to Central American countries is key to supporting long-term sustainable reforms related to sustainable trade, sustainable development, decent work and necessary institutional reforms to ensure the respect of human rights (including labour law). For this point, see I. Ioannides, [The effects of human rights related clauses in the EU-Mexico Global Agreement and the EU-Chile Association Agreement](#), EPRS, European Parliament, February 2017.

³⁷ European Commission, [Summary, Mid-Term Review RSP – Central America 2007-2013 and Regional Indicative Programme 2011-2013](#), 2010.

³⁸ European Commission, [EU Communication on the Agenda for Change](#), 2011.

- regional economic integration (€40 million);
- security and the rule of law (€40 million); and
- climate change and disaster management (€35 million).

Compared to the 2007 to 2013 allocation (€95 million), the allocation for Central America has increased by over 30 % and priorities have been defined through the Central American Integration System (SICA).³⁹

Financing available for regional economic integration and climate change have been key in pushing forward with the implementation of sustainable development clauses. They have been particularly useful, for example, for tackling challenges in the area of sustainable development in border regions that are poorer and may become less peripheral in a more integrated region. This is an example of the development effect of integration.

In June 2018, the European Union, the Secretariat General of the SICA, the Central American Bank for Economic Integration (CABEI) and the German government launched a 'Green Fund for Central America', for a total amount of €88.1 million. The EU will support the programme through a €34 million contribution. The fund aims to support mitigation and adaptation measures to help the SICA region become more resilient to the effects of climate change. In order to accomplish its mission, it encompasses two programmes:

- the Green Fund for Development, of which the aim is to invest at local level to improve resilience to climate change in vulnerable areas of the Central American region, and will have as its main focus the restoration of forest landscapes and the implementation of integrated ecosystems; and
- the Green MSMEs II Initiative, which will focus on generating renewable energy and improving energy efficiency in Micro, Small and Medium Enterprises (MSMEs). Ultimately, this initiative seeks to reduce energy consumption, curtail CO₂ emissions, and thereby improve the environmental situation of the region.⁴⁰

The EU also works closely with its Member States, for example, with the Foreign Ministry of the Netherlands, with which it has launched a €4 million project on 'Promoting sustainable export development in Central America' (2017-2020).⁴¹

³⁹ The SICA members are Guatemala, Belize, El Salvador, Honduras, Nicaragua, Costa Rica, Panama, and the Dominican Republic. See [Regional cooperation with Central America](#), Directorate-General for International Cooperation and Development, European Commission.

⁴⁰ European Commission, [The EU launches a 'Green Fund' for Central America to support the fight against climate change](#), DG DEVCO, Brussels, 13 June 2018.

⁴¹ Dutch Ministry of Foreign Affairs, *Investing in Global Prospects*, Policy Document on Foreign Trade and Development Cooperation, May 2018.

3. Monitoring implementation

The expectations of the impact that the EU-Central America AA would have on sustainable development were rather optimistic. The 2009 trade and sustainability impact assessment that the European Commission commissioned in advance of the negotiation of the EU-Central America Association Agreement demonstrated that wages for low-skilled and high-skilled workers in Central America were likely to increase, except in Panama, while, in the EU, the social impacts would be negligible. These wage increases would range from 0.2 % for high-skilled workers in Guatemala to up to 3.2 % for unskilled workers in Costa Rica. These figures were expected to be upper-bound estimates because of the existing informal sector. Modest migration of workers to Costa Rica could be the consequence. In Central America, special attention needed to be paid to gender equality, labour conditions and vulnerable social groups. According to the same ex-ante assessment, it was estimated that the AA could stimulate the improvement of labour standards as EU firms made higher demands on Central American exporters and since EU investors adhere to the ILO Decent Work Agenda. This hypothesis was made under the proviso that firms in the Central American region would not lower wages and standards in a competition for scarce FDI and thereby start a 'race to the bottom' in labour regulations.

The assessment also concluded that the trade part of the AA would have an overall poverty-reducing effect for all Central American countries except for Panama, but the degree of this effect differed per country. For the Central American region as a whole, the aggregated estimated effect was 0.6 % reduction in poverty levels (in the scenario where Panama joined the AA). For Nicaragua, El Salvador and Honduras the poverty reductions were most pronounced (at 1 %). The effect was much smaller in the short run for Costa Rica, but greatest in the long run. For Panama, the AA was expected to raise poverty levels slightly whether or not it decided to join, though far less so if Panama joined (0.2 % compared to 1.2 % if it did not join). In addition, unskilled wages were expected to rise faster than skilled wages, indicating a decline in income inequality, for both the comprehensive and very comprehensive scenarios. These were – however – average effects, and the effects of the AA for the domestic sectors, vulnerable groups, and women would need to be looked at in more detail. No major direct effects of the AA on education or health were expected.

Regarding environmental concerns, it was expected that the AA would cause limited increases in CO₂ emissions (+0.0 % of global greenhouse gas emissions) and more so for the EU than the Central American countries. Equally, resource (land) use was expected to change significantly especially in Costa Rica and Panama, towards the fruit, vegetable and nut sector at the expense of livestock and grains. Overall pressure on land use was likely to increase if the effects of mining, deforestation and biofuels production were taken into account.⁴²

Against this backdrop, this section examines the institutional set up envisaged by the EU-Central America AA to monitor compliance with the TSD provisions. It then analyses the monitoring carried out by the European Commission through its annual reports, the oversight conducted by Parliament, and other activities that have been carried out between the EU and Central America in the context of this agreement and with the aim of facilitating compliance.

⁴² Ecorys et al., [Trade Sustainability Impact Assessment of the Association Agreement to be negotiated between the EU and Central America](#), Final Report, TRADE08/C1/C14 & C15 - Lot 2, Rotterdam, 18 September 2009.

3.1. Monitoring mechanisms

The Parties to the EU-Central America Association Agreement committed to monitor the impact of the sustainable development title in the agreement. The compliance mechanisms pertinent to ensuring the implementation of the TSD chapter is illustrated in Figure 4.

The Association Agreement provided for the establishment of an Association Council, composed of representatives of the EU Party and of each of the countries of the Central

American Party at ministerial level, who meet annually to oversee fulfilment of the objectives and to supervise implementation, including sustainable development issues. The Association Council is assisted by an Association Committee, which meets annually at senior official level to consider specific issues such as, political dialogue, cooperation and/or trade. However, the main innovation of TSD chapter resides in its systematic monitoring by a specialised body, the Board on Trade and Sustainable Development (TSD Board).

In parallel, the Parties agreed that political dialogue should encompass all aspects of mutual interest either at the regional or international levels. In the pillar on political dialogue and cooperation there is a body to channel the views of civil society in relation to the implementation of the agreement. This is called the Joint Consultative Committee, consisting of the European Economic and Social Committee (EESC), the Consultative Committee of the Central American Integration System (CC-SICA) and the Consultative Committee for Economic Integration (CCEI). This dialogue covers issues including finance for development, migration, environmental protection and sustainable development, public security, and good governance in the tax area.

Furthermore, an EU-Central America Joint Parliamentary Committee was established, which consists of Members of the European Parliament, on the one hand, and of Members of the Central American Parliament (PARLACEN), on the other hand. PARLACEN has established its rules of procedure itself and works in close contact with the Association Council. The Committee meets regularly to discuss the implementation of the EU-Central America AA, including the TSD chapter.

An important element in the overall structure of the Association Agreement is the role of civil society in the follow-up. In its discourse about the new trade agreements, the European Commission never fails to emphasise the importance of the TSD chapter and the civil society mechanisms it includes. TSD chapters seek to ensure ongoing dialogue with civil society and social partners (especially on the environment and labour provisions), notably through the creation of domestic advisory groups (DAGs) for each party, one for the EU and one for Central America. Composed of a balanced representation of economic, social and environmental stakeholders including independent representative civil society organisations (CSOs), employers' and workers' organisations, business associations, non-governmental organisations and local authorities, these groups are supposed to meet on a regular basis, typically annually.

Interestingly, the EU-Central America AA goes a bit further than other new generation agreements (such as the EU-Korea FTA or the Peru-Colombia agreement) by stipulating (in a footnote) that, if existing groups are used, these should be offered 'the opportunity to reinforce and develop their activities with the new perspectives and areas of work' provided in the TSD chapter.

New DAGs have been formed (or are in the process of being formed) under the Central American agreement, specifically within each of the Central American countries. On the EU side, the EU

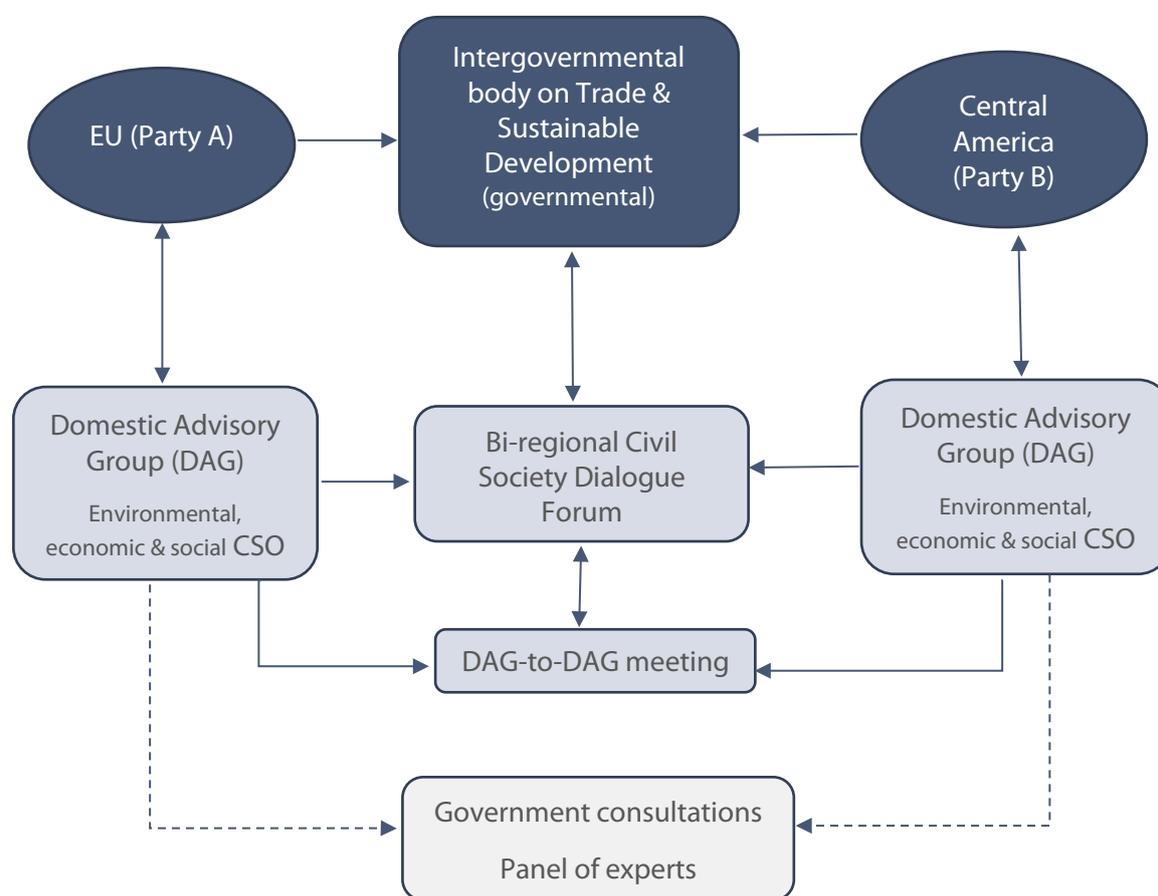
Box 1 – What dispute settlement?

The TSD chapter is excluded from the general dispute settlement system of the AA as a whole. When a violation of labour or environmental provisions arises, the issue can be discussed in governmental consultations. As a last resort, a panel of experts can be established. However, there is no provision for sanctions if the panel's recommendations are not followed up.

advisory group comprises representatives from the European Economic and Social Committee (EESC), which also provides the secretariat for the group, and from EU civil society organisations who expressed interest in participating in this group following a call for expressions of interest launched through DG TRADE'S civil society database. See also Annex II on the Rules of Procedure of the EU Advisory Group.

The work of the domestic advisory groups goes hand in hand with a bi-regional Civil Society Dialogue Forum (CSDF) to facilitate exchanges across the Atlantic regarding the sustainable development aspects of the trade relations. At the latest meeting of the Civil Society Dialogue Forum with the TSD Board (in June 2018), it was agreed to ask the advisory groups to actively support the CSDF. Taking into account that the participation and support of the DAGs is very important to strengthen the opportunities for public participation provided for in the agreement, the TSD Board agreed to establish a permanent agenda item in its meeting with the Civil Society Dialogue Forum under which the advisory groups can present their recommendations.⁴³

Figure 4 – Institutional set-up for civil society organisation consultation



Source: Author, based on TSD chapter in the EU-Central America Association Agreement.

⁴³ European Commission, [Report to the Civil Society Forum of the Fourth Meeting of the Board of Trade and Sustainable Development Association Agreement between Central America and the European Union](#), Brussels, 13 June 2018, p. 8.

While the use of state-to-state dispute settlement has been ruled out for TSD chapters, an arbitration system is in place. According to this set up, should divergences between the Parties arise in the implementation of the TSD chapter's provisions, recourse to an independent and impartial panel of experts is possible under conditions of transparency.⁴⁴ When a violation of labour or environmental provisions arises, the issue can be discussed in governmental consultations. As a last resort, a panel of experts can be established. However, no sanction is envisaged if the panel's recommendations are not followed up.

Substantive work is carried out in EU delegations in the countries concerned, where much of the work on disseminating information about the agreement, planning joint activities for supporting implementation, and also managing some of the decentralised EU assistance (notably European Commission grants) takes place.

3.2. European Commission assessment

Under Article 13 of Regulation (EU) No 20/2013 of the European Parliament and of the Council of 15 January 2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other,⁴⁵ the Commission is to present an annual report to the European Parliament and the Council.

In that context, the European Commission has published three annual reports on the implementation of the EU-Central America AA: in 2015, 2016 and 2017. At the time of the writing, the annual report for 2018 has not been published.⁴⁶ Additionally, this year (2018) as opposed to the past, DG TRADE in the European Commission is preparing a single report on the implementation of all the trade agreements that the EU has with third parties/countries/regions. The last three annual reports paint a somewhat positive picture and progress in the implementation of the TSD chapter, but do not offer much information on the discussions. On the monitoring of the TSD chapter, discussions appear to concentrate mainly on the ratification of ILO conventions by each Central American country (the state of their implementation is not detailed).

The 2015 annual report on the EU-Central America AA, provides limited information on the implementation of the TSD chapter. This report broadly concludes that while 'it is too early to make any conclusive assessment of the impact of the trade part of the Agreement',⁴⁷ 'the first year of implementation... has brought about a rapid set-up and functioning of the institutional framework of the Agreement and the process of implementation is overall positive'.⁴⁸ More precisely, activities in the field of TSD in the first year of implementation of the agreement focused on establishing the institutional structures set out in TSD chapter, in particular the government-to-government Board on Trade and Sustainable Development. In that context, the Parties have launched the dialogue on trade and sustainable development and shared their experiences with domestic mechanisms to promote the participation of civil society and groups committed to the implementation of the trade

⁴⁴ European Commission, [EU-Central America: Trade Relations under the Association Agreement](#), 2012, p. 10.

⁴⁵ [Regulation \(EU\) No 20/2013 of the European Parliament and of the Council of 15 January 2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other](#), Official Journal L 17, 19 January 2013, pp. 13-24.

⁴⁶ The European Commission hopes to publish its 2018 report on the implementation of all EU FTAs by the end of October 2018.

⁴⁷ European Commission, [Report from the Commission to the European Parliament and the Council, Annual Report on the Implementation of Part IV of the EU-Central America Association Agreement](#), COM(2015) 131 final, Brussels, 18 March 2015, p. 12.

⁴⁸ *Ibid.*, p. 13.

and sustainable development provisions of the agreement.⁴⁹ The issue of sustainable development was not raised at the annual meeting of the Association Committee, but at the Association Council meeting the Parties mentioned that they expected the AA to have a positive impact on social development in Central America. In addition, the EU referred to the entry into force of the Political Dialogue and Cooperation Agreement in 2014.⁵⁰

The 2016 annual report states that the European Commission, the EU and Central America held the meetings of the institutions in charge of monitoring the implementation of the TSD provisions of the Agreement on 27, 28 and 29 May 2015. The overall conclusion of this report is that 'the agreement appears to work well and the implementation process is continuing steadily'.⁵¹ The Association Committee did not discuss the TSD chapter and the Parties did not consider it necessary to hold a meeting of the Association Council in 2015.⁵²

According to the European Commission's **2017 annual report**, the Association Committee, probably partly in response to the Panama Papers scandal, concentrated its discussions on Central America's commitment to making their best endeavours in the implementation of internationally agreed standards as regards, inter alia, financial services, the fight against money laundering, terrorism financing, and tax evasion. These issues have an indirect effect on sustainable development, labour provisions and decent work.⁵³ However, this same report does not mention the Association Council, nor if it met in 2016.⁵⁴

3.3. European Parliament monitoring

In 2015, the Parliament and its Central American counterparts set up the EU-Central America Joint Parliamentary Committee. Its stated objective is to monitor and supervise the various aspects of relations between the European Union and Central America and, in particular, the implementation of the 2003 Political Dialogue and Cooperation Agreement, while it remains in force, and the Association Agreement since its entry into force. The Committee also seeks to cooperate with the Euro-Latin American Parliamentary Assembly (EuroLat), in accordance with the provisions of the latter's Rules of Procedure.⁵⁵

As a result of this monitoring, missions conducted in the countries that are party to the AA and exchanges between Parliament and its counterparts in the region and high-level representatives from other EU institutions, several resolutions and reports calling for action in different aspects of

⁴⁹ European Commission, [Report from the Commission to the European Parliament and the Council, Annual Report on the Implementation of Part IV of the EU-Central America Association Agreement](#), COM(2015) 131 final, Brussels, 18 March 2015, p. 7.

⁵⁰ *Ibid.*, pp. 9-10.

⁵¹ European Commission, [Report from the Commission to the European Parliament and the Council, Annual Report on the Implementation of Part IV of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other](#), COM(2016) 73 final, Brussels, 18 February 2016, p. 12.

⁵² *Ibid.*, p. 10.

⁵³ I. Ioannides, [The Inclusion of Financial Services in EU Free Trade and Association Agreements: Effects on Money Laundering, Tax Evasion and Avoidance, Ex-Post Impact Assessment](#), EPRS, European Parliament, June 2016.

⁵⁴ European Commission, [Report from the Commission to the European Parliament and the Council, Third Annual Report on the Implementation of Part IV of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other](#), COM(2017) 160 final, Brussels, 5 April 2017, pp. 9-10.

⁵⁵ See [Working Document on the Draft Rules of Procedure of the Joint Parliamentary Committee European Union-Central America](#), European Parliament, 8 September 2015.

sustainable development have been prepared and a number of questions to the European Commission raised. The concerns expressed are outlined below.

3.3.1. Human rights violations

Human rights violations are an issue that has been raised regularly by civil society in Central America during Members' visits. During their visit to Costa Rica and Panama in 2016, the consequences of increasing drug trafficking, organised crime and violence were highlighted, as was the lack of a coherent strategy to combat the violence, also the result of the political fragmentation and an ideological polarisation.⁵⁶ They highlighted the problem of impunity, owing to inefficiencies in the judicial sector, leading to human rights loopholes in prisons. Other shortcomings mentioned were the gap between child and adolescent rights (marriage age) and security, the problem of the protection of children and young people and that of school drop-outs.⁵⁷ In El Salvador too, civil society actors informed Members of the need to ensure respect for workers' rights and of the inability of governments to follow through because of the lack of independence of state institutions.⁵⁸

The issue of the protection and respect of human rights is also predominant in Guatemala and Honduras, and concerns all vulnerable groups (children, women, indigenous populations and poor people), including in rural areas between local farmers and agribusiness enterprises. Representatives of the trade unions denounced state policy in Guatemala as being anti-trade unionist, criminalising the trade union movements, and reported that impunity was rife and many trade unionists had been assassinated.⁵⁹ Equally, the DEVE Delegation mission to Honduras, in September 2017, pointed to the numerous obstacles that the country is still facing in its efforts to achieve sustainable economic growth and social development, including a dependence on export revenues, stemming mainly from a limited number of agricultural products and a growing textile sector (the *maquilas*), where working conditions are of serious concern. The work of the Civil Society Dialogue Forum – 'thanks to the establishment of the new Economic and Social Committee (with the support of the EU)' – has helped move forward on social issues. Nonetheless, the implementation of legislation is often a problem, for example, in the field of human rights.⁶⁰

Parliament has repeatedly highlighted the violence and human rights violations in Nicaragua, where 'there has been limited progress towards addressing impunity and prosecuting human rights violators'.⁶¹ In its latest report of May 2018, Parliament takes a strong stance against the extensive physical violence of security forces (murders, injuries and arrests) inflicted on peaceful student-led protests that started in April 2018 to oppose the social security reforms announced by President

⁵⁶ Equally, the 'US State Department named seven Central American countries as havens for laundering the proceeds of drug trafficking and organised crime, and described the region as a main cocaine corridor for US markets, confirming the importance of Central America in the international drug trade'. See Silva Ávalos, H., [US Report Shows Revitalized Central America Cocaine Corridor](#), Insight Crime, 9 March 2017.

⁵⁷ European Parliament, [Mission Report - Report by Delegation Chair, Sofia Sakorafa, on the visit to Costa Rica and Panama, 28 March to 1 April 2016, San José \(Costa Rica\) and Panama City \(Panama\)](#), Delegation for relations with the countries of Central America, 9 June 2016.

⁵⁸ European Parliament, [Report by Emine Bozkurt, Chair of the Delegation for Relations with the countries of Central America, on the visit by a Delegation Working Group to Nicaragua and El Salvador, 28 October – 1 November 2013, Nicaragua and El Salvador](#), Delegation for relations with the countries of Central America, 9 January 2014, p. 16.

⁵⁹ European Parliament, [Report by Delegation Chair Sofia Sakorafa on the visit to Guatemala and Honduras, 16 to 20 February 2015, Guatemala City \(Guatemala\) and Tegucigalpa \(Honduras\)](#), Delegation for relations with the countries of Central America, p. 16.

⁶⁰ Delegation for relations with the countries of Central America, [Minutes of the Meeting of 12 October 2017](#), European Parliament.

⁶¹ European Parliament, [Report by Emine Bozkurt, Chair of the Delegation for Relations with the countries of Central America, on the visit by a Delegation Working Group to Nicaragua and El Salvador, 28 October – 1 November 2013, Nicaragua and El Salvador](#), Delegation for relations with the countries of Central America, 9 January 2014, p. 8.

Daniel Ortega. Parliament condemned the brutal repression and intimidation of peaceful protestors in Nicaragua who are opposing social security reform, and deplored the violation of media freedom in the country. In the light of the Association Agreement between the European Union and the countries of Central America, Members reminded the Nicaraguan government 'of the need to respect the principles of the rule of law, democracy and human rights, as set out in the agreement's human rights clause; urge[d] the EU to monitor the situation and, if necessary, assess the potential measures to be taken; [and] warn[ed] against the serious political, economic and investment consequences which might follow the breaches of human rights'.⁶²

3.3.2. Tackling the consequences of conflict

Migration is an important issue in Central America, and a consequence of unresolved conflicts, since more than 10 % of the population of Costa Rica comes from the Northern Triangle, mainly from Nicaragua, as a consequence of the armed conflicts in the 1980s. Today, Costa Rica is confronted with the Cuban refugee crisis, a consequence of the normalisation of relations between the USA and Cuba.⁶³ The EU is supporting Guatemala and Belize in their efforts to find a peaceful solution to the border conflict.

Equally, in its resolution of 11 December 2012 on the EU-Central America Association Agreement, Parliament pointed out the opportunities offered by the agreement to improve social cohesion and sustainable development and to open up new channels for dialogue in the fight against drug trafficking and organised crime. It also emphasised the need to help revitalise economic and trade relations and promote balanced and sustainable growth.⁶⁴ Equally, in its resolution on EU political relations with Latin America, Parliament asked the EU to support the Central American countries afflicted by organised crime threatening their social and political structures. It also called on Member State parliaments that had not yet done so to ratify the EU-Central America Association Agreement.⁶⁵

Perhaps the greatest challenge for Salvadoran society and for the government in recent years has been the threats and high levels of violence associated with organised crime, in particular drug-trafficking cartels and the violent gangs known as *maras*.⁶⁶ In Honduras, a high level of violence, organised crime, impunity and corruption also persist. During a Members' visit to the country in September 2017, it was noted that Honduras has one of the world's worst homicide rates, although it has fallen substantially since 2012.⁶⁷ Civil society representatives in Nicaragua are highly critical of the political situation (in particular as regards the electoral system) and the state of democracy in

⁶² [European Parliament resolution of 31 May 2018 on the situation in Nicaragua \(2018/2711\(RSP\)\)](#).

⁶³ European Parliament, [Mission Report - Report by Delegation Chair, Sofia Sakorafa, on the visit to Costa Rica and Panama, 28 March to 1 April 2016, San José \(Costa Rica\) and Panama City \(Panama\)](#), Delegation for relations with the countries of Central America, 9 June 2016, p. 8.

⁶⁴ [Parliament resolution of 11 December 2012 on the draft Council decision on the conclusion of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America, on the other](#).

⁶⁵ [European Parliament resolution of 13 September 2017 on EU political relations with Latin America \(2017/2027\(INI\)\)](#).

⁶⁶ European Parliament, [Report by Emine Bozkurt, Chair of the Delegation for Relations with the countries of Central America, on the visit by a Delegation Working Group to Nicaragua and El Salvador, 28 October – 1 November 2013, Nicaragua and El Salvador](#), Delegation for relations with the countries of Central America, 9 January 2014, p. 9.

⁶⁷ Delegation for relations with the countries of Central America, [Minutes of the Meeting of 12 October 2017](#), European Parliament.

the country. They deplore the political violence, the militarisation of the police forces (for internal security purposes) and the deteriorating relations between themselves and the government.⁶⁸

3.3.3. Promoting environmental protection rights

Parliament has consistently raised concerns about the need for EU trade to ensure that sustainable development is fostered and the environment protected.⁶⁹ This is of particular importance in a region that is vulnerable to natural disasters and climate change. Parliament has also often stood up for more forceful policies on the right to food, large-scale land deals for plantation agriculture ('land grabbing'), the human rights obligations of businesses, the use of sustainable development clauses and the need to pay equal attention to social, economic and cultural rights.⁷⁰ Climate change policies, food security and sustainable development are some of the key issues discussed in this context and have figured consistently in the discussions of the EU-Central America Joint Parliamentary Committee.

In line with these concerns, during its mission to Honduras, in 2015, the delegation for relations with the countries of Central America visited a project promoting the environmental governance of the sustainable management of natural resources in the Valle de Ángeles, notably by encouraging sustainable farming methods that aim to increase yields and avoid forest clearances in the mountains, which impacts negatively on water supply. A key issue of concern was the need to spread environmental education, including sustainable farming methods, to the rural population.⁷¹

3.4. Board on trade and sustainable development

This government-to-government mechanism engages leaders of the Central American region on rather legalistic and technical matters linked to the TSD chapter, namely ratification of and, to some extent, progress in implementing ILO conventions and other environmental obligations. It does not engage parties clearly, however, on the consequences of the non-implementation of international conventions and therefore does not respond sufficiently to the concerns outlined in the previous section (i.e. human rights violations, organised crime, and the need to promote environmental rights and sustainability).

During the **first meeting of the Board on Trade and Sustainable Development in Managua, Nicaragua, on 18 and 19 November 2014**, the Parties reported on their implementation of ILO conventions, and fundamental ILO conventions in particular. The focus was on measures to address:

- child labour, especially in the informal economy, with a particular focus on strengthening labour inspections, increasing the rate of children's school attendance, and reinforcing children's social protection;
- efforts to support social dialogue and effective and dissuasive sanctions against anti-union discrimination and against violence, including violence against trade union

⁶⁸ European Parliament, [Report by Emine Bozkurt, Chair of the Delegation for Relations with the countries of Central America, on the visit by a Delegation Working Group to Nicaragua and El Salvador, 28 October – 1 November 2013, Nicaragua and El Salvador](#), Delegation for relations with the countries of Central America, 9 January 2014, p. 9.

⁶⁹ See, for example, European Parliament, [Resolution of 24 April 2008 on the Fifth Latin America and Caribbean-European Union Summit in Lima](#), 24 April 2008; European Parliament, [Resolution of 21 October 2010 on the European Union's Trade Relations with Latin America](#), 21 October 2010.

⁷⁰ M. Lerch, [The European Year for Development: Human Rights](#), Policy Department, Directorate General for External Policies, and European Parliamentary Research Service, European Parliament, Brussels, 1 December 2015, p. 3.

⁷¹ European Parliament, [Report by Delegation Chair Sofia Sakorafa on the visit to Guatemala and Honduras, 16 to 20 February 2015, Guatemala City \(Guatemala\) and Tegucigalpa \(Honduras\)](#), Delegation for relations with the countries of Central America, p. 15.

leaders. Participants also addressed the need for these sanctions to be effectively enforced.

On the implementation of multilateral environmental agreements, the Parties concentrated, in particular, on climate change (which in Central America calls for work on adaptation), endangered species (CITES), and hazardous chemical and waste shipments. The Central American countries reported that they had all now ratified the Rotterdam Convention (on trade in hazardous chemicals) as well as the Gaborone Amendment to CITES, and a number of countries from the region also outlined ambitious plans to increase the share of renewable energy in their energy supply.⁷²

The second meeting of the Board on Trade and Sustainable Development was held in Brussels, Belgium on 27 and 28 May 2015. As in the previous year, the Parties reported on their implementation of ILO conventions. Several Central American countries emphasised action undertaken to tackle child labour, which had been the focus of the Board's meeting the year before. Honduras and Panama reported on recently adopted labour legislation and policies. For its part, the EU reported on progress made by EU Member States in ratifying the new ILO Protocol that supplements the Forced Labour Convention, as did several Central American countries. The EU also presented its policies on health and safety at work and related structures for dialogue with social partners. A capacity-building programme was agreed with the ILO in 2015 that will provide support for Guatemala and El Salvador to help them meet their commitments under ILO conventions.⁷³

In terms of pushing forward with the implementation of multilateral environmental agreements, the 2016 annual report maintains that special emphasis was placed on climate change. Central America emphasised the vulnerability of its agricultural and related agro-industrial sectors to climate change and extreme weather events. Since these products constitute the majority of its exports to the EU, there is a clear economic and trade impact. In response, several countries have developed sectoral programmes and targets to reduce the carbon footprint of the targeted sectors. Many have ambitious programmes to increase the share of renewable energy and are interested in investments and technologies in this sector. The EU set out its general climate change objectives and policy and, together with Costa Rica, provided a briefing on the state of play of the Environmental Goods Agreement negotiations.⁷⁴

The third meeting of the Board on Trade and Sustainable Development took place in Honduras, on 14 to 16 June 2016. The Board exchanged information on labour and environmental issues including topics such as social dialogue, non-discrimination, responsible value chains, the circular economy, and wildlife trade. The EU, for its part, focused on the value agenda of the Trade for All' communication,⁷⁵ which it sees as being of particular relevance to the TSD Board, while the Central American countries outlined their progress on implementing the ILO conventions.⁷⁶

⁷² European Commission, [Report from the Commission to the European Parliament and the Council, Annual Report on the Implementation of Part IV of the EU-Central America Association Agreement](#), COM(2015) 131 final, Brussels, 18 March 2015, pp. 10-11.

⁷³ European Commission, [Report from the Commission to the European Parliament and the Council, Annual Report on the Implementation of Part IV of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other](#), COM(2016) 73 final, Brussels, 18 February 2016, p. 10.

⁷⁴ *Ibid.*, p. 11.

⁷⁵ European Commission, [Trade for All: Towards a More Responsible Trade and Investment Policy](#), COM(2015) 497, 14 October 2014.

⁷⁶ European Commission, [Report from the Commission to the European Parliament and the Council, Third Annual Report on the Implementation of Part IV of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other](#), COM(2017) 160 final, Brussels, 5 April 2017, pp. 10-11.

The latest and fourth meeting of the Board took place in Brussels on 13 June 2018. Costa Rica highlighted progress made in the implementation of fundamental ILO conventions, especially of procedural reforms in the labour sector in order to ensure more effective application and enforcement of its labour law, including the right to non-discrimination and collective rights; its strategy for the transition from informality to formality; progress on corporate social responsibility; and the recent adoption of its national policy on social responsibility.⁷⁷

3.5. Civil society consultation

While dialogue at state level is central, CSOs have – at least on paper – been granted an essential role in the implementation and monitoring of TSD chapters. However, information on their specific activities and what is said in their meetings is scarce, especially when it comes to the DAGs in the Central American region. It is also unclear how the members are recruited and if the diversity and representativeness of the members of the DAGs is monitored. While a higher level of substantial diversity takes place when observers can be admitted to attend the meeting without actively contributing, which is the case with the EU-Central America Civil Society Dialogue Forum (CSDF), there is no data on whether such observers are invited.⁷⁸

In practice, new DAGs have been formed (or are in the process of being formed) specifically within each of the Central American countries. Domestic advisory groups were established in 2015 by the Central American parties and information was exchanged on their composition and contacts facilitated between them and the EU DAG.⁷⁹ Of all the Central American DAGs, Costa Rica is the only country to have divided its DAG into three separate meetings for the labour, environment and business groups, with apparently no interaction between them. Each of the sub-DAGs is then characterised by more similar interests.⁸⁰

The EU DAG comprises representatives from a broad range of EU civil society organisations and the European Economic and Social Committee (EESC), which also provides the secretariat for the EU DAG. The EU DAG has met 13 times (on average twice a year, but only once in 2014 to agree on its rules of procedure).⁸¹ The (draft) rules of procedure of the EU DAG for the Central American agreement spell out that 'members of the EU AG shall be appointed for a two-and-a-half-year term (aligned with the EESC mandate) with the possibility of renewal for individual members' (see Annex II.) The information shared publicly on these meetings is, in general terms, limited to the programme and the participants. Very little information is available on the discussions that take place.

While the EU has created an EU-wide DAG for the agreement with Central America, a regional configuration has not been established in the Central American region. It is difficult to assess the participants in the DAG meetings in the partner countries, as participation lists are not publicly available. Moreover, 'the selection procedure seems even less transparent', so little is known except that for some of these governments, such as Honduras, it has been difficult to put forward

⁷⁷ European Commission, [Report to the Civil Society Forum of the Fourth Meeting of the Board of Trade and Sustainable Development Association Agreement between Central America and the European Union](#), Brussels, 13 June 2018.

⁷⁸ J. Orbie et al., [Civil Society Meetings in European Union Trade Agreements: Features, Purposes, and Evaluation](#), Cleer Papers 2016/3, Centre for the Law of EU External Relations, Asser Institute, The Hague, The Netherlands, 2016, p. 17.

⁷⁹ European Commission, [Report from the Commission to the European Parliament and the Council, Annual Report on the Implementation of Part IV of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other](#), COM(2016) 73 final, Brussels, 18 February 2016, p. 10.

⁸⁰ J. Orbie et al., [Civil Society Meetings in European Union Trade Agreements: Features, Purposes, and Evaluation](#), Cleer Papers 2016/3, Centre for the Law of EU External Relations, Asser Institute, The Hague, The Netherlands, 2016, p. 16.

⁸¹ European Commission, [Report from the Commission to the European Parliament and the Council, Annual Report on the Implementation of Part IV of the EU-Central America Association Agreement](#), COM(2015) 131 final, Brussels, 18 March 2015, p. 10.

independent CSOs to participate.⁸² Their discussions are also not publicly available. Also, interactions between the DAGs of the Central American region seem quasi-absent. According to Orbie et al., there have been no meetings among the Central American DAGs to prepare DAG-to-DAG meetings.⁸³

The EU-Central America Association Agreement stipulates that the Parties must organise and facilitate a bi-regional civil society dialogue forum (CSDF), with balanced representation of economic, social and environmental stakeholders representing EU and Central American civil society. Its purpose is to provide a framework for open dialogue on trade and sustainable development aspects in relations between the Parties, as well as for discussions on how cooperation may help achieve the objectives of the chapter. It aims to provide a space for dialogue on how trade can promote sustainable development and an opportunity to interact with government representatives from the two sides. In addition, the EU and Central American DAGs have agreed to hold annual joint meetings organised back-to-back with the meetings of the bi-regional CSDF. Such joint meetings provide an appropriate framework for structured, in-depth discussions on a broad range of aspects relating to implementation of the TSD provisions. They also provide the necessary forum to prepare joint recommendations to be presented to the TSD Board. Accordingly, this multi-levelled and multi-dimensional dialogue helps to boost transparency in the consultation process.⁸⁴

3.6. Government-to-civil society relations

Every intergovernmental TSD Board meeting includes a session with civil society representatives from the EU and Central America, the bi-regional Civil Society Dialogue Forum, to discuss implementation of the TSD chapter. These annual government-to-civil society meetings have been key in providing civil society with the opportunity to feed concerns regarding TSD into government-to-government discussions. However, it is unclear the extent to which these concerns are taken on board at government level, as this rests on the governmental participants' goodwill. The board meetings have therefore had some positive results, but when it comes to monitoring the implementation of the TSD chapter of the EU-Central America AA, they have had an indirect impact at best.

The EU-Central America TSD Board and the bi-regional CSDF have met three times. Here too, limited concrete information is made available on the discussions of civil society organisations and no controversies are recorded in the summaries that are publicly available. According to the European Commission's 2015 annual report, during **the joint meeting of the CSDF on 18 and 19 November 2014, in Managua, Nicaragua**, examples where production and trade had had a positive environmental and social impacts, were presented. Government policies to promote such outcomes were outlined, and the need for partnerships between businesses, labour representatives, environmental NGOs and communities was underlined. Common themes included corporate social responsibility, renewable energy, sustainable agricultural production, cleaner production processes and sustainable tourism.⁸⁵

⁸² J. Orbie et al., [Civil Society Meetings in European Union Trade Agreements: Features, Purposes, and Evaluation](#), Cleer Papers, 2016/3, Centre for the Law of EU External Relations, Asser Institute, The Hague, The Netherlands, 2016, pp. 17, 19.

⁸³ J. Orbie et al., [Civil Society Meetings in European Union Trade Agreements: Features, Purposes, and Evaluation](#), Cleer Papers 2016/3, Centre for the Law of EU External Relations, Asser Institute, The Hague, The Netherlands, 2016.

⁸⁴ Interview with DG TRADE, European Commission, 23 July 2018.

⁸⁵ European Commission, [Report from the Commission to the European Parliament and the Council. Annual Report on the Implementation of Part IV of the EU-Central America Association Agreement](#), COM(2015) 131 final, Brussels, 18 March 2015, p. 11.

The joint session of the Board and the CSDF was held on 29 May 2015, Brussels, Belgium, chaired by the EU DAG representative, emphasised the importance of taking into account the gender dimension in TSD. To further reinforce government-to-civil society contacts, a workshop was organised on fair trade and sustainability in agricultural value chains, bringing together representatives of fair and ethical trade schemes, trade associations and producers, from both the EU and Central America, to exchange best practices and experiences in this area – notably with regard to the sugar and coffee sectors. Discussions continued in between on fair trade, respect for labour and environmental standards, the situation and role of small and medium-sized producers, sustainability considerations, the role of supply chains, examples of best practices in corporate social responsibility (CSR), and support for producers.⁸⁶ The joint declaration adopted was presented on the following day at the CSDF meeting.⁸⁷

The third joint meeting between the EU and Central America under the trade and sustainable development chapter of the Association Agreement took place on 15-17 June 2016, in Tegucigalpa, Honduras. The workshop on market access, organised in this framework, provided participants with the opportunity to discuss the possibilities and challenges that economic operators, in particular SMEs, face because of the AA. Separate sessions focused on fair trade and value chains as ways facilitating market access for SMEs and small producers. On 16 June, the representatives of the EU and Central American advisory groups exchanged experiences in their operations and discussed proposals for strengthening the capacity of the civil society monitoring mechanism, the role of the Parties in this context and future cooperation. This was followed by the CSDF where civil society representatives from the EU and Central America (except Panama) were present. They expressed positions with regard to implementation of the Association Agreement and its impacts. A workshop on trade schemes and practices for sustainable development and a meeting of advisory group members from both regions were also held. The joint declaration they adopted was presented on the following day in the CSDF meeting.⁸⁸

3.7. Other relevant monitoring activities

The two Parties have held a number of other events to nurture the exchange of views and enhance cooperation on issues relating to sustainable development. This effort was launched with an event organised to introduce the Association Agreement, in San Jose, Costa Rica, in 2014. The conference also included a presentation on the TSD chapter.⁸⁹

On 4 and 5 May 2017, the European Commission and the Costa Rican ministry of external trade held an event on responsible value chains under the EU-Central America Association Agreement in San Jose, Costa Rica. This event brought together policymakers, international organisations, business and civil society to discuss and share their expertise on the main challenges and opportunities of the conception, production of components, assembly and eventually the final use of a product that may take place each in a different part of the globe. These developments occur when at the same time, business, brands and consumers seek assurances about the environmental and social conditions in which the production actually happens. In practice, participants discussed international guidelines and best practices for responsible business conduct and participated in a

⁸⁶ European Commission, [Report from the Commission to the European Parliament and the Council, Annual Report on the Implementation of Part IV of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other](#), COM(2016) 73 final, Brussels, 18 February 2016, p. 11.

⁸⁷ See [2nd EU-Central America joint meeting of civil society Advisory Groups and Civil Society Dialogue Forum](#).

⁸⁸ See [3rd EU-Central America joint meeting of civil society Advisory Groups and Civil Society Dialogue Forum](#).

⁸⁹ See [Trade and Sustainable Development - 6 Years in a Snapshot](#), TSD Implementation – Achievements, not dated.

workshop led by the Organisation for Economic Co-operation and Development (OECD) to develop capacities for more sustainable value chains.⁹⁰

More recently, on 16 and 17 May 2018, the European Commission held an event in Guatemala City, Guatemala, on decent work, corporate responsibility and the EU-Central America Association Agreement.⁹¹ It was aimed at providing a framework for open dialogue on the implementation of the TSD chapter to promote inclusive and sustainable economic development, full and productive employment and decent work. In that context and building on the UN 2030 Agenda for Sustainable Development, representatives of business and civil society, policymakers and international organisations discussed international guidelines and best practices on responsible business conduct and their contribution to Sustainable Development Goal 8 (SDG8),⁹² the role of government in supporting contributions of the private sector to SDG8 as well as best practices in the textile and sugar sectors.⁹³

⁹⁰ [Responsible Global Value Chains: Case of EU-Central America Trade](#), Directorate General for Trade, European Commission, 7 April 2017.

⁹¹ See [programme](#) of the event for further information.

⁹² Sustainable Development Goal 8 refers to the promotion of sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all. For further information, check the [UN Sustainable Development Knowledge Platform](#).

⁹³ [Decent Work, Corporate Responsibility and the EU-Central America Association Agreement: Contributing to Sustainable Economic Growth](#), Directorate General for Trade, European Commission, 28 March 2018.

4. Complexities linked to implementing the TSD chapter

Despite some positive results from the monitoring mechanisms of the EU-Central America AA in facilitating implementation of the TSD chapter, progress in this field has been mixed. As seen in Section 3.3, in particular, some of the key challenges relating to rights and practices linked with trade and sustainable development that were identified in the ex-ante impact assessment commissioned by the European Commission persist.⁹⁴ For instance:

- a significant proportion of workers are active in the informal sector. The effects on these groups are difficult to assess given the lack of data on the informal sector, but need to be included in the policy space within the trade part of the AA or flanking it;
- despite the application of labour laws in theory, issues of concern remain as regards freedom of association, social dialogue, forced labour and unpaid overtime;
- vulnerable groups such as women, children and indigenous populations suffer from disadvantaged positions. Females have higher rates of unemployment and lower salaries. Indigenous populations are affected by poor labour conditions in the informal sector and child labour is prevalent in all six countries.

This section explains the main factors holding back implementation of the TSD chapter.

4.1. Lack of enforceability of the TSD chapter

The TSD chapter in the EU-Central America AA suffers from the same weaknesses as those in other recent EU trade agreements. A number of commentators have expressed their scepticism about the potential of these provisions to actually enforce labour rights and environmental protection in their current design.⁹⁵ They have argued that the current design might promote compliance with international agreements on labour and environment in terms of formal ratification, but it does not necessarily address non-compliance in practice. In particular, there is concern that the monitoring institutions established in relation to the TSD chapter might be too weak, as outlined in Sections 3.4 (Board on trade and sustainable development), 3.5 (civil society consultation) and 3.6 (government-to-civil-society relations). In this respect, closing the so-called compliance gap seems to be especially challenging. Most countries currently engaged in EU trade agreements might comply formally with the relevant provisions in terms of ratification of international commitments, but not necessarily in practice.⁹⁶ Hence, there is a growing consensus that the current provisions are insufficient to significantly foster sustainable development.

The absence of 'hard enforcement' mechanisms in TSD chapters in EU FTAs has been at the centre of ongoing debates on the effectiveness of these chapters. The European Parliament has supported

⁹⁴ Ecorys and Corporate Solutions, [Trade Sustainability Impact Assessment of the Association Agreement to be negotiated between the EU and Central America](#), TRADE08/C1/C14 & C15 - Lot 2, Final Report, Evaluation commissioned by the Directorate General on Trade, European Commission, 18 September 2009, p. 17.

⁹⁵ See, for example, J. Harrison et al., 'Governing Labour Standards through Free Trade Agreements: Limits of the European Union's Trade and Sustainable Development Chapters', *Journal of Common Market Studies*, 2018, pp. 1-18; A. Marx et al., 'The Protection of Labour Rights in Trade Agreements: The Case of the EU-Colombia Agreement', *Journal of World Trade*, Volume 50, Number 4, 2016, pp. 587-610; S. Velluti, 'The EU's Social Dimension and its External Trade Relations', in A. Marx et al. (eds.), *Global Governance of Labour Rights: Assessing the Effectiveness of Transnational Public and Private Policy Initiatives*, Edward Elgar Publishing, 2015, pp. 42-62; A. Marx et al., 'Does Integrating Labour Provisions in Free Trade Agreements Make a Difference? An exploratory analysis of freedom of association and collective bargaining rights in 13 EU Trade Partners', in J. Wouters et al. (eds.) *Global Governance through Trade*, Edward Elgar Publishing, 2015, pp. 13-41; J. Vogt, 'The evolution of Labor Rights and Trade - A Transatlantic Comparison and Lessons for the Transatlantic Trade and Investment Partnership', *Journal of International Economic Law*, Volume 18, Number 4, 2015, pp. 827-860.

⁹⁶ E. M. Hafner-Burton, *Making Human Rights a Reality*, Princeton University Press, Princeton, NJ, 2013.

the establishment of hard enforcement mechanisms in these agreements, in line with existing US practice. In a 2010 resolution, it raised the need to provide 'recourse to a dispute settlement mechanism on an equal footing with the other parts of the agreement, with provision for fines to improve the situation in the sectors concerned, or at least a temporary suspension of certain trade benefits provided for under the agreement, in the event of an aggravated breach of these standards'.⁹⁷ This position was recently echoed by the European Parliament when it stated that the provisions of the sustainable development chapters should be covered by a dispute settlement mechanism capable of issuing financial sanctions. The European Commission has not supported sanctioning. Some experts have argued that the EU's stance is justified by the general reluctance of the EU's counterparts in trade negotiations to accept hard enforcement mechanisms in these fields.⁹⁸ Section 5.5 on Strengthening the enforcement mechanism suggests remedies for tackling these shortcomings.

4.2. Challenges to intra-regional cross-border cooperation

A 2014 European Commission study⁹⁹ found that cross-border cooperation within the Central American integration process has been weak. It is mostly absent from local agendas because of prevailing centralisation and, probably also because of the absence of an intermediate level of government. Some bilateral agreements between local authorities across borders exist, and these can facilitate and streamline relationships between Central American countries. While cross-border efforts have been present for years, they have had limited impact in practice. This is due to the fact that 'there is no acknowledgement of municipalities as state actors by national governments'. This is reflected in insufficient decentralised competences, including in the financing of relevant projects.

Nonetheless, these are the regions that are subject to environmental vulnerability and/or that experience poverty. Therefore they are also areas that tend to be deprived of the benefits of TSD provisions. 'Border territories can be described in most cases as sub-national areas left behind': they are not accounted for in some public policies because of their lesser political and economic weight, their smaller populations, their more rural and peripheral character, the big distance from urban centres, the composition of their populations being predominantly made up of indigenous or afro-descendent peoples, low development levels (under national averages), and the fact that they are divided by different jurisdictions in an evident 'border effect'. Moreover, the unequal relationship, imbalances and conflicts between capitals/metropolises and border populations regarding the (mis-)management of natural resources continues to hamper the development of border regions.

A key cross-border example of cooperation on sustainable development is the Gulf of Fonseca (shared among El Salvador, Honduras and Nicaragua), which demands joint management of natural resources or infrastructures. It is a region where many SICA efforts are concentrated. The provision of basic services is very unequal and usually covers only main cities or towns. A high percentage of rural households lacks drinking water, solid waste and household refuse collection and other basic

⁹⁷ [European Parliament resolution of 25 November 2010 on human rights and social and environmental standards in international trade agreements.](#)

⁹⁸ F. Hoffmeister, 'The Deep and Comprehensive Free Trade Agreements of the European Union', in M. Cremona and T. Takács (eds), *Trade Liberalisation and Standardisation – New Directions in the 'Low Politics' of EU Foreign Policy*, EUI Working Paper AEL 2014/1, Academy of European Law, European University Institute, San Domenico di Fiesole, 2014, p. 15-26.

⁹⁹ Association of European Border Regions (AEBR), [EU – Central America Cooperation Support to the Central American Integration System's \(SICA\) cross-border cooperation actions](#), Final report, Prepared for the Directorate-General for Regional and Urban policy (DG REGIO), European Commission, 19 December 2014, p. 20.

services, such as electricity. This contributes to pollution in the Gulf and to several general public health problems (lack of sanitation).¹⁰⁰

Notwithstanding, there have also been examples of positive results. One of the most relevant achievements is the Trifinio border regional development plan, which has been in operation since 1989 in the region shared by El Salvador, Guatemala and Honduras.¹⁰¹ Its achievements include the consolidation of a tri-national commission to develop concrete action aiming to make sustainable agriculture models possible, strengthen commercial links between border municipalities in the three countries and, most importantly, increase the participation of civil society through the Asociación del Trifinio para el Desarrollo Sostenible (ATRIDESE, Trifinio association for sustainable development), a civil organisation of farmers, teachers, cooperatives and development entities. The operation of a tripartite commission, pursuant to a treaty signed between the three countries in 1997 with the force of law in each of the three countries, coupled with a strategy for the 2010 to 2020 Trifinio plan, has enabled the implementation of a large number of trilateral projects with cross-border integrated management, free from the administrative, institutional and bureaucratic problems that usually hinder these efforts.

However, beyond the positive results with regard to the management of natural resources, the decision-making and implementation process, which is substantially vertical, has been questioned, while the participation of local communities has been weak. Moreover, the objectives and content of the projects, most of which refer to environmental conservation and water resource management, have had a limited impact on the living conditions of border communities, which hope for momentous change stemming from the operation of the Tri-Border Commonwealth Lempa River.¹⁰²

These examples show that tripartite border integration is an option for the region, but must be adapted to the natural vocation of the areas, the enhancement of the more or less strategic location of the three countries for their shared goals, varying population density, and the economic activities and other peculiarities of those areas. Nevertheless, it is mainly an opportunity, and taking advantage of it will depend on the will and priorities for development and integration of the national governments, with the participation of political entities and regional and local civil society. The area lacks regulation and implementation of regulation to guarantee the sustainable use of resources and sustainable development.¹⁰³

4.3. Weak coordination

The EU-Central America agreement is not implemented in a vacuum. Rather it coexists, feeds into and feeds from other EU, Member State and international efforts. For example, ILO projects under way in Guatemala, El Salvador and Panama aim at supporting the implementation of ILO

¹⁰⁰ Analysis for Economic Decisions (ADE), [Evaluation of the EU's Cooperation with Central America, Final Report, Volume I – Main report](#), (Evaluation commissioned by the European Commission), Louvain-la-Neuve, July 2015, pp. 34-35.

¹⁰¹ The Trifinio region between El Salvador, Guatemala and Honduras, is a mountain area that establishes the political boundaries between those three States. It numbers only 3 % of their populations, but is strategically important since it is at the head of the three most important rivers in Central America, the Úlua, the Motagua, and the Lempa.

¹⁰² Association of European Border Regions (AEBR), [EU – Central America Cooperation Support to the Central American Integration System's \(SICA\) cross-border cooperation actions](#), Final report, Prepared for the Directorate-General for Regional and Urban policy (DG REGIO), European Commission, 19 December 2014.

¹⁰³ Latin American and Caribbean Economic System (Sistema Económico Latinoamericano y del Caribe, SELA), [Regional Cooperation in the area of Border Integration](#), SP/XXIV-RDCIALC/DT No 2-13, XXIV Meeting of International Cooperation Directors for Latin America and the Caribbean. Regional Cooperation in the area of Border Integration, in El Salvador, San Salvador, 30 and 31 May 2013, Permanent Secretariat of SELA, Caracas, Venezuela, pp. 22, 45.

fundamental conventions with a focus on freedom of association, collective bargaining and non-discrimination, and child labour).¹⁰⁴

However, the crowded international scene is not devoid of problems, as a result in part of intra-EU difficulties. The EU is represented in Central America through its delegations in Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama. A 2015 evaluation prepared for the European Commission also concluded that 'personnel reductions in the EU delegation between 2008 and 2013 eventually left the Regional Unit too understaffed in relation to the ambitious goals of the EU. Regional cooperation has hence lagged behind its actual potential'. Moreover, the predominant reliance on EU-paid contractors in cooperation programmes, coupled with an insufficient number of staff in the EU delegation to supervise these complex interventions, made it difficult for the EU to anticipate and react adequately to organisational dynamics and political bottlenecks that were affecting programme progress and results.¹⁰⁵

When it comes to working with other international donors, weak coordination between the various initiatives supported and financed by international institutions, including the EU, is one shortcoming encountered. For example, some calls for projects in Central America with a cross-border approach within the EU Development Cooperation Instrument are neither sufficiently informed nor coordinated with the relevant institutions (namely the SICA and the local and national authorities involved).¹⁰⁶

In addition, the 2015 European Commission evaluation of EU cooperation with Central America found that the EU's strategic approach to the region did not take sufficient account in its approach of the fact that SICA member states, as owners of the overall regional integration process in Central America, needed to own and commit to any institutional reform initiative or technical reform proposal on regional integration. Instead it chose to direct its support primarily towards the executive agencies of the SICA.¹⁰⁷ This approach hindered the implementation of cooperation provisions. Overall, the EU's regional cooperation strategy did not fully respond to the commitment of the EU to combine supporting regional economic integration with helping regional and national stakeholders to design and implement sound trade, integration and economic development policies to foster trade-induced equitable development and help to reduce poverty. The regional strategy had assigned the task of providing 'wider aid for trade', SME support and the development of productive capacity primarily to bilateral cooperation with countries in the region. As only some of the EU's bilateral cooperation programmes actually financed cooperation in this area, the EU provided the region with only slightly 'wider aid for trade'.¹⁰⁸

When implementing cooperation with SICA, the above-mentioned evaluation also found that while the EU helped sustain regional integration in Central America and lend more legitimacy to SICA, EU development of tools and proposals for advancing Central America's economic and political integration took too long. Therefore, the prospect that increased trade would translate into equitable economic growth and reduced poverty in the region, 'that could help to broaden the range of producers that would benefit from more trade opportunities, also including micro, small and medium-sized enterprises', has been compromised. SMEs in a number of the Central American

¹⁰⁴ See [Trade and Sustainable Development - 6 Years in a Snapshot](#), TSD Implementation - Achievements, not dated.

¹⁰⁵ Analysis for Economic Decisions (ADE), [Evaluation of the EU's Cooperation with Central America, Final Report, Volume I – Main report](#), (Evaluation commissioned by the European Commission), Louvain-la-Neuve, July 2015, pp. ii and v.

¹⁰⁶ Association of European Border Regions (AEBR), [EU - Central America Cooperation Support to the Central American Integration System's \(SICA\) cross-border cooperation actions](#), Final report, Prepared for the Directorate-General for Regional and Urban policy (DG REGIO), European Commission, 19 December 2014.

¹⁰⁷ Analysis for Economic Decisions (ADE), [Evaluation of the EU's Cooperation with Central America, Final Report, Volume I – Main report](#), (Evaluation commissioned by the European Commission), Louvain-la-Neuve, July 2015, p. iv.

¹⁰⁸ *Ibid.*, pp. 75-76.

signatories do not have the capacity and facilities to adhere to the TSD provisions and therefore require technical assistance from the EU and support from their respective governments. Contrary to the stated EU objectives of sustainably strengthening SICA's own autonomous organisational capacity for fulfilling its mandate, EU development programmes were designed primarily to temporarily enable SICA to provide specific services and inputs to third party organisations.

4.4. Representativeness of civil society

The difficult exercise of legitimacy that justifies the (arguably rightful) participation of civil society is a two-edged sword. On the one hand, social dialogue between non-governmental actors and government adds legitimacy to the decision-making process ensuring that trade is an inclusive process that is grounded in the experiences and interests of all relevant stakeholders. On the other, however, questions have been repeatedly raised as to who sits around the table. In Section 3.5 on Civil society consultation, the issue of the diversity and representativeness of social partners is further explained, as is the lack of transparency on these issues. How partners are recruited and who sits in the meetings, as well as what limits their participation (e.g. distance from urban centres, administrative capacity, access to the internet and necessary facilities for videoconferencing, financial resources for participating in consultations and mobility) should be taken more seriously into account by the European Commission and the governments of the six Central American signatories to the AA.

Equally, overall, unions are still weak in Central America. Iranzo and Patruyo, who have researched unionism in Latin America, argue that privatisation has played a key role in the shifting of relations between government and trade unions. 'As part of the transformation of the state, privatisation has deprived trade unionism of its principal areas of strength, where it had achieved most of its successes'. It is claimed, for instance, that privatisation has resulted in fewer jobs in the formal sector, decreasing the number of unionised workers and weakening the credibility of unions. In that sense, the privatisation of state-owned companies has been therefore seen more as a political measure than a strictly economic one.¹⁰⁹

The EESC has also called for the inclusion of consumer organisations, which are not actually party to the AA, in this civil dialogue. 'The EESC regrets the narrow approach of TSD chapters when it comes to consumers' interests and would welcome a consumer-specific chapter within the TSD framework, incorporating relevant international consumer standards and strengthening cooperation on the enforcement of consumer rights'.¹¹⁰ While this recommendations seems to be in line with the logic of an inclusive process, it could equally be argued that consumers, as citizens, are represented in this dialogue by the European Parliament (on the EU side) and the respective national parliaments in Central America.

¹⁰⁹ C. Iranzo and T. Patruyo, 'Trade Unionism and Globalisation: Thoughts from Latin America', *Current Sociology*, Vol 50(1), January 2002, pp. 59-61.

¹¹⁰ [Trade and Sustainable Development Chapters in EU Free Trade Agreements](#), OJ C 227, 28 June 2018, pp. 27-34.

5. Options for the future

In the context of the current debate on how to improve TSD chapters, the European Commission has asserted that 'the ultimate objective is to foster real and lasting change on the ground, through the effective application of enhanced social and environmental standards, to the direct benefit of the citizens of our FTA partners'.¹¹¹ At the same time it admits that, in general terms, 'the work on TSD has yet to realise its full potential' and that more is needed to 'further improve labour and environmental policies, while respecting international commitments and aiming at a high level of protection'.¹¹² While a debate between the European Commission and Parliament on the functioning of the TSD chapter in EU FTAs is ongoing,¹¹³ the following options could be considered as emanating from the implementation of that particular chapter in the EU-Central America AA.

5.1. Completing the ratification process

By signing a free trade agreement with Central America, the EU aimed to counter-balance the USA, which had signed its own Central America Free Trade Agreement (CAFTA, later renamed CAFTA-DR when the Dominican Republic joined in 2009). The EU, however, went a step further by signing a fully-fledged association agreement encompassing political dialogue and cooperation.¹¹⁴ Pending ratification of the EU-Central American Association Agreement, cooperation in the framework of the EU-Central America AA centres on implementing the trade pillar. Nevertheless, the political and cooperation pillars could play a primordial role in pushing for territorial cohesion, which could address the concerns of intra-regional cross-border cooperation (see Section 4.2) and the challenges of coordination (see Section 4.3). In that sense, pushing for the ratification of the agreement by the four remaining EU Member States (Austria, Belgium, Greece and the UK) is key.

There is consensus among European partners that engagement is the best way to assist, promote and encourage these countries to engage in the necessary reforms for human rights protection. Political engagement and partnership, with the cooperation that has entailed, has provided Central America with the incentives to move forward on necessary reforms linked to the implementation of the TSD chapter. In this light, diverse activities exist to help push this forward. For example, the SICA has initiated a process to exchange information with European partners to develop the concept of border areas with shared competences between national and sub-national governments. The main elements of interest identified by local players are security, environmental protection and human development, elements linked to sustainable development.¹¹⁵ Such initiatives cannot, however, replace the impact that political unity behind a goal can have and that will become clear when the EU-Central America AA is ratified by all EU Member States.

¹¹¹ European Commission, [Feedback and way forward on improving the implementation and enforcement of Trade and Sustainable Development chapters in EU Free Trade Agreements](#), Non paper of the Commission services, 26 February 2018.

¹¹² European Commission, [Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Implementation of Free Trade Agreements, 1 January 2016-31 December 2016](#), COM(2017) 654 final, Brussels, 9 November 2017, p. 28.

¹¹³ In February 2018, the European Commission published 15 proposals to improve the enforcement of trade and sustainable development (TSD) chapters in EU free trade agreements (FTAs). See footnote 77.

¹¹⁴ J. Selleslaghs, *Managing Global Interdependence on the central American Isthmus: EU-Central America Interregional Relations*, UNU-CRIS Working Papers W-2014/8, Institute on Comparative Regional Integration Studies, United Nations University, Bruges, 2014, p. 24.

¹¹⁵ Association of European Border Regions (AEBR), [EU – Central America Cooperation Support to the Central American Integration System's \(SICA\) cross-border cooperation actions](#), Final report, Prepared for the Directorate-General for Regional and Urban policy (DG REGIO), European Commission, 19 December 2014, p. 22.

Implementation of the TSD chapter is ultimately linked to the political commitment of partners in Central America towards their citizens. In that sense, the EU's influence has its limits and pressure needs to come at the level of the Association Council and the Association Committee to encourage the authorities to commit to the implementation of these important provisions. At the moment, labour rights and environmental protection hardly figure in discussions at high political level.

5.2. Strengthening communication

To guarantee valuable contributions from civil society and social partners to monitoring processes, it is indispensable to improve information and sponsor awareness campaigns, something that should be strengthened at local level in Central America via the EU delegations.¹¹⁶ The European Commission itself admits in its 2016 annual report that 'Communication efforts on both sides of the Atlantic are necessary to increase the knowledge of the benefits that the Agreement can bring. The Commission is engaged in actions aimed at increasing the awareness of the economic operators as regards the opportunities presented by the Agreement'.¹¹⁷ For example, within several projects implemented with the support of DG REGIO, a great amount of information about Latin American and European cross-border cooperation experiences has been produced and systematised, and it is available online in an ad hoc forum.¹¹⁸

Civil society representatives recommend establishing face-to-face political contacts between European politicians engaged in cross-border cooperation and the competent authorities in target countries. This would pave the way for a productive exchange of information and staff. Experts meeting from both sides in order to identify, articulate, implement and monitor successful cross-border activities often need to take the form of person-to-person contacts, especially in the early stages of processes.¹¹⁹ The EU-Central American civil society meetings in May 2015 are a case in point. The alternative of a videoconference was provided in all EU delegations on the Central American side to facilitate contacts between the DAGs in the region. However, this initiative had only limited success as only a few organisations made use of this possibility. On the other hand, videoconferencing has been seen as a way to include more DAG participants in the regional conversations.¹²⁰ EU Member States and their business organisation also have a crucial role to play in disseminating information on the agreement 'to their stakeholders, in particular SMEs, who often require information in a local language and locally in different regions'.¹²¹

At the same time, European Commission officials list a number of reasons to explain why fewer trips are being organised to the region and therefore fewer face-to-face meetings can take place. These include:¹²²

¹¹⁶ Friedrich Ebert Stiftung, [Response to the Non-Paper of the European Commission on Trade and Sustainability in Trade Agreements](#), January 2018, p. 2.

¹¹⁷ European Commission, [Report from the Commission to the European Parliament and the Council, Annual Report on the Implementation of Part IV of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other](#), COM(2016) 73 final, Brussels, 18 February 2016, p. 12.

¹¹⁸ See the [website](#) of the Association European Border Regions.

¹¹⁹ J. Orbie et al, op. cit.

¹²⁰ J. Orbie et al., [Civil Society Meetings in European Union Trade Agreements: Features, Purposes, and Evaluation](#), Cleer Papers 2016/3, Centre for the Law of EU External Relations, Asser Institute, The Hague, The Netherlands, 2016, pp. 22 and 48.

¹²¹ M. Hannonen, 'Implementation of EU Free Trade Agreements', *Global Trade and Customs Journal*, Volume 12, Issues 11 and 12, 2017, p. 425.

¹²² Interview with DG TRADE, European Commission, 23 July 2018.

- the limited resources that put pressure on the EU institutions to prioritise and target action;
- the increasing use of and facilities offered by digital communication;
- the increasing need for efficiency (value for money) and effectiveness (best use of time);
- the presence of bilateral EU delegations in the Central American countries that are Party to this agreement, and the EU regional delegation.

5.3. Enhancing coordination

It is the complementarity and parallel use of the different instruments that the EU has at its disposal, rather than the effects of the EU trade agreement per se that has pushed forward the sustainable development agenda in Central America. European Commission bilateral development financing to support concrete projects in individual countries has played a key role to facilitating the implementation of political processes and declarations.

Moreover, EU delegations in the FTA partner countries have a key role to play in FTA implementation work, including the TSD provisions. They are the ones carrying out activities in the partner countries, disseminating information about the AA and planning joint activities to support implementation of the agreement.¹²³ It is the EU delegations that are best placed to monitor domestic developments that are relevant to the effective operation of an FTA. They have close contacts with Member States' representatives, local business associations and other stakeholders, with whom they set up market access teams to follow up the removal of trade barriers. In FTA partner countries, market access teams focus on FTA implementation as a priority. The EU delegations are also essential when it comes to following up on implementation roadmaps.¹²⁴

Better coordination also implies coherence in the interpretation of the environmental and labour provisions in the different trade agreements that Central America has signed (beyond the one with the EU) and the relevant international environmental and labour conventions. This could be done by requiring that the relevant dispute settlement bodies take into account the jurisprudence of the competent international bodies, e.g. of the ILO, similar to the way in which certain bilateral trade agreements require arbitral panels to take into account the multilateral case-law of the WTO Dispute Settlement Body (see for instance Article 14(16) of the EU-Korea FTA). Mechanisms for ad-hoc consultations with those bodies could also be considered.¹²⁵ As was explained in Section 4.2, the SICA is making considerable efforts to define the role of municipalities in the integration process, taking into account local and national institutionalism, but more needs to be done.

Building stronger regional policies in favour of social and environmental protection is key. The European Commission's efforts to establish exchange of knowledge, expertise and good practices at regional level has been key to pushing forward on social policy reform. These efforts, mostly financed through EU regional development aid programmes, should be maintained and boosted, not least since they can help to further develop intra-regional cooperation. It is also important to acknowledge the support of other international donors in this and the overall international pressure on local authorities to respect and apply the TSD-related conventions.¹²⁶ These efforts should continue and be further reinforced, given their positive contribution. Nevertheless, there is a need for programmes and structures to strengthen social, economic and territorial cohesion, without duplication of objectives and functions between new and already existing initiatives and

¹²³ Interview with DG TRADE, European Commission, 23 July 2018.

¹²⁴ Interview with DG TRADE, European Commission, 23 July 2018.

¹²⁵ A. Marx, [Dispute Settlement in the Trade and Sustainable Development Chapters of EU Trade Agreements](#), Leuven Centre for Global Governance Studies, Leuven, 2017, p. 91.

¹²⁶ It is beyond the scope of this study to evaluate the contribution of other international donors that are active in the Central American countries, but some of the challenges are analysed in Section 4.3 on Weak coordination.

institutions. In general, local and national authorities in Central America have strongly welcomed the initiatives that promote the exchange of practices and transferable knowledge with Europe on cross-border cooperation processes.¹²⁷

5.4. Better monitoring of compliance

It is important to secure substantive (and not only substantial) civil society participation in the monitoring of the EU-Central America agreement. Although joint consultative structures that include local partners and civil society in monitoring the implementation of the sustainable development chapters are in place, it is not clear to what extent their contribution actually feeds into policy-making. This is trickier than in the case of bilateral agreements that the EU can have with third partners because of the freedom that is left to national governments to take or leave stakeholders' recommendations, without an explicit explanation for the choice that is made. The EEAS has also expressed concern at the 'lack of response by the European Commission to complaints raised by the DAG regarding violations of TSD commitments'. Accordingly, it calls for the establishment of 'a more transparent and streamlined complaint mechanism'.¹²⁸

The involvement of civil society in the current TSD system remains limited. Even though CSOs seem to be based on the same template, a closer look at the treaty provisions (*de jure*) and their implementation (*de facto*) reveals a remarkable degree of variation. Based also on research into CSOs' contribution to monitoring the EU-Central America Association Agreement, Orbie et al. argue that 'existing assessments diverge starkly from providing a promising avenue for civil society empowerment to being no more than a fig leaf'.¹²⁹ The same researchers explain that the confusion concerning different evaluations can be traced back to fundamentally different views on the role of civil society in the context of trade, democracy and development, the three overlapping areas within which sustainable development is anchored. Furthermore, even among those stakeholders who favour civil society involvement, differing viewpoints exist on what the purposes of such meetings should be. Consequently, there have been widely diverging evaluations of social dialogue meetings – ranging from being a 'talking shop' legitimising free trade to 'empowering' marginalised groups – without however clarifying the underlying assumptions of such assessments.¹³⁰

Not only do the recruitment and composition of DAGs need to be re-visited (especially on the side of the Central American members), but also DAGs need to be strengthened by providing them with a clear mandate, task and authority backed up by human and financial resources.¹³¹ In some cases, DAG participants mentioned that no real communication took place between civil society and the governmental actors. This was for example the case in the first EU-Central America civil society meeting in Nicaragua in 2014.¹³²

In addition, there is evidence of the benefits of providing for capacity-building projects (for example, on labour inspections) in third countries to help the relevant national and local authorities in the Central American countries in their efforts to monitor, apply and enforce environmental and social

¹²⁷ Association of European Border Regions (AEBR), [EU - Central America Cooperation Support to the Central American Integration System's \(SICA\) cross-border cooperation actions](#), Final report, Prepared for the Directorate-General for Regional and Urban policy (DG REGIO), European Commission, 19 December 2014, p. 23.

¹²⁸ [Trade and Sustainable Development Chapters in EU Free Trade Agreements](#), OJ C 227, 28 June 2018, pp. 27–34.

¹²⁹ J. Orbie et al., [Civil Society Meetings in European Union Trade Agreements: Features, Purposes, and Evaluation](#), Cleer Papers 2016/3, Centre for the Law of EU External Relations, Asser Institute, The Hague, The Netherlands, 2016, p. 10.

¹³⁰ *Ibid.*, pp. 10–11.

¹³¹ Friedrich Ebert Stiftung, [Response to the Non-Paper of the European Commission on Trade and Sustainability in Trade Agreements](#), January 2018, p. 1.

¹³² J. Orbie et al., [Civil Society Meetings in European Union Trade Agreements: Features, Purposes, and Evaluation](#), Cleer Papers 2016/3, Centre for the Law of EU External Relations, Asser Institute, The Hague, The Netherlands, 2016, p. 44.

obligations. They bear primary responsibility for compliance with international standards and norms. In this context, focus must be put on issues identified as a shared priority by partners (for example the circular economy, responsible value chains, etc.).

Appropriate funding and other means should be provided by partners when relevant. In that context, it would be useful to consider strengthening the role of the private sector. Investments for development are key: companies bring their experience, technologies and expertise to help their partners – including SMEs – to become more competitive, expand their product and client range and also become more export-oriented, as they open up opportunities to join global value chains. Business can also support employment, create high quality jobs, promote skills diversification, gender balance and social inclusion in the EU and partner countries.¹³³ At the same time, the business community cautions against objectives that are unrealistic when it comes to initiatives to encourage companies to take further action to monitor social, environmental, consumer protection and human rights aspects comprehensively along the supply chain. 'While large companies may be equipped for complying with a number of different reporting requirements, the same is not usually true for the vast majority of SMEs'.¹³⁴

Last but not least, participative methods of evaluating the EU-Central America AA that engage directly with local partners in Central America (i.e. not only national authorities, but also local authorities and social partners) would not only provide for better quality evaluations but would also boost commitment to reforms that are necessary for ensuring the implementation of the TSD provisions. That would entail including all relevant stakeholders in every stage of the evaluation: its design with the identification of clear benchmarks for measuring progress; consistent data collection for the evaluation; the conduct of the evaluation; and dissemination of the results of the evaluation.

Methodologically, combining top-down and bottom-up evaluation allows for cross-checking of the results achieved and can lead to higher accuracy and/or lower costs. Both in bottom-up and top-down evaluation, so-called correction factors have to be taken into account that may bring additional uncertainty to the results. Politically, participative evaluations help civil society stakeholders to buy in, providing they are not just consulted during the evaluation process but are also actors in the process. This recommendation could be considered in the light of the interim evaluation of the trade pillar of the EU-Central America AA that is scheduled for 2019.¹³⁵

5.5. Strengthening the enforcement mechanism

Evidence suggests that an approach based on dialogue and a deep cooperation mechanism is best suited when it comes to complex and intertwined issues such as supporting necessary institutional and legislative reforms on labour rights and environmental protection, where sensitivity to context and flexibility are required. Experts argue that sanctions or fines can do little to increase the targeted country's commitment to social rights over time, to build demand for such rights, or to train governments in how to respect TSD-related commitments.¹³⁶ Therefore, ideally, an efficient approach to TSD enforcement mechanisms is based on the creation of incentives to implementation

¹³³ BusinessEurope, [Trade and Sustainable Development Chapters in EU FTAs](#), Position Paper, Brussels, 6 November 2017, p. 6.

¹³⁴ BusinessEurope, [Trade and Sustainable Development Chapters in EU FTAs](#), Position Paper, Brussels, 6 November 2017, p. 2.

¹³⁵ European Commission, [Commission's Forward Planning of Evaluations and Studies: 2017 and beyond](#), 2017.

¹³⁶ See B. Melo Araujo, 'Labour Provisions in EU and US Mega-Regional Trade Agreements: Rhetoric and Reality', *International and Comparative Law Quarterly*, Volume 67, January 2018, p. 236; S. Ariel Aaronson, Chapter 21 – 'Human Rights', in Jean-Pierre Chauffour and Jean-Christophe Maur (eds), [Preferential Trade Agreements Policies for Development: A Handbook](#), World Bank, Washington, DC, June 2011, p. 446.

rather than on the sanctioning of non-compliance, thus building on engagement, cooperation and capacity-building with the trading partners.¹³⁷ Some researchers recommend both – the consistent and forceful application of the existing mechanisms combined with promotional and conditional approaches.¹³⁸

For its part, the European Commission recognises that more effective ways of ensuring the implementation of the TSD chapter are needed. In this context, at the fourth meeting of the bi-regional CSDF with the TSD Board for the EU-Central America AA that took place in June 2018, some argued in favour of a mechanism with the possibility of sanctions. Nonetheless, the European Commission eventually concluded that the current model should be retained, but at the same time implementation of TSD chapters should be strengthened. In this light, it presented to the Board its aforementioned 15-point action plan on TSD, which – among other points – calls for more assertive use of the mechanisms of consultation and expert panels in cases of serious non-compliance.¹³⁹

A number of think tanks and academics argue in favour of stronger enforcement mechanisms with last-resort sanctions on the TSD chapters. For example, the Friedrich Ebert Foundation, in its response to the European Commission's consultation on TSD chapters, suggests establishing a 'collective complaint mechanism' that would enable civil society and social partners – independently from their governments – to initiate a complaint procedure. This independent body (i.e. a panel of experts) could be established and be empowered to evaluate complaints that were brought forward either by a state party or by another stakeholder (such as the social partners). This could be done by the DAG (and potentially by the CSDF). A two-thirds majority in the DAG should be necessary to file a complaint with the independent body (panel of experts). Arguably, this 'collective complaint mechanism' would lead to an overall empowering of civil society and trade unions in countries where they so far have weak structures (mostly on account of limited rights). They argue that an enforcement mechanism involving the stakeholders that are directly affected would help to address labour rights violations more effectively.¹⁴⁰

Other experts have called for application of paragraph 161 of the landmark opinion of the European Court of Justice (published in May 2017) on the powers to conclude the EU-Singapore FTA (EUSFTA).¹⁴¹ While an opinion is not binding, it is seen as a way to inform the EU's future trade policy. Paragraph 161 implies that sustainable development provisions fall within the scope of 'conditionality', implying that stronger enforcement of these provisions is possible through international law. The opinion affirms that if one party fails to implement the environmental and social provisions in a free trade agreement the other party can retaliate by terminating liberalisation of trade in certain products.¹⁴²

Yet others, focus on dispute settlement in a wider context and the empowerment of stakeholders to enforce compliance with international rules. For example, the 2011 UN Guiding Principles on

¹³⁷ I. Ioannides, [The effects of human rights related clauses in the EU-Mexico Global Agreement and the EU-Chile Association Agreement](#), EPRS, European Parliament, February 2017.

¹³⁸ Transport & Environment, [Trade and Sustainable Development: A Chance for Innovative Thinking](#), Brussels, October 2017, p. 7; C. Scherrer, and M. Moore, [Conditional or Promotional Trade Agreements—Is Enforcement Possible?](#), Friedrich Ebert Foundation, June 2017.

¹³⁹ European Commission, [Report to the Civil Society Forum of the Fourth Meeting of the Board of Trade and Sustainable Development Association Agreement between Central America and the European Union](#), Brussels, 13 June 2018.

¹⁴⁰ See Friedrich Ebert Stiftung, [Response to the Non-Paper of the European Commission on Trade and Sustainability in Trade Agreements](#), January 2018. To be effective, this mechanism requires the existence of independent social partners and civil society.

¹⁴¹ Court of Justice of the European Union, [Opinion 2/15: Opinion of the Court \(Full Court\) of 16 May 2017 – European Commission \(2017\) C 239/03](#).

¹⁴² Eurogroup for Animals, [Animal Welfare, Trade and Sustainable Development](#), Brussels, 2018, pp. 14-16.

Business and Human Rights¹⁴³ is built around three components, of which access to remedies (via dispute systems) is one. Additionally, academic research on, for example, the context of voluntary standards, has pointed towards the importance of dispute mechanisms and 'retrospective accountability'¹⁴⁴ for the effective enforcement of private social and environmental standards.¹⁴⁵ In that spirit, civil society has proposed using a key performance indicator scorecard, especially for measuring compliance of environmental standards, inspired by the indicators used under the Generalised Scheme of Preferences (GSP+).¹⁴⁶

In the spirit of stronger enforcement mechanisms, it is also suggested that EU trade agreements include a specific dispute settlement mechanism for the TSD chapter, to make use of information on compliance from the ILO (and other international monitoring bodies) in order to hold states to account while at the same time introducing voluntary sustainability standards or OECD guidelines that could address (multinational) firms more directly. As Marx et al. demonstrate, linking the TSD chapters to a binding dispute settlement mechanism might be one approach. The shadow of disputes, complaints and possible sanctions might provide additional incentives to comply with the requirements of the TSD chapters. The experts recommend that such robust sanctions be used as a measure of last resort, which could involve trade sanctions or other economic sanctions, such as fines. There is a need to reflect upon how these sanctions can be designed in a way that avoids harm against vulnerable parts of the population or sanctions that would be disproportionate, or that would result in trade diversion, i.e. countries redirecting their trade flows towards other countries.¹⁴⁷

Interestingly, the need for sanctions in trade agreements has been explicitly identified by the EU for the first time in the context of the future Brexit negotiations. Specifically, when presenting the level-playing field, the European Commission has indicated that it will be necessary to adopt a 'non-regression' clause in the EU-UK trade agreement, and that this clause, which reads like the provision usually contained in a TSD chapter (parties should not lower standards in order to attract trade), should be accompanied by a sanctions regime (that could include 'suspension of obligations, temporary compensations, financial sanctions, cross retaliation, 'guillotine clause', etc.').¹⁴⁸

¹⁴³ United Nations Human Rights Office of the High Commissioner, [Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework](#), New York and Geneva, 2011.

¹⁴⁴ N. Hachez and J. Wouters, 'A Glimpse at the Democratic Legitimacy of Private Standards: Assessing the Public Accountability of GLOBALG.A.P.', *Journal of International Economic Law*, Vol. 14(3), 2011, pp. 677–710.

¹⁴⁵ L. H. Gulbrandsen, 'Accountability Arrangements in Non-state Standards Organizations: Instrumental Design and Imitation', *Organization*, Vol. 15(4), 2008, pp. 563–583.

¹⁴⁶ Transport & Environment, [Trade and Sustainable Development: A Chance for Innovative Thinking](#), Brussels, October 2017, pp. 3 and 9.

¹⁴⁷ A. Marx et al., [Dispute Settlement in the Trade and Sustainable Development Chapters of EU Trade Agreements](#), Leuven Centre for Global Governance Studies, Leuven, 2017, p. 91.

¹⁴⁸ European Commission, [Internal EU27 preparatory discussions on the framework for the future relationship: 'Level Playing Field'](#), Commission to EU 27, 31 January 2018.

6. Conclusions

This evaluation has shown that the EU has had some positive results in promoting labour and environmental rights in Central America through the trade pillar of its Association Agreement. It is important to acknowledge the positive albeit limited role of the civil society meetings in monitoring the TSD chapter in the EU-Central America agreement. Government-to-civil society meetings have been key in airing civil society concerns to government-to-government discussions. However, the extent to which these concerns are taken on board at government level is unclear, as there is no concrete incentive for enforcement; rather, it depends on political will. Accordingly, these meetings have at best had an indirect impact on monitoring the implementation of the TSD chapter of the EU-Central America AA.

Elements hindering stronger and more extensive positive results include:

- the fact that the legal provisions were drafted in a conservative way leaving ample flexibility for the signatories to the agreement when it comes to implementation of the chapter;
- challenged cross-border cooperation within the Central American integration process in regions that are environmentally vulnerable, fragile to natural disaster and suffering from high levels of poverty. These are areas where the implementation of the TSD chapter is most needed;
- weak coordination in the crowded international scene both within the EU (especially when it comes to capitalising on the potential of EU delegations, using its available instruments in a complementary manner) and between the EU and other donors;
- the fact that while social dialogue between non-governmental actors and governments adds legitimacy to the decision-making process ensuring that trade is an inclusive process that is grounded in the experiences and interests of all relevant stakeholders, questions have been repeatedly raised as to who sits around the table, how DAG members are recruited, and on their diversity and representativeness.

The TSD Board engages leaders of the Central American region on rather legalistic and technical matters linked to the TSD chapter, namely the ratification and, to some extent, the progress made in implementing ILO conventions and other environmental obligations. It does not clearly engage parties, however, on the consequences of the non-implementation of international conventions. It therefore does not respond sufficiently to the concerns outlined by the European Parliament, namely on human rights violations, and the need to tackle organised crime and promote environmental rights and sustainability.

The EU-Central America AA may be useful in nurturing intra-regional integration – even in the field of sustainable development – but its clout remains limited when it comes to pushing for the implementation of ILO core conventions and domestic labour law reforms in the short term. Experts have not been able to provide conclusive information on whether long-term promotional labour clauses could reduce breaches of labour rights.¹⁴⁹

Coordination between the various EU instruments has been key in ensuring that the EU has an impact on sustainable development issues in Central America. National governments have their own role to play in ensuring that the necessary reforms on sustainable development are not only agreed on but actually implemented. In general, the EU has been reluctant – apart in the case of

¹⁴⁹ J. Orbie et al., 'The Impact of Labour Rights Commitments in EU Trade Agreements: The Case of Peru', *Politics and Governance*, Vol. 5(4), 2017.

Nicaragua where violations of labour laws and the general human rights situation has been visibly challenging – to take firm action against trading partners' violations.

Engagement with civil society organisations, including workers' and employers' representatives, is an important part of this process. It is too early to dismiss its potential impact in the future, but more needs to be done to ensure that the contribution of social dialogue is taken seriously into account by policymakers and decision-makers and that, when relevant, it is taken on board. In that respect, the social partners and civil society should play an ever greater role in monitoring and – according to some experts – even enforcing implementation.

Other ideas put forward for more effective compliance include boosting capacity-building projects (e.g., labour inspections) in the six Central American signatories, increasing funding (also through public-private partnerships), and using participatory methods in the evaluation of TSD compliance (where all local stakeholders, including local authorities and civil society, can be involved in the design, carrying out and dissemination of evaluation results).

While evidence points to cooperation and dialogue being more effective than sanctioning when it comes to ensuring the implementation of TSD provisions, experts and policymakers call for clearer and stronger enforcement mechanisms. These could include a combination of promotional and conditional approaches. Ideas put forward by experts include: the creation of a 'collective complaint mechanism' that would further empower civil society; mobilising the landmark opinion of the European Court of Justice on the powers to conclude the EU-Singapore FTA; creating performance indicator scorecards (as in the GSP+); and including a specific dispute settlement mechanism for the TSD chapter that uses information on compliance from the ILO (and other international monitoring bodies) to hold states to account while at the same time introducing voluntary sustainability standards or OECD guidelines that could address (multinational) firms more directly.

Ultimately implementation of TSD commitments depends on a long-term engagement with trading partners and on close coordination between the various tiers of authority responsible for policies in areas such as labour and the environment. On the EU side this will become clearer once all the EU Member States have ratified the EU-Central America AA. On the partners' side, the message will be clearer when the reforms necessary for safeguarding the TSD provisions are not only ratified but also fully implemented.

References

Official documents

[Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other](#), Official Journal L 346, 15 December 2012.

[Regulation \(EU\) No 20/2013 of the European Parliament and of the Council of 15 January 2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other](#), Official Journal L 17, 19 January 2013.

European Parliament reports and resolutions

[European Parliament resolution of 31 May 2018 on the situation in Nicaragua \(2018/2711\(RSP\)\)](#), P8_TA-PROV(2018)0238.

European Parliament, Delegation for relations with the countries of Central America, [Minutes of the Meeting of 12 October 2017](#), DCAM_PV(2017)1012_1.

[European Parliament resolution of 13 September 2017 on EU political relations with Latin America \(2017/2027\(INI\)\)](#), A8-0268/2017.

European Parliament, [Mission Report – Report by Delegation Chair, Sofia Sakorafa, on the visit to Costa Rica and Panama, 28 March to 1 April 2016, San José \(Costa Rica\) and Panama City \(Panama\)](#), Delegation for relations with the countries of Central America, 9 June 2016.

European Parliament, [Working Document on the Draft Rules of Procedure of the Joint Parliamentary Committee European Union-Central America](#), PE470.378v04-00, 8 September 2015.

European Parliament, [Report by Delegation Chair Sofia Sakorafa on the visit to Guatemala and Honduras, 16 to 20 February 2015, Guatemala City \(Guatemala\) and Tegucigalpa \(Honduras\)](#), Delegation for relations with the countries of Central America, PE559.458v01-00.

[European Parliament decision of 3 April 2014 on discharge in respect of the implementation of the general budget of the European Union for the financial year 2012, Section X – European External Action Service \(COM\(2013\)0570 – C7-0282/2013 – 2013/2205\(DEC\)\)](#), P7_TA(2014)0292.

European Parliament, [Report by Emine Bozkurt, Chair of the Delegation for Relations with the countries of Central America, on the visit by a Delegation Working Group to Nicaragua and El Salvador, 28 October – 1 November 2013, Nicaragua and El Salvador](#), PE470.372v01-00, Delegation for relations with the countries of Central America, 9 January 2014.

[European Parliament resolution of 11 December 2012 on the draft Council decision on the conclusion of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America, on the other](#), A7-0360/2012.

European Parliament, [MEPs back two major pacts with Latin America](#), Press release, 20121207IPR04407, Plenary sessions, 11 December 2012.

European Parliament, [Resolution of 21 October 2010 on the European Union's Trade Relations with Latin America](#), T7-0387/2010, 21 October 2010.

[European Parliament resolution of 25 November 2010 on human rights and social and environmental standards in international trade agreements \(2009/2219\(INI\)\)](#), P7_TA(2010)0434.

European Parliament, [Resolution of 24 April 2008 on the Fifth Latin America and Caribbean-European Union Summit in Lima](#), T6-0177/2008, 24 April 2008.

Other EU documents

Court of Justice of the European Union, [Opinion 2/15: Opinion of the Court \(Full Court\) of 16 May 2017 – European Commission \(2017\) C 239/03](#), Document 62015CV0002(01).

European Commission, [EU-Central America Association Agreement, Summary Report of the fourth meeting of the Association Committee - Trade part: Brussels, 14 June 2018](#), 2018.

European Commission, [Report to the Civil Society Forum of the Fourth Meeting of the Board of Trade and Sustainable Development Association Agreement between Central America and the European Union](#), Brussels, 13 June 2018.

European Commission, [European Union, Trade in goods with Central America 6](#), Directorate-General for Trade, 16 April 2018.

European Commission, [Decent Work, Corporate Responsibility and the EU-Central America Association Agreement: Contributing to Sustainable Economic Growth](#), Directorate General for Trade, 28 March 2018.

European Commission, [Feedback and way forward on improving the implementation and enforcement of Trade and Sustainable Development chapters in EU Free Trade Agreements](#), Non paper of the Commission services, 26 February 2018.

European Commission, [Internal EU27 preparatory discussions on the framework for the future relationship: "Level Playing Field"](#), TF50 (2018) 27 - Commission to EU 27, 31 January 2018.

European Commission, [Responsible Global Value Chains: Case of EU-Central America Trade](#), Directorate General for Trade, 7 April 2017.

European Commission, [Commission's Forward Planning of Evaluations and Studies: 2017 and beyond](#), 2017.

European Commission, [Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Implementation of Free Trade Agreements, 1 January 2016-31 December 2016](#), COM(2017) 654 final, Brussels, 9 November 2017.

European Commission, [Report from the Commission to the European Parliament and the Council, Third Annual Report on the Implementation of Part IV of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other](#), COM(2017) 160 final, Brussels, 5 April 2017.

European Commission, [Report from the Commission to the European Parliament and the Council, Annual Report on the Implementation of Part IV of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other](#), COM(2016) 73 final, 18 February 2016.

European Commission, [Report from the Commission to the European Parliament and the Council, Annual Report on the Implementation of Part IV of the EU-Central America Association Agreement](#), COM(2015) 131 final, 18 March 2015.

European Commission, [EU Communication on the Agenda for Change](#), 2011.

European Commission, [Highlights of the trade pillar of the Association Agreement between Central America and the European Union](#), Press release, 20 June 2011.

European Commission, [Trade for All: Towards a More Responsible Trade and Investment Policy](#), COM(2015) 497, 14 October 2014.

[Trade and Sustainable Development Chapters in EU Free Trade Agreements](#), OJ C 227, 28 June 2018, pp. 27–34.

[Trade and Sustainable Development - 6 Years in a Snapshot](#), TSD Implementation -Achievements, not dated.

Other governmental bodies

Dutch Ministry of Foreign Affairs, Investing in Global Prospects, Policy Document on Foreign Trade and Development Cooperation, May 2018.

Latin American and Caribbean Economic System (Sistema Económico Latinoamericano y del Caribe, SELA), [Regional Cooperation in the area of Border Integration](#), SP/XXIV-RDCIALC/DT N° 2-13, XXIV Meeting of International Cooperation Directors for Latin America and the Caribbean. Regional Cooperation in the area of Border Integration, in El Salvador, San Salvador, 30 and 31 May 2013, Permanent Secretariat of SELA, Caracas, Venezuela.

United Nations Human Rights Office of the High Commissioner, [Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework](#), New York and Geneva, 2011.

Other sources

ADE, [Evaluation of the EU's Cooperation with Central America, Final Report, Volume I – Main report](#), Analysis for Economic Decisions (ADE), (Evaluation commissioned by the European Commission).

Ariel Aaronson, S., Chapter 21 - 'Human Rights', in Chauffour, J.-P. and Maur, J.-C. (eds), [Preferential Trade Agreements Policies for Development: A Handbook](#), World Bank, Washington, DC, June 2011.

Association of European Border Regions (AEBR), [EU - Central America Cooperation Support to the Central American Integration System's \(SICA\) cross-border cooperation actions](#), Final report, Prepared for the Directorate-General for Regional and Urban policy (DG REGIO), European Commission, 2012.CE.16.0.AT.080, 19 December 2014.

Bartels, L., 'Human Rights and Sustainable Development Obligations in EU Free Trade Agreements', *Legal Issues of Economic Integration Law*, Vol. 40(4), 2013.

Beke, L. et al., [Report on the Integration of Human Rights in EU Development and Trade Policies](#), Large-Scale FP7 Collaborative Project GA No 320000: Fostering Human Rights among European Policies, Work Package No 9 – Deliverable No 1, Leuven Centre for Global Governance Studies, Leuven, September 2014.

Bürgi Bonanomi, E., [EU Trade Agreements and Their Impacts on Human Rights](#), Study commissioned by the German Federal Ministry for Economic Cooperation and Development (BMZ), CDE Working Paper No 1, Centre for Development and Environment, University of Bern, Switzerland, 2014.

BusinessEurope, [Trade and Sustainable Development Chapters in EU FTAs](#), Position Paper, 6 November 2017.

Ecorys and Corporate Solutions, [Trade Sustainability Impact Assessment of the Association Agreement to be negotiated between the EU and Central America](#), TRADE08/C1/C14 & C15 - Lot 2, Final Report, (Evaluation commissioned by the Directorate General on Trade, European Commission), 18 September 2009.

EU - Central America Association Agreement - Free Trade Chapter, Policy Briefing, Directorate-General for external Policies of the Union Policy Department, European Parliament, May 2011.

Eurogroup for Animals, Animal Welfare, Trade and Sustainable Development, Brussels, 2018.

Friedrich Ebert Stiftung, [Response to the Non-Paper of the European Commission on Trade and Sustainability in Trade Agreements](#), January 2018.

Gulbrandsen, L. H., 'Accountability Arrangements in Non-state Standards Organizations: Instrumental Design and Imitation', *Organization*, Vol. 15(4), 2008, pp. 563–583.

Hachez, N. and Wouters, J., 'A Glimpse at the Democratic Legitimacy of Private Standards: Assessing the Public Accountability of GLOBALG.A.P', *Journal of International Economic Law*, Vol. 14(3), 2011, pp. 677–710.

Hafner-Burton, E. M., *Making Human Rights a Reality*, Princeton University Press, Princeton, NJ, 2013.

Harrison, James et al., 'Governing Labour Standards through Free Trade Agreements: Limits of the European Union's Trade and Sustainable Development Chapters', *Journal of Common Market Studies*, 2018, pp. 1-18.

Hoffmeister, F., 'The Deep and Comprehensive Free Trade Agreements of the European Union', in Cremona, M. and Takács, T. (eds), [Trade Liberalisation and Standardisation – New Directions in the 'Low Politics' of EU Foreign Policy](#), EUI Working Paper AEL 2014/1, Academy of European Law, European University Institute, San Domenico di Fiesole, 2014, p. 15-26.

Ioannides, I., [The effects of human rights related clauses in the EU-Mexico Global Agreement and the EU-Chile Association Agreement](#), PE 558.764, EPRS, European Parliament, February 2017.

Ioannides, I., [The Inclusion of Financial Services in EU Free Trade and Association Agreements: Effects on Money Laundering, Tax Evasion and Avoidance, Ex-Post Impact Assessment](#), PE 579.326, EPRS, European Parliament, June 2016.

Hannonen, M., 'Implementation of EU Free Trade Agreements', *Global Trade and Customs Journal*, Vol. 12(11 & 12), 2017, pp. 422-425.

Iranzo, C. and Patruyo, T., 'Trade Unionism and Globalisation: Thoughts from Latin America', *Current Sociology*, Vol. 50(1), January 2002, pp. 57-74.

Lerch, M., [The European Year for Development: Human Rights](#), PE 570.451, Policy Department, Directorate General for External Policies, and European Parliamentary Research Service, European Parliament, Brussels, 1 December 2015.

Melo Araujo, B., 'Labour Provisions in EU and US Mega-Regional Trade Agreements: Rhetoric and Reality', *International and Comparative Law Quarterly*, Vol. 67, January 2018, pp. 233-253.

Marx, A. et al., [Dispute Settlement in the Trade and Sustainable Development Chapters of EU Trade Agreements](#), Leuven Centre for Global Governance Studies, Leuven, 2017.

Marx, A. et al., 'The Protection of Labour Rights in Trade Agreements: The Case of the EU-Colombia Agreement', *Journal of World Trade*, Vol. 50(4), 2016, pp. 587-610.

Marx, A. et al., 'Does Integrating Labour Provisions in Free Trade Agreements Make a Difference? An exploratory analysis of freedom of association and collective bargaining rights in 13 EU Trade Partners', in Wouters, J. et al. (eds.) *Global Governance through Trade*, Cheltenham: Edward Elgar Publishing, 2015, pp. 13-41.

Orbie, J. et al., [Civil Society Meetings in European Union Trade Agreements: Features, Purposes, and Evaluation](#), Clear Papers 2016/3, Centre for the Law of EU External Relations, Asser Institute, The Hague, The Netherlands, 2016.

Orbie, J. et al., [The Impact of Labour Rights Commitments in EU Trade Agreements: The Case of Peru](#), *Politics and Governance*, Vol. 5(4), 2017.

Scherrer, C. and Moore, M., [Conditional or Promotional Trade Agreements—Is Enforcement Possible?](#), Friedrich Ebert Foundation, June 2017.

Selleslaghs, J., Managing Global Interdependence on the central American Isthmus: EU-Central America Interregional Relations, UNU-CRIS Working Papers W-2014/8, Institute on Comparative Regional Integration Studies, United Nations University, Brugge, 2014.

Silva Ávalos, H., [US Report Shows Revitalized Central America Cocaine Corridor](#), Insight Crime, 9 March 2017.

Transport & Environment, [Trade and Sustainable Development: A Chance for Innovative Thinking](#), Brussels, October 2017.

Van den Putte, L. and Orbie, J., 'EU Bilateral Trade Agreements and the Surprising Rise of Labour Provisions', *International Journal of Comparative Labour Law and Industrial Relations*, Vol. 31(3), 2015.

Velluti, S., 'The Promotion and Integration of Human Rights in EU External Trade Relations', *Utrecht Journal of International and European Law*, Vol. 32(83), 2016.

Velluti, S., 'The EU's Social Dimension and its External Trade Relations', in Marx, Axel et al. (eds.), *Global Governance of Labour Rights: Assessing the Effectiveness of Transnational Public and Private Policy Initiatives*, Cheltenham, 2015, pp. 42-62.

Vogt, J., 'The evolution of Labor Rights and Trade - A Transatlantic Comparison and Lessons for the Transatlantic Trade and Investment Partnership', *Journal of International Economic Law*, Vol. 18(4), 2015, pp. 827-860.

Websites

European Commission, [Regional cooperation with Central America](#), Directorate-General for International Cooperation and Development.

European Commission, [Sustainable development](#), Directorate General for Trade, 9 April 2018 (accessed 17 July 2018).

[The EU-Central America Domestic Advisory Group](#), EESC.

[Central America](#), EESC.

Annex 1 – The TSD chapter in the EU-Central America Association Agreement

PART IV - TRADE

TITLE VIII - TRADE AND SUSTAINABLE DEVELOPMENT

ARTICLE 284: Context and Objectives

1. The Parties recall Agenda 21 on Environment and Development of 1992, the Johannesburg Plan of Implementation on Sustainable Development of 2002 and the 2006 Ministerial Declaration of the UN Economic and Social Council on Full Employment and Decent Work. The Parties reaffirm their commitment to promoting the development of international trade in such a way as to contribute to the objective of sustainable development and to ensuring that this objective is integrated and reflected at every level of their trade relationship. To this end, the Parties recognise the importance of taking into account the economic, social and environmental best interests of not only their respective populations but also of future generations.

2. The Parties reaffirm their commitment to achieving sustainable development, whose pillars – economic development, social development and environmental protection – are interdependent and mutually reinforcing. The Parties underline the benefit of considering trade related social and environmental issues as part of a global approach to trade and sustainable development.

3. The Parties agree that this Title embodies a cooperative approach based on common values and interests, taking into account the differences in their levels of development and the respect of their current and future needs and aspirations.

4. The Parties shall not have recourse to dispute settlement procedures under Title X (Dispute Settlement) of Part IV of this Agreement and to the Mediation Mechanism for Non-Tariff Measures under Title XI (Mediation Mechanism for Non-Tariff Measures) of Part IV of this Agreement for matters arising under this Title.

ARTICLE 285: Right to Regulate and Levels of Protection

1. The Parties reaffirm the respect for their respective Constitutions and for their rights there under to regulate in order to set their own sustainable development priorities, to establish their own levels of domestic environmental and social protection, and to adopt or modify accordingly their relevant laws and policies.

2. Each Party shall strive to ensure that its laws and policies provide for and encourage high levels of environmental and labour protection, appropriate to its social, environmental and economic conditions and consistent with the internationally recognised standards and agreements referred to in Articles 286 and 287 to which it is a party, and shall strive to improve those laws and policies, provided that they are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between the Parties or a disguised restriction on international trade.

ARTICLE 286: Multilateral Labour Standards and Agreements

1. Recalling the 2006 Ministerial Declaration of the UN Economic and Social Council on Full Employment and Decent Work, the Parties recognise that full and productive employment and decent work for all, which encompass social protection, fundamental principles and rights at work and social dialogue, are key elements of sustainable development for all countries, and therefore a priority objective of international cooperation. In this context, the Parties reaffirm their will to promote the development of macroeconomic policies in a way that is conducive to full and productive employment and decent work for all, including men, women and young people, with

full respect for fundamental principles and rights at work under conditions of equity, equality, security and dignity.

The Parties, in accordance with their obligations as members of the ILO, reaffirm their commitments to respect, promote, and realise in good faith and in accordance with the ILO Constitution, the principles concerning the fundamental rights, which are the subject of the fundamental ILO Conventions, namely:

- 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.
2. The Parties reaffirm their commitment to effectively implement in their laws and practice the fundamental ILO Conventions contained in the ILO Declaration of Fundamental Principles and Rights at Work of 1998, which are the following:
- 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.
3. The Parties will exchange information on their respective situation and advancements as regards the ratification of the other ILO Conventions.
4. The Parties stress that labour standards should never be invoked or otherwise used for protectionist trade purposes and that the comparative advantage of any Party should not be questioned.
5. The Parties commit to consult and cooperate as appropriate, on trade-related labour issues of mutual interest.

ARTICLE 287: Multilateral Environmental Standards and Agreements

1. The Parties recognise that international environmental governance and agreements are important elements to address global or regional environmental problems and stress the need to enhance the mutual supportiveness between trade and environment. The Parties commit to consult and cooperate as appropriate on trade-related environmental issues of mutual interest.
2. The Parties reaffirm their commitment to effectively implement in their laws and practice the multilateral environmental agreements to which they are parties including:

- a. the Montreal Protocol on Substances that Deplete the Ozone Layer;
 - b. the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;
 - c. the Stockholm Convention on Persistent Organic Pollutants;
 - d. the Convention on International Trade in Endangered Species of Wild Fauna and Flora (hereinafter referred to as 'CITES');
 - e. the Convention on Biological Diversity;
 - f. the Cartagena Protocol on Biosafety to the Convention on Biological Diversity; and
 - g. the Kyoto Protocol to the United Nations Framework Convention on Climate Change.
3. The Parties undertake to ensure that they have ratified by the date of entry into force of this Agreement, the Amendment to Article XXI of CITES, adopted at Gaborone (Botswana), on 30 April, 1983.
4. The Parties also undertake, to the extent they have not yet done so, to ratify and effectively implement, at the latest by the date of entry into force of this Agreement, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.
5. Nothing in this Agreement shall be construed to prevent the adoption or enforcement by any Party of measures to implement the agreements referred to in this Article, provided that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade.

ARTICLE 288: Trade Favouring Sustainable Development

1. The Parties reconfirm that trade should promote sustainable development in all its dimensions. In this context, they recognise the value of international cooperation in support of efforts to develop trade schemes and trade practices favouring sustainable development, and they agree to work together in the framework of Articles 288, 289 and 290 with the aim of developing collaborative approaches, as appropriate.
2. The Parties shall endeavour to:
- a. consider those situations in which the elimination or the reduction of obstacles to trade would benefit trade and sustainable development, taking into account, in particular, the interactions between environmental measures and market access;
 - b. facilitate and promote trade and foreign direct investment in environmental technologies and services, renewable-energy and energy-efficient products and services, including through addressing related non-tariff barriers;
 - c. facilitate and promote trade in products that respond to sustainability considerations, including products that are the subject of schemes such as fair and ethical trade schemes, eco-labelling, organic production, and including those schemes involving corporate social responsibility and accountability; and
 - d. facilitate and promote the development of practices and programmes aiming at fostering appropriate economic returns from the conservation and sustainable use of the environment, such as ecotourism.

ARTICLE 289: Trade in Forest Products

In order to promote the sustainable management of forest resources, the Parties commit to work together to improve forest law enforcement and governance and to promote trade in legal and sustainable forest products through instruments that may include, inter alia: effective use of CITES with regard to endangered timber species; certification schemes for sustainably harvested forest products; regional or bilateral Forest Law Enforcement Governance and Trade ("FLEGT") Voluntary Partnership Agreements.

ARTICLE 290: Trade in Fish Products

1. The Parties recognise the need to promote sustainable fisheries so as to contribute to the conservation of fish stocks and to the sustainable trade of fishery resources.

2. To this end, the Parties undertake to:

- a. adhere to and effectively implement the principles of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December, 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, in relation to: sustainable use, conservation and management of straddling fish stocks and highly migratory fish species; international cooperation between States; support of scientific advice and research; implementation of effective monitoring, control and inspection measures; and the duties of the flag and port States, including compliance and enforcement;
- b. cooperate, including with and within the relevant Regional Fisheries Management Organisations, in order to prevent Illegal, Unreported and Unregulated ('IUU') fishing, including by adopting effective tools to implement control and inspection schemes to ensure full compliance with conservation measures;
- c. exchange scientific and non-confidential trade data, to exchange experiences and best practices in the field of sustainable fisheries and, more generally, to promote a sustainable approach to fisheries.

3. The Parties, to the extent they have not yet done so, agree to adopt port State measures in line with the United Nations Food and Agriculture Organisation Agreement on Port State Measures to Prevent, Deter And Eliminate Illegal, Unreported And Unregulated Fishing, to implement control and inspection schemes, as well as incentives and obligations for a sound, sustainable management of fisheries and coastal environments in the long term.

ARTICLE 291: Upholding Levels of Protection

1. The Parties recognise that it is inappropriate to encourage trade or investment by lowering the levels of protection afforded in domestic environmental and labour laws.

2. A Party shall not waive or derogate from, or offer to waive or offer to derogate from, its labour or environmental legislation in a manner affecting trade or as an encouragement for the establishment, acquisition, expansion or retention of an investment or an investor in its territory.

3. A Party shall not fail to effectively enforce its labour and environmental legislation in a manner affecting trade or investment between the Parties.

4. Nothing in this Title shall be construed to empower a Party's authorities to undertake law enforcement activities in the territory of the other Party.

ARTICLE 292: Scientific Information

The Parties recognise the importance, when preparing and implementing measures aimed at protecting the environment or health and safety at work, of taking account of scientific and technical information, and relevant international standards, guidelines or recommendations, while acknowledging that when there are threats of serious or irreversible damage, the lack of full scientific certainty shall not be used as reason for postponing protective measures.

ARTICLE 293: Sustainability Review

The Parties commit to jointly reviewing, monitoring and assessing the contribution of Part IV of this Agreement, including cooperation activities under Article 302, to sustainable development.

ARTICLE 294: Institutional and Monitoring Mechanism

1. Each Party shall designate an office within its administration to serve as Contact Point for the purpose of implementing trade-related aspects of sustainable development. At the entry into force of this Agreement, the Parties shall submit to the Association Committee full contact information for their Contact Points.

2. The Parties hereby establish a Board on Trade and Sustainable Development, which shall comprise high level authorities from within the administrations of each Party. Prior to each meeting of the Board the Parties will inform each other of the identity and contact information of their respective representatives.

3. The Board on Trade and Sustainable Development shall meet within the first year after the date this Agreement enters into force, and thereafter as necessary, to oversee the implementation of this Title, including cooperative activities undertaken under Title VI (Economic and Trade Development) of Part III of this Agreement. The decisions and recommendations of the Board shall be adopted by mutual agreement between the Parties and shall be provided to the public, unless the Board decides otherwise.

4. Each Party shall convene new or consult existing Advisory Groups on trade and sustainable development. These groups shall be tasked with expressing views and making recommendations on trade-related aspects of sustainable development and advising the Parties on how to better achieve the objectives of this Title.

5. The Advisory Groups of the Parties shall comprise independent representative organisations, in a balanced representation of economic, social and environmental stakeholders including, among others, employers and workers organisations, business associations, non-governmental organisations and local public authorities.

ARTICLE 295: Civil Society Dialogue Forum

1. The Parties agree to organise and facilitate a bi-regional Civil Society Dialogue Forum for open dialogue, with a balanced representation of environmental, economic and social stakeholders. The Civil Society Dialogue Forum shall conduct dialogue encompassing sustainable development aspects of trade relations between the Parties, as well as how cooperation may contribute to achieve the objectives of this Title. The Civil Society Dialogue Forum will meet once a year, unless otherwise agreed by the Parties.

2. Unless the Parties agree otherwise, each meeting of the Board will include a session in which its members shall report on the implementation of this Title to the Civil Society Dialogue Forum. In turn, the Civil Society Dialogue Forum may express its views and opinions in order to promote dialogue on how to better achieve the objectives of this Title.

ARTICLE 296: Government Consultations

1. A Party may request consultations with another Party regarding any matter of mutual interest arising under this Title, by delivering a written request to the Contact Point of the other Party. In order to enable the Party receiving the request to respond, the request shall contain information that is specific enough to present the matter clearly and factually, by identifying the problem at issue and by providing a brief summary of the claims under this Title. Consultations shall commence promptly after a Party delivers a request for consultations.

2. The consulting Parties shall make every attempt to arrive at a mutually satisfactory solution of the matter, taking into account the information exchanged by the consulting Parties and opportunities for cooperation on the matter. During consultations, special attention shall be given to the particular problems and interests of developing country Parties. The consulting Parties shall take into account the activities of the ILO or relevant multilateral environmental organisations or bodies to which they are parties. Where relevant, the consulting Parties may, by mutual agreement, seek advice or assistance from those organisations and bodies, or from any person or body they deem appropriate in order to fully examine the matter at issue.

3. If ninety days after the request of consultations, a consulting Party deems that the matter needs further discussion, and unless the consulting Parties agree otherwise, the matter shall be referred for consideration to the Board on Trade and Sustainable Development by delivering a written request to the Contact Points of the other Parties. The Board on Trade and Sustainable Development shall convene promptly in order to assist in reaching a mutually satisfactory solution. If it deems necessary, the Board on Trade and Sustainable Development may seek expert assistance in the matter of interest, with the objective of facilitating its analysis.

4. Any solution reached by the consulting Parties on the matter shall be made public unless the Board on Trade and Sustainable Development otherwise decides.

ARTICLE 297: Panel of Experts

1. Unless the consulting Parties agree otherwise, a consulting Party may, after sixty days of the referral of a matter to the Board on Trade and Sustainable Development or, if the matter is not referred to the Board, after ninety days of the delivery of a request for consultation under Article 296, paragraphs 1 and 3 respectively, request that a Panel of Experts be convened to examine a matter that has not been satisfactorily addressed through government consultations. The Parties to the procedure can make submissions to the Panel of Experts.

2. At the entry into force of this Agreement, the Parties shall submit to the Association Committee for endorsement by the Council at its first meeting, a list of seventeen persons with at least five individuals who are not nationals of any Party, with expertise in environmental law, international trade or the resolution of disputes arising under international agreements; and a list of seventeen persons, with at least five individuals who are not nationals of any Party, with expertise in labour law, international trade or the resolution of disputes arising under international agreements. The experts who are not nationals of any Party would be available to serve as Chair of the Panel of Experts. The experts shall be (i) independent of, and not affiliated with or take instructions from, either Party or organisations represented in the Advisory Group(s); and (ii) chosen on the basis of objectivity, reliability and sound judgment.

3. The Parties shall agree on replacements of experts who are no longer available to serve in panels, and they may otherwise agree to modify the list as and when they consider it necessary.

ARTICLE 298 Composition of the Panel of Experts

1. The Panel of Experts shall comprise three experts.

2. The Chairperson shall not be a national of any Party.
3. Each Party to the procedure shall select one expert from the list of experts within thirty days of the receipt of the request for the establishment of a Panel of Experts. If one Party fails to select its expert within such period, the other Party to the procedure shall select from the list of experts a national of the Party to the procedure that has failed to select an expert. The two selected experts shall select the Chairperson by agreement or by lot, from among the experts who are not nationals of any Party.
4. Individuals may not serve as experts with respect to a matter in which they, or an organisation to which they are affiliated, has a direct or indirect conflict of interests. Upon selection to serve as experts on a given matter, each expert is expected to disclose the existence or development of any interest, relationship or matter that that expert could reasonably be expected to know and that is likely to affect, or give rise to justifiable doubts as to that expert's independence or impartiality.
5. If either Party to the procedure believes that an expert is in violation of the requirements set forth in paragraph 4, the Parties to the procedure shall promptly consult and, if they agree, the expert shall be removed and a new expert shall be selected in accordance with the procedures set out in paragraph 3 that were used to select the expert who was removed.
6. Unless otherwise agreed by the Parties to the procedure in accordance with paragraph 2 of Article 301, the Panel of Experts shall be established no later than sixty days of a Party's request.

ARTICLE 299: Rules of Procedure

1. The Panel of Experts shall elaborate a timetable, which shall ensure an opportunity for the Parties to the procedure to provide written submissions and relevant information.
2. The Panel of Experts and the Parties shall ensure the protection of confidential information in accordance with the principles in Title X (Dispute Settlement) of Part IV of this Agreement.
3. The terms of reference of the Panel of Experts shall be:

'to examine whether there is a failure by a Party to comply with the obligations set out under Articles 286, paragraph 2, 287, paragraphs 2, 3 and 4 and 291 of this Title, and to make non-binding recommendations for solution of the matter. In case of matters concerning the enforcement of legislation, the terms of reference of the Panel of Experts shall be to determine if there is a sustained or recurring failure by a Party to effectively implement its obligations.'

ARTICLE 300: Initial Report

1. The Panel of Experts shall use the submissions and arguments presented by the Parties to the procedure as a basis for its report. In the course of the procedure, the Parties shall have the opportunity to comment on documents or information that the Panel may consider relevant to its work.
2. Within one hundred and twenty days as of the date of establishment of the Panel of Experts, the Panel shall present to the Parties to the procedure an initial report including its recommendations. When the Panel considers that it cannot provide its report within one hundred and twenty days, it shall inform the Parties to the procedure in writing of the reasons for the delay and it shall give an estimate of the period within which it will provide its report.
3. The Panel's recommendations shall take into account the particular socio-economic situation of the Parties.
4. The Parties to the procedure may submit written comments to the Panel on its initial report within thirty days of its presentation.

5. After receiving any written comments, the Panel, on its own initiative or on the request of either Party to the procedure, may:

- a. where relevant, request the views of the Parties to the procedure on the written comments;
- b. reconsider its report; or
- c. make any further consideration that it considers appropriate.

The Panel's final report shall include a discussion of any arguments included in the Parties' written comments.

ARTICLE 301: Final Report

1. The Panel shall present to the Parties to the procedure and to the Board on Trade and Sustainable Development a final report no later than one hundred and eighty days of the date the Panel was established. The Parties shall release the final report to the public within fifteen days of its presentation.

2. The Parties to the procedure may, by mutual agreement, decide to extend the timeframes established in paragraph 1, as well as those in Articles 298, paragraph 6, and 300, paragraph 4.

3. The Parties to the procedure shall, taking into account the report and recommendations of the Panel of Experts, endeavour to discuss appropriate measures to be implemented including, where appropriate, possible cooperation to support implementation of such measures. The Party to which the recommendations are addressed shall inform the Board on Trade and Sustainable Development as regards its intentions concerning the report and recommendations of the Panel of Experts including, where appropriate, by presenting an action plan. The Board on Trade and Sustainable Development shall monitor the implementation of the actions that the Party has determined.

ARTICLE 302: Cooperation and Technical Assistance on Trade and Sustainable Development

The cooperation and technical assistance measures related to this Title are established in Title VI (Economic and Trade Development) of Part III of this Agreement.

Annex 2 – Rules of procedure of the EU Advisory Group, created pursuant to Title VIII (Article 294) of the EU-Central America Association Agreement

Main functions and objectives of the EU Advisory Group (AG)

The EU AG shall express its opinions, make recommendations and advise on any issue related to the implementation of the Trade and Sustainable Development Title of the EU-Central America Association Agreement (AA).

Such opinions, recommendations or advise shall be provided on its own initiative or at the request of the European Commission (the Commission), the Board on Trade and Sustainable Development, joint meetings of the EU and Central American AGs or the Panel of Experts (referred to in Articles 297-301 of the AA). The EU AG can also take into consideration recommendations of the Civil Society Dialogue Forum referred to in Article 295 of the AA.

Composition and membership of the EU AG

The EU AG shall be composed of full members and observers. The number of full members shall be 12,¹⁵⁰ including three EESC members and nine members representing European civil society organisations. The number of observers shall not exceed the number of full members.

Observers may participate in the work of the EU AG except with respect to voting. Requests for participation by potential additional observers shall be made to the AG Chair either directly or through the secretariat. The AG members will decide on authorisation for such organisations to participate as observers.

The members of the EU AG shall be appointed for a two-and-a-half-year term (aligned with the EESC mandate)¹⁵¹ with the possibility of renewal for individual members.

A balanced representation of economic, social and environmental stakeholders, including among others, employers and workers organisations, business associations and non-governmental organisations should be ensured. The members of the EU DAG shall be divided accordingly into groups – business, labour, and NGOs. Representatives of local authorities may also be included.

If a seat occupied by an EESC member becomes vacant, a new member will be appointed by the EESC according to its internal procedures.

If a seat occupied by a non-EESC member becomes vacant a new member shall be appointed by the EU AG based on proposal made by the Chair after consultation of a relevant sub-group, taking into account the need for balanced representation within the EU AG.

In case of repeated and not justified absence of one of the organisations in meetings and work of the EU AG, the Chair will consult the remaining EU AG members with regard to replacing the organisation in question with another one, belonging to the same sub-group.

Organisations belonging to a sub-group may agree on a rotation between full members and observers at the end of each mandate.

¹⁵⁰ Whenever the term 'EU AG member(s)' is used, the text refers to EU AG members having the right to vote.

¹⁵¹ As an exception, the first term will be of a different length to allow for alignment with the EESC mandate and the two-and-a-half-year period will be counted from October 2015 onwards.

Under the authority of the Chair, meetings of the EU AG may be open to the EU civil society organisations that are not members of the EU AG, in particular for specific discussions that would benefit from additional expertise.

Frequency of meetings

The EU AG shall meet at least twice per year.

Additional meetings may be called by:

- the Chair on its own initiative;
- at least six members of the EU AG;
- DG Trade;
- the Board on Trade and Sustainable Development

Requests for additional meetings shall be addressed to the Chair and the secretariat that will check with DG Trade the availability of financial means.

Chair of the EU AG

The Chair of the EU AG shall be elected by a simple majority of its members for a two-and-a-half-year term (aligned with the EESC mandate).¹⁵² The AG shall select a Chair from amongst its three sub-groups on a rotational basis.

The remaining two sub-groups will elect from among full members two Vice-Chairs (one from each sub-group) to substitute the Chair if needed and to coordinate the work of the Group together with the Chair during the mandate. The Chair will accomplish their duties after consultation and in agreement with the Vice-chairs.

At least one of the members of the Presidency (Chair and two Vice-Chairs) should be member of the EESC.

The Chair:

- convenes the meetings of the EU AG;
- proposes agenda of the meetings;
- moderates the meetings;
- acts as spokesperson of the EU AG in contacts with third parties.

Secretariat

The External Relations Secretariat within the EESC shall act as secretariat of the EU AG. The main tasks of the secretariat shall be to support the work of the EU AG and its Chair, to ensure publicity and communication of the work of the EU AG and to liaise with the European Commission, the Board on Trade and Sustainable Development and the Central American AGs.

The Secretariat will prepare and send out to EU AG the minutes of the meetings. Differences of views expressed during the meeting will be reflected in the minutes.

The minutes will be sent at the latest 4 weeks before the next meeting to give the members time for comments, and submitted for approval by the EU AG members at the following meeting.

¹⁵² As an exception, the first term will be of a different length to allow for alignment with the EESC mandate and the two-and-a-half-year period will be counted from October 2015 onwards.

The Secretariat shall also be responsible for coordinating on the EU side the organisation of joint meetings of the EU and Central American AGs and shall facilitate inter-sessional contacts and cooperation between them.

Preparation of agenda for EU AG meetings

Agendas of EU AG meetings shall be drawn up and proposed by the Chair (after consultation with Vice-Chairs), and sent out to the EU AG members and observers at least three weeks before the EU AG meeting. The EU AG members may propose points to be included in the agenda. The observers may propose points to be included in the agenda, acting through their sub-groups or Vice-Chairs. The EU AG may also take into account proposals provided by the Commission Services or by the Board on Trade and Sustainable Development.

EU AG communications, recommendations and other actions

The EU AG may address communications and recommendations related to the implementation of the Trade and Sustainable Development Title of the EU-Central America AA to the Board on Trade and Sustainable Development, the parties to the AA, to a Panel of Experts - if it has been convened by the Board on Trade and Sustainable Development- to the EU institutions, as well as to the Central American AGs and the Civil Society Dialogue Forum or any other relevant body.

To prepare its communication, the EU AG may appoint rapporteurs. It may consult academics, international organisations, independent experts or civil society organisations with relevant expertise that are not members of the EU AG.

Unless otherwise decided, the EU AG's communications, opinions and reports shall be public documents. They shall be available in working languages of the EU AG defined at the beginning of the mandate.

The EU AG may also publish other documents related to its work that are considered by the EU AG to be suitable for public dissemination.

EU DAG recommendations, communications, opinions, reports and other documents will present the views of the Group reached either by consensus or by majority vote. Minority positions can be included if representing the views of a whole sub-group, at the request of that sub-group.

The EU AG may organise other activities which it considers relevant, such as workshops or seminars, including in partnership with other institutions or organisations.

Quorum

A quorum shall exist if more than half of the members of the EU AG are present or represented and if at least one member representing each sub-group is attending. The quorum will be ascertained at the beginning of the meeting.

Voting procedure

The EU AG shall strive to take decisions by consensus. In case a vote is called for, decisions will be taken by a simple majority. In the event of a tie, the Chair shall have a casting vote.

One organisation can delegate its vote to another one among the members of the same sub-group. The list of member organisations and agreed mutual delegation of votes (for a given mandate) shall be annexed to these rules of procedure.

Members wishing to delegate their vote will inform the Chair before the beginning of each meeting. The secretariat will distribute a list of members and observers for each meeting.

Relations with the European Commission and other EU institutions

The Commission shall be systematically invited to participate in EU AG meetings with a view to participate in discussions or to make presentations on specific subjects but shall not be involved in decision-making.

Depending on the agenda, representatives of the European External Action Service or other EU and international institutions may be invited.

Financing of the EU AG meetings

The financial aspects of the operation of the EU AG (namely transport, accommodation, logistics, interpretation and catering) will be agreed by the European Commission and the European Economic and Social Committee.

Financial aspects related to participation of the non-EESC EU AG members and observers in joint meetings of the EU AG and Central American AGs and in the Civil Society Dialogue Forum will be decided by the Commission.

Interaction with Civil Society from Central America

The EU AG will aim to hold joint meetings with the Central American AGs, thereby providing framework for a structured discussion on implementation of the Trade and Sustainable Development Title of the AA and for cooperation between the AGs in this context.

The EU AG may also decide (separately or jointly with the Central American AGs) about their participation and / or contribution to the Civil Society Dialogue Forum.

Adoption and amendment of the rules of procedure of the EU AG

These rules of procedure shall be adopted either by consensus or by simple majority of EU AG members.

These rules of procedure may be amended following a proposal of one third of the members of the EU AG. The proposed modification will be adopted by consensus or by simple majority.

The EU-Central America Association Agreement was signed in June 2012, and its trade pillar has been provisionally in force since December 2013. This evaluation specifically assesses the implementation of the 'trade and sustainable development' (TSD) chapter of the trade pillar of the agreement, during the five years of its operation.

After briefly outlining the trade interests of the agreement, the study addresses sustainable development, explaining its legal foundations in the Association Agreement and reviewing the conclusions of the ex-ante impact assessment on the issue. It then focuses on the monitoring mechanisms of the Association Agreement, including the European Commission's annual reports, Parliament's oversight work, the civil society dialogue, and the results of the meetings of the specialised committee and annual Association Committee and Association Council meetings.

Through this review it identifies both strengths and shortcomings in the implementation of the TSD chapter, and concludes in setting out a number of options for enhancing efforts to support sustainable development in Central America.

This is a publication of the Ex-Post Evaluation Unit
EPRS | European Parliamentary Research Service

This document is prepared for, and addressed to, the Members and staff of the European Parliament as background material to assist them in their parliamentary work. The content of the document is the sole responsibility of its author(s) and any opinions expressed herein should not be taken to represent an official position of the Parliament.



ISBN 978-92-846-3308-1
doi:10.2861/341125
QA-01-18-809-EN-N