

SEA for the Association Agreement between Central America and the EU

Abstract

The Central American Commission for Environment and Development (CCAD) and IUCN (World Conservation Union) are undertaking an SEA for the Association Agreement between Central America and the European Union. The Netherlands Commission for Environmental Assessment (NCEA) advised on guidelines for this SEA. The SEA is based on a generic approach for SEA for free trade agreements, as developed by an NCEA expert group in March 2007. The SEA consists of a number of assessments which follow the approximately 10 negotiation rounds and related public participation. In each SEA round, the most important opportunities and risks for the environment in the actual negotiations will be identified and presented to the negotiators. On the other hand, the SEA can also address questions/dilemmas negotiation teams might have or information they might need on environmental (and social) issues. SEA rounds are carried out by a regional working group representing the environmental ministries, civil society, the private sector and negotiators. The regional working group will be informed about major environmental issues through so-called theme papers, to be prepared by consultants and academia, e.g. on coffee, banana or bio-fuels. The regional working group met for the first time in October 2007 in Guatemala, just before the first negotiation round. NCEA and IUCN support the regional working group on the practical organisation of the SEA and on guidance for the theme papers.

Context

Since 2001, NCEA has been involved in a regional project of the CCAD and IUCN. The following countries participate: Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama. The objective is to harmonize and strengthen impact assessment systems and capacity development. After its start, the programme was adjusted to give SEA more priority. NCEA contributed to several SEA workshops and facilitated the selection of an SEA-pilot. The latter concerns an SEA for an association agreement between the European Union and Central America, which started in 2007.

Theory: SEA in six components

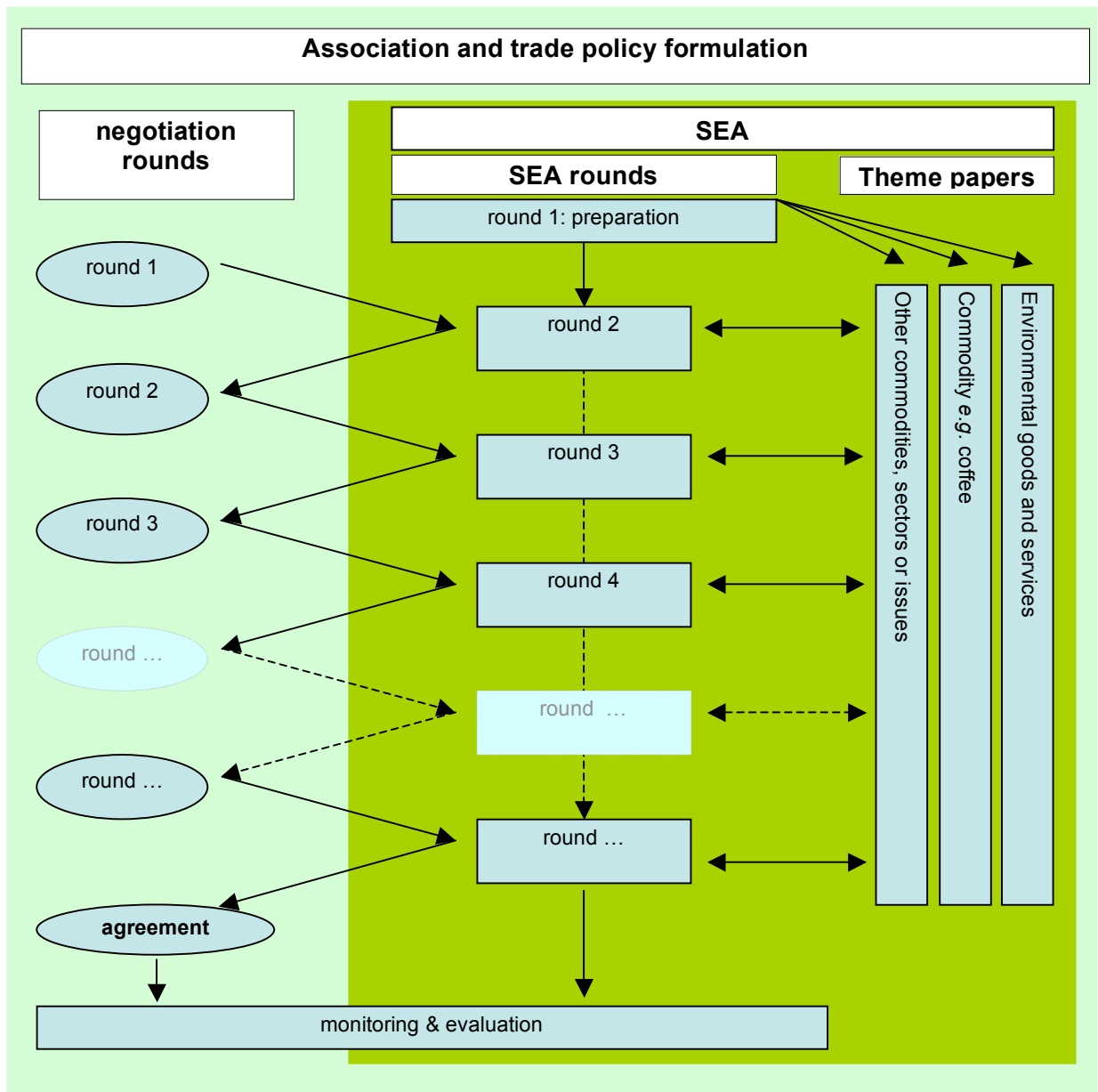
Association and trade agreements have some specific characteristics: there is large degree of uncertainty on how the negotiation process will unfold, a substantive part of the negotiations is bound to confidentiality, and the link between negotiated options and the concrete results is relatively weak. Therefore, typical SEA approaches are likely to be less effective for assessing these types of agreements. Therefore, the NCEA developed a dedicated SEA approach which complements the dynamics of the negotiations. This SEA approach follows the policy formulation process. Figure 1 (next page) illustrates this approach.

Component 1) Concerning the organization of the SEA and accepting that time and resources will be limited, a simple approach is proposed by concentrating stakeholder discussion and impact assessment within **a regional working group**. This group should be officially set up to accompany the negotiation process and form a channel that can both act 'up', issuing non-binding advice to negotiators and act 'down', disseminating information.

The regional working group guides the consultants doing the impact assessments and discusses results with the negotiators. Further roles could be in the public participation process and/or make a protocol for quality assurance

Membership should be broad; experts, government officials, representatives of the negotiation teams, NGOs, private sector, indigenous people etc. The regional working group should establish personal relationships with key 'high level' persons in foreign affairs, trade and environment. The group has overall responsibility for the SEA and has a central role in the execution of the SEA.

Figure 1 Overview of the components of an SEA embedded in negotiations



Component 2) During the *preparatory phase*, high level commitment to the SEA is realized as well as the reservation of the necessary budget. The regional working group is installed who will in this phase:

- design the SEA (integration into the negotiation rounds),
- identify key issues and coordinate the theme papers,
- identify stakeholders,
- design and announce public participation,
- plan the monitoring and evaluation of the SEA process.

Component 3) The actual assessment consists of *a series of SEA rounds*. The SEA is integrated into the process of negotiation for the agreement by including in an SEA round in each negotiation round. An SEA round includes the assessment of:

- results of the previous negotiation round and whether and how the SEA has influenced negotiation results
- proposals to be discussed in the up-coming round,
- perceptions and visions of stakeholders on these proposals

- environmental and poverty consequences of proposals.

On the basis of this, the SEA gives recommendations for the next negotiation round, e.g. on better options (if available), flanking measures, and on mitigation and compensation possibilities.

Component 4) Public participation is not explicitly mentioned in figure 1, because it is integrated in the SEA. It is an ongoing process under the responsibility of the regional working group. Stakeholders are actively sought out and interviewed. One way to organise this is to appoint a 'public liaison officer' as part of the regional working group who is responsible for taking stock of stakeholder perceptions and concerns. These are then fed back in the regional working group and – after discussion – communicated to the negotiation process during the SEA rounds.

Component 5) Theme Papers on commodities, sectors and issues describe the potential implications of an agreement on a commodity or a sector and the resulting environmental and social impacts and opportunities. They can also include horizontal issues such as intellectual property rights or investment rules. The papers should contain specific recommendations to the regional group.

Component 6) Monitoring and evaluation. The SEA includes overall monitoring and evaluation of (i) the SEA rounds and its recommendations and (ii) the actual implementation of the agreement, including enforcement of environmental and poverty measures in the agreement, and the validity of the assumptions used and assessments made in the SEA (learning).

Practice, what has been achieved in 2007 and 2008?

General

The Generic Approach on SEA for Trade Agreements elaborated by an NCEA expert group has been discussed and adapted in such a way to make it tailor-made for the proposed Association Agreement between Central America and the European Union. This led to a printed brochure on the SEA initiative of CCAD and IUCN, called 'Strategic Environmental Assessment, Evaluating the Association Agreement between the EU and Central America', delivered by IUCN to related institutes, in English and Spanish. Also a Synthesis document has been prepared by IUCN, to explain the SEA initiative to a wider audience.

Regional working group and design of the SEA

The first meeting of the Regional working group and kick-off of the SEA took place in Guatemala in October 2007. During this meeting, with a broader group of participants than just the proponents of this SEA, consensus was reached on the importance of SEA for the Association Agreement. Important interaction took place between negotiators and environment representatives. Policy makers in Central America and at the involved departments at the EU are aware of the current SEA and interaction is foreseen between the Central American SEA and the EU approach of Sustainability Impact Assessment (SIA) of trade agreements. IUCN and CC-SICA (civil society representative in the regional working group) closely follow the negotiations. The first round took place in Costa Rica (October 22-26, 2007). The second round was held in Brussels (February 25-29, 2008).

The SEA has also resulted in draft ToR's on the tasks and mandates of the regional working group, as well as a guidance document for the preparation of theme-papers.

Challenges, next on the agenda in 2008

How to assure the link between the SEA and negotiation process?

One of the main challenges remains how to establish contacts with negotiators to:

(i) feed them with information/recommendations on basis of the SEA which they can use for their decision making (showing opportunities for more sustainable

development within the scope of the negotiations and showing undesirable impacts that negotiators want to avoid or do something about) and;

(ii) know what kind of questions/dilemmas negotiation teams might have or information they might need on environmental (and social) issues which the SEA can provide them.

The idea was launched to inform negotiators as part of/just before the second negotiation round in Brussels (25-29 February) by offering an informal opportunity to those negotiators who are interested to be briefed on the objectives and set-up of environmental/sustainability assessments within the negotiations. The objective of such a short meeting would be to demonstrate potential SEA benefits and how a mechanism could be established to inform the negotiators on a regular base on results and outcomes. IUCN decided to postpone such an information session until the next round in El Salvador (14-18 April).

How to select and write the theme papers?

The purpose of theme papers may be summarised by three main objectives.

(i) Informing, influencing and awareness raising of negotiators. The theme papers were initially thought to be a response to concrete demands from negotiators, who were expected to be interested into and confronted with sustainability issues associated with certain themes. However, such demands have not (yet) come through. Therefore the focus has shifted from focused information supply to awareness raising in general.

(ii) Summarising state-of-the-art knowledge around a certain theme. The data and information presented in a theme paper would be a first preliminary step towards conducting an SEA, by providing an up-to-date overview of available information. This would allow any SEA to kick-start as soon as concrete questions or issues would arise from the negotiation process, to be analysed in further detail.

(iii) Improving social awareness raising on impacts related to the negotiations for capacity strengthening of civil society, academics, productive sectors and general public.

The theme papers together provide a complete set of information on key issues of trade related environmental and poverty issues. Theme papers should be available as early as possible in the SEA, but the negotiations dynamics also require a flexible planning of the theme papers, and intermediate or ad hoc theme papers may be needed. The NCEA has provided a guidance note (or ToR) for the selection of theme-papers and their contents.

At the moment it is proposed by IUCN to start writing theme-papers for cacao and sugar and for environmental services.

How to keep the regional working group operational and committed?

The first meeting of the around 25 participants of the regional working group was successful in carrying out a broad inventory of environmental issues in the establishment of an Association Agreement. However, the meeting was not conclusive in formally establishing the regional working group. This would have required the approval from the Ministers of Trade and Foreign Affairs of each of the countries. Without this, the participants could not yet confirm further participation in the group. This made IUCN decide to put more effort in organizing a series of personal meetings with key persons within the relevant ministries to explain the SEA initiative and its potential benefits. The members of the working group are kept informed on activities through the web-site of IUCN, which has a special section on the SEA for the Association Agreement (www.eia-centroamerica.org). A next meeting of the working group will probably take place in June 2008. The idea as developed by the NCEA expert group of organizing a regional working group meeting just before each negotiation round has proved to be too ambitious. It is difficult to get broad participation and commitment of stakeholders closely related to the negotiations, and moreover, organizing of these meetings is expensive. Therefore the strategy was modified in trying to first develop some theme-papers, thus showing concrete

examples of products that the SEA would deliver, which would be sufficiently convincing and attractive to ensure broader participation in the working group. It was also found that it would be more logical to organize the regional working group meetings only in case the negotiation round takes place in Central America. (The venues of the negotiation round alternate, one in Brussels, the next in Central America etc.).

Concluding

The European Union undertakes Sustainability Impact Assessments for Free Trade Agreements or similar agreements, but the initiative for this SEA has been taken by a non-EU partner in an agreement and is as such the first of its kind. IUCN, CCAD and NCEA have proposed a theoretical approach for such an SEA, which is quite innovative and is delivering some successes but also faces some difficulties. It is too early yet to draw final conclusions, as the negotiations have only recently started. Monitoring of the SEA is therefore important to draw lessons but also to be able to respond with flexibility to actual development of the negotiations in practice.

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Acknowledgments

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- AIDenvironment, The Netherlands

Further reading

www.eia-centroamerica.org
www.aacue.go.cr
www.eia.nl
www.ec.europa.eu/trade
www.cec.org
www.ictsd.org
www.sed.manchester.ac.uk
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