



Environment and Climate
Change in the EU-CA
Association Agreement and
Preliminary Recommendations
for a Future Renegotiation

2022



Environment and Climate Change in the EU-Central America Association Agreement: preliminary recommendations for a future renegotiation

By Yazmin Granados Torres and Jorge Cabrera Medaglia

Edited by Marie-Claire Cordonier Segger & Markus Gehring

This project was made possible through the generous support of the European Climate Foundation



Disclaimer

The views expressed in this publication are those of its authors and do not represent the views of the European Climate Foundation (ECF), the Centre for International Sustainable Development Law (CISDL), or any affiliated or partner institutions. CISDL makes no representation or warranty, express or implied, as to the accuracy or completeness of the information set forth in this report. ECF has not independently verified any of the information contained in the report and accepts no liability whatsoever for any of the information contained in the report, or for any misstatement or omission therein. This report remains the property of the CISDL.

Reproduction of this document in whole or in part and in any form for educational or non-profit purposes may be made without special permission from the copyright holders, provided acknowledgment of the source is made. The partners would appreciate receiving a copy of any publication or material that uses this document as a source.

Except where otherwise noted, this work is protected under a Creative Commons Attribution Non- commercial-No Derivative Works License.



About the Project

CISDL undertook a multi-year program of work exploring EU-Latin America FTAs and climate change in relation to leading trade and investment agreements and through creation of a regional community of practice to enhance legal capacity in both the EU and Latin American states, and more broadly. Expert workshop were conducted in September 2022 to discuss legal options in light of progressive practices found in regional and bilateral instruments.

Contact Information

Centre for International Sustainable
Development Law (CISDL) Chancellor
Day Hall, 3644 Peel Street
Montreal, Quebec H3A 1W9, Canada
Tel +1 818-685-9931 | Fax +1 514-398-4659
www.cisd.org

I. Introduction. Limits and scope of the document

This document seeks to generate some recommendations for the future improvement of the content of the Association Agreement between the European Union and Central America. Although the political conditions for a renegotiation are currently complex, it is possible to present some reflections on the provisions of the Agreement and its eventual modification, especially to strengthen synergies with the environmental and climate change commitments (Nationally Determined Contributions) of the countries in the region.

II. Historical background to the negotiations between the EU and the countries of Central America and Panama

The signing of the Association Agreement between the European Union and Central America (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama) is a milestone in the relations between the two regions. The political dialogue started in 1984, called the "San José Dialogue", which constitutes the cornerstone of the relations between the European Union (hereinafter "EU") and Central America (CA) whose main objective was to seek negotiated solutions to the armed conflicts. Following a Council Decision in April 2007 authorising negotiations, the process towards the signing of an EU-Central America Association Agreement, building on the 2003 EU-Central America Political Dialogue and Cooperation Agreement, including the establishment of a Free Trade Agreement, was formally launched in October 2007. Panama, which had followed the negotiations as an observer, joined the negotiations in March 2010. The negotiations were successfully concluded in May 2010 and, after a legal revision phase, the text of the Agreement was initialled on 22 March 2011.¹ The above processes culminated in the signing of the Association Agreement in Tegucigalpa, Honduras, on 29 June 2012.

¹ European Commission, Comprehensive Association Agreement between Central America and the European Union, 2012.

In relation to the environmental issue, Title VIII establishes the obligations that the Parties assume in environmental matters, under the commitment to effectively apply the environmental legislation of each country and to promote a cooperative approach to identify joint and collaborative solutions to better achieve the objectives of sustainable development, through the implementation of mechanisms for civil society participation, including a regional forum for dialogue organised and facilitated by the governments, open to all economic, social or environmental actors interested in sustainable development issues, a system of consultations between the Parties, or the intervention of a panel of experts to determine whether or not there has been a sustained and recurrent lack of effective enforcement of a country's environmental legislation.² These issues will be addressed in detail at a later stage.

- **Environmental situation with special emphasis on climate change in the Central American region.**

The Central American region has a small territory with an extraordinary natural wealth. It contains 12% of the planet's biological diversity distributed in 22 types of ecosystems, 33 ecoregions and 20 life zones. It has about 12% of the coasts of Latin America and the Caribbean, including 567,000 ha of mangroves, 1,600 km of coral reefs. By 2015, there was some progress in environmental management: the surface area dedicated to protected areas continued to increase, electricity generation with renewable and clean sources was expanded, the implementation of climate change adaptation and mitigation measures was strengthened, and the Regional Electricity Market was launched. The region has experienced great growth in terms of population, economy and urban expansion, which brings new challenges in terms of environmental quality, although efforts in this area have been great, new challenges have arisen. The region has grown in energy consumption from renewable sources, increased its capacity for solid waste management, developed

² Ministry of Foreign Trade. Association Agreement between Central America and the European Union. Explanatory document / Ministry of Foreign Trade. - 2. ed. - San José, C.R. : COMEX, 2012.190 p.; 28 cm.

initiatives to improve air quality, implemented water saving plans and processes of transformation to carbon neutral activities.³

Central America is a region of enormous natural wealth, which has made great efforts to build territorial schemes for the protection of its varied ecosystems, its biodiversity and the valuable environmental goods and services they generate for the population and all living beings. However, these schemes are developed and managed with few technical and financial resources, which shows the loss of political priority of environmental issues in regional and national agendas. This, in the face of growing demand for natural resources, makes it possible to foresee more serious problems in the future and new pressures on protected areas.⁴

International evidence shows that, due to its physical conformation and levels of vulnerability, Central America is the most prominent "hot spot" of the planet's tropical zones in the face of climate change. Central America is the most prominent "hot spot" of the planet's tropical zones in the face of climate change, that is, an area with a high probability of being the most affected by the effects of the phenomenon. As in other aspects of global reality, this threat looms over the Isthmus to take a largely unrelated toll: the region is responsible for less than 0.5 per cent of the emissions that contribute to the greenhouse effect. Studies by the Intergovernmental Panel on Climate Change (IPCC) and various local analyses suggest that Central America could suffer significant changes in its climatic conditions. According to pessimistic scenarios of future emissions, it is estimated that the average regional temperature would increase to about 4.2 degrees Celsius by the end of the 21st century, and that precipitation patterns (with important differences between countries) could show significant reductions and increases depending on the area and the period. This could exacerbate the increasing trend in the number of weather and

³ Central American Commission for Environment and Development, 2021, Estrategia Regional Ambiental Marco (ERAM) 2021-2025, p.5. Available at: https://www.sica.int/documentos/estrategia-regional-ambiental-marco-eram-2021-2025_1_128623.html

⁴ State of the Nation Programme, 2008, Third Report on Human Development in Central America and Panama, Chapter 10: The regional challenge of protecting the natural heritage Challenges of environmental management, p.409. Available at: https://repositorio.conare.ac.cr/bitstream/handle/20.500.12337/639/638.%20El%20deafio%20regional%20de%20porter%20el%20patrimonio%20natural_Informe%20III_capitulo.pdf?sequence=12&isAllowed=y.

hydrometeorological disasters and the intensity of extreme events such as hurricanes. Historically, this is a region with little experience in land-use planning and weak risk management. A drastic example was Hurricane Mitch in 1998, responsible for 20,000 dead or missing victims and severe destruction of infrastructure. In its most general dimension, studies indicate that climate change may cause serious impacts in the region, such as increased food insecurity, problems for water management and availability, reduced tourism activity, loss of marine-coastal resources and territorial integrity, destruction or impoverishment of biodiversity and ecosystems, increased risk of disasters and human health, energy dependence, and impacts on the livelihoods and culture of indigenous peoples, among others. At the natural level, in the most pessimistic scenario, it is projected that the ecosystems of more than one million square kilometres in Mexico, Central America and the Dominican Republic would be affected. In this sense, protected areas, which cover nearly a quarter of the Central American territory, as well as forests, can play a decisive role in both mitigation and adaptation, due to their effects on soil fixation, flood control and the protection of water sources, among many others.⁵

With the information compiled by ECLAC, in cooperation with regional and national institutions, the economic impact of 11 extreme weather events in the region has been assessed, mainly those that occurred in five (5) countries: Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua. These 11 extreme weather events have produced losses valued at USD 13.6 billion, with 2008 values. Of the eleven events evaluated, Hurricane Mitch in 1998 caused the largest losses (USD 8 billion), equivalent to 58.2% of the total losses. It is followed by Hurricane Joan in 1988 (USD 1.4 billion; 10.4%) and Tropical Storm Stan in 2005 (USD 1.3 billion; 10% of the total). The countries most affected with economic losses have been Honduras (USD 5.6 billion; 41%), Nicaragua (USD 4.5 billion; 33%), and Guatemala (USD 2.2 billion; 16.2%). El Salvador and Costa Rica recorded the

⁵ State of the Nation Programme, 2011, Fourth Report on Human Development in Central America and Panama, Chapter 09: The Challenge of Confronting Climate Change, p.365. Available at: https://repositorio.conare.ac.cr/bitstream/handle/20.500.12337/638/627.%20El%20desafio%20de%20enfrentar%20el%20cambio%20climatico_Informe%20IV_capitulo.pdf?sequence=12&isAllowed=y

lowest volume of losses with 7 and 3%, respectively, of the accumulated losses from these 11 extreme events.⁶

In this context, estimating the impacts of an increase in temperature and particularly of changes in precipitation patterns, based on regional scenario information, is a frontier problem with a high level of uncertainty.⁷

III. Analysis of Nationally Determined Contributions (NDCs) and the associated legal framework and public policies.

Nationally Determined Contributions (NDCs) represent commitments made by countries to reduce greenhouse gas (GHG) emissions and adapt to climate change, in line with the United Nations Framework Convention on Climate Change (UNFCCC) and the 2015 Paris Agreement. NDCs can be grouped into several types, all of which provide transparent, measurable and verifiable mitigation targets. Comparison between them is difficult because they do not follow the same methodology for the base year, nor have they followed the same pathway for their formulation.

The sectors most highlighted in the NDCs for mitigation are: energy, land use change and forestry, transport, agriculture and waste management. The energy sector is in all the NDCs submitted by the countries and the main measures consider regulatory actions for the deployment of renewable energy and energy efficiency. In the land use change sector, mitigation objectives focus on combating deforestation and forest degradation, and promoting sustainable forest management through afforestation and agroforestry.

Costa Rica

Costa Rica is committed to promoting the well-being of all people and nature in the country and recognises that the best way to do this is to reinforce the commitments made in its Nationally Determined Contribution.

⁶ Central American Commission for Environment and Development, 2010, Regional Climate Change Strategy, p. 28. Available at: https://www.sica.int/documentos/estrategia-regional-de-cambio-climatico-ercc_1_96568.html

⁷ Central American Commission for Environment and Development, 2011, The Economics of Climate Change in Central America Technical Report 2011, p.25 and 26. Available at: https://www.sica.int/documentos/la-economia-del-cambio-climatico-en-centroamerica-reporte-tecnico-2011_1_62496.html.

In 2021, its latest report was submitted, which is an update and improvement of the first contribution, submitted in 2015. In this report, the country increases ambition and commits Costa Rica to take actions aligned with a pathway consistent with the global goal of limiting the increase in global average temperature to 1.5 °C. This is an increase in ambition compared to the previous contribution, which was aligned with the 2°C target. At the same time, the actions resulting from the proposed contributions increase the country's adaptive capacity, strengthen resilience and reduce its vulnerability to climate change.⁸

Table summarising the NDCs	
Country	CND shares
Costa Rica	1. Update process of Costa Rica's Nationally Determined Contribution (NDC 2020) combining quantitative elements from climate action models and qualitative elements developed through an explorative future scenario-based planning process.
	2. The technical staff of the Climate Change Directorate prepared a first draft for consultation based on inputs from the modelling process and the exploratory future scenarios process. The Ministry of Environment and Energy (MINA E) submitted this draft to the institutions and the general public on Friday 27 November at 18:00. The document was available for consultation until Friday 11 December 2020 at 18:00 Costa Rican time on the DCC website.
	3. Costa Rica sets out in the NDC the development of a formal process to support the updating of the country's NDC every 5 years, the Ambition Cycle.
	4. Costa Rica accounts for emissions using the National Greenhouse Gas Inventory, which is calculated based on the 2006 IPCC Methodologies for Greenhouse Gas Inventories, the Good Practice Guidance on Uncertainty and Management of National Greenhouse Gas Inventories and the 2013 supplement to the 2006 guidelines.
	5. Costa Rica maintains the position that decisions should be based on the best available science. At the global level, this implies accepting the scientific consensus that we must limit the increase in the planet's average temperature to 1.5°C to avoid the worst impacts of the climate crisis.

⁸ Ministry of Environment and Energy, 2021, Report on Nationally Determined Contribution Costa Rica in 2020. Available at: <https://unfccc.int/sites/default/files/NDC/2022-06/Contribucion%CC%81n%20Nacionalmente%20Determinada%20de%20Costa%20Rica%202020%20-%20Versio%CC%81n%20Completa.pdf>

	Locally, it means prioritising climate actions on how efficient they are in reducing emissions and improving human well-being.
	6. Costa Rica has an Integrated Decarbonisation Pathways Model (CR-DPIM) that integrates the different climate action models of Costa Rica and is the most complete set of modelling available in the country.
	7. The country will continue to participate in various forms of voluntary international cooperation, including under Article 6 of the Paris Agreement, as a complement to its domestic resilient and adaptive decarbonisation efforts. Costa Rica will apply the "San José Principles for High Ambition and Integrity in International Carbon Markets" in all transactions and schemes associated with the GHG emissions markets in which it participates and in 2021 will initiate formal discussions with its partners in this regard.
	8. The country went from having a maximum absolute net emissions target of 9.37 to 9.11 million tonnes of CO ₂ e by 2030. So Costa Rica commits to reduce a further 0.26 million tonnes of CO ₂ e by 2030. - The NDC includes a section on social justice, climate justice and just transition.
	9. Costa Rica included for the first time a target with a maximum net emissions budget for the period 2021-2030. This target aims to be consistent with the best available science and with what is required to achieve the Paris Agreement (Article 2.1).
	10. Costa Rica sees the transformation process that decarbonisation implies as the best vehicle to build a better Costa Rica, so that the country can maximise decarbonisation, increase resilience, and also improve the well-being of people and ecosystems.

El Salvador

In compliance with El Salvador's commitments under the Paris Agreement (Article 3 and Decision 1/CP.21), this update of the Nationally Determined Contribution includes the components of response measures (Chapter II mitigation and adaptation), regulations and institutionalisation (Chapter III), means of implementation, financing, technology development and transfer, and capacity building (Chapter IV), based on Decisions 4/, 9/ and 18/CMA.1.

In terms of its contribution to the global mitigation of climate change, El Salvador commits to have an annual emissions reduction (by 2030 and with respect to a baseline scenario

(BAU) from 2019) of 640 Kton CO₂ Eq from fossil fuel burning activities in the Energy Sector and up to an annual emissions reduction of 819 Kton CO₂ Eq in the same activities and sector, if during the period up to those years the technological models, financing structures, regulatory frameworks and massive capacity building processes are installed with international support in accordance with the provisions of Articles 9, 10 and 11 of the Paris Agreement. In addition, El Salvador commits to have a cumulative emissions reduction, for the period between 2035 and 2040, counted from 2015, of 50,857.5 Kton CO₂ Eq by emission reductions and activities to increase carbon sinks and reservoirs in the agricultural landscape of its AFOLU Sector, provided that large-scale financing from international and national sources with private sector participation can be obtained.⁹

Table summarising the NDCs	
Country	CND shares
El Salvador	1. El Salvador has the priority of implementing its National Energy Policy 2020-2050.
	2. Local Restoration and Sustainable Environmental Development Plans have been developed collectively in the prioritised landscapes, with the participation of local communities, the private sector, non-governmental organisations, small-scale producers, local governments and indigenous peoples, allowing information on restoration opportunities to be obtained at the municipal level.
	3. Implementation of the Climate Change Policy for: the Agriculture, Forestry, Fisheries and Aquaculture Sector; the Climate Change Action Plan, the updating of the Agricultural Policy, the new Agroclimatic Sustainability Policy, which involve interaction with many state entities, academia, the private sector, international cooperation, cooperatives, producers, producers, unions and associations.
	4. Research and technology transfer is carried out in agreement with CENTA for the diagnosis and innovation of technologies and practices in the face of climate change and with CEGA

⁹ Ministry of Environment and Natural Resources, 2021, Report on Nationally Determined Contribution El Salvador in 2020. Available at: Available at: <https://unfccc.int/sites/default/files/NDC/2022-06/El%20Salvador%20NDC-%20Updated%20Dic.2021.pdf>

	<p>MORAZÁN to strengthen a soil laboratory in the eastern part of the country.</p>
	<p>5. Resources are provided to launch and establish the agro-climatic information system to be managed jointly by MAG and MARN. Strengthening institutional, operational, infrastructure and equipment capacities for its establishment. The monitoring will be carried out by the General Directorate of Hazards and Natural Resources Observatory of the MARN, in association with and transferring information to the MAG. Also, with the support of other organisations working on the issue at the territorial level in the eastern part of the country.</p>
	<p>6. The commitment has been proposed and will be implemented by all sugar mills and cane producers with the leadership of the Asociación Azucarera Salvadoreña and FUNDAZUCAR. In addition, public and private institutions related to agro-industrial sugar cane and sugar production will facilitate the follow-up of this commitment, including the formation of an inter-institutional roundtable for environmental management, addressing climate change and sustainability in the sugar cane sector to be led initially by the MAG.</p>
	<p>7. Local Restoration and Sustainable Environmental Development Plans have been collectively developed in the prioritised landscapes covering the total area to be restored/rehabilitated in the country, in order to obtain more resilient territories, conserve biodiversity, maintain livelihoods and protect productive activities with the aim of achieving more sustainable local economies.</p>
	<p>8. A, the establishment of 146 ha, since 2005, is part of the environmental compensation for the development of the El Chaparral Hydroelectric Project (formation of the reservoir, infrastructure works and roads); b) goal 2.4.1.B, the management of 46 ha is as compensation measures for the execution of the projects: expansion of the 5 de Noviembre Hydroelectric Power Plant and the 115 KW El Chaparral-15 de Septiembre Transmission Line, since 2013 and c) target 2.4.1.C, the management is by voluntary efforts of CEL.</p>
	<p>9. Excess water has been used to generate energy since 2017, when the two generating units came into operation, with long-term operation, expected to be beyond 2030, through the use of two generating units that help maintain the installed capacity at the 5 de Noviembre Hydroelectric Power Plant, with an average annual generation of 190.43 GWh, under an engineering work of great economic investment and with a model that could be replicated at a regional level.</p>

	<p>10. Between 2021 and 2022, an initial diagnosis of sectors, populations and communities is carried out to establish the scope of this goal. In addition, there is an international consultancy to accompany the diagnosis, planning, execution and closure of the initiative, as a fundamental requirement for the financing of the intervention.</p>
	<p>11. Compliance with manuals and plans based on indicators of quantity of waste separated at source and quantity of waste recovered, resulting in an improvement in the proper management of waste, an increase in the recovery of usable waste and a reduction in the final disposal of waste in authorised sites.</p>
	<p>12. Between 2021 and 2025, epidemiological surveillance systems will be improved with a national scope, through strengthened inter-institutional coordination between the ISSS, FOSALUD, MINSAL, ISRI, DNM, INS, COSAM, Bienestar Magisterial, among others of the Integrated Health System. The current lack of standardisation of the climate change approach in interventions and its thematic application in the political agenda of the institutions and dependencies of this sector must be overcome.</p>
	<p>13. Between 2021 and 2025, there is a nutritional surveillance model developed and validated with nationwide application, through inter-institutional coordination led by CONASAN and strengthened with: ISSS, FOSALUD, MINSAL, ISRI, DNM, INS, COSAM, Bienestar Magisterial, among others of the Integrated Health System. The current lack of standardisation of the climate change approach in interventions must be overcome. In addition, its thematic application in the political agenda of the institutions and dependencies of this sector.</p>
	<p>14. In the period 2024-2025, compared to the period 2021-2022, there will be an increase in the number of pilot tests and improvements implemented in prioritised traffic areas and areas vulnerable to the effects of climate change, the availability of safe infrastructure, appropriate technologies for the use of active modes are considered. Also means of monitoring and control through annual public transport access reports, according to which compliance indicators will be described.</p>

Guatemala

In Guatemala, aware of maintaining the commitment in the fight against climate change, being an issue of national priority, the process of updating the CND of Guatemala 2021 was carried out under methodological parameters in accordance with the updating of the Greenhouse Gas Inventories presented in the "First Biennial Update Report and the Third National Communication on Climate Change" with information on emissions, from 1990-2018, considering the 2006 guidelines of the Intergovernmental Panel on Climate Change and the Enhanced Transparency Framework of the Paris Agreement, allowing the definition of targets under quality guidelines and statistical projection of mitigation sectors; resulting in targets with a higher degree of transparency in relation to the 2015 NDC.

The Guatemala NDC Update 2021, considers 34 targets for the Adaptation component in the sectors of: Agriculture and food security; Marine-coastal zones; Forest resources, ecosystems and protected areas; Integrated water resources management; Human health; and Infrastructure; and 10 targets for the Mitigation component in the sectors of: Land use, land use change and forestry; Energy; Agriculture; and Waste. The sectoral targets have institutional implementers and are supported and monitored by the Ministry of Environment and Natural Resources as the national focal point.¹⁰

Table summarising the NDCs	
Country	CND shares
Guatemala	1. MAGA within its soil conservation programmes and also a contribution of the Fundación Defensores de la Naturaleza in the Sierra de las Minas Biosphere Reserve. In these areas, actions will be promoted taking into account the traditional practices of the indigenous populations in the territories, in relation to the use and management of the soil.
	2. There are 19 Agroclimatic Technical Tables (MTA), distributed throughout most of the country ¹⁴ . These are an initiative of the National Institute of Seismology, Volcanology, Meteorology and Hydrology (INSIVUMEH) and MAGA, and are supported by cooperation projects. The dialogue generated in

¹⁰ Ministry of Environment and Natural Resources, Guatemala Nationally Determined Contribution (NDC) Update 2021. Available at: <https://unfccc.int/sites/default/files/2022-06/NDC%20-%20Guatemala%202021.pdf>

	<p>the roundtables has allowed for better coordination for the generation and compilation of climate information at the local level. As a result, an agro-climatic bulletin is produced with climate predictions, possible impacts on crops and recommendations.</p>
	<p>3. Implementation of the National Irrigation Policy, in addition to the areas considered within other MAGA projects.</p>
	<p>4. Targets AGS-5 and AGS-6 were formulated considering that the implementation of improved sustainable livestock practices increases livestock productivity and the responsiveness and resilience of producers (MAGA et al., 2019). In addition, these measures have mitigation benefits, as they reduce pressure on natural forest and avoid GHG emissions caused by deforestation.</p>
	<p>5. The restoration of mangrove ecosystems is implemented by various actors from civil society, local governments and the central government, under the coordination and reporting responsibility of INAB. In this sense, INAB grants the forestry incentives. It is also the entity designated as the technical secretariat of the National Forest Landscape Restoration Roundtable and the South Coast Restoration Roundtable. It also compiles, systematises and reports on the country's progress in mangrove ecosystem restoration and reforestation.</p>
	<p>6. Fisheries management with an ecosystem approach under this target includes the formulation and use of regulatory instruments, agreements and governance platforms; the reporting of information; the implementation of fishing licences; and the zoning and establishment of temporary closures. Their implementation will reduce sensitivity to climate change by managing the use of marine-coastal biodiversity.</p>
	<p>7. The country is making important efforts in monitoring water quality and quantity (Governmental Agreement 236-2006, 2006; Governmental Agreement 73-2021, 2021). However, it is necessary to harmonise the existing information and integrate it into a national platform to systematise the information collected in the environmental management reports of entities with approved environmental licences. In this sense, it is stipulated that the information contained in the existing guides and indexes will be uploaded to a national repository that will generate content for the public.</p>
	<p>8. Guatemala has two SRM systems developed and being implemented, which were useful in formulating the targets.</p>

	<p>These correspond to the Marine-Coastal Zones (MARN et al., 2020) and Agriculture, Livestock and Food Security (MAGA et al., 2019) sectors. In the case of the MER of the Marine-Coastal Zones sector, there is the Technical Roundtable for Integrated Marine-Coastal Management of Guatemala (Ministerial Agreement 154-2019, 2019), which is responsible for reviewing and validating the information that feeds the indicators and, therefore, the NDC targets. Regarding the Agriculture, Livestock and Food Security sector, MAGA was designated as the lead agency and the entity in charge of implementing the MER system.</p>
	<p>9. Guatemala remains committed to achieving the 2015 NDC target by 2030. To this end, the country formulated the National Strategy for Low Greenhouse Gas Emissions Development and prioritised it as the public policy instrument that will guide the actions of the NDC.</p>
	<p>10. To reduce emissions in the Land Transport category, Guatemala will implement the Sustainable Mobility measure (ENE2), which is based on promoting the use of electric vehicles (electromobility) and the substitution of fossil fuels with biofuels. To this end, it is proposed to implement a programme to renew the private vehicle fleet in favour of more efficient alternatives, with the aim of replacing 24.3 % of petrol vehicles with electric vehicles by 2032 (Henríquez, 2021).</p>
	<p>11. To contribute to the mitigation target of the updated NDC, the Sustainable Cattle Ranching with Low Emissions (AGR-1) measure is proposed for this sector. This measure is based on the National Strategy for Sustainable Low Emissions Cattle Ranching (Government of the Republic of Guatemala, 2018b) and the Nationally Appropriate Mitigation Action (NAMA) for Sustainable Cattle Ranching (MARN, 2018b). It aims to promote the transformation of the livestock sector by increasing productivity and reducing GHG emissions.</p>
	<p>12. The mitigation measure directly related to emissions proposed for this sector is Methane Capture at the Zone 3 landfill and its use for electricity generation (RES-1). Its implementation started in 2016 and is expected to contribute with a cumulative reduction of 0.19 million tonnes of CO₂-eq until 2030. Figure 10 shows the impact of emission reductions with the proposed measure with respect to the trend to 2030.</p>

	<p>13. The process of developing the most recent national GHG inventories and updating the NDC has served to strengthen the capacities of the MARN and sectoral lead institutions. As a consequence, coordination and information flow for the implementation, monitoring and reporting of the measures proposed in the NDC will be improved.</p>
--	---

Honduras

Since 2015, when Honduras' first NDC was presented and ratified in 2016, substantial progress has been made in the development of institutions, policies and capacities on climate change. Since then, Honduras has worked on developing a roadmap to establish a clear path towards implementation. To this end, under the mandate of the Climate Change Law, the Inter-Institutional Technical Committee on Climate Change (CTICC) was created, in the framework of which the First Update of the NDC Honduras was approved and validated. Also under the CTICC, the Subcommittee of the NDC Honduras was established, made up of the different public institutions involved in the implementation of climate change policies.

It is precisely under the mandate of the NDC Subcommittee of Honduras that the country has developed, from October 2017 to May 2021, the update of its NDC through a participatory and consultative process that has involved institutional, private and organised civil society actors. Given the importance of social inclusion, Honduras has emphasised active listening to women, youth and indigenous and Afro-Honduran peoples (PIAH) to gather information on their needs, contributions and the generation of commitments that the country must make to achieve low-carbon, resilient and inclusive social development.¹¹

Table summarising the NDCs	
Country	CND shares
	<p>1. In the update of the commitment "deviation from BaU scenario", Honduras improved the baseline information and</p>

¹¹ Secretaría de Recursos Naturales y Ambiente, 2021, first update of the Nationally Determined Contribution of Honduras (NDC-HN). Available at: https://unfccc.int/sites/default/files/NDC/2022-06/NDC%20de%20Honduras_%20Primera%20Actualizaci%C3%B3n.pdf

	<p>GHG estimates by: (i) Inclusion of emissions due to lime and HFC production for 2000-2009; (ii) Updating of baseline information on livestock herd regarding fertilizer use and rice cultivation; (iii) Inclusion of emissions due to cattle, goats, horses, mules and donkeys livestock activities; (iv) Methodological and data improvements in emissions due to solid waste disposal; and (v) Updating of baseline information on waste combustion and MCF of emissions from wastewater treatment in industry.</p>
	<p>2. The restoration target was defined as a product of the technical and economic potential of the different policies and measures being implemented or planned in the country, in particular the National Forestry, Protected Areas and Wildlife Programme 2010-2030 - PRONAFOR (2010); the National Reforestation Programme - PNR (2010); the National Programme for the Recovery of Degraded Ecosystem Goods and Services of Honduras - PNRBSED (2018); and the National Programme for the Conservation of Terrestrial Ecosystems - PNCET (2020).</p>
	<p>3. In the specific framework for fuelwood consumption, the country has the Energy Outlook for Honduras (2017-2038), the Improved Cookstoves NAMA and the National Strategy for the Adoption of Improved Cookstoves (ENAEM), which is still under development. The purpose of the ENAEM is to identify the lines leading to the transition and sustained use of clean cooking technologies by the Honduran population.</p>
	<p>4. Within its Country Vision 2010-2038 and the National Plan 2010-2022, Honduras established clear guidelines to face the threats of climate change by prioritising the human face of climate change, the reduction of poverty, the generation of employment and opportunities to reduce migration to other countries. Objective 3 of this vision seeks "a productive Honduras that generates opportunities and decent employment, makes sustainable use of its resources and reduces environmental vulnerability" (Country Vision). Under this strategic objective, the country has framed as goals the reduction of the unemployment rate, the increase of renewable energy sources, the stability of food security, the management of water resources and the sustainable management of productive forest lands.</p>

During 2018, Nicaragua fulfilled its commitments under the United Nations Framework Convention on Climate Change by submitting its Third National Communication on Climate Change; its Forest Reference Emission Levels and its Nationally Determined Contributions (NDCs). For 2019, it published its National Policy on Climate Change Mitigation and Adaptation; created the National Climate Change Response System and is currently preparing its Fourth National Communication. Nicaragua has a financial strategy implemented through the designated National Authority with the support of institutions that also contribute to the search for climate finance funds.

Currently, there is a portfolio under management of 15 programmes and projects totalling more than U\$190 million that will develop activities that will contribute to the conservation and restoration of forests, as well as the fight against climate change. With regard to the contribution to mitigation, by 2021, Nicaragua will implement with the Forest Carbon Partnership Facility an Emissions Reduction Programme in the Caribbean Coast that will contribute to reduce approximately 11 million tons of carbon dioxide from deforestation and forest degradation; as well as other programmes and projects that will ensure sustainable management of forests and protection of ecosystems.¹²

Table summarising the NDCs	
Country	CND shares
Nicaragua	1. Energy: The Government of Unity and National Reconciliation has increased the production of renewable energy from 25% in 2007 to 51% in 2013, even under conditions of severe energy rationing that existed at the time of the takeover since 2004.
	2. Environmental Pollution: In order to contribute to the protection of the ozone layer, the consumption of CFCs has been phased out 100% as of 01 January 2010 and a Management Plan is being implemented for the phase-out of HCFCs from 2012 to 2020.

¹² Ministry of Environment and Natural Resources, 2020, Nicaragua Nationally Determined Contribution Update 2020. Available at: https://unfccc.int/sites/default/files/NDC/2022-06/Contribuciones_Nacionales_Determinadas_Nicaragua.pdf

	<p>3. Agriculture: In 2010, Nicaragua joined the Global Methane Initiative, which aims to reduce global methane emissions in the short term by capturing methane at a reasonable cost and using it as a source of clean energy. As of 2010, 1,512 biodigesters have been built, of which between 300 and 400 are in operation.</p>
	<p>4. Transport: The project "Promotion of Environmentally Sustainable Transport in Metropolitan Managua" is being implemented as one of the priorities to reform the public transport system in the Metropolitan Managua area, as reflected in the Integrated Transport Plan. Obtaining a direct reduction of 892,000 tons of CO2 emissions over the next 20 years.</p>
	<p>5. Waste: La Chureca's comprehensive development project has included not only the sealing of the landfill of the same name, considered the largest in Latin America, but also the construction of a recycling plant in which rubbish collectors work, as well as the construction of houses, The project also includes the construction of houses, a school for the more than 250 families who live there, and the reduction of the gases produced by the decomposing waste itself, which before the intervention produced spontaneous combustion across the entire surface of the landfill and are now conducted to the outside through a circuit of pipes and gasification chimneys through which the methane gas is released. These gases are planned to be used for electricity generation by the Mayor's Office of Managua.</p>
	<p>6. Agriculture and fishing: The Programme for the Development of Productive, Agricultural, Fishing and Forestry Systems in Indigenous Territories of the RACCN and RACCS (NICARIBE), 2011-2018. To improve the income levels of 10,580 families living in indigenous and Afro-descendant territories of the Caribbean Coast, supporting the increase in production and the sustainable management and use of natural resources and strengthening their organisations. Source of financing: CABEL, IFAD (Loan and Grant). Amount of financing: US\$12,000,000.00. Institutions involved: MEFCCA, MAG, INTA, INAFOR, MARENA, INPESCA, Caribbean Coast Secretariat, Regional Governments, CONADETI. Actors involved: It is estimated that, over the five years of the Programme's duration, it will directly and indirectly assist 10,580 indigenous and afro-descendant families.</p>

	<p>7. Solidarity assistance to families affected by extreme events: As a consequence of the affectations before different socio-natural events that impacted Nicaragua in the period 2007-2011, the Government provided care and solidarity accompaniment to 131,700 families, representing 697,008 people (11.6 percent of the Nicaraguan population) to whom humanitarian assistance was provided, consisting of food, construction materials, household goods, clothing, medicines, water and sanitation supplies, among others (Contingency measure).</p>
--	---

Panama

The Republic of Panama is a diverse and multicultural country, distinguished by a dynamic economic growth underpinned by a sophisticated supply of logistics and financial services. The country stands firm in its strategic decision to commit to the Sustainable Development Goals (SDGs) and the United Nations Framework Convention on Climate Change (UNFCCC). The country's vulnerability to the effects of climate change, both at the level of its physical structures and the platform of ecosystem and anthropogenic services that underpin the national economy, requires an increase in the level of climate ambition to ensure the country's long-term sustainability and competitiveness in a development scenario that needs to be climate resilient to be sustainable.

A key aspect of the Updated CDN1 presented by the Republic of Panama in 2020 is the incorporation of a broader concept of climate change and resilience in the country's development planning, proposing a transformational process of the entire Panamanian economic, social and productive dynamics to advance circularity, resilience and progressive reduction of emissions. To this end, actions are proposed in ten sectors and/or strategic areas for integrated climate action, with GHG and non-GHG targets, which are expected to provide multiple ecosystem services, as well as significant improvements in emissions from transport and implementation of climate and efficiency standards. To this end, climate action is placed at the highest level of planning by directly integrating the Ministry of

Economy and Finance (MEF), other public institutions, local governments, the private sector and civil society in the achievement of climate objectives.¹³

Table summarising the NDCs	
Country	CND shares
Panama	<p>1. The Ministry of Environment as focal point to the UNFCCC, issued an Executive Decree No. 100 of 20 October 2020 published in La Gaceta Oficial, in order to establish a governance framework for the updating, submission, implementation, monitoring and reporting of the CRC. This same decree establishes the role of the National Climate Change Committee of Panama for the institutionalisation of this process.</p>
	<p>2. The process of updating Panama's CDN1 has been developed under special circumstances due to COVID 19, so the participation of relevant actors has been carried out through virtual platforms. Bilateral meetings were held with governing bodies and workshops for active and participatory listening with relevant stakeholders (such as indigenous peoples, Afro-descendants, peasants, public and private institutions in the different provinces), in compliance with the country's standards of transparency and public participation. The CRC to be updated will be articulated with the country's Gender Action Plan, which is under development.</p>
	<p>3. The Panamanian State envisions the voluntary cooperation mechanisms outlined in Article 6 of the Paris Agreement as fundamental to global climate integrity and essential to accelerate climate action. Therefore, we are committed to a successful conclusion of the Article 6 negotiations that will result in mechanisms that contribute to the achievement of carbon neutrality at the global and national level by 2050. Therefore, Panama is committed to using the three cooperative mechanisms included in article 6.2 of the Paris Agreement to meet its climate objectives. In this regard, we have joined the San José Principles Alliance led by Costa Rica, which constitutes a key space to discuss innovative and highly ambitious solutions for the negotiation of rules and guidance related to article 6 of the Paris Agreement, but also as a guide</p>

¹³ Ministry of Environment, 2020, Panama's Nationally Determined Contribution (NDCN1). Available at: <https://unfccc.int/sites/default/files/NDC/2022-06/CDN1%20Actualizada%20Rep%C3%BAblica%20de%20Panam%C3%A1.pdf>

	<p>for the early implementation of national carbon markets in participating countries.</p>
	<p>4. Taking into consideration that the Republic of Panama's historical GHG emissions represent 0.02% 1 of global emissions compared to 2017, the national efforts to mitigate climate change are fair and ambitious because, in addition to focusing on the country's most emitting sector (Energy) and increasing efforts to reduce its emissions, it has focused its efforts on increasing transparency by clarifying the absorption figures. Through Decree No. 100 of 2020, the Republic of Panama recognises that the development and strengthening of the National Greenhouse Gas Inventories will be necessary to achieve the long-term national goal of carbon neutrality by 2050, as well as the presentation of the progressive reduction of national GHG emissions with respect to this national goal in the successive NDCs submitted to the Secretariat of the United Nations Framework Convention on Climate Change (UNFCCC).</p>
	<p>5. The Republic of Panama, by implementing its updated CDN1, seeks to align development agendas with our climate goals and achieve inclusive, low-carbon and climate-resilient growth. Among the proposed actions is the development of a Gender Action Plan for the country, which will ensure that the activities, plans and programmes carried out for the fulfilment of the CDN1 have a gender and development approach for all social groups.</p>
	<p>6. The commitments presented in the INDC1 pursue the achievement of targets, actions and regulations, including nature-based solutions to combat climate change, which seek in general a reduction of GHG emissions as a country, and an increase in removals, seeking a balance between these. Globally, nature-based solutions have been recognised as having a high impact on GHG emission reductions and resilience and are therefore key elements for meeting the objectives of the Convention and the Paris Agreement.</p>

IV. Description of the Agreement and its environmental/sustainability and climate change implications.

The Agreement establishing an association between Central America and the European Union and its Member States was signed in 2012 with the objective of strengthening and consolidating relations between the Parties through an association

based on three interdependent and fundamental parts: political dialogue, cooperation and trade, on the basis of mutual respect, reciprocity and common interest.

In relation to environmental, sustainability and climate change aspects, the agreement develops some aspects in a disaggregated manner, and specifically developed a chapter on trade and sustainable development. The following is a brief description of the different aspects covered by the agreement in its different parts, and in the following section the relevant recommendations will be set out

- **Preamble**

One of the essential clauses of any multilateral agreement is the preamble, which sets out the reasons for the agreement, as well as the previous steps taken and the connection of this agreement with another main agreement or others.

The declarative part of the Association Agreement states that the parties are "*conscious of the need to promote sustainable development in both regions through a development partnership involving all stakeholders*". It introduces a fundamental element in international and national environmental law, namely the right to public participation, and states that not only the signatory parties, but also civil society and the private sector should be included in multilateral sustainable development strategies.

- **Principles.**

The guiding principles guiding the implementation of the Agreement identify sustainable development and the Millennium Development Goals (now the Sustainable Development Goals). The Parties shall ensure that an appropriate balance is struck between the social, economic and environmental components of sustainable development (article 1).

- **Objectives of the Agreement**

The objectives (article 2) include sustainable development (b and c) and maintaining at least and preferably improving good governance and social, labour and environmental standards through the implementation of international conventions to which countries are party at the time of entry into force of the agreement (g).

- **Objectives of the Trade Component**

Within the objectives of the Association Agreement specific to sustainability issues, several aspects are included such as: the facilitation of trade in goods through the integration of sanitary and phytosanitary measures to facilitate the movement of goods (paragraphs b and d); the adequate and effective protection of intellectual property rights (paragraph g), the promotion of international trade and investment in a manner that contributes to the objective of sustainable development by working together in partnership (paragraph j).

It is important to note that within the objectives a generic wording on "sustainable development" is maintained, without specifically stating which areas of action are referred to, for example establishing mitigation and adaptation measures against climate change.

- **Sanitary and phytosanitary measures**

Articles 140, 141, 149 and 153 state that sanitary and phytosanitary measures are intended to protect human, animal and plant life and health, without creating unjustified barriers to trade between the Parties. In addition, to determine pest- or disease-free areas and areas of low pest or disease prevalence, according to factors such as geographical location, ecosystems, epidemiological surveillance and the effectiveness of sanitary or phytosanitary controls in such areas, and in case of serious risk to human, animal or plant life or health, the necessary measures may be taken without prior notification.

It is relevant to highlight that the consideration of the Association Agreement is based on the protection of the life or health of people, animals and plants from potential diseases, pests or contaminants. However, it does not include a more comprehensive vision such as biological diversity, which seeks a more integral protection at all levels: ecosystems, species and genetic resources.

- **Technical barriers to trade**

With regard to technical barriers to trade, it is stipulated that the obligations covered shall not apply to sanitary and phytosanitary measures as defined in Annex A of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (hereinafter referred to as the "SPS Agreement"), nor to purchasing specifications established by governmental agencies or institutions for the production or consumption needs of such governmental agencies or institutions. It regulates the manner of adopting technical regulations and standards, assessment and accreditation bodies, marking and labelling.

- **Trade in services**

Article 163 of Title III related to trade in services establishes that excluded economic activities include mining, manufacturing and processing of nuclear materials. Specifically, on mining, Article 66 establishes cooperation between the parties to cooperate in the field of mining, taking into account their respective domestic legislation and procedures, as well as aspects of sustainable development, including the protection and conservation of the environment, through initiatives such as promoting the exchange of information, experts, experience, development and transfer of technology.

- **Investments (establishment)**

In Article 29, the Parties recognise that it is inappropriate to promote trade or investment by lowering the levels of protection provided by their domestic environmental and labour laws. A Party shall not waive or derogate from, or offer to waive or derogate from, its labour and environmental laws in a manner that affects trade or as an inducement to the establishment, acquisition, expansion or retention of an investment or an investor in its territory.

- **Exceptions**

Article 203 on general exceptions provides that nothing in this Title shall be construed to prevent a Party from adopting or enforcing measures necessary to protect human, animal or plant life or health and relating to the conservation of exhaustible natural resources, if such measures are applied in conjunction with restrictions on domestic investors or on domestic suppliers or on the consumption of services. It is expressly stated that these exceptions could justify measures to protect the environment.

- **Intellectual property (including issues of genetic resources, biodiversity, protection of traditional knowledge).**

Article 229 recognises the importance of respecting, preserving and maintaining the knowledge, innovations and practices of indigenous and local communities involving traditional practices related to the conservation and sustainable use of biological diversity.

While Article 258 states that the Parties shall comply with the Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure (1977, as amended in 1980), Article 258 provides that the Parties shall comply

with the Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure (1977, as amended in 1980).

Also, Article 259 on plant varieties provides that Parties shall provide for the protection of plant varieties either by patents or by an effective sui generis system or by any combination thereof. Furthermore, there is no contradiction between plant variety protection and a Party's ability to protect and conserve its genetic resources.

Finally, exceptions are made to the exclusive rights granted to plant breeders to allow farmers to save, use and exchange protected seed or propagating material.

- **Trade and sustainable development**

The Association Agreement elaborates in its Title VIII on trade and sustainable development. In Article 284, the Parties reaffirm their commitment to promote the development of international trade as a means of contributing to the objective of sustainable development and to ensure that this objective is integrated and reflected at all levels of their trade relationship. To this end, the Parties recognise the importance of taking into account the best economic, social and environmental interests, not only of their respective populations, but also of future generations. It establishes economic development, social development and environmental protection as interdependent pillars for achieving sustainable development.

Article 285 establishes the right of the parties to regulate and levels of protection respecting their respective Constitutions and their established rights therein to regulate in order to establish their own priorities for sustainable development, their own domestic levels of environmental and social protection, as well as to adopt or amend their relevant legislation and policies accordingly.

Article 287 recognises the importance of the implementation of multilateral environmental standards and agreements and therefore commits them to effectively implement in their legislation and in practice the multilateral environmental agreements to which they are party, 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 "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.

The Parties also 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, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, the Agreement on the Implementation of the Provisions of the United Nations Convention on the Law of the Sea, and the Agreement on Port State Measures Designed to Safeguard the Marine Environment, adopted at Gaborone (Botswana) on 30 April 1983, the Agreement on the Implementation of the Provisions of the United Nations Convention on the Law of the Sea and the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing of the Food and Agriculture Organisation of the United Nations.

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 provides for "trade that is conducive to sustainable development", ensuring that:

- a) consider situations where the elimination or reduction of trade barriers 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 efficiency products and services, including by addressing related non-tariff barriers;
- c) facilitate and promote trade in products that respond to sustainability considerations, including products subject to schemes such as fair and ethical trade, eco-labelling and organic production, corporate social responsibility and accountability; and
- d) facilitate and promote the development of practices and programmes aimed at fostering appropriate economic returns from conservation and sustainable use of the environment, such as ecotourism.

In Article 289, Parties commit to work together to improve forest law enforcement and governance, as well as to promote legal and sustainable trade in forest products, through instruments that may include, inter alia: the effective use of CITES with respect to endangered timber species; certification schemes for sustainably harvested forest products; and regional or bilateral voluntary partnership agreements on forest law enforcement, governance and trade.

In Article 292, the Parties recognise the importance, in preparing and implementing measures to protect the environment or occupational health and safety, of taking into consideration scientific and technical information, as well as relevant international standards, guidelines or recommendations, while recognising that, where there are threats of serious or irreversible damage, the absence of full scientific certainty shall not be used as a reason for postponing protective measures.

The monitoring and follow-up mechanisms established include the Civil Society Dialogue Forum (Article 295), governmental consultations between the contact points (Article 296) and a Panel of Experts with expertise in environmental law, international trade or dispute settlement under international agreements (Article 297).

It is relevant to note that in this chapter the Parties highlight the benefit of considering social and environmental issues related to trade as part of a global approach to trade and sustainable development. However, it has a cooperative approach and is not mandatory for the Parties, which may mean that in the event of non-compliance with international and national environmental regulations there are no sanctioning mechanisms.

- **Dispute Settlement**

Article 310 provides that the Parties shall endeavour to resolve any dispute concerning the interpretation or application of the provisions referred to in Article 309 through participation in good faith consultations, with a view to reaching a mutually satisfactory solution.

Article 311 provides for the initiation of panel proceedings, where the consulting Parties have not resolved the dispute in accordance with the provisions set out in Article 310, any requesting Party may request the establishment of a panel to consider the matter.

It is important to note that the dispute settlement mechanisms do not apply to the provisions of the trade and sustainable development chapter.

- **Cooperation and political dialogue**

In view of the objectives of the political dialogue between the parties, it is established that the political partnership is based primarily on the promotion of sustainable development and the strengthening of the United Nations as the centre of the multilateral system to enable it to face global challenges effectively. The environment is included as one of the axes of the political dialogue (article 20).

The Cooperation Component specifically incorporates as working themes democracy, human rights and good governance (article 29), public health (article 44), indigenous peoples (article 45), environment, climate change and natural disasters (article 50 et seq.) and a number of axes closely related to environmental protection, such as fisheries and aquaculture (article 59), organic products (article 61), food safety, sanitary and phytosanitary measures and animal welfare (article 62), trade and sustainable development (article 63), energy (article 65), mining (article 66) and fair and sustainable tourism (article 67), among others.

- **Final provisions**

Article 358 establishes the evolutionary clause, which states that the parties may agree to expand and complement the Agreement through amendments or by concluding agreements on specific activities or sectors, in the light of experience gained in its implementation.

V. Conclusions and recommendations.

The Association Agreement integrates sustainable development into its principles and objectives. It also establishes a series of considerations related to cooperation, assistance and information exchange on environmental topics relevant to the region, including climate change. This approach is identified in the Cooperation, Trade (especially Title IV) and Policy Dialogue Components. However, its real impacts will depend on the effective and efficient implementation of these provisions.

Some possible aspects to consider in future scenarios of renegotiation or improvement of the Agreement are the following:

- **Preamble**

The preamble of the Association Agreement refers generically to the promotion of "sustainable development". However, there is no specific mention of climate change, the conservation and sustainable use of biodiversity and combating pollution as essential elements in today's environmental agendas. The notion of 'sustainable development' suffers from a certain degree of indeterminacy as to its meaning or legal value.

- **Objectives**

Both the general principles and objectives, as well as those assigned to the Trade Component, could expressly incorporate specific references to climate change, decarbonisation of the economy and the contribution of bilateral, regional and multilateral trade to achieving them. The value of climate action would be recognised at the highest level within the Agreement. This considering that trade plays a crucial role in the transition to a low-carbon global economy and a greener and more sustainable society as discussed in the World Trade Organisation and other fora.¹⁴

- **Exceptions**

In the chapter on the Association Agreement, it establishes exceptions for a Party to adopt or enforce measures that are necessary to protect human, animal or plant life or health and relating to the conservation of exhaustible natural resources, if such measures are applied in conjunction with restrictions on domestic investors or on domestic suppliers or on the consumption of services. While the starting point is in GATT regulation 94 Article XX, it expressly states that these exceptions can be used for environmental purposes.

The specific wording of the exceptions could be improved to expressly include measures to protect the climate system as a global good.

The precise language of the texts could also integrate the results that have been observed from the experience of the various dispute settlement panels of the World Trade Organisation to allow the content of the Agreement to be adjusted to the jurisprudential developments and flexibilities in the use of the texts.

- **Sanitary and phytosanitary measures**

¹⁴ See: https://www.wto.org/spanish/tratop_s/envir_s/climate_intro_s.htm#meetings_climate

In the section based on compliance with the Association Agreement, reference is made exclusively to the Agreement on the Application of Sanitary and Phytosanitary Measures of the World Trade Organisation. It is important to emphasise that the Sanitary and Phytosanitary Measures System is made up of the basic rules for food safety and animal and plant health regulations.

The section on sanitary and phytosanitary measures could be complemented with some additions on issues of interest to the region. For example, public policy decisions related to biosafety - a concept that includes genetically modified organisms, new plant breeding techniques, gene editing, synthetic biology, invasive alien species and other areas that are progressing rapidly and may bring important advantages as well as associated risks - should be ensured through the appropriate legal space.

In this respect, it should be noted that the Convention on Biological Diversity covers biological diversity at all levels: ecosystems, species and genetic resources. It also covers biotechnology mainly through the Cartagena Protocol on Biosafety. In fact, it covers all possible domains that are directly or indirectly related to biological diversity and its role in sustainable development and agriculture.

- **Technical barriers to trade**

Regulations on technical barriers to trade (technical regulations, standards and others) should support the emergence of environmental certification processes, especially those linked to climate change such as carbon neutrality/carbon inventories, which have a legal basis in public policies and standards in some countries in the region, such as Costa Rica. This could also lay the groundwork for the recognition of environmental goods and services and their relation to climate change.

- **Establishment**

The Association Agreement aptly provides that it shall not promote trade or investment by lowering the levels of protection provided for in its environmental legislation. Nor shall it repeal or derogate from environmental legislation in a manner that affects trade or as an incentive for the establishment, acquisition, expansion or retention of an investment or an investor in its territory.

The language of these provisions could be strengthened and articulated more consistently with the emerging non-regression principle of environmental law that has been the subject of vigorous jurisprudential adoption in Latin America.

Investor compliance with environmental regulations is also another issue of great interest for the region, considering that in some countries (Costa Rica) there have been several arbitrations between the state and an investor in which the core issue has been the application of environmental legislation in the context of disputes.¹⁵ The primary duty of

¹⁵ For example, the Aven Award and the Iberian Award.

the investor to respect the environmental legal framework and in particular the provisions on climate change and decarbonisation are of interest, including the monitoring of good practices, corporate social responsibility and the voluntary transfer of technologies.

- **Intellectual Property**

The Partnership Agreement recognises the importance of respecting, preserving and maintaining the knowledge, innovations and practices of indigenous and local communities involving traditional practices related to the conservation and sustainable use of biological diversity. Also, the protection of plant varieties, the obligations of States to conserve their biological diversity, to use it sustainably and to share the benefits fairly and equitably, and the legal possibility of re-use of seeds by farmers.

Despite what is considered in this chapter, the protection of traditional knowledge, traditional cultural expressions and genetic resources, including the intellectual property rights associated with them, as recognised in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), article 31, is not developed in a comprehensive manner.

The importance of ensuring the legality of access to genetic resources and traditional knowledge in different types of intellectual property (through disclosure requirements, certificates of compliance, checkpoints) should be included, with reference to the Nagoya Protocol as a key instrument of international law on benefit sharing, even if some countries in the region are not yet members.

In an eventual renegotiation, the provisions of the World Intellectual Property Organisation's Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) should be taken into account.¹⁶ Especially in light of the recent launch of a Diplomatic Conference to adopt an instrument in this regard.

This chapter should also better integrate: a) sustainable development and public health objectives; b) technology transfer and in particular the relationship between climate change, (including inventions related to renewable energy and new plant varieties generated under novel climate scenarios); c) make explicit reference to the concept of Farmers' Rights as conceived in the FAO's International Treaty on Plant Genetic Resources for Food and Agriculture); and d) make explicit reference to the concept of Farmers' Rights as conceived in the FAO's International Treaty on Plant Genetic Resources for Food and Agriculture.

- **Trade and sustainable development**

¹⁶ See: <https://www.iwgia.org/es/ip-i-mi/3692-mi-2019-la-organizacion-mundial-del-la-propiedad-intelectual.html#:~:text=The%20peoples%20ind%20ind%C3%ADgenas%20have%20rights%20over%20their%20knowled ge,Rights%20of%20the%20ind%20peoples%20ind%C3%ADgenas%20%28DNUDPI%29%2C%20art%20C3%ADcul o%2031.>

The provisions of this Title, although central to understanding the trade and environment relationship, are based on a cooperative approach and the Parties may not resort to the dispute settlement procedures provided for in the Agreement, except for those established in the Title itself.

The Parties recognise that international environmental governance and agreements are important elements in addressing global or regional environmental problems, and underline the need to enhance mutual supportiveness between trade and environment. However, the list presents only some of them and should be updated by incorporating the Paris Agreement, the Minamata Convention, the Nagoya Protocol, among others, and allow, through the institutional processes foreseen, to be able to add those that are relevant and derive from ongoing negotiations, such as for example with regard to plastic, areas beyond any National Jurisdiction, pandemic care and prevention, or traditional knowledge, genetic resources and intellectual property.

It is also relevant to consider compliance with the MINAMATA Convention on Mercury, which is a more recent global agreement on environment and health. Since it entered into force on 16 August 2017, Parties have been working together to control the supply and trade of mercury, reduce the use, emission and release of mercury, raise public awareness and develop the institutional capacity needed to "Say Goodbye to Mercury".¹⁷

The Association Agreement states that it is the right of the parties to regulate and set levels of protection in order to establish their own sustainable development priorities. Thus, there is no baseline for environmental and social protection, nor are there verification mechanisms to adopt or amend their relevant legislation and policies accordingly.

Cooperation should also be linked more concretely (there are already general sections) with processes of interest in the region such as:

- a) The effects of EU environmental policies on the region's trade, especially in agricultural and industrial chemicals (this point cuts across other components of the Agreement);
- b) Improving implementation and enforcement of regulations of particular interest, such as forestry - including provisions on land use change, deforestation and others - waste management, sustainable agriculture and climate change adaptation. Some of these, such as forestry, agriculture and waste law enforcement, have proven to be a weak point in the institutional apparatus.
- c) Incentive systems of different nature (payment for environmental services, electric vehicles, more efficient machinery and equipment, among many others). Maintain the policy and regulatory space on these matters, which are closely related to the region's commitments in its NDCs.
- d) Emerging issues such as Nature Based Solutions, plastic life cycle and its effects, and legal and policy responses.

¹⁷ See: <https://www.mercuryconvention.org/es>

- **Dispute Settlement**

Trade and environment-related obligations on the part of the Parties could be part of the dispute settlement procedures of the Agreement.

- **Cooperation and political dialogue**

In both cases there are explicit references to the environmental issue and climate change. Their main impact on the quality of life in the region clearly depends on their proper implementation. Cooperation and political dialogue should be maintained on elements related to new international commitments in the areas of climate change and biodiversity and other multilateral environmental negotiations.

Bibliography

European Commission, Comprehensive Association Agreement between Central America and the European Union, 2012.

Ministry of Foreign Trade. Association Agreement between Central America and the European Union. Explanatory document / Ministry of Foreign Trade. - 2. ed. - San José, C.R. : COMEX, 2012.190 p.; 28 cm.

State of the Nation Programme, 1999, Prime Report on Human Development in Central America and Panama, Chapter 9: The challenge of risk management and vulnerability reduction, p.254. Available at: https://repositorio.conare.ac.cr/bitstream/handle/20.500.12337/717/659.%20El%20desafio%20de%20la%20gestion%20del%20riesgo%20y%20la%20disminucion%20de%20la%20vulnerabilidad_Informe%20I_capitulo.pdf?sequence=11&isAllowed=y

State of the Nation Programme, 2003, Second Report on Human Development in Central America and Panama, Chapter 5: Challenges of environmental management, p.222. Available at: https://repositorio.conare.ac.cr/bitstream/handle/20.500.12337/712/646.%20El%20desafio%20de%20la%20gestion%20ambiental_informe%20III_capitulo.pdf?sequence=1&isAllowed=y

State of the Nation Programme, 2008, Third Report on Human Development in Central America and Panama, Chapter 10: The regional challenge of protecting the natural heritage Challenges of environmental management, p.409. Available at: https://repositorio.conare.ac.cr/bitstream/handle/20.500.12337/639/638.%20El%20deafio%20regional%20de%20porteger%20el%20patrimonio%20natural_Informe%20III_capitulo.pdf?sequence=12&isAllowed=y

State of the Nation Programme, 2011, Fourth Report on Human Development in Central America and Panama, Chapter 09: The Challenge of Confronting Climate Change, p.365. Available at: https://repositorio.conare.ac.cr/bitstream/handle/20.500.12337/638/627.%20El%20desafio%20de%20enfrentar%20el%20cambio%20climatico_Informe%20IV_capitulo.pdf?sequence=12&isAllowed=y

State of the Nation Programme, 2016, Fifth Report on Human Development in Central America and Panama, Chapter 05: Environmental Panorama, p.199. Available at: https://repositorio.conare.ac.cr/bitstream/handle/20.500.12337/959/Cap%3adtulo%2005_PANORAMA%20AMBIENTAL.pdf?sequence=7&isAllowed=y

Central American Commission for Environment and Development, 2010, Estrategia Regional de Cambio Climático, p. 28. Available at: https://www.sica.int/documentos/estrategia-regional-de-cambio-climatico-ercc_1_96568.html.

Central American Commission for Environment and Development, 2021, Estrategia Regional Ambiental Marco (ERAM) 2021-2025, p.5. Available at: https://www.sica.int/documentos/estrategia-regional-ambiental-marco-eram-2021-2025_1_128623.html

UNISDR (2015). Towards Sustainable Development: The Future of Disaster Risk Management. Global Assessment Report on Disaster Risk Reduction. Geneva, Switzerland: United Nations Office for Disaster Risk Reduction (UNISDR). Available at: <https://www.undp.org/es/latin-america/publicaciones/evaluaci%C3%B3n-global-sobre-la-reducci%C3%B3n-del-riesgo-de-desastres>

Central American Commission for Environment and Development, 2011, The Economics of Climate Change in Central America Technical Report 2011, p.25 and 26. Available at: https://www.sica.int/documentos/la-economia-del-cambio-climatico-en-centroamerica-reporte-tecnico-2011_1_62496.html.

Secretaría de Integración Económica Centroamericana, 2011, El comercio de Centroamérica con la Unión Europea después del AACUE, p. 2 y 3. Available at: http://estadisticas.sieca.int/documentos/ver/Policy%2019_Comercio%20bilateral%20de%20Centroam%C3%A9rica%20con%20la%20UE.pdf

Inter-American Development Bank, 2009, A bridge to growth : opportunities and challenges of the Association Agreement between Central America and the European Union / Jaime Granados, Eduardo Lizano, Fernando Ocampo, editors, p. 6 and 7. Available at: <https://publications.iadb.org/publications/spanish/document/Un-puente-para-el-crecimiento-Oportunidades-y-desaf%C3%ADos-del-Acuerdo-de-Asociaci%C3%B3n-entre-Centroam%C3%A9rica-y-la-Uni%C3%B3n-Europea.pdf>

J. Samaniego and others, Overview of nationally determined contributions in Latin America and the Caribbean, 2019: progress towards compliance with the Paris Agreement (LC/TS.2019/89-P), Santiago, Economic Commission for Latin America and the Caribbean (ECLAC), 2019. Available at: https://repositorio.cepal.org/bitstream/handle/11362/44974/S1900855_es.pdf?sequence=4&isAllowed=y

Economic Commission for Latin America and the Caribbean (ECLAC), The economics of climate change in Latin America and the Caribbean: a graphic overview (LC/TS.2017/84/Rev.1), Santiago, 2018 [online]. Available at: https://repositorio.cepal.org/bitstream/handle/11362/42228/4/S1701215A_es.pdf

L. Cifuentes, Efectos del impuesto al CO2 en el sector de la energía de países seleccionados de América Latina y el Caribe, Documentos de Proyectos (LC/TS.2022/1), Santiago, Economic Commission for Latin America and the Caribbean (ECLAC), 2022. Available at: https://repositorio.cepal.org/bitstream/handle/11362/47730/S2100622_es.pdf?sequence=1&isAllowed=y

Ministry of Environment and Energy, 2021, Report on Nationally Determined Contribution Costa Rica in 2020. Available at: <https://unfccc.int/sites/default/files/NDC/2022->

06/Contribucio%CC%81n%20Nacionalmente%20Determinada%20de%20Costa%20Rica%202020%20-%20Versio%CC%81n%20Completa.pdf

Ministry of Environment and Natural Resources, 2021, Report on Nationally Determined Contribution El Salvador in 2020. Available at: Available at: <https://unfccc.int/sites/default/files/NDC/2022-06/El%20Salvador%20NDC-%20Updated%20Dic.2021.pdf>

Ministry of Environment and Natural Resources, Guatemala Nationally Determined Contribution (NDC) Update 2021. Available at: <https://unfccc.int/sites/default/files/2022-06/NDC%20-%20Guatemala%202021.pdf>

Secretaría de Recursos Naturales y Ambiente, 2021, first update of the Nationally Determined Contribution of Honduras (NDC-HN). Available at: <https://unfccc.int/sites/default/files/NDC/2022-06/NDC%20de%20Honduras%20Primera%20Actualizaci%C3%B3n.pdf>

Ministry of Environment and Natural Resources, 2020, Nicaragua Nationally Determined Contribution Update 2020. Available at: https://unfccc.int/sites/default/files/NDC/2022-06/Contribuciones_Nacionales_Determinadas_Nicaragua.pdf

Ministry of Environment, 2020, Panama's Nationally Determined Contribution (NDCN1). Available at: <https://unfccc.int/sites/default/files/NDC/2022-06/CDN1%20Actualizada%20Rep%C3%ABblica%20de%20Panam%C3%A1.pdf>



Contact Information

Centre for International
Sustainable Development
Law (CISDL)

Chancellor Day Hall, 3644
Peel Street

Montreal, Quebec H3A
1W9, Canada

Tel +1 818-685-9931

Fax +1 514-398-4659

www.cisdll.org