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SEA for the Association Agreement between Central America and the European Union

Since 2001, NCEA has been involved in a regional project of the Central American Commission for Environment and Development (CCAD) and IUCN (World Conservation Union). The following countries are participating: Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, with the aim of harmonising and strengthening Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) practice in the region. NCEA has contributed to several SEA workshops and facilitated the selection of an SEA pilot: an SEA for an association agreement between the European Union and Central America, which started in 2007 and is discussed below. An association agreement is a combination of a trade agreement and an agreement on future cooperation and dialogue. The pilot also intends to contribute to SEA capacity development and to analysis of the link between environment and trade.

Design of the SEA process: theory

Association and trade agreements have two specific characteristics: there is much uncertainty on how the negotiation process will unfold, and a substantial part

of the negotiations is bound to confidentiality. Therefore, typical SEA approaches – based on transparency and the assessment of well-defined alternatives – are less effective for assessing such agreements. For this reason the NCEA was

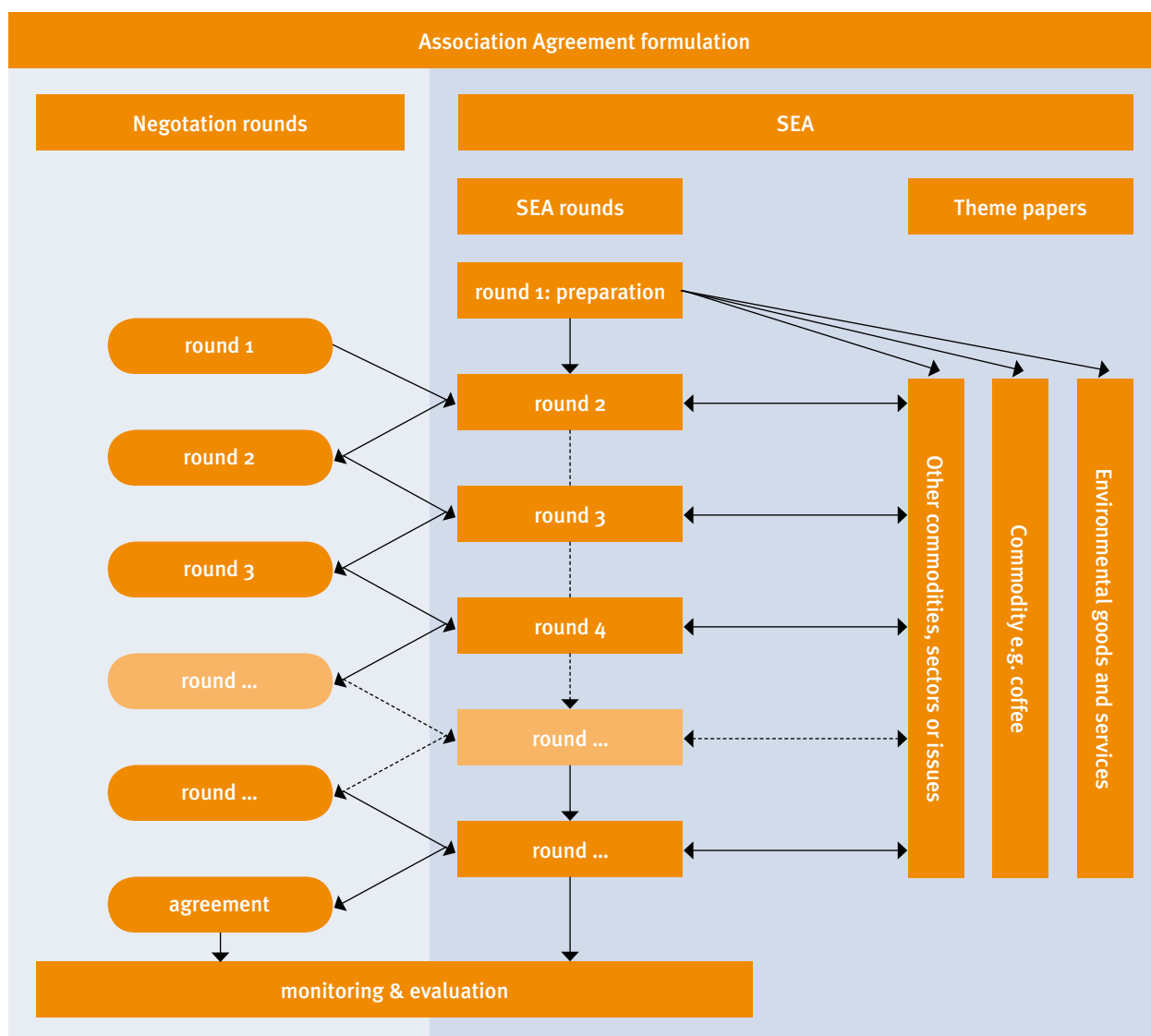
asked to develop a dedicated SEA approach which complements the dynamics and characteristics of the negotiations, including: negotiation rounds, the speed of these rounds, the variety of themes, the national negotiation period preceding the rounds, the Central American rounds, the bi-regional rounds, the post-round periods. The diagram below illustrates how this SEA approach would follow the agreement formulation process.

Overview of the components of an SEA embedded in negotiations

By comparison with more traditional SEA approaches, three features of the 'trade SEA' approach stand out:

1. The SEA is carried out in 'rounds', which match the rounds in the negotiation process. Each SEA round includes:
 - identification of the proposals likely to be discussed in the upcoming round and assessment of their environmental and social (including poverty) consequences;
 - recommendations for the next negotiation round, e.g. on better options (if available), flanking measures, mitigation and possible compensation.

2. Impact assessment and stakeholder discussion are concentrated within a regional working group in which the most important stakeholders are represented: environmental ministries, civil society, the private sector and negotiators. The group has overall responsibility for the SEA, assesses the negotiation proposals (on the basis of 'theme papers'- see next bullet), and communicates the results of the assessment to negotiators and the general public. Another aim of the regional working group is to establish personal relationships, both between the members of the group, and with key 'high-level' persons in foreign affairs, trade and environment.
3. The assessments taking place in the regional working group are facilitated and guided by 'theme papers' that are scientifically up to date, prepared by consultants and describe the potential implications (both impacts and opportunities) of proposals for a commodity or a sector. They may also include issues such as intellectual property rights or investment rules. The papers contain specific recommendations for the regional working group.



The papers are continuously updated throughout the negotiation process, to incorporate new developments that come up during the negotiations.

Application of the SEA process: practice

Creating transparency

As a start, the SEA approach elaborated by the NCEA expert group was adapted to customise it for the Association Agreement between Central America and the European Union. This resulted in a brochure on the SEA, announcing the initiative to the trade and environmental authorities and to civil society in Central America and the EU. A synthesis document was also prepared, and a dedicated website was launched to publish documents, results, news etc. After this, the first regional working group session took place.

First meeting of the regional working group

The first regional working group meeting and kick-off of the SEA took place in Guatemala in October 2007, just before the first round of negotiations between Central America and the EU. The approximately 25 participants reached consensus on the importance of SEA for the Association Agreement and approved the SEA approach and methodology. Although only 2 negotiators from Guatemala were present, there was important interaction between them and environmental representatives. At this stage, the SEA was successful in carrying out a broad inventory of environmental issues in the Association Agreement. Also, it resulted in agreement on the tasks, mandates and 'rules of play' of the regional working group, and the selection of topics for theme papers and a guidance document for the preparation of theme papers. However, the meeting failed to formally establish the regional working group, as this required the approval of the Ministers of Trade and Foreign Affairs from each of the countries involved. Without this, the participants were unable to confirm their continuing participation in the group. The idea as developed by the NCEA of organising a regional working group meeting just before each negotiation round proved to be too ambitious. It is difficult to get full disclosure and broad participation and commitment of stakeholders closely related to the negotiations, and moreover, it is expensive to organise these meetings. Therefore the original design of the SEA approach was modified:

1. More emphasis was put on first developing theme papers, thus showcasing the products that the SEA would deliver. It was hoped that this would be sufficiently convincing and attractive to ensure broader participation in the working group. Also, it was decided it would be more logical to only organise regional working group meetings when a negotiation round was scheduled to take place in Central America. (The venues of the negotiation round alternate between Europe and Central America).
2. More emphasis was given to building political commitment for the SEA. Several meetings were held with Vice ministers and negotiators from the Ministries of Trade, Economy and Environment in Central America,

especially those involved in the 'Trade and Sustainable Development Table'. Tight coordination was established with CC-SICA, the official and recognised consultative institution of the Central American Integration System and concomitantly the official counterpart of EU civil society. These activities aimed to achieve commitment to interaction between preparatory activities and the results of the negotiations and the SEA process, and to get the responsible people in the negotiations to participate in the regional working group.

3. Finally, it was decided to simultaneously put more emphasis on raising regional awareness amongst various public and private sectors and civil society in Central America of the importance of the SEA and the link between trade and environment. This was done through disseminating reader-friendly and publicly accessible summaries of the negotiation rounds, publishing articles in newspapers and specialist magazines and issuing an E-bulletin on the SEA initiative.

Follow-up to the first meeting

The idea of informing negotiators during the negotiation rounds by offering them informal briefings on the objectives and set-up of the SEA was launched. This was achieved through a presentation on the SEA initiative to a number of negotiators, such as Foreign Relationship Ministries and Trade authorities from the EU and Central America during the third negotiation round in El Salvador (April 2008).

In parallel, the proposed content of new, yet to be developed theme papers was changed. Initially these papers were envisaged as being a response to concrete demands from negotiators, who were expected to be interested in and confronted with sustainability issues associated with certain themes. However, as no such demands have yet been made known, the focus has been shifted from supplying information to state-of-the-art knowledge and raising awareness of impacts related to the negotiations, so as to strengthen the capacity of civil society, academics, productive sectors and the general public.

Theme papers showing the disadvantages and obstacles in terms of market access have been elaborated on various products that have a regional coverage plus high export potential and thus imply environmental impacts and opportunities. In addition to the theme papers on bananas and sugar/ethanol, experts have prepared theme papers on environmental goods and services, food security and wildlife.

The NCEA has provided written guidelines for the selection of theme papers and their contents. Theme paper elaboration implies feedback from the productive sector and civil society, in order to guarantee an integral vision of the scenarios for the product within the negotiations and innovative considerations of the link between production, commercialisation and environment. The involvement of the

productive sector has helped enhance mutual trust between two distant sectors: commerce and environment.

Second meeting of the regional working group

The second meeting of the regional working group took place in September 2008 in Guatemala. Several topics were discussed, such as international trade and agriculture, fair trade and green certification, trade in endangered species, and the position of civil society in negotiations. More specifically, two draft theme papers were analysed on the link between the potential negotiation scenarios for sugar/ ethanol and bananas and the associated environmental risks and opportunities. This information was intended to be used in the negotiation round which took place in October 2008 in Guatemala. However, the meeting failed to achieve real interaction between the negotiators present (1 from Guatemala and 1 from Costa Rica) and the other participants. The negotiators' attitude was one of just listening: there was no dialogue. In their defence, the negotiators argued that everything was confidential. Moreover, the working group was reluctant to publish the theme papers because some members felt that the EU might see/discover these documents and would use them to improve their negotiating position ('the theme papers also describe the negative aspects in terms of environmental and social impacts of the sector and might lead to a decision by the EU not to negotiate e.g. no bananas at all').

Strategy for 2009

The results of the second meeting again led to a modification to the SEA approach: rather than trying to inform negotiation through discussions and assessment within the regional working group, influence is now being sought by putting more effort into creating transparency. Instead of operating through the working group, whose activities have been put on hold, what IUCN is now aiming for is an opening up, to be achieved in two ways: first of all through publishing the theme papers and secondly through partnership with CC-SICA, as they are the official counterpart of EU civil society. A meeting will be organised with the 'environmental negotiators' of the countries involved (those participating in the Trade and Sustainable Development Roundtable), including capacity building on trade and environment, and also negotiation skills. For this, use can be made of the theme papers.

Summary of results so far

- **Bringing sectors together:** in this pilot process, key stakeholders have been brought closer together and alliances have been formed, e.g. between representatives of the ministries of economy, trade and environment.
- **Strengthening civil society:** CC-SICA (part of the regional working group) is the official channel for civil society representation in the negotiations. The SEA helped to strengthen links and to mutually reinforce efforts, especially on the theme of environment and trade.
- **Environment and trade theme:** this theme has been raised to the highest level of decision-making.
- **Public participation:** the SEA has provided a channel for the constructive impact of civil society.
- **Active involvement of the productive sector:** the elaboration of the theme papers helped the productive sector to understand that these can provide them with relevant inputs to strengthen the negotiation position of Central America.

In a way, the strategy that has now been chosen is closer to a 'traditional' SEA approach, whereas the approach originally intended proved to be too dependent on the commitment of all parties to cooperate within the regional working group.

Preliminary conclusions and results

As yet it is too early to draw final conclusions, as the negotiations have not yet been finalised (they are expected to be finalised mid-2009). Nevertheless, some positive results can already be summarised. The NCEA will continue to closely monitor the development of this SEA.

Finally

The initiative for this innovative SEA was taken by a non-EU partner in an agreement, and as such is the first of its kind. IUCN, CCAD and NCEA have proposed a theoretical approach for such an SEA, which is delivering successes but is also facing some difficulties. Despite this, important results have been achieved that may be used in the EU's mandatory Sustainability Impact Assessment for Free Trade Agreements or in similar agreements that have recently been started.

Acknowledgments

The generic SEA approach is based on recent experiences with impact assessment of trade-related policies contributed by experts from the following organisations:

- The Impact Assessment Research Centre (IARC; University of Manchester, UK);
- Recursos e Investigación para el Desarrollo Sustentable (RIDES, Chile);
- The Commission for Environmental Cooperation (CEC), under the North American Agreement on Environmental Cooperation;
- AIDenvironment, The Netherlands.

Role of NCEA

- An NCEA working group discussed the latest developments concerning SEA and the role it could play in Free Trade Agreements. A brochure and a key sheet were published in June 2007.
- NCEA participated in the first meeting of the regional working group in Guatemala in October 2007.
- In November 2007, NCEA advised on the Terms of Reference for regional working group tasks and mandates.
- NCEA issued a guidance document for preparing theme papers in April 2008
- During March 2007 until October 2008, NCEA facilitated informal contacts between EU (DG-Trade) in Brussels and IUCN.
- NCEA assisted in the development of a strategy for approaching negotiators during negotiation rounds (February 2008)
- As part of an ongoing process, from March 2007 onwards, NCEA commented on several documents such as the communication strategy, E-bulletin and presentations, and reviewed theme papers on sugar/ethanol and bananas.

Recommended websites

www.eia.nl
(also for the keysheet on SEA and Free Trade Agreements)

www.eia-centroamerica.org

www.aacue.go.cr

www.ec.europa.eu/trade

www.cec.org

www.ictsd.org

www.sed.manchester.ac.uk

www.sia-trade.org

www.trade-environment.org

www.oecd.org

www.iisd.org/trade/environment

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More information

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