Trade, Regionalism and the Politics of Policy Making in Nicaragua

Gloria Carrión

Markets, Business and Regulation
Programme Paper Number 5
June 2009

United Nations
Research Institute
for Social Development

This United Nations Research Institute for Social Development (UNRISD) Programme Paper has been produced with the support of the Geneva International Academic Network (GIAN). UNRISD also thanks the governments of Denmark, Mexico, Norway, Sweden, Switzerland and the United Kingdom for their core funding.

ISSN 1991-9921

Contents

Acronyms

ALBA	Alternativa Bolivariana para los Pueblos de Nuestra América *(Bolivarian Alternative for the People of our Americas)*
AMNLAE	Asociación de Mujeres Nicaragüenses Luisa Amanda Espinoza *(Luisa Amanda Espinoza Association of Nicaraguan Women)*
ANDEN	Asociación Nacional de Educadores Nicaragüenses *(National Association of Educators of Nicaragua)*
ANIFODA	Asociación Nicaragüense de Formuladores y Distribuidores de Agroquímicos *(Nicaraguan Association of Agrochemical Producers and Distributors)*
ANITEC	Asociación Nicaragüense de la Industria Textil y Confección *(Nicaraguan Apparel and Textile Manufacturers' Association)*
ASA	American Sugar Association
ATC	Asociación de Trabajadores del Campo *(Rural Workers' Association)*
BAC	Banco de América Central *(Central American Bank)*
BANADES	Banco Nacional de Desarrollo *(National Development Bank)*
BANCENTRO	Banco de Crédito Centroamericano *(Central American Credit Bank)*
BANDES	Banco de Desarrollo Económico y Social de Venezuela *(Economic and Social Development Bank of Venezuela)*
BANIC	Banco de Nicaragua *(Bank of Nicaragua)*
BANPRO	Banco de la Producción
BDF	Banco de Finanzas
BIT	Bilateral Investment Treaty
CANISLAC	Cámara Nicaragüense del Sector Lácteo *(Nicaraguan Dairy Sector Chamber)*
CBERA	Caribbean Basin Economic Recovery Act
CBI	Caribbean Basin Initiative
CBTPA	US–Caribbean Basin Trade Partnership Act
CDS	Comités de Defensa Sandinista *(Sandinista Defence Committees)*
CECATEC	Consejo Empresarial Centroamericano de Textil y Confección *(Council for Central American Textile and Apparel)*
CEI	Centro de Exportaciones e Importaciones *(Centre for Export and Import)*
CENIDH	Centro Nicaragüense de Derechos Humanos *(Nicaraguan Centre for Human Rights)*
CENTROLAC	Industria Lácteos de Centroamérica *(Dairy Producers of Central America)*
CIPRES	Centro para la Promoción, la Investigación, y el Desarrollo Rural y Social *(Centre for the Promotion, Research, and Rural and Social Development)*
CNPA	Comisión Nacional de Productores de Azúcar *(National Commission for Sugar Producers)*
COSEP	Consejo Superior de la Empresa Privada *(Supreme Council of Private Enterprise in Nicaragua*)
CST	Central Sandinista de Trabajadores *(Sandinista Workers' Centre)*
CST–JBE	Central Sandinista de Trabajadores–José Benito Escobar *(Sandinista Workers' Centre–José Benito Escobar)*
CSU	Corporación de Supermercados Unidos *(Corporation of United Supermarkets)*
DR–CAFTA	Dominican Republic–Central American Free Trade Agreement
ENITEL	Empresa Nicaragüense de Teléfonos *(Nicaraguan Telephone Enterprise)*
EPA	Economic Partnership Agreement
EPZ	export processing zone
FDI	foreign direct investment
FENACOOP	Federación Nacional de Cooperativas Agrícolas y Agroindustriales *(National Federation of Agricultural and Agroindustrial Cooperatives)*
FETSALUD	Federación de Trabajadores de la Salud *(Health Workers' Federation)*
FSLN	Frente Sandinista de Liberación Nacional *(Sandinista National Liberation Front)*
FTA	free trade agreement
FTAA	Free Trade Agreement of the Americas
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade

GMO	genetically modified organism
GSP	General System of Preference
IDB	Inter-American Development Bank
ILO	International Labour Organization
IMF	International Monetary Fund
Iniciativa CID	Iniciativa de Comercio, Integración y Desarrollo *(Trade, Integration and Development Initiative)*
IP	intellectual property
IPR	intellectual property rights
MIFIC	Ministerio de Fomento, Industria y Comercio *(Ministry of Development, Industry and Trade)*
MRS	Movimiento Renovador Sandinista *(Sandinista Renovation Movement)*
MT	metric ton
NAFTA	North American Free Trade Agreement
NGO	non-governmental organization
NicaExport	Agencia Nacional para la Promoción del Comercio Internacional *(Nicaraguan National Agency for International Trade Promotion)*
NICARAOCOOP	Empresa cooperativa de transformación y comercialización de productos agrícolas *(Cooperative enterprise working on the transformation and commercialization of agricultural products)*
NTB	non-tariff barrier
PLC	Partido Liberal Constitucionalista *(Liberal Constitutionalist Party)*
PPP	Plan Puebla Panamá
PROLACSA	Productos Lácteos San Antonio *(San Antonio Dairy Products)*
RTA	regional trade agreement
SME	small and medium enterprise
sme	square metre equivalent
T&C	textile and clothing
TACA	Aereolínea Centroamericana *(Central American Airlines)*
TNC	transnational corporation
TPA	Trade Promotion Authority
TPL	trade preferential level
TRIPS	Trade-Related Aspects of Intellectual Property Rights
UNAG	Unión Nacional de Agricultores y Ganaderos *(National Union of Farmers and Ranchers)*
UNRISD	United Nations Research Institute for Social Development
UPOV	International Union for the Protection of New Varieties of Plants
USTR	United States Trade Representative
WTO	World Trade Organization

Acknowledgements

The project was coordinated by Manuel Mejido Costoya, Department of Sociology, University of Geneva, in collaboration with Peter Utting, United Nations Research Institute for Social Development (UNRISD). Claude Auroi, Graduate Institute of International and Development Studies (IHEID), and Ricardo Meléndez, International Centre for Trade and Sustainable Development (ICTSD), provided additional support. This project was funded by a grant from the Geneva International Academic Network (GIAN/RUIG).

The author would like to thank Peter Utting, Kenneth Shadlen, Arturo Grigsby, Clara J. Long, Roberto Fonseca López and José Carlos Marques for their valuable comments and suggestions on this paper, as well as Katrien de Moor for editorial assistance. None of them bear responsibility for any errors or omissions in this paper.

Roberto Fonseca López assisted the author through the data collection process and interviews.

Summary/Résumé/Resumen

Summary

Power differentials play a ubiquitous role in international trade negotiations. This is apparent not only between trading partners, but also among non-state actors, such as business and civil society, which influence public policy-making processes. Indeed, the proliferation of non-state actors in trade policy making has turned trade bargaining into an intricate process in which gains and losses among actors are directly correlated to the amount of power they wield at the national level.

Yet traditional international relations literature and much of the contemporary analysis of the political economy of trade negotiations often ignores these power dynamics. The paper addresses this information gap by examining dynamics of trade policy making in Nicaragua. In particular, it considers:

- How does a small and low-income country like Nicaragua use its negotiating space, that is, the ability to shape outcomes in a trade agreement? What are the trade-offs and developmental implications?
- How do non-state actors shape trade policy making and national preferences in the context of a regional trade agreement like the Dominican Republic–Central American Free Trade Agreement (DR–CAFTA), signed with the United States? How does social mobilization impact the trade policy-making process?
- What happens to free trade regimes and regional integration policy when there is an apparent shift to the Left in national politics?

To address this, the paper also explores the emergence of alternative integrationist regimes like the Bolivarian Alternative for the People of our Americas (ALBA) that are concerned not only with trade but also common identity and South-South cooperation.[1] It concentrates, specifically, on two aspects: the role of ALBA in dealing with the structural constraints ignored by DR–CAFTA, and the apparent paradox between ALBA's founding principles (such as solidarity and equity) and the marginalization of non-state actors in the policy-making process.

The political economy of DR–CAFTA shows that low-income countries like Nicaragua can and do use their negotiating space in the creation of international trade regimes. However, their strategies and tactics, as well as the power differentials in relation to other players, have a profound impact on the boundaries of this negotiating space. Moreover, the increasingly direct involvement of non-state actors in international trade negotiations has blurred the distinction between both the levels proposed by the two-level bargain model. Indeed, in DR–CAFTA, Nicaraguan business was strengthened vis-à-vis civil society actors like the Anti-CAFTA movement and the Iniciativa CID regional network that proposed a "complementary (social, regulatory and productive) agenda". The expertise of business groups, their close ties with and access to key negotiators, and their increasing regional and transnational links conferred them with a structural power that eluded civil society actors in the negotiations. Ultimately, Nicaraguan business influence was forced to face limitations vis-à-vis the US trade representative and key US industry and agroindustry lobby groups (such as textiles and clothing, and the "extra-official" DR–CAFTA negotiations). This resulted in trade-offs having to be made.

[1] The purpose of including ALBA in this analysis comes from the apparent emerging contradiction between the Leftist discourse and socialist past of the Sandinista National Liberation Front (FSLN), the party in power since 2007 elections, and its coexistence with free-market policies. On the one hand, President Daniel Ortega's government has continued the implementation of DR–CAFTA while embarking on negotiations on an economic partnership agreement with the European Union. On the other hand, however, it has strengthened its political and economic ties with Venezuela through ALBA.

Indeed, bilateral and regional trade agreements like DR–CAFTA offer enhanced market access to developed countries in exchange for more stringent commitments to intellectual property rights (IPR), investment rules, government procurement and services than those agreed at the World Trade Organization (WTO), with serious implications for inclusive development. In the case of IPR, DR–CAFTA further limited the definition of what constituted a national health threat in relation to the trade-related intellectual property rights (TRIPS) agreement, potentially curtailing the autonomy of Central American governments to allow parallel imports of generic drugs in case of need. Regarding investments, DR–CAFTA illegalized the policy tools—which have been key to early and late developers—such as local content (the ability of host governments to demand a certain percentage of locally produced inputs in the production process of foreign investors), performance requirements of foreign direct investment (FDI) in order to receive incentives, and tax breaks granted to national economic actors.

Moreover, DR–CAFTA negotiations left out crucial issues for Central American countries such as US agricultural subsidies, and supply-side and productive constraints that affect the majority of Nicaraguan small and medium enterprises. Discursively and conceptually, alternative integrationist regimes like ALBA embody issues of fair trade, solidarity, and regional and national asymmetries, which could address the structural constraints ignored by DR-CAFTA. However, for ALBA to become an instrument for inclusive development, its national implementation needs to become more participatory and transparent to ensure that it does not undermine its core purposes by turning into a scheme that narrowly selects its "beneficiaries".

A "macro complementary agenda" geared to address the structural limitations and strengthen the potential losers from trade liberalization is needed to ensure a more equal distribution of costs and benefits between business and civil society actors. Furthermore, in the context of current and future international trade negotiations, it will be essential to establish effective mechanisms to access both negotiators and the technical knowledge required to balance the different levels of power among national, regional and transnational non-state actors. Likewise, a series of innovations in governments' negotiating strategies (such as strengthening and transcending the market access pillar, and the use of sustainable development negotiating indicators and benchmarks) could be introduced in order to generate tangible strategies to defend countries' policy spaces. Last, it will be crucial that Central American governments tackle national and regional supply-side disparities and constraints to promote access to credit, foster innovation and reduce social inequalities. Without the capacity to connect trade regimes with inclusive and sustainable development policies, linking to the world economy on better terms will remain an elusive challenge.

Gloria Carrión is a Trade and Development Programme Officer at the International Centre for Trade and Sustainable Development (ICTSD) in Geneva, Switzerland.

Résumé

L'inégalité des rapports de forces est omniprésente dans les négociations commerciales internationales. Elle est visible non seulement entre partenaires commerciaux, mais aussi entre les acteurs autres que l'Etat, tels les entreprises et la société civile, qui influent sur l'élaboration des politiques publiques. De fait, la prolifération des acteurs autres que l'Etat participant à l'élaboration de la politique commerciale a transformé les négociations commerciales en un processus complexe dans lequel les gains et les pertes de chacun sont en corrélation directe avec le pouvoir qu'il exerce au niveau national.

Pourtant, la littérature traditionnelle consacrée aux relations internationales ignore souvent ces rapports de force, et il en est de même d'une grande partie des analyses contemporaines des négociations commerciales qui se placent sous l'angle de l'économie politique. Ce document comble ce déficit d'information en examinant la dynamique qui préside à l'élaboration de la politique commerciale au Nicaragua. L'auteur se pose en particulier les questions suivantes:

- Comment un petit pays à bas revenu comme le Nicaragua utilise-t-il son espace de négociation, autrement dit sa capacité d'obtenir un accord commercial conforme à ses souhaits? Quels sont les avantages et les inconvénients et les conséquences pour le développement?
- De quelle façon les acteurs autres que l'Etat influent-ils sur la politique commerciale et les préférences nationales dans le contexte d'un accord commercial régional comme l'Accord de libre-échange entre la République dominicaine, l'Amérique centrale et les Etats-Unis (DR–CAFTA)? En quoi la mobilisation sociale infléchit-elle la politique commerciale?
- Qu'advient-il des régimes de libre-échange et de la politique d'intégration régionale lorsque la politique nationale bascule manifestement à gauche?

Pour y répondre, l'auteur examine aussi l'émergence de régimes "d'alterintégration" comme l'Alternative bolivarienne pour l'Amérique latine (ALBA), qui ne se préoccupe pas seulement de commerce mais aussi d'identité commune et de la coopération Sud-Sud.[2] Elle se concentre spécifiquement sur deux aspects: le rôle de l'ALBA face aux contraintes structurelles qu'ignore le DR–CAFTA, et le paradoxe manifeste entre les principes fondateurs de l'ALBA (tels que la solidarité et l'équité) et le fait que les acteurs non étatiques sont mis à l'écart de l'élaboration des politiques.

L'économie politique du DR–CAFTA montre que des pays à bas revenu comme le Nicaragua peuvent utiliser et utilisent effectivement leur espace de négociation pour conclure des accords commerciaux internationaux. Cependant, leurs stratégies et tactiques, ainsi que l'inégalité des forces entre eux et d'autres acteurs, limitent beaucoup cet espace. De plus, dans les négociations commerciales internationales à deux niveaux, la participation de plus en plus directe d'acteurs autres que les Etats a estompé la distinction entre ces deux niveaux. De fait, dans le DR–CAFTA, les entreprises nicaraguayennes se sont trouvées renforcées face à des acteurs de la société civile tels que le mouvement anti-CAFTA et le réseau régional de l'Iniciativa CID qui proposait un "ordre du jour complémentaire (portant sur le social, la régulation et la production)". Les compétences des groupes patronaux, leur accès aux principaux négociateurs et leurs liens étroits avec eux, et leur réseau de relations, qui prend de plus en plus une dimension régionale et transnationale, leur conféraient un pouvoir structurel qui faisait défaut aux acteurs de la société civile participant aux négociations. Finalement, les entreprises nicaraguayennes ont été forcées d'admettre les limites de leur influence face au représentant commercial des Etats-Unis et des principaux lobbies de l'industrie et de l'agro-industrie des Etats-Unis (tels que le textile et le vêtement, et les secteurs faisant l'objet de négociations en marge des négociations officielles du DR–CAFTA). Il a bien fallu faire des compromis.

En réalité, les accords commerciaux bilatéraux et régionaux tels que le DR–CAFTA ouvrent plus largement les marchés aux pays développés en échange d'engagements à respecter les droits de propriété intellectuelle (DPI) et les règles sur les investissements, à effectuer des achats publics et à rendre des services, qui vont plus loin que ceux qui sont admis à l'Organisation mondiale du commerce (OMC), ce qui a de sérieuses conséquences pour un développement solidaire. S'agissant des DPI, le DR–CAFTA a encore limité la définition de ce qui constitue une menace pour la santé publique au niveau national par rapport à l'Accord sur les aspects des droits de propriété intellectuelle qui touchent au commerce (ADPIC), ce qui risque de réduire la liberté des gouvernements d'Amérique centrale d'autoriser des importations parallèles de médicaments génériques en cas de besoin. Pour ce qui est des investissements, le DR–CAFTA a rendu illicites des outils politiques qui ont été très utiles aux pays aujourd'hui développés, tels que le contenu local (la possibilité pour les gouvernements d'accueil d'exiger que la production

---

[2] Si l'ALBA a été incluse dans l'analyse, c'est à cause de la contradiction manifeste qu'il y a entre le discours de gauche et le passé socialiste du Front sandiniste de libération nationale (FSLN), le parti au pouvoir depuis les élections de 2007, et sa coexistence avec des politiques inspirées de la liberté de marché. D'une part, le gouvernement du Président Daniel Ortega a continué à mettre en œuvre le DR-CAFTA et a entamé des négociations avec l'Union européenne sur un accord de partenariat économique. D'autre part, il a renforcé ses liens politiques et économiques avec le Venezuela au travers de l'ALBA.

des investisseurs étrangers utilise un certain pourcentage d'intrants produits localement), l'obligation pour les investissements étrangers directs (IED) de remplir certaines conditions de résultats pour bénéficier d'incitations, et les réductions d'impôt accordées aux acteurs économiques nationaux.

Les négociations du DR–CAFTA ont en outre laissé de côté des questions cruciales pour les pays d'Amérique centrale telles que les subventions agricoles aux Etats-Unis, et les contraintes imposées à l'offre et à la production et auxquelles sont soumises la majorité des petites et moyennes entreprises nicaraguayennes. Dans leur discours et leurs aspects techniques, les régimes "d'alterintégration" comme l'ALBA représentent le commerce équitable, la solidarité et la correction des asymétries régionales et nationales, ce qui pourrait régler le problème des contraintes structurelles qu'ignore le DR-CAFTA. Cependant, pour que l'ALBA serve réellement un développement solidaire, il faudrait que sa mise en œuvre au niveau national soit plus participative et transparente afin d'éviter qu'elle n'aille à l'encontre de ses objectifs premiers par une sélection trop étroite de ses "bénéficiaires".

Il faudrait un "ordre du jour macro complémentaire" qui vise à surmonter les limites structurelles et à soutenir les perdants potentiels de la libéralisation du commerce pour que les coûts et les bénéfices soient plus équitablement répartis entre les entreprises et les acteurs de la société civile. De plus, dans le contexte des négociations commerciales internationales présentes et futures, il sera essentiel de mettre en place des mécanismes efficaces pour obtenir à la fois les négociateurs et les connaissances techniques nécessaires pour que les forces soient moins inégales entre les acteurs nationaux, régionaux et transnationaux autres que les Etats. De même, une série d'innovations pourraient être introduites dans les stratégies de négociation des gouvernements (par exemple insister davantage sur l'accès au marché tout en allant au-delà de cette revendication de base, et utiliser des indicateurs de négociation et des points de repère empruntés au développement durable) afin que les pays aient des stratégies tangibles pour défendre leur marge de manoeuvre politique. Enfin, il sera crucial que les gouvernements d'Amérique centrale s'attaquent aux disparités nationales et régionales et aux contraintes imposées à l'offre, afin de promouvoir l'accès au crédit, d'encourager l'innovation et de réduire les inégalités sociales. Sans la capacité de rattacher les accords commerciaux à des politiques de développement solidaire et durable, les petits pays auront la plus grande peine à améliorer les conditions de leur intégration dans l'économie mondiale.

Gloria Carrión est responsable du programme Commerce et développement au Centre international pour le commerce et pour le développement durable (CICDD) à Genève, Suisse.

Resumen

Las diferencias de poder son una constante omnipresente en las negociaciones comerciales internacionales. Esto resulta obvio no solo entre socios comerciales, sino también entre actores no estatales, como las empresas y la sociedad civil, que influyen en los procesos públicos de formulación de políticas. En efecto, la proliferación de actores no estatales en la formulación de la política comercial ha hecho de la negociación comercial un enrevesado proceso en el cual las ganancias y pérdidas que acusan los actores están directamente correlacionadas con la cuota de poder que ostentan a nivel nacional.

No obstante, la bibliografía tradicional sobre las relaciones internacionales y buena parte del análisis contemporáneo de la economía política de las negociaciones comerciales a menudo no se ocupan de esta dinámica del poder. En este trabajo se aborda esta laguna de información mediante el examen de la dinámica de la formulación de la política comercial en Nicaragua. En él se considera específicamente:

- ¿Cómo un país pequeño y de bajos ingresos como Nicaragua utiliza su espacio de negociación, es decir, su capacidad para obtener resultados en un acuerdo

comercial? ¿Cuáles son las concesiones que debe hacer y sus implicaciones para el desarrollo?

- ¿Cómo afectan los actores no estatales la formulación de la política comercial y las preferencias nacionales en el contexto de un acuerdo regional de comercio como el Tratado de Libre Comercio entre Estados Unidos, Centroamérica y la República Dominicana (DR–CAFTA)? ¿Cómo la movilización social repercute en el proceso de formulación de la política comercial?
- ¿Qué ocurre con los regímenes de libre comercio y la política de integración regional cuando la política nacional toma un claro giro hacia la izquierda?

Para responder a estas interrogantes, el documento analiza el surgimiento de regímenes integracionistas alternativos como la Alternativa Bolivariana para los Pueblos de Nuestra América (ALBA), que tiene que ver no solo con el comercio sino además con la identidad común y la cooperación Sur-Sur.[3] El documento trata específicamente dos aspectos: el papel del ALBA en el manejo de las restricciones estructurales de las que no se ocupa el DR-CAFTA y la evidente paradoja entre los principios fundamentales del ALBA (como la solidaridad y la equidad) y la marginación de los actores no estatales en el proceso de la formulación de políticas.

La economía política del DR–CAFTA muestra que los países de bajos ingresos como Nicaragua pueden utilizar, y utilizan, su espacio de negociación en la creación de regímenes de comercio internacional. No obstante, sus estrategias y tácticas, así como las diferencias de poder en relación con otros actores, tienen un profundo impacto sobre el alcance de este espacio de negociación. Además, la creciente participación de actores no estatales en las negociaciones comerciales internacionales ha borrado la distinción entre los dos niveles propuestos por el modelo de negociación a dos niveles. En efecto, en el DR-CAFTA, el sector privado nicaragüense salió fortalecido frente a actores de la sociedad civil como el movimiento anti-CAFTA y la red regional Iniciativa CID que proponían una "agenda (social, regulatoria y productiva) complementaria". La pericia de los grupos empresariales, sus estrechos vínculos con los negociadores clave y su acceso a ellos y sus crecientes relaciones regionales y transnacionales les confirieron un poder estructural con el que no contaron los actores de la sociedad civil en las negociaciones. En última instancia, el empresariado nicaragüense se vio obligado a limitar su influencia ante el Representante Comercial de Estados Unidos y algunos grupos clave de cabildeo de la industria manufacturera y la agroindustria estadounidense (como la industria de la confección y el vestido y las negociaciones "extraoficiales" del DR-CAFTA), lo que condujo a que se hicieran concesiones.

Los tratados bilaterales y regionales de comercio como el DR-CAFTA ofrecen un acceso ampliado a los mercados de los países desarrollados a cambio de compromisos en materia de derechos de propiedad intelectual (DPI), reglas de inversión, contratación pública y servicios que son más rigurosos que los acordados en la Organización Mundial de Comercio (OMT), lo que trae consigo graves implicaciones para el desarrollo incluyente. En el caso de los DPI, el DR-CAFTA restringió aún más la definición de lo que constituye una amenaza sanitaria nacional al respecto de lo que estipula el Acuerdo sobre los Aspectos de los Derechos de Propiedad Intelectual relacionados con el Comercio (ADPIC), lo que podría coartar la autonomía de los gobiernos centroamericanos para permitir las importaciones paralelas de medicamentos genéricos en caso de necesidad. En relación con las inversiones, el DR-CAFTA ilegalizó ciertas herramientas de política—que han sido fundamentales para los países de desarrollo temprano y tardío—como aquellas relativas al contenido local (capacidad de los gobiernos anfitriones para exigir un cierto porcentaje de insumos producidos localmente en el proceso de producción de inversionistas extranjeros), requisitos de desempeño de la inversión

[3] La inclusión del ALBA en este análisis obedece a la clara contradicción que se observa entre, de un lado, el discurso izquierdista y el pasado socialista del Frente Sandinista de Liberación Nacional (FSLN), partido que ejerce el poder desde las elecciones de 2007, y del otro, su coexistencia con las políticas de libre mercado. Por una parte, el gobierno del Presidente Daniel Ortega ha continuado la aplicación del DR-CAFTA al tiempo que emprende negociaciones sobre un acuerdo de alianza económica con la Unión Europea. Pero al mismo tiempo, el gobierno nicaragüense ha fortalecido sus vínculos políticos y económicos con Venezuela a través del ALBA.

extranjera directa (IED) para poder recibir incentivos y concesión de exenciones fiscales a actores económicos nacionales.

Adicionalmente, las negociaciones del DR-CAFTA no trataron asuntos clave para los países centroamericanos, como los subsidios de Estados Unidos a su sector agrícola y las limitaciones a la oferta y la producción que afectan a la mayoría de las pequeñas y medianas empresas nicaragüenses. Desde el punto de vista discursivo y conceptual, los regímenes integracionistas alternativos como el ALBA abarcan temas como el comercio justo, la solidaridad y las asimetrías regionales y nacionales, que podrían atender las lagunas estructurales que el DR-CAFTA dejara de lado. Sin embargo, para que el ALBA pueda convertirse en un instrumento de desarrollo incluyente, su implementación a nivel nacional debe ser más participativa y transparente a fin de asegurarse de que no menoscabe sus propósitos básicos al convertirlo en un esquema que seleccione parcialmente a sus "beneficiarios".

Se necesita una "agenda complementaria macro" que responda a las deficiencias estructurales y fortalezca a los potenciales perdedores de la liberalización del comercio a fin de velar por una distribución más equitativa de los costos y beneficios entre el sector empresarial y la sociedad civil. Más aun, en el contexto de las negociaciones comerciales actuales y futuras, será esencial establecer mecanismos eficaces de acceso tanto a los negociadores como al conocimiento técnico que se requiere para equilibrar los distintos niveles de poder entre los actores no estatales nacionales, regionales y transnacionales. Además, podría ponerse en práctica una serie de innovaciones en las estrategias de negociación de los gobiernos (como fortalecer y superar el pilar de acceso a los mercados y utilizar indicadores y referencias de desarrollo sostenible en las negociaciones) a fin de generar estrategias tangibles para la defensa de los espacios de política de los países. Finalmente, es fundamental que los gobiernos centroamericanos confronten las disparidades y limitaciones de la oferta nacional y regional para promover el acceso al crédito, fomentar la innovación y reducir las desigualdades sociales. Si no se tiene la capacidad para conectar los regímenes comerciales a las políticas de desarrollo incluyente y sostenible, mejorar la vinculación con la economía mundial seguirá siendo un desafío elusivo.

Gloria Carrión es Oficial de Programa sobre Comercio y Desarrollo del Centro Internacional para el Comercio y el Desarrollo Sostenible (ICTSD) de Ginebra, Suiza.

Introduction

> *We were waiting in Washington to find out what was going to happen. At this time, the negotiations were not in hotels, but in the offices of the United States Trade Representative. DR-CAFTA had been finalized, the official photo had been taken and the celebrations began, without an agreement on the sugar quota.*
>
> *Mario Amador, president, National Commission for Sugar Producers*

Mario Amador's depiction of events during the final round of negotiations of the Dominican Republic–Central American Free Trade Agreement (DR–CAFTA) conveys the extent to which Nicaragua negotiated that agreement from an unequal footing with the United States. Indeed, the notion of political and economic asymmetry is often absent in the current analysis of international trade regimes (Shadlen 2008). Power differentials, however, play a ubiquitous role in international trade negotiations.

This is apparent not only between trading partners, but also among non-state actors, such as business and civil society, which influence trade policy making. This paper looks primarily at how trade policy is made (for example, who participates, what their interests are and what alliances are formed) in the context of asymmetrical power relations. In particular, it considers:

- how a small and low-income country like Nicaragua uses its negotiating space—the ability to shape outcomes in a trade agreement and what the trade-offs and developmental implications are;
- how non-state actors shape trade policy making and national preferences in the context of a regional trade agreement like DR–CAFTA and how social mobilization impacts the trade policy-making process; and
- what happens to "free trade" regimes and regional integration policy when there is an apparent shift to the Left in national politics.

Bilateral and regional trade agreements, such as the North American Free Trade Agreement (NAFTA) and DR–CAFTA, have proliferated in the Americas and beyond. With the Doha Round negotiations at the World Trade Organization (WTO) currently stalled, both developed and developing countries are actively looking elsewhere for new market opportunities. Developing countries need to replace unilaterally granted and politically unstable preferential schemes with more predictable and transparent market access into developed countries. Developed countries, on the other hand, need to prioritize regulatory harmonization, particularly in the areas of intellectual property rights (IPR) and investment rules, since the protection of knowledge in the form of IPR and the extension of rights to foreign investors are crucial to develop future comparative advantages and secure these countries' status quo.

Consequently, regional agreements strike a crucial bargain: they offer enhanced market access into developed countries in exchange for more stringent commitments in IPR, investment rules, government procurement and services than those agreed at the WTO (Shadlen 2005b; Sánchez-Ancochea and Shadlen 2008). Such a bargain, however, has profound implications for development and can severely restrict policy space[4] in the future.

Moreover, regional trade agreements do not address the distortions and inequalities in the international trading system that are of fundamental importance to developing countries, such as agricultural subsidies, tariff escalation,[5] and non-tariff barriers (NTBs),[6] among others. The continuation of these practices in developed nations can render developing countries' market

---

[4] The term policy space was first introduced by Venezuela in preparation for the 1999 WTO Ministerial Conference in Seattle (Permanent Mission of Venezuela 1999). For the purpose of this paper, it is defined as the autonomy of a government to resort to diverse policy tools to enhance sustainable development.

[5] This refers to a situation where an importing country protects its processing or manufacturing industry by setting lower duties on imports of raw materials and components, and higher duties on finished products (WTO 2007a).

[6] Non-tariff barriers include quotas, import-licensing systems and sanitary regulations, among others (WTO 2007a).

access ineffective, especially in the case of small and low-income developing countries. How, then, can the outcomes of these negotiations be explained?

Traditional international relations literature focuses on a two-level interface between international bargaining and domestic politics (Putnam 1988; Evans et al. 1993) in order to explain the dynamics and outcomes of international negotiations. The theory generally assumes that government officials and institutions play a fluid and mediating role between the international and domestic arenas. Within this model, the state mediates the interests of various constituencies and communicates them on the world stage. Thus, the outcomes of trade negotiations conform to the expectations of domestic actors. Ventura-Dias and Lengyel (2004:4), however, argue that

> the subordinated role of Latin American countries in the international system together with weak or highly ineffective political and legal institutions, and an opaque economic decision-making process suggest that more information should be provided on the domestic trade policy-making process in Latin America before a model of reciprocal causation could be devised.

This is particularly true as non-governmental organizations (NGOs), social movements and business associations proliferate. The participation of such non-state actors in trade policy-making processes is an increasingly common phenomenon at the multilateral, regional and bilateral levels. In the context of economic integration and the emergence of faster, innovative and accessible communication technologies, many of these actors have become regionalized. In Central America, in particular, business has expanded its ties within and beyond the region while also linking to transnational capital (Segovia 2005). Trade bargaining has thus become an intricate process in which gains and losses among actors are directly correlated to the amount of power they wield at the national level. This will certainly have profound implications for inclusive development—understood as development that is both participatory and social.

The goal of this paper therefore is to contribute to the information gap that Ventura-Dias and Lengyel (2004) have identified in relation to Latin American trade policy-making processes. As such, this paper provides an in-depth analysis of the political economy of DR–CAFTA negotiations. In doing so, it shows that current changes in global governance structures are increasingly empowering particular economic actors within and beyond the boundaries of the nation state and transforming trade policy making into a more complex and multilevel process in which power dynamics take a decisive role in shaping final outcomes.

The paper also explores the way in which trade policy is affected by so-called alter-globalization movements and the increasing proliferation of NGOs in policy-making arenas. In Nicaragua, this has shown itself in the emergence of both a vociferous anti–CAFTA movement and a regional network of NGOs and social movements that have actively participated in DR–CAFTA negotiations. The study unveils some of the limitations of policy influence that these actors face vis-à-vis powerful players like regionalized business groups and the United States in the context of trade regime formation.

In January 2007, Daniel Ortega—leader of the Frente Sandinista de Liberación Nacional (FSLN) that seized power through a revolution in 1979—returned to presidential office. This paper considers the implications of this change in national politics for DR–CAFTA, as well as the emergence of the Alternativa Bolivariana para los Pueblos de Nuestra América (ALBA), currently promoted and supported by Bolivia, Cuba, Honduras, Nicaragua, and Venezuela.[7] More specifically, it addresses two aspects: the role of ALBA in dealing with the structural constraints ignored by DR–CAFTA, and the apparent paradox between ALBA's founding

[7] ALBA is included in this analysis because of the apparent emerging contradiction between the Leftist discourse and the socialist past of the FSLN and its coexistence with free-market policies. On the one hand, President Ortega has continued the implementation of DR–CAFTA while also embarking on negotiations of an economic partnership agreement with the European Union. On the other hand, the country has strengthened its political and economic ties with Venezuela through ALBA.

principles (such as solidarity and equity) and the marginalization of non-state actors in the policy-making process.

This paper argues that the differing levels of power non-state actors wield at national and regional levels ultimately shaped the final outcomes of DR–CAFTA negotiations. Low-income countries such as Nicaragua can and do use their negotiating space. However, negotiating strategies and tactics are not sufficient to counter the structural power of larger players. This profoundly restricts negotiating space and the potential for DR–CAFTA to address social and economic structural constraints. Alternative regimes like ALBA could potentially address national economies' structural constraints such as energy, infrastructure and finance, which are absent in current economic integrationist projects. However, the way the regime is actually implemented at the national level will be critical in attaining these goals.

This study was conducted in the context of the United Nations Research Institute for Social Development (UNRISD) project on Negotiating Alternative Trade Regimes in Latin America. It is based on 16 in-depth interviews carried out during the first half of 2007 with Nicaraguan government officials, and representatives of business, NGOs, and social movements, as well as the analysis of relevant secondary literature, including key negotiating documents that were provided by negotiators from the Nicaraguan Ministry of Development, Industry and Trade (MIFIC). It also draws on five in-depth interviews the author conducted in 2004 and 2005, including four with key Nicaraguan negotiators and one with a business advisor.

The structure of the paper is as follows: part 1 situates the study in the realm of relevant theoretical debates and concepts. Part 2 maps the actors. Part 3 provides a political-economic analysis of the role of business in shaping the formation of national preferences and Nicaragua's negotiating strategy. Part 4 analyses the role of both NGOs and social movements in influencing the outcomes in DR–CAFTA. Part 5 explores the emergence of ALBA, its current implementation, potential contradiction or complementarity with DR–CAFTA and contribution to inclusive development. Finally, part 6 covers the main conclusions and lessons learned.

1. Relevant Debates and Concepts

This section addresses theoretical aspects that are relevant for understanding the outcomes of international trade negotiations, the influence of non-state actors in policy making, the contrast between the deep integration agenda and policy space, and the emergence of alternative integrationist regimes like ALBA.

Economic globalization—understood as "rising economic openness and integration of national economies" (Wade 2004:163)—along with the free movement of capital, investment flows and strategic transnational business alliances, are core elements of the current international political economy. As neoliberal ideology has spread globally, international trade flows have become increasingly important to national economies. According to neoclassical economics, this is overwhelmingly positive as "free" trade, growth and development are causally linked.

At the core, regional trade regimes entail a level of policy harmonization that can facilitate the flow and exchange of goods and services. States and their policy makers play a crucial role in this process. Given that policy making is still within the realm of national state bureaucracies, it is important to highlight its inherent political nature. By picking "winners" and "losers", policy makers are involved in a highly political process that, as Keeley and Scoones (2003:21) argue, "both reflects and shapes particular institutional and political practices and ways of describing the world".

Traditional international relations literature focuses on a two-level interface between international negotiations and domestic politics in order to explain preference formation in the context of international trade regime creation. According to Putnam (1988), in level I (international), bargaining takes place among representatives of states in order to conclude an agreement. In level II (domestic), bargaining involves attempts to gain support from domestic constituencies that must concur with the terms of the agreement if it is to be ratified. The interaction between the two levels is highly dynamic.

Within this conception, level II interests usually shape the bargaining positions and strategies of negotiators and demarcate the possibility of an agreement in level I. Furthermore, expectations by level I actors about prospects for ratification also determine the parameters within which potential agreements are considered. Conversely, level I developments can affect politics at level II, sometimes increasing the prospects for ratification and at other times diminishing them. According to Putnam (1988:434), domestic groups at the national level pressure the government to "adopt favorable policies, and politicians seek power by constructing coalitions among those groups. At the international level, national governments seek to maximize their own ability to satisfy domestic pressures, while minimizing the adverse consequences of foreign developments."

The increasing involvement of powerful economic actors within and beyond the nation state in regime formation is deeply challenging traditional notions of what actually constitutes the "domestic" level, introducing new levels of governance whose impact on national decision-making processes and development are only just beginning to be grasped. This will require new ways of understanding preference and interest formation, which increasingly and effectively take into account current changes in global economic governance and move beyond the fluidity and linearity this model is based on.

Some authors (Ventura-Dias and Lengyel 2004; Singh 2003) have drawn attention to the potential limitations of this model and show both how structural conditions of particular world regions may interfere with a straightforward causality between the international and domestic bargain and the role that the negotiating process can play in preference and interest formation.

Other scholars have noted that the political, economic and social conjuncture during the process of negotiations is crucial in actively shaping outcomes and, in many cases, forming and contesting actors' interests. In this view, interests are socially constructed and, as such, are in constant creation, alteration or disposal (Singh 2003). Interests, previously formulated, can and do change in the context of international negotiations as "power structures may shape initial preferences and negotiations, but negotiations shape the interests and outcomes, and therefore, the exercise of power" (Singh 2003:2). Thus, potential changes in preferences and the power of business constituencies across issues and sectors and in different forums may account for "the uneven and fragmented nature of the resulting system" (Levy and Prakash 2003:131).

These frameworks highlight, and rightly so, the malleability of actors' interests. However, they may ignore the particular experience of low-income countries in negotiations with hegemonic players, which introduce further complexity. For these countries, changes in preferences and the negotiating process itself are seldom disentangled from power structures that define the boundaries for national preferences and the scope of these countries' negotiating space. Hence, contrary to the arguments of new international negotiation theory, the strategic use of negotiating space (that is, negotiating tactics like coalition building and agenda setting) may not be sufficient, in the case of these countries, to secure outcomes in the context of deep power imbalances. Negotiating tactics can get them only so far; their possible outcomes will be shaped to a large extent by the hegemon's preferences and interests.

Far from arguing for a return to structural determinism in which only the powerful actors obtain gains in negotiations, the experiences of these countries signal the importance of rescuing notions of power within trade negotiating theory that are closer to the Gramscian and Foucaultian traditions. Gramsci's work on hegemony highlights the crucial role ideology plays in the exercise of power in a non-coercive way while Foucault stresses the inescapable ubiquity of power relations. It is precisely these notions of power that trade negotiation theory needs to rescue in order to account for the negotiating experiences of small and low-income countries like Nicaragua.

New state and society relations: The rise of non-state actors in international trade regimes

Markets do not operate in a vacuum of rules and power (Ventura-Dias and Lengyel 2004:1). Instead, they are embedded in complex state-society relations. The boundaries between the spheres of state, society and markets are becoming increasingly porous, and each sphere is intricately tied into the structures of the others (Riain 2000:190). As such, spaces are created for social and political action within and between these connections. In the context of economic globalization, new multilayered and multiplayer forms of governance have emerged, profoundly changing traditional conceptions of the nation-state. Indeed, transnational business is increasingly exerting power in policy-making processes through both formal and informal mechanisms, such as business associations and personal relations. In response to these actors' political and economic expansion, however, new forms and expressions of national and transnational social contention (Giugni et al. 2006) in the form of NGOs and social movements have arisen, clearly echoing Polanyi's (1944) metaphor of the "double movement".

The increasing uncertainty and complexity of issues accompanying the restructuring of economic, political and social life has placed crucial emphasis on the interactions between interest groups and policy making in the developed and developing world. Several authors (such as Utting 2006; Sell 2000) have drawn attention to the intricate workings of knowledge and power in determining policy outcomes at the national and international levels. Peter Haas (1992) first introduced the concept of an "epistemic community" in order to illustrate this interaction. Epistemic communities can be understood as a "network of professionals with recognized expertise and competence in a particular domain and an authoritative claim to policy-relevant knowledge within that domain or issue-area" (Haas 1992:3). Through their expertise, ability to frame the issues and access to negotiators and policy makers, epistemic communities can and do exert power in international negotiations. Business constituencies and NGOs with "expert" knowledge can thus be understood through this framework.

Business constituencies can take the form of "national and transnational business associations, such as industry, trade associations and business lobbying organizations representing the interests of a group of firms" (Haufler 2000:123). Some argue that, as the "structural power" of the private sector increases with emerging restructurings of the global economy, states become ever more open to the influence of business constituencies to the point where business interests become national priorities. Andrew Walter (2000:51) refers to this as a "convergence hypothesis" which claims that the "enhanced mobility of transnational corporations (TNCs) in the world economy confers structural power upon firms, resulting in a process of convergence of national policy regimes upon TNC policy preferences". Although such causality is still highly debated (Walter 2000:54), the truth is that both business constituencies and states, particularly in developed countries, commonly envision and lobby for increased policy harmonization.

The motivations of business for deep integration, Haufler (2000:123) argues, are driven by the desire to achieve efficiency, stability and security of transactions, as well as power and autonomy. Indeed, Levy and Prakash (2003:139) add, "TNCs might find that fewer resources are needed to resolve an issue in a single international forum than to negotiate the issue on a country-by-country basis. Furthermore, an international forum offers TNCs the opportunity to share the costs of political activity with firms based in other countries." For Woll and Artigas (2007), deep integration inherent in current international trade negotiations requires "deep" knowledge and expertise, which business associations are in a position to provide and which, in turn, shapes the policy-making process. To have a better understanding of how business constituencies have managed to successfully gain political leverage with state officials and negotiators in order to pursue common goals, however, one needs to look at the emergence of "policy networks" and issues of framing and agency.

Teichman (2001) introduced the concept of policy networks to refer to the emergence of close personal networks with international ties that have become central for public policy formulation and implementation. In Latin America these policy networks have been characterized by the increasing inclusion of business members in the policy-making process, either informally (for example, through conversations over a meal) or through the formal relations granted to trade associations or chambers (Bull 2004). The ideological "authority" that the Washington consensus granted to the private sector could partly explain this, but so could the ability of the private sector to influence public policy through its agency.

Business constituencies have been actively engaged in framing their interests in ways that are compatible with national state priorities and consistent with "a public sense of legitimacy" (Sell 2003:182). Furthermore, they have also relied heavily on their agency—the businesses' own actions. Business constituencies take advantage of power structures through their agency. As such, agency is highly and dynamically linked to structure. "Structured agency," Sell (2003:180) argues, highlights "the way that structural factors condition agency, by examining the way that structure identifies and creates agents and distributes resources of vested interests and bargaining power". The way business constituencies strategically use power structures is thus crucial in obtaining goals, but so is the interaction with other (civil society) actors.

Civil society (NGOs and social movements) is defined as "the associational sector between family, market and the state" (Borchgrevink 2006:13). Social movements for their part are defined as "a distinct social process, consisting of the mechanisms through which actors engaged in collective action; are involved in conflictual relations with clearly identified opponents; are linked by dense informal networks; and share a distinct collective identity" (Della Porta and Diani 2006:20).

These actors generally mobilize and influence trade policy making through resource mobilization, framing and the identification of political opportunities. According to the literature, resource mobilization refers to the capacity of these actors to mobilize "material resources (work, money, concrete benefits, services) and/or non-material resources (authority, moral engagement, faith, friendship) available to the group" (Della Porta and Diani 2006:15). "Successful" policy influence will, hence, be closely linked to the way social actors strategically use these resources.

For Bendell et al. (2008), framing refers to "the ability to analyse, direct, and present ideas, data, and reports in a way that is not determined by the filters of other groups such as political parties and corporations". Framing serves to build legitimacy around social actors' claims since "agenda setting involves the provision of both information and normative frames" (Bendell et al. 2008), enhancing their ability to influence the policy process. Finally, the identification of political opportunities consists of "the external opportunities and constraints created by the state, but also by opponents, allies, and activists themselves" (Bendell et al. 2008). Social actors may thus tactically use these strategies to exert influence in the policy process. However, their influence will be limited in accordance with the structural conditions that surround them, such as the level of power other players—including the state and national and transnational business—exert on the formation of regimes.

NGOs and social movements may act independently through coalitions or, as in the case of business constituencies, through networks. In the context of counter-globalization movements,[8] networks have been defined as "relationships, which connect informally—i.e. without procedural norms or formal organizational bindings—a multiplicity of individuals and

[8] The literature on social movements identifies the emergence of three central exponents of social mobilization: (i) movements centred on materialistic claims such as the workers' movement, now characterized as old social movements (Tilly 1984); (ii) movements focusing on class and minority issues, such as the women's and environmental movements, also known as new social movements (Kitschelt 1993); and (iii) counter-globalization movements that integrate elements of both old and new social movements against a background of increased (economic) globalization and the parallel rise of new technologies, which increasingly interconnect diverse actors (Bendell et al. 2008:5).

organizations, who share a distinctive collective identity, and interact around conflictual issues" (Diani 1999:2). Unlike business constituencies, however, social actors in Latin America have not gained access to policy networks to the extent the former have.

The enhanced participation of social movements in the policy process in Latin America has been linked to the inability of formal political institutions, including political parties, to represent marginalized groups in society under authoritarian and democratic rule (Escobar and Alvarez 1992; Eckstein 2001). NGOs have proliferated as the rolling back of the state, resulting from Washington consensus and neoliberal policies, has transferred responsibilities from the public to the private sphere.

While NGOs tend to favour participation in formal democratic institutions, social movements have generally been split on this issue: "instead of participating in top-down structures like states, parties or corporations, some movements have opted for creating and enacting horizontal networks based on principles of decentralized, non-hierarchical consensus democracy" (Prest 2005 and Graeber 2002, cited in Bull 2007:66). Consensus-building among members, however, can critically limit the influence of social movements in public policy spheres in cases where the issues at stake create internal divisions. Furthermore, the extent of the influence of these social movements' in policy processes will be directly linked to structural conditions and strategies of the movements themselves, though as Bull (2007:85) clearly points out, successful inclusion in democratic politics will also depend on "pre-existing state capacity and politic-economic context". The deep integration agenda, however, introduces new challenges for this state capacity and the political-economic context in which these actors operate.

Deep integration, policy space and alternative regionalism in Latin America

According to Haggard (1995:2), "shallow integration implies border restriction, whereas deep integration refers to 'behind the border' policies, once deemed wholly domestic, which have now become the subject of international negotiations". Regional trade agreements (RTAs) have been instrumental to this shift and are becoming central to Latin America's current political-economic context. RTAs require developing countries to comply with higher standards and obligations than those agreed on at the WTO, in exchange for greater market access in developed countries (Shadlen 2005a). This is particularly pertinent in areas governing foreign investment, IPR, government procurement, and services. By and large, RTAs "lock in" higher standards in these areas with crucial implications for development.

For some analysts, stronger intellectual property (IP) and investment rules are crucial for developed countries to maintain the status quo of their companies in an increasingly competitive and knowledge- and technology-driven world economy. According to Sell (2003), however, not all companies from developed countries are equally privileged by such conditions since a "hierarchy of capital" prevails. This hierarchy consists of: "1) those who control the big corporations operating on a world scale, 2) those who control big nation-based enterprises and industrial groups, and 3) locally based petty capitalists" (Cox 1987, cited in Sell 2003:19) For Sell, those in the first group—particularly transnational firms in knowledge-intensive sectors, including computers, software and pharmaceuticals—have benefited disproportionately from these conditions.

Proponents of strong IP protection argue that it is essential for competition and free trade. Although the causal link between IP protection (a temporary monopoly) and its contradiction with basic economic theory has rarely been questioned, developed countries have linked it to international trade regimes since the WTO Uruguay Round (1986–1994). Historically, however, countries like Austria, France, Netherlands, Switzerland, the United Kingdom and the United States did not provide strong IP protection for foreigners' inventions until later in their development processes (Chang 2003a). More recently, (though this has been highly debated),[9]

[9] Chang 2003a ; Wade 1990; World Bank 1993.

loose rules in IP, investment, government procurement and services, in combination with policies in the supply-side, seem to have played a crucial role in East Asia and other emerging developing countries'[10] experiences.

To support technological upgrading by resorting to active demand (trade rules) and supply-side policies like innovation, research and development, export subsidies, backward linkages with small and medium enterprises (SMEs), and "managing" foreign direct investment, among others,[11] these countries skilfully used national industrial, economic and social policies to foster local capacities in order to take advantage of opportunities in the international economic environment and sustain their own social and economic development. They were particularly successful at combining trade liberalization with domestic supply-side policies to generate improvements on social issues (such as poverty and unemployment) while also promoting structural changes in their productive structures. Policy space thus played an essential role in these countries' development strategies.

However, RTAs, by including elements such as strong IP protection, investment and services deregulation, and further conditioning of government procurement, are increasingly "illegalizing" the policy tools that both developed and industrializing developing countries have used to prompt economic growth, facilitate linkage to higher strata in global value chains (Gereffi 1995) and advance social development goals. This potential loss of policy space in the context of bilateral and regional trade regime formation is of growing concern for developing countries, analysts, NGOs, activists and development agencies. In 2005, the United Nations, in *The Inequality Predicament: Report on the World Social Situation,* underlined the importance of maintaining sufficient policy space and promoting policy coherence in order to deal with poverty, social and economic inequality, and productive constraints in developing countries (UNDESA 2005).

In Latin America, concerns have also arisen over shrinking policy space and the inability of the neoliberal model applied throughout the region since the 1980s to tackle sweeping social and inequality issues, and opened the way to the emergence of alternative integrationist models such as ALBA. From a conceptual perspective, ALBA shares common links with the new developmentalism model applied in Argentina under President Néstor Kirchner (Bresser-Pereira 2007). According to Bresser-Pereira, this model departs from the developmentalism of the 1940s, 1950s and 1960s—which Prebisch and others developed—and the neoliberal model. Instead, new developmentalists propose a third way in which regional economic integration and international trade are not ends in themselves, but constitute an important element of a broader national development plan.

Like new developmentalism, ALBA promotes the comeback of the state in economic and social development planning (Rosales 2006). However, it differs from this model in its origin since ALBA was conceived as a particular contrasting ideological response to then US President George W. Bush's Free Trade Area of the Americas (FTAA). Moreover, ALBA has so far depended heavily on the political leadership and resource availability of one country (Venezuela) and one resource (oil), making the sustainability of this model potentially vulnerable to political, economic and social events, and changes in the future.

Asymmetrical power relations, the influence of non-state actors, and significant trade-offs (for example, market access versus policy space) mark the political economic geography of international trade regimes. In order to understand how these elements interact and collide in a low-income country, this analysis will now centre on the characterization of Nicaraguan non-state actors in DR–CAFTA.

---

10 These include Bangladesh, Cape Verde, Chile, Costa Rica, Mauritius, Sri Lanka, Tunisia and Viet Nam (Corrales and Baritto 2006).

11 Amsden 1989; Lall 2000; Wade 1990; Chang 2003b.

2. Mapping the Actors: Business and Civil Society

This section characterizes both business and civil society actors prior to, and during, DR–CAFTA. It argues that the neoliberal reforms in the 1990s and current regional economic integration have strengthened the role of business actors in the economic and political realms vis-à-vis civil society ones. It stresses that Nicaraguan civil society has been weakened as result of such reforms and internal dynamics. Finally, each subsection concludes by identifying the major players in the DR–CAFTA negotiations discussed in this paper.

Nicaraguan business

Nicaraguan business is a central, though highly diversified, player in national economic policy making. Its most powerful branch has organized, more or less effectively, to strengthen and expand its role. The privatization of national industries, deregulation of capital investment, and growth in export-oriented activities in the context of neoliberal reforms were fundamental in increasing the political prominence of business.

Prior to that, however, Nicaraguan business experienced a number of transformations. In the 1970s, three major economic groups dominated the political and economic spheres, including the Grupo Banco de Nicaragua (BANIC), Grupo Banco de América and Grupo Somoza. These groups owned a series of companies linked to finance, housing, agroindustrial activities (such as, coffee, sugar, beef and fertilizers), and importation of machinery, vehicles and so on (Mayorga 2007). They maintained close ties with the dictatorial Somoza regime, even playing important roles in political campaigns in support of President Anastasio Somoza García's Liberal Party.[12] By 1978, however, conflicts between the Nicaraguan economic elite and the Somoza regime became apparent.[13]

When the Sandinistas took power in 1979, the popular inclination of the regime generated animosity among the Nicaraguan business elite.[14] The state's participation in the economy rapidly expanded.[15] Dispossessed of their major sources of economic power, some actors like the Grupo BANIC disappeared, and others like Banco de América went offshore. The latter would give rise to other economic groups, which have been strengthened since the 1990s. In the 1980s, however, the major business groups of the Somoza era had practically disappeared, except for a few enterprises like the Nicaraguan Sugar Estates Limited, the Compañía Licorera de Nicaragua and others owned by the powerful Pellas family. Moreover, the Consejo Superior de la Empresa Privada (COSEP), which in the 1970s had a key economic and political role, was weakened, though it maintained vocal opposition to the Sandinista regime (Mayorga 2007).

During the 1990s, neoliberal reforms conferred structural power to business groups, which changed the rules of the game, previously set by the Sandinista Revolution. These reforms would displace organized workers as key economic and political players. Indeed, one of the most transformative neoliberal reforms would be the shift of economic power from the state and workers to business through the process of privatization. The government created the Corporación Nacional del Sector Público to lead the privatization of state-owned and confiscated property. Although the government agreed to leave up to 25 per cent of ownership of each of the privatized enterprises in the hands of the workers in order to ensure political stability and promote entrepreneurship among small- and medium-sized economic actors, this

---

[12] Both Eduardo Montealegre Callejas, leader of BANIC, and Ernesto Fernández Hollmann, leader of Banco de América, directed fundraising campaigns in 1967 and 1974, respectively, to support the candidature of Anastacio Somoza Debayle, Somoza García's son (Mayorga 2007:39).

[13] The alliance deteriorated when the Somozas used the system to exclusively expand their personal wealth, which grew from $50 million in the 1950s to more than $500 million dollars in 1979 (Booth and Walker, cited in Sánchez-Ancochea 2007:23). This sparked indignation among the Nicaraguan elite, who allied with the FSLN against Somoza.

[14] Land reforms took place, together with the confiscation of property owned by members and supporters of the Somoza regime (Sholk 1984). By 1988 land in the hands of big business had been reduced to 6 per cent of the total, while 40 per cent was occupied by SMEs (Mayorga 2007:43).

[15] The state owned 20 per cent of the production agricultural commodities, 25 per cent of manufacturing, 70 per cent of construction, 30 per cent of trade, and 100 per cent of financial services (Mayorga 2007:42).

seldom materialized. Many of the agricultural lands and agroindustrial plants producing cotton, coffee and beef, among others, were returned to their former owners. In contrast, the lands given to the workers in this context were rarely legalized (Equipo Envío 1991), making it extremely difficult for workers to be eligible for loans and credit.[16]

Moreover, monopoly concessions were granted for public services through the privatization of energy and telecommunications services to the detriment of the workers. In the case of telephone services, the government entered into intense negotiations with national unions in 1995 to establish a framework for the privatization of the Empresa Nicaragüense de Teléfonos (ENITEL).[17] Given that the National Constitution forbids foreign interests from controlling national media, the government and the unions agreed that only 40 per cent of the assets would be sold to foreign investors. The remaining 11 per cent and 49 per cent would be in the hands of the workers and the state respectively. By 1998, however, ENITEL's assets with the exception of 11 per cent, which belonged to the workers, were put on sale. In 2001, 40 per cent of ENITEL was bought by a Swedish-Honduran consortium, Megatel–EMCE.[18] Between 2001 and 2003, Megatel bought the 11 per cent that belonged to the workers, while the remaining 49 per cent was sold to América Móvil owned by the powerful Mexican businessman, Carlos Slim. This further marked the weakening of the role of organized workers in the economy.

Additionally, the government granted licenses to the economic elite for the establishment of private banks, insurance companies and the development of investment banking. By 1991, the banks—which currently represent 92 per cent of the assets of the national financial system (Mayorga 2007:70)—emerged, including the Banco de América Central (BAC), Banco de la Producción (BANPRO), Banco de Finanzas (BDF), Banco de Crédito Centroamericano (BANCENTRO) and Banco Uno.[19] The power of these groups was not, however, consolidated until unrestricted liberalization of financial markets allowed capital and economic power to concentrate mainly in their hands.[20] As trade liberalization and agroindustry were restored, these groups reinforced their presence at the national and regional levels not only in finance but also in other economic activities including trade, services and agroindustry.

The growth of regional and transnational economic ties has been particularly crucial to creating a new political dynamic that greatly accentuates the sway of business, and redefines the players. In the context of globalization and regional integration, Nicaraguan business, along with its regional counterparts, has expanded its activities beyond national state boundaries and into neighbouring countries. These groups include the Grupo Gutiérrez in Guatemala which owns large food chains, the Salvadorean Grupo Poma and Grupo TACA, with investments in tourism, hotels and regional airlines, and the Nicaraguan Grupo Pellas, with financial services, such as the Banco de América Central (Bull 2004). These groups have become more integrated at the regional level through joint ventures, direct investment and buying off competitors, particularly in areas such as finance, real estate projects such as housing, business, and shopping centres (Segovia 2005).

For these actors, the national market has ceased to be the only space for wealth creation and accumulation (Segovia 2007), granting increasing prominence to the regional market. Although data on interregional investment is scarce due to these countries' weak record of statistical information, research conducted by Segovia (2005:47) shows important trends based on an

[16] Furthermore, public financing directed to agricultural small and medium production through the Banco Nacional de Desarrollo (BANADES) was discontinued during this time, greatly weakening the economic and political position of these actors. Between 1990 and 1992, the number of peasant families that received credit dropped from 97,217 to only 34,684, excluding most small producers (Spoor 2000:19).

[17] The Nicaraguan Telephone Enterprise, which was state-owned during the Sandinista Revolution.

[18] After local media investigation, there was speculation that former President Arnoldo Alemán was one of the major anonymous investors in Megatel.

[19] By the end of 2005, the total assets of these banks were: BAC, $519.3 million; BANPRO, $775.8 million; BDF, $368.7 million; BANCENTRO, $623.1 million; and Banco Uno, $247.2 million (Mayorga 2007:70). (Note: all $ figures refer to US dollars.)

[20] These economic groups became what Mayorga (2007) calls the Nicaraguan *megacapitales*.

analysis of interregional investment in El Salvador in 1999–2004. Central American investment in El Salvador is increasingly prominent, with Panama ($105.1 million) and Costa Rica ($71.2 million) leading the way. Guatemala is the third most important investor ($55 million), followed by Nicaragua's more focalized investment in the Salvadorean financial sector ($33.1 million). Although final conclusions cannot be drawn from these results, the increasing prominence of regional investment in neighbouring economies has arguably strengthened the role that these actors play within both the national and regional economy.

Parallel to the integration of Central American business groups, transnational capital has also emerged as a powerful player. Indeed, foreign direct investment (FDI) in the region has increased[21] since 1990, with particular emphasis on the services sector (including energy, telecommunications and *maquiladoras*). In the case of Nicaragua, FDI in the tertiary sector has risen from $20.3 million in 1991 to $207 million in 2000 (UNCTAD 2007). Furthermore, the United States still maintains a stronghold as Nicaragua's major trade and investment partner, even though countries such as the Republic of Korea, Spain and Taiwan Province of China have also become important FDI providers.

Transnational corporations are increasingly buying regional and national businesses or have become important shareholders of locally owned companies. Retailing giants like Ahold, Wal-Mart and Carrefour have bought several supermarket chains in the region and are centralizing the commercialization of agricultural products. La Fragua, a Guatemalan supermarket bought by Ahold, fused with Corporación de Supermercados Unidos (CSU)—another locally owned supermarket—to become the Central American Retail Hold Company, making $2 billion in sales in 2003 (Dugger 2004). In Nicaragua, in 2005, General Electric bought 50 per cent of the shares of Banco de América Central, owned by the powerful Grupo Pellas (Segovia 2005:74).

The increasing shift in ownership of commercial and financial businesses, as well as profits throughout the region, is currently restructuring the hierarchy of economic governance in Central America. According to Segovia (2005), the transnationalization of local assets and resources owned by regionalized business groups will, in the future, increasingly push these actors into more subordinated roles vis-à-vis TNCs. Although it may be premature to reach a final conclusion, it is clear that the role of TNCs in Central American economies is expanding. As TNCs gain increasing ownership of Central American businesses and resources, their economic and political leverage in key decision-making processes also increases.

Currently, both regional and transnational business actors are highly influential in the economic and political arenas. Given the region's growing dependence on FDI and exports, the role of these actors in financing campaigns of political parties and their influence over the media,[22] has granted them direct access to policy networks and public spheres of decision making. Through direct and indirect lobbying, businesses have exerted an important influence in public policy making.

In the context of DR–CAFTA, Nicaraguan business, particularly large business, organized itself in industry-specific associations. Some of the major players during the negotiations were the Asociación Nicaragüense de la Industria Textil y Confección (ANITEC)—comprised mainly of large national enterprises and US, Taiwanese, and South Korean TNCs' subsidiaries under the Free Trade Zones Regime[23]—and the Comisión Nacional de Productores de Azúcar (CNPA), which represents the four sugar mills established in the country. Two of them belong to the

[21] From 1990 to 1994, FDI in Central America averaged $577 million, but between 1995 and 1999 it increased dramatically to $2,039 million (ECLAC 2002). Between 1997 and 2001, annual average of FDI in Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua was $1.6 billion. That average increased to $1.9 billion between 2002 and 2006, but the upward trend is perhaps more acute; in 2005 these countries received $2.2 billion and in 2006, they received $2.6 billion (ECLAC 2006a).

[22] In 2000, the Grupo Pellas provided $490,000 in order to finance the electoral campaign of President Enrique Bolaños (2002–2007). Furthermore, the regionalized private sector and transnational business actors have used media to frame their particular interests as "national" interests and back political and economic reforms and integration schemes in the region (Segovia 2005).

[23] Free trade zone refers to a tax-break regime to attract foreign direct investment. In Nicaragua, this is linked to textile and clothing production.

powerful Nicaraguan Pellas' Group and the Guatemalan Pantaleon Group. Two individuals, particularly, Fernando Traversari, vice-president of ANITEC, and Mario Amador, president of the CNPA, were powerful advocates of business' interests in the negotiations.

Beef producers have also been crucial players. Since beef exports are in the hands of three local medium to large abattoirs, they have not yet created an association, and lobbying has fallen under the responsibility of individual owners. During DR–CAFTA negotiations, Alfredo Marín, the president of Matadero San Martín, the largest abattoir in the country, had personally attended all the rounds of negotiations.[24] Finally, dairy producers—organized under the Cámara Nicaragüense del Sector Lácteo (CANISLAC),—also engaged in the negotiations. As will be seen later on in this paper, however, these actors were not as well prepared as their counterparts to participate in DR–CAFTA. CANISLAC represented mainly the small and medium dairy producers, with Wilmer Fernández, vice-president of CANISLAC, as their principal spokesperson during the negotiations.

In order to fully grasp the extent of the power of business in DR–CAFTA, a better understanding of Nicaraguan civil society actors is fundamental.

Nicaraguan civil society

Nicaraguan civil society is a highly diversified, disaggregated and fragmented player. This is explained in part by its recent history along with the neoliberal reforms that began in the 1990s, and the rise of business. The emergence and increasing importance of aid donors and development agencies in developing countries, the downsizing of the state, and the disillusionment of many FSLN members with the party leadership, however, played a particularly determining role. This has, to a large extent, been the drive behind the increasing "NGO-ization"[25] of Nicaraguan civil society. Civil society actors have diversified, and comprise both old and new social movements as well as NGOs. This diversity has created opportunities and challenges for social mobilization, a crucial fact that will be important to understand the role of civil society in DR–CAFTA negotiations.

Nicaraguan civil society emerged as a prominent social and political actor only during the Sandinista Revolution of the 1980s. Prior to that, and particularly under the repressive Somoza regime, civil society was somewhat weak. The Sandinista Revolution marked an important difference as several mass organizations began to flourish throughout the country. Some of these included the Sandinista Health Workers' Federation (Federación de Trabajadores de la Salud/FETSALUD), the women's organization (Asociación de Mujeres Nicaragüenses Luisa Amanda Espinoza/AMNLAE), the organization of rural workers (Asociación de Trabajadores del Campo/ATC) and teachers (Asociación Nacional de Educadores Nicaragüenses/ANDEN), the farmers' organization (Unión Nacional de Agricultores y Ganaderos/UNAG), the workers' confederation (Central Sandinista de Trabajadores/CST), and the Sandinista Defense Committees (Comités de Defensa Sandinista/CDS). The CDS had the largest number of affiliates—around 600,000 members in the mid-1980s—whereas the other organizations had 25,000 members in total (Ruchwarger 1985 and Vilas 1985, cited in Borchgrevink 2006:18).

These organizations, however, were hardly autonomous from the party's official political line.[26] They functioned largely in a top-down system in which authority and decision making lay with the party's leadership and not with the organizations' constituents (Montenegro 2002; Grigsby 2005). During the 1980s, mass organizations were the main exponents of Nicaraguan civil

---

[24] Interview with Alfredo Marín in 2007. Subsequent quotes and information attributed to Marín, unless otherwise cited, are from the interview by the author.

[25] NGO-ization refers to the replacement of activism with the professional tasks entrusted by an NGO (Montenegro 2002:17).

[26] After the FSLN's electoral defeat in 1990, former Sandinista mass organizations had to rethink their roles in relation to both the new party in power and the FSLN. As a result, they reaffirmed their identities and relative autonomy from the FSLN. They held internal elections to choose their leadership for the first time and elaborated their mobilization agendas according to their members' demands and interests (Borchgrevink 2006:20). Currently these organizations have drawn closer to the FSLN, now in power, creating important divisions within Nicaraguan civil society.

society. The 1990s neoliberal reforms, however, largely weakened and fragmented these organizations.

Internal divisions and cracks within the mass organizations began to appear, as in the case of the workers' confederation in the 1990s, which split into the national CST and the CST–José Benito Escobar (CST–JBE) as a result of leadership conflicts in the context of privatization and related reforms. The membership of both groups plummeted dramatically as state companies were closed and others privatized (Grigsby 2005:20). Eclectic alliances between ideologically distinct groups also emerged, as in the case of the rural workers' association and the national union of farmers and ranchers.[27] This diversity of common, but also potentially conflicting, interests and the divisions within the Nicaraguan old social movements have rendered their mobilization more challenging.

Even though these actors have been able to coordinate and mobilize around issues of health and education, as in the case of the strikes by health and education workers in 2005 (Serra 2006:3), coordination has taken place only among six of the 223 unions that exist under the National Workers' Front. The impact of these strikes on decision makers has not been as effective as desired, mainly due to unfulfilled promises made by the government (Serra 2006).

The composition of Nicaraguan civil society began to change as the state rolled back from areas that had traditionally been its realm, and international aid donors and development agencies gained a pre-eminent role in development discourse (Utting 2006). According to Utting, "Development agencies positioned themselves as 'knowledge agencies', attempting to enhance their role as intellectual actors and to be more responsive to 'local knowledge' and the 'voices of the poor' and the needs and realities of developing countries" (Utting 2006:2). In Nicaragua, this translated into a wider availability of donor funds for local organizations that worked on social issues and projects. NGOs, thus, flourished. The number of organizations formally registered rose from 150 in the 1980s to between 300 and 400 in 2006 (Borchgrevink 2006:22). This, however, is only a conservative estimate since there are several other NGOs that have not been formally registered or given a formal status.

NGOs became important professional arenas for former Sandinista government employees: those who lost their jobs in 1990 and were looking to carry on with their altruistic activities; and for those who—in the context of the 1994 division of the FSLN that gave rise to the Movimiento Renovador Sandinista (MRS)—wanted to distance themselves from the party, but still wanted to maintain a presence in national non-partisan political processes. As mass organizations and grassroots movements weakened, NGOs rapidly gained space in the Nicaraguan political and organizational landscape. This resulted in a highly NGO-ized civil society,[28] a phenomenon that is currently generating opportunities as well as challenges for social and political mobilization in Nicaragua.

On the one hand, NGOs have been crucial in placing structural developmental issues on the national and regional agendas (issue-linkage). These issues include women's and reproductive rights, child labour, state corruption and top-down development projects such as the Plan Puebla Panamá (PPP).[29] Moreover, the accumulation of knowledge and specialization in technically complex areas, such as trade and public finance, has allowed some NGOs to exert direct leverage with policy makers. As a result, several NGOs have directed their efforts to lobbying within the legislative and executive powers. By developing their expertise, NGOs have also been extremely instrumental in communicating highly complex political and

[27] The ATC is a cross between a union federation and an association of women agricultural workers. UNAG fused with the Unión de Productores Agropecuarios de Nicaragua, which has ties to COSEP, the powerful business association.

[28] Grigsby 2005; Montenegro 2002; Borchgrevink 2006.

[29] The PPP is a regional integration initiative for southern Mexican states and Central America that began in 2000 and was initially promoted by former Mexican President, Vicente Fox and supported by the Inter-American Development Bank (IDB). The PPP included infrastructure development, energy projects and dam building, among others. The initiative faced mounting opposition from indigenous groups, social movements and NGOs throughout the region.

economic issues to a wider audience, and becoming "epistemic communities" of their own. Grigsby (2005:22) acknowledges that "without the NGOs' professional work it would have been difficult for certain sectors of society to learn about the true implications of issues such as the DR–CAFTA, the Free Trade of the Americas, and the Plan Puebla Panama".

On the other hand, however, issues of NGOs' representation and accountability have also arisen. The fact that, unlike unions and interest groups, NGOs are non-membership organizations has raised questions about whose views and voices they represent when engaging the government in public policy discussions. Similarly, the NGOs' high dependence on external aid funds makes them primarily accountable to donors who, in turn, have also become very powerful actors in decisions on national budget and development plans. The active role of NGOs in areas that have traditionally been the responsibility of the state has also caused mixed responses. As Grigsby (2005:21) writes, NGOs "do help palliate state deficiencies in areas such as health, education, housing, [but] they have also acted as retaining walls against grassroots discontent towards the government and the system, as people tend to wait for outside charity rather than fight for their rights".

Since then, new social movements have also emerged. Particularly relevant are the Movimiento Maria Elena Cuadra, which works mainly on women's labour rights in export processing zones (EPZs), the Red de Mujeres por la Salud and the Red de Mujeres contra la Violencia (networks of women for health and against violence, respectively) and the environmental movement, Movimiento Ambientalista Nicaragüense. During DR–CAFTA negotiations, the Movimiento Maria Elena Cuadra, along with other movements and organizations, joined one of the blocks that emerged. DR–CAFTA divided Nicaraguan civil society into two camps: the Iniciativa de Comercio, Integración y Desarrollo (Iniciativa CID),[30] which participated and lobbied the government during the negotiating process, and the Anti–CAFTA movement.[31] This division, along with the lack of resources for mobilization and weaker political leverage vis-à-vis business actors, would ultimately limit the influence that social actors exerted in DR–CAFTA negotiations.

3. DR–CAFTA Negotiations

This section shows how Nicaraguan trade policy was made in the context of asymmetrical power relations. It begins with an overview of possible reasons behind the decision of Central American governments to join DR–CAFTA and the political dynamics of each negotiating team. The analysis centres on the mechanisms through which business actors influenced negotiations and highlights the inherent heterogeneity among them. It also shows the political economic trade-off of these negotiations by focusing on three areas, namely rules of origin, agriculture and IPR. Finally, key outcomes are analysed in the context of power imbalances between Nicaragua and the United States.

DR–CAFTA negotiations officially began on 8 January 2003 among the five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua) and the United States, and subsequently joined by the Dominican Republic. When Central American leaders entered into these negotiations, their economies faced a variety of threats. The Caribbean Basin Initiative (CBI)[32] and its market access concessions was due to expire. China's enormous export potential, and the drop in 2002 growth levels in the region compared to previous years, all seemed to have

---

[30] In Nicaragua, Iniciativa CID actors included the Federación Nacional de Cooperativas Agrícolas y Agroindustriales (FENACOOP); UNAG; the Centro Humboldt, an environmental NGO; and CST–JBE.

[31] Some actors involved were the Centro Nicaragüense de Derechos Humanos (CENIDH), and other social movements such as the Movimiento Maria Elena Cuadra.

[32] The CBI was initially launched in 1983 through the Caribbean Basin Economic Recovery Act (CBERA), and substantially expanded in 2000 via the US–Caribbean Basin Trade Partnership Act (CBTPA). The CBI currently provides 19 beneficiary countries with duty-free access to the US market for most goods (Office of the USTR 2008).

played a crucial role in the decision to begin negotiations, as did the ongoing business regional integration and transnationalization.

Prior to DR–CAFTA negotiations, Central American countries had market access concessions to the United States for approximately 80 per cent of their exportable products under the CBI and other General System of Preferences (GSPs).[33] However, concessions under these schemes tend to be "unilaterally granted, easily removable and alterable according to the political agenda of the granting country" (Shadlen 2005a:6). The unpredictability of these regimes, and the fact that the CBI was set to expire in 2008, prompted the need to secure more stable market access to the United States.

China's emergence as a powerful economic actor, its impressive growth rates and export of mass-produced goods, had alarmed both developed and developing countries. For countries with less diversified export structures, like Nicaragua, this was a compelling reason to enter into negotiations. "All things being equal, the greater the threat the greater the incentive to search for preferential, better than Most Favoured Nation[34] access to the US market" (Shadlen 2005a:5). In the case of the Nicaraguan textile and clothing industry, competition from China was particularly threatening.

The Nicaraguan industrial sector generally experienced little export dynamism, except for its textile and clothing production. Under the EPZ regime reinstalled in Nicaragua in the mid-1990s, textile and clothing (T&C) production and exports increased,[35] turning this sector into a key foreign currency earner. By the time DR–CAFTA negotiations started in January 2002, the government had approved a total of 53 *maquiladoras,* which were to begin operations by 2003. The industry created 240,000 jobs, directly and indirectly (Carrión 2004). But the incipient threat of China's textile and clothing export potential was clear at the time to the former executive secretary of the state-owned Corporation of Free Trade Zones, Gilberto Wong, who stated that DR–CAFTA was the only mechanism that Nicaragua had to compete with China, partly due to the country's low salaries—40–80 per cent lower than in Central America—its population size and undervalued currency (Carrión 2004).

Similarly, Nicaragua's average annual growth rate remained relatively low (3.7) for the period between 1997 and 2002 (see appendix 1). In 2002, the year of the DR–CAFTA negotiations, Nicaragua's annual growth rate was at its lowest, registering only 0.8 (ECLAC 2006). FDI in Nicaragua followed a similar pattern during the same period, as it peaked to $337 million in 1999 and fell to its lowest before DR–CAFTA negotiations at $150 million in 2001 (see appendix 2). Although the amount increased in 2002, it reached only $250 million (ECLAC 2006). From the perspective of policy makers there was, thus, a desire to attract FDI, and DR–CAFTA seemed to be the most logical vehicle.

Finally, the ongoing regionalization and transnationalization of Central American businesses was also a determining factor for entering into negotiations with the United States. The enhanced and more secure market access and potential investment opportunities that the agreement seemed to offer were enough reasons for powerful national and regionalized Central American business groups to lobby the government and push for a deal.[36] For transnational corporations, the policy harmonization, the enhanced rights for intellectual property and foreign investors, and the possibility to expand asset control and vertical business integration were key elements to support an agreement. For these players, DR–CAFTA invigorated the de facto economic integration process that took place in Central America. As such, DR–CAFTA

[33] Programmes by developed countries granting preferential tariffs to imports from developing ones (WTO 2007a).

[34] Most Favoured Nation means that under the WTO agreements, countries cannot discriminate between their trading partners (WTO 2007b). Hence, the tariff applied to an exported good in the receiving market is the same for all trading partners.

[35] Between 2006 and 2007, EPZs exports rose from $715.6 million dollars to $879.3 million (MIFIC 2007).

[36] Interviews with Fernando Traversari, vice-president of ANITEC, and Mario Amador, president of the CNPA, in 2007. Subsequent quotes and information attributed to Traversari and Amador, unless otherwise cited, are taken from the interviews by the author.

was a way to legalize a process of trade liberalization and economic integration which began in the 1980s in Central America and in the 1990s in Nicaragua (Marchetti and Mendoza 2005).

Prior to the start of the negotiating process, the United States stipulated that Central America needed to negotiate DR–CAFTA as a single region. Central American negotiators held a series of meetings to draft a common regional position. However, local political realities and vested interests prevailed, and countries negotiated bilaterally with the United States, even though negotiations also took place within the region in order to distribute and grant concessions. Power asymmetries within Central American countries and in relation to the United States, and the region's limited negotiating cohesiveness due to a lack of common development goals and an incipient institutional regional integration process (or customs union) deeply shaped the negotiating strategies and results of DR–CAFTA negotiations.

Unlike the United States, Central American countries entered the DR–CAFTA process without a negotiating mandate (Cáceres 2005). The US Congress, however, had given its negotiators a mandate clearly defining the contours of what could be negotiated and what was out of the purview of DR–CAFTA. This proved to be a powerful negotiating tool for the United States as highly sensitive issues, such as agricultural and export subsidies and non-tariff barriers like the 2002 Bioterrorism Act[37] were off-limits. The lack of a Central American regional mandate reflected the fact that political leaders had not defined a regional negotiating agenda prior to DR–CAFTA. Instead, the objectives and priorities of these negotiations were nationally set (though national mandates were also lacking) and the results shaped by the internal and political dynamics of the negotiating process.

Box 1: A perspective of the political-economic dynamics of Central American negotiating teams in DR–CAFTA negotiations

According to Alvaro Porta,* Nicaragua's former director of international trade and DR–CAFTA negotiator, Guatemala's negotiating team had strong political differences with their business sector. Early in the negotiations, the chief negotiator was fired, creating instability in the negotiating team. Most significantly though, "the conflict worsened to the point that negotiators were advocating for large import tariff reductions for beer and sugar, two of the products in which Guatemalans are the largest producers in the region". This seriously affected Guatemalan producers, who were not able to hold their government officials accountable for their decisions in DR–CAFTA.

On the other hand, Costa Rica had a "good negotiating team, but they did not manage the relationship with civil society very well. Costa Rican civil society did not support DR–CAFTA from the beginning and thus they were isolated technocrats negotiating the agreement". According to Porta, Costa Rica's initial position was geared to strike a bilateral deal with the United States: "they seemed to be working as if the Central American group was going to break down and thus walked out of the negotiations". The United States then began bilateral negotiations with Costa Rica. However, the rest of Central American countries demanded new concessions in case a deal was agreed between the two countries. As a result, the United States pressured Costa Rica to return to the negotiating table, which it did.

Honduras clearly exemplified the way in which a lack of effective and strong domestic institutions impacted on its bargaining position and strategy. According to Porta, the country's team "did not know where they stood. They had a deficient public service, which meant that they had a hard time articulating their preferences". Finally, the Salvadorean negotiating team had an integrative and cooperative approach to the negotiations, but their relationship with civil society was also rocky: "ARENA, the party in power in El Salvador at the time was very conservative and like the rest of the countries, except Nicaragua, negotiated DR–CAFTA in a highly secretive manner. Nicaragua was the only country that used the modality of the 'room next door' where both private sector groups and NGOs participated in the process and had public access to the negotiating texts."

* Interviewed by the author in 2005.

[37] After the attacks of 11 September 2001, the United States introduced the Bioterrorism Act, which requires import licenses, strict sanitary and labelling rules, including a description of ingredients, disease risk analyses, and US Department of Agriculture sanitary authorization of ports for vegetables, fruits, hazelnuts, and dairy and meat products exported to the United States. Manufactured goods also need to comply with additional rules and certifications (FDA 2007).

Business actors' influence in DR–CAFTA and the "room next door"

Business actors influenced the negotiating agenda both formally and informally through what Alvaro Porta[38] refers to as the "room next door". This consisted of a room for both business and civil society next to the area where negotiations were being held. Negotiating teams and non-state actors could thus have constant access to each other's inputs throughout the negotiations, although some were more successful at seeing their interests reflected in negotiating strategies than others.

The differing levels of power among the actors involved underlined the limits of both Central American states' negotiating space and non-state actors' policy influence. From the start, the pace of the negotiations dictated by the US delegation reinforced the inherent trade-off between more stringent IPR and investment commitments for enhanced market access. The first few rounds of negotiations were dedicated mostly to the revision of pre-agreement texts on issues of key interest to the United States, such as IPR, investment, services and government procurement (Cáceres 2003). These texts had been drafted on the basis of previous US negotiations on a free trade agreement (FTA) with Chile, and the general framework was not open for negotiation (Cáceres 2003). The negotiating space that Nicaragua and rest of the Central American countries had in DR–CAFTA negotiations existed mostly on the market access pillar.

In this context, the government turned to business associations, representatives and technical experts to obtain direct information on how to strengthen and support the country's offensive and defensive negotiating strategy, creating a sort of symbiosis.[39] Negotiators gained vital technical information they would not have otherwise obtained and, in turn, businesses ensured that their interests were reflected in the national negotiating strategy and eventually, in DR–CAFTA. Knowledge was thus crucial to exert influence in the negotiations. Meetings between business actors and negotiators would generally take place in the evenings after negotiations had been finalized for the day. Briefings for business representatives and discussions of potential strategies were usually held bilaterally, sector by sector.[40]

Information was presented to the negotiating team both formally (through written proposals, consultation forums and the "room next door") and informally (through conversations over lunches, in corridors and hotel lobbies, and over the telephone).[41] In some cases, however, both the business associations and the negotiating team worked together in drawing up the negotiating strategy for the sector, which became a "national" negotiating priority (such as negotiations on textiles and clothing).

Some business actors had ample access to financial resources, technical knowledge and policy circles. In the case of ANITEC, the association hired two Washington-based consultancy firms to draft the sector's proposal, which was then adopted by the Nicaraguan government as the negotiating strategy for the textile and clothing sector.[42] Similarly, the CNPA hired experts from Louisiana State University in order to run simulations of various negotiating scenarios, which informed CNPA's proposal, and which, in turn, became Nicaragua's proposal on sugar. Furthermore, Mario Amador states that during the Managua Round of Negotiations, the CNPA, along with other regional sugar associations, presented and discussed the sector's priorities and demands at national and regional levels with Central American trade ministers.

Likewise, the CNPA maintained a fluid relationship with the Nicaraguan National Assembly representatives from the two main political parties (the FSLN and the Constitutionalist Liberal Party) which dealt with DR–CAFTA issues. The CNPA also had direct and privileged access to

[38] Interview with Alvaro Porta, Nicaraguan former director general of international trade, in 2005.

[39] Interview with Fernando Traversari.

[40] Interview with Mario Amador.

[41] Interview with Fernando Traversari and Alfredo Marín.

[42] Interview with Fernando Traversari.

US policy circles. During and after the rounds of negotiations, Mario Amador met with influential US congressmen and senators "approximately ten times," as well as key negotiators like Allen Johnson, the chief agriculture negotiator. The purpose was to lobby the US Congress and Senate, and the Departments of Agriculture, and State, regarding the CNPA's interests in sugar access quotas in the United States.

In contrast, the rice, dairy, poultry and other producers, who considered themselves ill-prepared to compete with US companies' economies of scale, technology and structural advantages, such as subsidies, advocated for longer transition periods from the status quo to complete trade liberalization. Although some of the associations that represented these sectors also had access to the negotiators, their levels of influence varied vis-à-vis the more powerful business associations. CANISLAC clashed with the negotiators in what the government considered a "rather excessive defensive approach".[43]

Business actors differed strongly in the availability of financial resources to participate in the negotiations. In the case of CANISLAC, Wilmer Fernández stated that, due to CANISLAC's financial resource constraints regarding lobbying, he had to personally finance his participation in some of the rounds, whereas the CNPA's participation was fully funded by its members.[44] Moreover, international trade negotiations were a new milieu for business actors like CANISLAC (with approximately 200–300 affiliates). According to Fernández, "We [CANISLAC] did not have the technical knowledge or the experience to make proposals and bargain".

Several other small and medium producers and entrepreneurs lacked the resources and technical capacity to even organize and articulate a particular negotiating position during the consultation process and negotiations (Cáceres 2005). NGOs and other civil society representatives were therefore highly instrumental in voicing potential threats for the Nicaraguan peasant economy. For example, Orlando Núñez, former executive director of the Centro para la Promoción, la Investigación, y el Desarrollo Rural y Social (CIPRES) and others argued for the importance of protecting white corn production in the context of the FTA, given this product's importance for rural livelihoods.[45]

Finally, transnational actors exerted influence in the negotiations through both business associations and external pressure. In the case of textiles and clothing, both ANITEC and its regional counterpart, the Consejo Empresarial Centroamericano de Textil y Confección (CECATEC), were highly instrumental for these actors. Furthermore, the prominence and size of their investments in this sector, and the fact that few SMEs were involved in T&C production, gave these actors and local business representatives the structural power to shape ANITEC's position according to their interests. In the context of the dairy negotiations, however, the Italian dairy TNC Parmalat exerted its influence outside of CANISLAC since this association is comprised mainly of dairy SMEs which supply the local and regional market. Dairy producers strongly advocated against the interest of Parmalat.

Given that Central American countries' negotiating space was limited mainly to the negotiations on market access, TNCs lobbied for sectors where their current investment interests in a particular pillar were at stake (for example, T&C or dairy). As for the other pillars, little was actually negotiated, since the US delegation presented the drafts to which Central American negotiators were only able to make what they referred to as "cosmetic" changes.[46] As a result, enhanced rights for foreign investors and the protection for intellectual property rights,

---

[43] Interview with Wilmer Fernández, vice-president of CANISLAC, in 2007. Subsequent quotes and information attributed to Fernández, unless otherwise cited, are taken from the interview by the author.

[44] Mario Amador maintains that not all business representatives were able to attend the rounds. For instance, flight tickets and hotels costs were around $600 and $200 per night respectively for the Washington rounds.

[45] Interview with Alvaro Porta in 2005.

[46] Interviews with Ambrosia Lezama (director, intellectual property), Dean Garcia (director, market access) in 2005, and Alicia Martin (DR-CAFTA market access negotiator) in 2004.

along with the liberalization of services and government procurement agreed to in DR–CAFTA, were in line with structural interests of many transnational actors in regional integration processes. The paper will now consider the analysis of how these actors shaped trade policy preferences in the three areas of the negotiations.

Rules of origin negotiations

In DR–CAFTA, Nicaragua was the only country in Central America to obtain a special and preferential rules of origin regime, allowing it to import up to 100 million square metres equivalent (smes) of fabric from countries outside of the DR–CAFTA region. From the government's perspective, this was one of the major gains obtained from the negotiations. Lower input costs were expected to both enhance the Nicaraguan T&C sector's competitiveness and attract FDI. To understand the implications of this outcome, however, one needs to take a step back and analyse the multilayered bargaining process that took place among and within state and non-state actors.

ANITEC was established to represent primarily the interests of the T&C industry, which was—and to a large extent continues to be—made up of large national enterprises and TNC subsidiaries from the Republic of Korea, Taiwan Province of China and the United States.[47] Many of these companies receive tax break benefits and other incentives under the EPZ regime. Lately, some SMEs have entered the industry and are successfully producing for specialized niches[48] in the United States, although they are still a minority. Many SMEs still face serious productive, financial and innovative constraints that limit their competitiveness.

ANITEC's raison d'être centres on lobbying the government and creating an information and social network linking customers, producers and suppliers in the textile industry.[49] At the time of the DR–CAFTA negotiations, however, the association dedicated all its time and effort to prepare a negotiating strategy that, according to Traversari, sought to "strengthen the most powerful branch of its membership"—that of the large textile assembling plants within the EPZ regime. "We weren't necessarily excluding other sectors, but we decided that these companies would be the spearhead of the industry's future strategies." These actors, which Traversari refers to as the most "proactive members with more developmental potential in the future", were invited to coordinate and craft the agenda of ANITEC's internal discussions and negotiations prior to the formal and informal consultations scheduled with the Nicaraguan negotiating team.

Although the initial industry proposal was never officially presented to the government, it formalized itself as the negotiating process unfolded, and the public and private sector dynamic began. As a result, a fluid exchange emerged between these two players. According to Traversari, the association's involvement was essential to developing Nicaragua's negotiating strategy. "Initially, they [the negotiators] did not know our industry and its technicalities very well. Eventually, however, they learned, and we developed a synergy that worked extremely well. Together, we defined the concepts and converted them into strategies that could be brought to the negotiating table."

ANITEC's proposal to the government focused on obtaining flexible rules of origin.[50] The flexibility consisted of allowing the association to import fabric and other inputs from countries outside the DR–CAFTA region. Both Central American and US textile fabric and inputs are more expensive than those from China and other Asian countries. Since Nicaragua is the only

---

47 www.anitec.net, accessed on 16 April 2007.

48 For example, the Nueva Vida Women's Sewing Cooperative in Ciudad Sandino.

49 www.anitec.net, accessed on 16 April 2007.

50 Rules of origin determine the terms on which a product is acceptable for the duty-free access interchange between the FTA partners (www.anitec.net, accessed on 16 April 2007).

country in the region lacking textile production plants, ANITEC wanted this flexibility to remain competitive and level its playing field vis-à-vis the rest of Central American countries.[51]

Central American T&C associations, however, were also looking for a similar flexibility, given the high cost of scarce regional fabric. Intense negotiations took place within CECATEC. Initially, the Central American T&C associations managed to put together a coherent regional negotiating proposal, which consisted of consolidating the access granted under the CBI[52] while also trying to get greater concessions than the ones Mexico obtained under the North American Free Trade Agreement (NAFTA). Under its FTA, Mexico was able to have free access to clothing assembled with fabric originating from the region and an export quota for clothing made with fabric from other countries (Trigueros 2003).

By the second round of negotiations, however, the United States said it would not allow the entry of apparel made with fabric from other countries. Indeed, the US delegation clearly stated that Central American countries would only be able to export apparel made with fabric and inputs from the DR–CAFTA region (Trigueros 2003). According to Traversari, the United States was trying to ensure a market for its textile production with this proposal. But, by also allowing the use of fabric produced in Central America, the US delegation was addressing the interests of US textile companies based in the region, who had invested heavily in the production of fabric and other inputs. Traversari pointed out that this created divisions within CECATEC, as Central American negotiators "agreed in principle with the US proposal because they also wanted to safeguard the interests of US investment in their respective countries".

From ANITEC's perspective this was a bad deal. According to the Washington-based consultants, Nicaragua could be eligible for trade preferential levels (TPLs), a US market quota of fabric originating from countries outside an FTA region to be used in textile assembling and apparel production. Countries in FTAs with the United States that have similar low development profiles had also received TPLs, notably Jordan and the countries of sub-Saharan Africa, under the African Growth and Opportunity Act, a preferential scheme like the CBI. ANITEC hoped to emulate the concessions granted under those agreements. The association presented this idea to the Nicaraguan negotiators and CECATEC members, starting at 500 million smes of TPLs.

At first, CECATEC did not welcome ANITEC's proposal as, according to Traversari, only Nicaragua would be eligible for this special and differentiated treatment. CECATEC argued that the initial quantity that ANITEC proposed was too high and would require new market access quotas for its industries in exchange. Inevitably, divisions emerged. According to Traversari, some countries appeared to support Nicaragua's proposal while others started to contemplate a bilateral negotiation with the United States. By the third round of negotiations, the Honduran association suggested each country should negotiate their concessions separately, though preferences would continue to be voiced regionally.

Traversari took this with caution. "We did not want to fall into a trap. The other associations had been established earlier and had more experience in trade negotiations than we did at the time." To protect its interests, ANITEC asked its counterparts to sign a sort of gentleman's agreement: if as a result of halting the regional negotiation ANITEC was worse off, then their negotiators would still support Nicaragua's team, holding bilateral negotiations with the United States to level the regional playing field.[53] All members agreed and signed, and bilateral negotiations began.

---

51 Interview with Fernando Traversari.

52 Under the CBI, clothing and apparel made with fabric and inputs originating from the United States had immediate free access to the US market. The entrance of clothing made from national (Central American) fabric and thread from the United States was limited by a quota (Trigueros 2003).

53 Interview with Fernando Traversari.

Nicaraguan negotiators presented ANITEC's proposal to the US delegation. Since the United States had previously granted TPLs to other countries with levels of development similar to Nicaragua, it could not openly oppose it. The initial number that ANITEC had proposed (500 million sme) was not accepted. Consequently, Traversari and the members of ANITEC agreed to reduce the number to 300 million sme for non-originating DR–CAFTA fabric. The US delegation still considered this to be a high number. Ultimately, the final number agreed was 100 million sme. For Traversari, this was "an extremely good deal as it was still compatible with the industry's growth projections and it represented a large improvement from the 40 million sme Mexico obtained in NAFTA".

The rest of the CECATEC members were not pleased with Nicaragua's concession. According to Traversari, the US delegation compensated them by providing a regional package of benefits directed to the T&C industry in each country. Honduras, thus, obtained an article in the agreement that allowed for flexible entry of fabric for T-shirts, while Costa Rica demanded an additional market access quota for its wool production. According to Traversari, instead of creating a new quota for Costa Rica, the United States took away the wool quota concession that it had previously granted to Nicaragua. For ANITEC this seemed like the "price to pay" for receiving the TPLs. While for Traversari, this translated as an investment diversion where some Canadian companies that had expressed interest in establishing themselves in Nicaragua went to Costa Rica instead.

Agriculture negotiations

Agricultural negotiations were among the most complex areas in which to reach agreement. These negotiations reflected the inherent heterogeneity and differing degrees of power among Nicaraguan business associations. In fact, the outcomes of these negotiations need to be analysed under this prism. Elements such as the number of members' associations, the existence or lack of foreign investment and the composition of business associations (that is, SMEs versus regionalized business groups or TNCs) determined the extent to which these associations influenced the negotiating process and the outcomes that resulted. To illustrate this, the analysis will concentrate on the beef, sugar and dairy negotiations.

Beef is one of Nicaragua's main export products. According to the negotiators, it was one of the "winning" products of DR–CAFTA, as—along with Costa Rica—Nicaragua obtained higher export quotas for beef than the rest of Central American countries.[54] As previously mentioned, beef exports are in the hands of three local medium to large abattoirs, of which Matadero San Martin is the largest one with, according to Marín, a processing capacity of 190,000 head of cattle a year.

Marín, along with other Nicaraguan beef exporters, had initially proposed that Central America should advocate for a regional quota into the US market of 650,000 metric tons (MT), knowing that Nicaragua was a major exporter in the region. However, Marín said that Central American delegations opposed this because of national rivalries among their countries. As a result of the negotiations, each country obtained individual quotas even though Guatemala and El Salvador are beef-importing countries.

The quota Nicaragua obtained under DR–CAFTA (10,500 MT) did not match the country's current export capacity which Marín estimates as 25,000 MT a year. For him, the lack of cohesion among beef producers and their relatively small number inhibited them from lobbying the government more successfully, which largely explained these results. In contrast, poultry producers were more effective because "they had previously discussed their position and hired an expert to represent them in the negotiations who managed to obtain larger protection periods for the industry". Marín also felt that the negotiators were more inclined to protect poultry rather than beef from US imports, as poultry is part of the national food basket.

[54] They received 10,500 metric tons (MT) and 10,536 MT, growing at 5 per cent a year, respectively (FAS 2005).

However, the government, according to Marín, made a mistake prioritizing the protection of poultry over beef since "beef production creates around 300,000 jobs whereas poultry only creates 1,500 jobs".

Contrary to the T&C industry, Nicaraguan beef producers did not discuss a potential common strategy at the regional level. Although there is a Central American federation of beef producers, Marín said that they were not particularly active during the DR–CAFTA negotiations. The US beef producers, on the contrary, have a powerful farm lobby and hired economists to draft the beef proposal, which informed the final agreement. The most important products for the US beef industry are the prime and choice cuts, which obtained immediate tariff elimination in the six countries (FAS 2005). Other products were given different periods between five and 15 years for tariff elimination, and quotas were opened to other US beef cuts in El Salvador and Guatemala (FAS 2005). In the long run, this could impact the beef export competitiveness of Nicaragua and Costa Rica due to potential increases in Salvadorean and Guatemalan beef imports from the United States.

Sugar producers, for their part, exerted their influence through the CNPA, created in 1993. The CNPA has always been one of the most powerful business associations in the country, given the importance of sugar exports to the Nicaraguan economy.[55] According to Mario Amador, the sugar sector considered itself a winner from the beginning of the negotiations, since sugar producers have "the infrastructure and export capacity to take immediate advantage of DR–CAFTA's enhanced market access". Prior to DR–CAFTA, the CNPA had built close ties with its US counterparts. The CNPA knew the productive capacity of the American Sugar Association's (ASA) exports and imports, as a result of years of previous negotiations and business relations, a key element that facilitated the exchange of information between the two associations. At the regional level, the CNPA worked closely with its Central American counterparts. According to Amador, the CNPA and its counterparts initially proposed a completely free access for Central American sugar into the US market, a proposal rejected by the US delegation. It thus became clear to Amador that additional market access under DR–CAFTA would only translate into the creation of a market access quota. The CNPA hence proposed a regional quota starting at 350,000 MT. This proposal was also rejected.

Therefore, the CNPA and its regional counterparts had to rethink their strategy. Studies conducted by the Louisiana State University showed that the importation of 250,000 MT of sugar annually would impact the price in the United States only by 10 cents per pound.[56] The CNPA proposed a new regional quota to ASA, starting at 250,000 MT. Nonetheless this quota was also rejected. Consequently, the Central American sugar associations opted to discontinue the regional strategy, and differences began to emerge.

According to Amador, both the US delegation and the diversity of national interests played a crucial role in the division of Central American countries: "Intelligently, the United States broke our regional negotiating scheme using our competing individual desire to obtain more than the other country to corner us into a bilateral negotiation. They did this throughout the negotiations with peanuts, beef, and textiles and clothing." Vested interests and internal political dynamics in each country were significant for this divergence. Sugar outcomes were, in the end, not as encompassing as Central Americans had initially wished.

The US delegation managed to leave its current 140 per cent out-of-quota duty on sugar untouched. A regional quota was opened in exchange, starting at a collective 107,000 MT and reaching 151,000 MT by the fifteenth year, thereafter growing by 2 per cent a year into perpetuity (FAS 2005). As a result of the bilateral negotiation, Nicaragua received an initial 22,000 MT, the third largest quota after Guatemala, which obtained 32,000 MT, and El Salvador, which received 24,000 MT (FAS 2005). Furthermore, Costa Rica obtained 11,000 MT, the

[55] Between 1999 and 2001, sugar exports increased from $30.4 million to $49.1 million (López 2003:30).

[56] Interview with Mario Amador.

Dominican Republic 10,000 MT and Honduras 8,000 MT (FAS 2005). Although this represented twice the WTO market access quota Nicaragua already had to the US market, it was not nearly as ambitious as the CNPA expected. For Amador, however, these results still represented "an improvement from the status quo".

Dairy negotiations were a different case. According to negotiators and other business representatives interviewed,[57] the results obtained from dairy negotiations were not very successful. There is, among these actors, a generalized assumption that the CANISLAC was not able to defend its position and closed the negotiations with a rather small market access quota into the United States.

In DR–CAFTA, Central America obtained a regional dairy quota of 10,000 MT, growing 5 per cent annually, to be divided across the six countries (FAS 2005). Nicaragua obtained the highest individual quota in Central America, reaching 1,500 MT. Guatemala got the second highest with 1,292 MT, El Salvador followed with 1,070 MT, and Costa Rica and Honduras obtained 1,050 MT each (FAS 2005). The Dominican Republic, however, obtained the highest overall quota in these negotiations with 4,099 MT, growing 10 per cent annually (FAS 2005). The reciprocal agreement with the United States entailed the creation of a quota of up to 10,000 MT. Furthermore, most out-of-quota tariffs in Central America, the Dominican Republic and the United States will be phased out in 20 years (FAS 2005). The dairy products with duty treatment under the CBI were granted duty-free access and those with free access were locked in at zero tariff.

Dairy products are very important for the Nicaraguan economy. Exports are on the rise,[58] and productive capacity was to be enhanced through the creation of "clusters" in the context of the government's National Development Plan (Gobierno de Nicaragua 2004). According to Fernández, CANISLAC—created in 2001—represents, in principle, all actors in the value chain from SMEs and cooperatives to TNCs such as Parmalat (Italy), the Productos Lácteos San Antonio (PROLACSA, owned by Nestlé) and large Nicaraguan enterprises—for example, Eskimo—and Lácteos de Centroamérica (CENTROLAC). For Fernández, the objective of CANISLAC has been to represent, protect and promote the sector in public policy-making processes. Amalgamating these different actors within the sector, though, has proven to be a challenge for CANISLAC. According to Fernández, a cooperative member himself, "differences have arisen given the diverse and sometimes conflicting interests between the primary producers and those who transform and commercialize the final product".

Parmalat currently controls the only dairy processing facility in Nicaragua with the capacity to meet pasteurizing requirements for entry into the US market, and is the main supplier of domestic dairy products (Ricker 2004). Lowering the cost of primary dairy inputs such as milk has been particularly attractive to Parmalat in the context of DR–CAFTA negotiations (Ricker 2004). Dairy SMEs, however, are particularly sensitive to the importation of these dairy inputs. Fernández said that milk powder imports were especially threatening since "milk powder can be returned to its fluid state by just adding water, thus, having potentially detrimental effects to domestic small and medium milk production". A choice had to be made. According to Fernández, protecting the primary sector from milk powder imports became a priority for CANISLAC.

In fact, CANISLAC had, in 2001, already voiced these concerns to the government regarding milk powder imports. According to Fernández, milk powder represented, at the time, 52 per cent of the total volume of dairy imports. CANISLAC lobbied the Ministry of Development, Industry and Trade, demanding that the applied tariff for imported milk powder be increased from 40 to 60 percent. The ministry accepted this, and imports began to cease. By 2002, imports had been reduced by 60 per cent in relation to the previous year, protecting national dairy

[57] Interviews with Alfredo Marín and Alvaro Porta in 2007.

[58] In 2001, dairy exports reached $15 million, whereas in 2006 they rose to $57.6 million (Corrales 2007).

production from cheaper subsidized imports.[59] DR–CAFTA negotiations, thus, created new challenges on this front.

At first, Central American dairy producers proposed the exclusion of dairy products from the negotiations, given the United States' current agricultural subsidies, domestic support programmes and export subsidies that favour the US dairy industry. Since current trade occurs interregionally, and accessing the US market is highly challenging, the Central American dairy producers, according to Fernández, did not see how they could materialize market access gains[60] from DR–CAFTA negotiations.

Fernández gave an account of the negotiations that followed. The US delegation rejected Central America's exclusion proposal, stressing that "no product would be excluded from the negotiations". In response, CANISLAC and its regional counterparts filed a second proposal, which consisted of "liberalizing trade only in dairy products that would not compete with Central American national production, such as Cheddar cheese". Once again, however, the US delegation rejected the Central American proposal on the basis that "the United States had no interests in obtaining market access for products that were not consumed nor produced in the region". Furthermore, the US delegation studied Nicaragua's importation levels and products in detail and pressured the Nicaraguan delegation to open up trade in export products of interest to the United States: "Nicaraguan Trade Minister, Mario Arana, came personally to suggest we had to be more flexible and open up the dairy market".

By this time it had become apparent to Fernández that Central America would not continue to negotiate as a region, but would instead negotiate bilaterally. Thus, CANISLAC began to work on a national proposal. It proposed to "open the dairy market", but in a somewhat conservative manner. The new proposal consisted of "the creation of quotas with grace period (temporary maintenance of the tariff), long periods for tariff elimination and low quota levels in order to protect its small and medium producers".[61] At the time, however, Nicaragua was exporting approximately 8,000 MT of cheese, a fact that the US delegation used to obtain a reciprocal concession: "the United States demanded a quota of 8,000 MT for a product of interest to the US dairy industry and dairy TNCs installed in Nicaragua: milk powder".[62]

According to Fernández, from the national producers' perspective this quota was highly threatening:

> If we had accepted the 8,000 MT export quota the US delegation was offering to us, we would have been invaded with 8,000 MT of milk powder import and our industry would have been wiped out. For instance, 8,000 MT of exported Nicaraguan cheese would not threaten the US dairy industry, but 8,000 MT of imported US milk powder would have substituted our domestic milk production. Indeed, US producers would not have to face the non-tariff barriers or the capacity constraints that Nicaraguan producers face if they want to export to the United States. Hence we could not accept this proposal and instead we proposed a smaller quota with a 5 per cent increase through time.

CANISLAC then conducted a series of meetings with its US counterpart, the US Dairy Association, and mutually agreed on what government officials, like Alvaro Porta, considered "a rather small export quota considering the current export capacity of some dairy products".[63]

---

[59] Interview with Wilmer Fernández.

[60] Dairy products face both tariff and non-tariff barriers when accessing international markets. To quote Fernández, "obtaining certification, labelling, and compliance with differing SPS measures can be as challenging as the high tariffs their products tend to face in developed countries". For small and medium dairy producers, rendering market access effective is vital both in North-South and South-South trade. Given that current dairy production is largely traded regionally, CANISLAC's main problems in accessing the market has been, according to Fernández, with El Salvador's and Mexico's NTBs.

[61] Interview with Wilmer Fernández.

[62] Interview with Wilmer Fernández.

[63] Interview with Alvaro Porta in 2007.

Even though Nicaragua did obtain a small export quota (1,500 MT), it was nonetheless, as previously mentioned, the highest in the region. Within the reciprocal quota the two countries granted each other, Nicaragua obtained an important share for cheese exports while the United States acquired one for milk powder, which was higher than that with any other country in the region. The 1,500 MT export quota the United States received is divided as follows: 575 MT for cheese, 650 MT for milk powder, 150 MT for butter, 72,815 litres for ice cream, and 50 MT for other dairy products (FAS 2005).

Some small and medium dairy producers believed that DR–CAFTA outcomes already had a negative impact in domestic dairy production. Magda Lanuza, from the Hijas e Hijos del Maíz (Children of Corn) cooperative, points out that "Parmalat used to pay local dairy farmers $0.45 a litre for fresh milk. But now they are buying more powdered milk from the United States and asking farmers in Nicaragua to supply milk for only $0.25 a litre" (Ricker 2004:6). Although Nicaraguan dairy production reached 613,548,500 litres in 2006 (Corrales 2007), dairy SMEs continue to face serious supply-side constraints. Hence, increasing dairy imports under DR–CAFTA, without the creation of effective supply-side capacity among small and medium domestic producers, could indeed pose structural challenges in the future to this important sector of the economy.

Intellectual property rights

The IPR negotiations illustrate the trade-off that Nicaragua and other Central American countries had to commit to in order to obtain benefits—though limited, as the rules of origin and agricultural negotiations have shown—within the market access pillar.

In the mid-1990s, El Salvador, Honduras and Nicaragua had signed bilateral investment treaties (BITs) with the United States. Nicaragua, however, was the only Central American country that had signed a bilateral IP agreement (Drahos 2001). This marked, to a large extent, the breadth of the IPR negotiations in DR–CAFTA. IPR largely, though not exclusively, in the form of patents, confer "limited monopoly rights to the owner of new, non-obvious and industrially useful ideas" (Shadlen 2005a:8).

Under the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement, states have leeway in the manner in which they treat standards, for instance, qualifying the operation of some standards, and choosing which standards to adopt and when. For example, Article 27.3 of the agreement allows members to qualify the standard of patentability in Article 27.1 by excluding some subject matter from patentability, while Article 27.3 (b) gives members a choice as to how to protect plant varieties (Drahos 2001). Bilateral agreements, however, shrink countries' policy space in two ways: by requiring members to implement a more extensive standard or by eliminating an option for members under a TRIPS standard (Drahos 2001). Furthermore, a TRIPS–plus standard may also be inferred when a BIT upgrades TRIPS standards to include new issues (such as data protection as part of marketing pharmaceutical or agricultural products). This was the case with DR–CAFTA.

In the 1980s, the United States linked its BIT programme to the effective protection of intellectual property. By adding a mechanism known as Special 301, the United States Trade Representative (USTR) gave teeth to these agreements. Special 301, which the USTR also uses to monitor the TRIPS agreement, is set to address foreign unfair trading practices including those pertaining to IPR (Drahos 2001). Under this provision, the USTR monitors states' compliance by producing country lists and using potential trade sanctions as a threat against non-compliance. Although this is a rare occurrence (Drahos 2001), Special 301 is a powerful political tool that conveys the particular structural power of the United States.

The BIT signed with Nicaragua in 1995 contains a broad definition of investment to include intellectual property, which subsequently applies to "copyright, patents, rights in plant varieties, designs, semi-conductor, chips, trade secrets, trade and service marks and trade names" (Drahos

2001:794). This agreement contains TRIPS–plus standards, such as the obligation to join the International Union for the Protection of New Varieties of Plants (UPOV) under which plants can be patented. Under DR–CAFTA, these and other standards were set for the region.

The Nicaraguan and Central American negotiating strategy in the IPR was highly, and almost exclusively, defensive. Apart from lawyers who register commercial marks, and a few generic drug producers, importers and distributors in Nicaragua, domestic business constituencies in this area are almost non-existent. Other actors such as physicians, nurses and patients expressed their concerns about IP negotiations through Iniciativa CID's proposals with little or no impact. As such, the power differentials in terms of political leverage in this negotiation between the parts were very wide. As Alvaro Porta states, "We felt we had to resist. The US delegation was pushing for TRIPS-plus measures. We had to make concessions. We did not win much in these negotiations, but we tried to defend ourselves." From the Nicaraguan perspective, at least, this was no longer a battle where they could take the lead, since they had already committed to higher IP and investment standards. As this former negotiator puts it: "*ya estábamos hasta donde no es*".[64] The rest of the Central American countries, however, had not yet signed a Bilateral Intellectual Property (BIP) agreement with the United States and thus had much more at stake.

By the eighth round of negotiations, Central American producers of generics (drugs and agrochemicals) recognized that it would be extremely difficult to persuade the US delegation to change its position regarding the inclusion of a clause on five years of data protection for new pharmaceuticals and 10 years for agrochemicals beyond the 20-year period stipulated under TRIPS (MIFIC 2003). Central American negotiators had submitted a counterproposal that conceded no more than three years of protection for each of these products and in exchange, demanded the elimination of agricultural subsidies. However, this proposal did not succeed and instead, the US position, which a Costa Rican negotiator described as "hawkish" (MIFIC 2003), prevailed.

New areas were also included under IPs that went beyond TRIPS, such as the dispute resolution procedures to establish country-code top-level domains to avoid "cybernetic" piracy (MIFIC 2004:6); the ratification of UPOV; the narrowing of grounds of exclusion from patentability (that is, those in Articles 27.2 and 27.3 of TRIPS); the grant to authors, performers and phonogram producers of an exclusive importation right; the extension of patent terms to compensate patent owners for regulatory delays in exploiting the patent; and the redefinition of the use of compulsory licenses to specified cases. TRIPS only sets conditions for the use of compulsory licenses.

Although there is no specific commitment to an increased policy harmonization that these clauses require, a certain level of harmonization has, in practical terms, been achieved (Palacios 2005:3). For instance, the level of detail in some dispositions included in the IP chapter in DR–CAFTA is such that it sets not only a minimum standard, but also a harmonized minimum (that is, copyright dispositions seem to reproduced from the norms contained in the US Digital Millennium Copyright Act) (Palacios 2005).

In comparison to the other two negotiations, the Nicaraguan negotiating strategy and agenda was rather limited. The previous BIT commitments, the lack of large and strong domestic business constituencies that could be affected by these concessions, and the deep integration agenda of the United States had a direct effect on the outcome of this negotiation. Indeed, to Nicaraguan and other Central American negotiators (see Palacios 2005), IPR were clearly a price to pay for concessions obtained in other areas of the agreement (such as securing and increasing concessions under CBI). Porta said, "What we gave in investment and IPR was the trade-off for

[64] "They already had us by the neck." Interview with Alvaro Porta in 2005. (All translations are by the author.)

market access, the inclusion of the chapter on cooperation, and a 'better'[65] wording of the chapters on labour and environmental standards".

The structural power of the United States permeated the entire official negotiating process of DR–CAFTA, limiting the negotiating space of Nicaragua's and other Central American countries. However, it was the "extra-official" negotiations that followed that further demarcated these countries' bargaining power.

DR–CAFTA's extra-official negotiations

When the FTA reached the US Congress for approval, it inevitably became a new negotiating tool for the US delegation and business associations to "revise" concessions granted under the agreement to their Central American counterparts.

As a result, concessions obtained in areas such as T&C were eroded. Moreover, in the case of sugar, quotas were only defined, "after the agreement had been signed and the final picture taken", according to Mario Amador (see the introductory quote in this paper). The US negotiators, moreover, made the FTA's entry into force conditional on the passing of DR–CAFTA implementation laws in Central American countries, which included a series of key intellectual property laws.

As DR–CAFTA reached the US Congress, pressures within the country grew. Traversari stated that the US National Textile Association lobbied the Congress to decrease Nicaragua's concession on rules of origin: "Southern [US] textile producers argued that they would go bankrupt due to Nicaragua's enhanced competitiveness as a result of this concession". He said that producers of US jeans and trousers felt particularly threatened since 60 per cent of Nicaragua's T&C manufacturing production focuses on trousers.

In response, Traversari visited Congressmen from Southern United States in order to strike a deal that would ensure the 20 votes that, according to US negotiators, were not secure at that point. Initially, according to Traversari, US Congressmen demanded that Nicaragua give up its TPL concession entirely, a proposal that he immediately rejected. The asymmetry relating to the significance of this agreement for each economy, however, played a crucial role in the new conjuncture.

Traversari felt that the rules of origin concession in DR–CAFTA was crucial for Nicaragua's T&C industry "to secure competitiveness and a level regional and international playing field. For the United States, however, securing the deal with Central America was not a 'life and death' situation". US textile producers skilfully used this to twist the arm of their Nicaraguan counterpart. As a result, Nicaragua's unique though temporary TPL concession was largely conditioned by a new deal.

The 100 million sme of TPLs obtained were not, according to Traversari, going to decrease annually in the 10 years, as initially agreed. Instead, they were going to be constant during this period. However, the import of fabric categories (for example, 3–47 and 3–48, among others) used in the production of Nicaraguan cotton trousers will now have to originate in the United States and be subject to an annual 10 percent increase throughout the 10-year period, starting at 20 million sme.[66] Thus, "in the first year, out of the 100 million sme, Nicaragua will have to buy 20 million sme of fabric produced in the United States, which is generally more costly. Subsequently, the content of the US fabric will increase by 10 million sme every year until it reaches 50 million sme in the fourth year."[67]

---

65 This meant that labour and environmental regulations should be subordinated to the national regulatory system (interview with Alvaro Porta in 2007).

66 Interview with Fernando Traversari.

67 Interview with Fernando Traversari.

A straight one-to-one rule will then prevail from years five through 10 for all Nicaraguan cotton trousers entering the US market under the TPL (NCTO 2005). Under this rule, if a company needs 100,000 sme in year five, half of this will have to be of US origin (NCTO 2005). Given, however, that the bulk of Nicaragua's textile production falls under categories 3-47 and 3-48, this "new deal" has clearly eroded Nicaragua's major concession in DR–CAFTA, potentially harming the country's current and future competitiveness in the production of cotton trousers.

Sugar quotas have also been settled outside of the formal negotiating process. Central America's sugar quotas were only discussed and agreed upon after DR–CAFTA had been signed. Amador said that "Discussions on sugar quotas began the morning after the official DR–CAFTA negotiations had ended. Our negotiators told me the US delegation's proposal was a quota of 15,000 MT. I replied that the minimum we should accept was twice the quota levels we had at the WTO and that [22,000 MT] is what we got." Although this represented an improvement in the status quo, it did not even match the country's sugar export capacity. Hence, by "reopening" negotiations and conducting them outside the formal process, the US delegation further constricted the space for Nicaragua to negotiate a more ambitious outcome for these negotiations.

Nicaragua, along with the rest of the Central American countries, had to introduce a series of laws and legislative reforms in "exchange" for US Congress approval of DR–CAFTA. Congresswoman Alba Palacios said that these new laws and reforms included "the introduction of a special law against international trade crimes; legislative reforms to the law on trademark and other distinctive signs; legislative reforms and additions to the law on patent, utility model, and production designs; legislative reforms to the law on the protection of programme satellite signals; and finally legislative reforms to the law on copyrights".[68]

4. Civil Society in DR–CAFTA Negotiations

This section shows how social mobilization took place among civil society actors and the relationship among Iniciativa CID representatives, businesses and the negotiating team. It analyses Iniciativa CID's proposals and outcomes, highlighting the limits of their influence. The role played by the media in dismantling the Anti–CAFTA movement and the legislative bargain that watered down the complementary agenda that civil society actors had argued for, are crucial to understand how limited these actors were in exerting political pressure in DR–CAFTA.

Views on how to position and mobilize in the context of DR–CAFTA were so diverse that civil society actors were not able to act under a cohesive and unified strategy. According to Bianca Mangas, former programme coordinator at Centro Humboldt (an environmental NGO), tensions arose between the Anti–CAFTA movement and Iniciativa CID when they were both part of the same coalition such as the Coordinadora Civil.[69] Such conflict may explain the Coordinadora Civil's compromising position of only agreeing with an FTA that took into account the structural asymmetries between Central America and the United States.[70] Other tensions and fractures also occurred within organizations such as the Centro Humboldt where some staff disagreed with the decision to participate in DR–CAFTA negotiations.[71]

For Nicaraguan representatives of Inicitativa CID, the decision to actively take part in the negotiations was not straightforward. There were important potential political and social costs

[68] Interview with FSLN Congresswoman Alba Palacios in 2007.

[69] The Coordinadora Civil is a civil society network that earned the support of Nicaraguan society when it denounced fraudulent use by the government of José Arnoldo Aleman Lacayo of relief funds from the international community, and offered an alternative platform to channel resources, food and medicines to the affected communities.

[70] Interview with Mario Quintana, national coordinator at the Coordinadora Civil in 2007. Subsequent quotes and information attributed to Quintana, unless otherwise cited, are taken from the interview by the author.

[71] Interview with Mario Quintana.

to pay for participating in the government's consultation mechanisms regarding social movements and society at large (for example, a perceived loss of autonomy of civil society in relation to the government). According to Sinforiano Cáceres, president of the Federación Nacional de Cooperativas Agrícolas y Agroindustriales (FENACOOP), Centro Humboldt, CST–JBE, FENACOOP and UNAG held a series of internal and external debates on the potential benefits and threats of participating in the negotiations, how best to exert influence and what to expect from the negotiating process.[72] Although they shared the concerns expressed by some social movements that the government could use their participation to legitimize the negotiations before the Nicaraguan public, Amado Ordóñez, executive director of Centro Humboldt, recalled that "we [the Nicaraguan representatives of Iniciativa CID] decided that the issues at stake were so important for long-term development that it would be worth the risk".[73]

In their assessment, these organizations identified political opportunities. According to Mangas, "the [Enrique José] Bolaños administration's lack of wide political and grassroots support opened up an opportunity for civil society, which combined with the availability of formal spaces for state-society consultations like the 'room next door', offered the possibility of gaining potential influence and access to the negotiators".[74] The expectations of potential outcomes of this influence were nonetheless approached with a degree of caution. Sinforiano Cáceres said that other Latin American social actors who had previously participated in trade negotiations warned representatives of the Iniciativa CID about the potential limits of civil society's influence. "They told us to be clear on the limits of our influence, given the political conjunctures of negotiations and not to have too many expectations and be realistic in our proposals." These social actors advised their Nicaraguan counterparts to prepare technically sound proposals, particularly on issues that were politically sensitive since "past experiences have shown to us that either we have good proposals that are poorly lobbied politically or well lobbied, but politically unviable".[75]

When governments announced that Central America was going to negotiate as a region, social actors began to organize, build alliances and transnational links with other regional partners. Central American NGOs and a few social movements created the Iniciativa CID network where discussions, information flows and technical knowledge could be shared at the regional level.[76] Thus, the Nicaraguan representatives of the Iniciativa CID found themselves participating at two levels: the regional, through networks and forums, and the national, through "the room next door".

Early on, it became apparent to these actors that financial resources and logistical support would be essential in order to mobilize social actors regionally, hold countrywide consultations with the different sectors, present technically backed proposals and lobby in each country. According to Ordóñez, "the organizations established budgeting plans with goals, activities and expected results and presented them to international donors that provided the funds to facilitate the participation of these actors in lobbying activities held in Washington, San José, Tegucigalpa, etc.". The organizations also assumed particular responsibilities, in keeping with their trajectory and expertise. Hence, CST–JBE was in charge of consultations on labour issues, Centro Humboldt dealt with environmental issues, while FENACOOP and UNAG were in charge of reaching cooperatives as well as small and medium farmers to inform them of the proposals of civil society.

---

[72] Interview with Sinforiano Cáceres in 2007. Subsequent quotes and information attributed to Cáceres, unless otherwise cited, are taken from the interview by the author.

[73] Interview with Amado Ordóñez in 2007. Subsequent quotes and information attributed to Ordoñez, unless otherwise cited, are taken from the interview by the author.

[74] Interview with Bianca Mangas, former coordinator for international trade negotiation, Centro Humboldt, in 2007. Subsequent quotes and information attributed to Mangas, unless otherwise cited, are taken from the interview by the author.

[75] Interview with Sinforiano Cáceres.

[76] Interview with Amado Ordóñez.

The relationship between the Nicaraguan representatives of the Iniciativa CID and trade negotiators was characterized by both cooperation and tension. The actors' technically sound proposals gained respect among the negotiators and proved to be useful for exerting pressure on the US delegation, particularly on issues that were politically sensitive, such as agricultural subsidies and non-tariff barriers.[77]

The exchange between the Nicaraguan representatives of Iniciativa CID and trade negotiators was not, however, always as fluid. In the first rounds, business and social actors were consulted separately. But the information provided to the two groups differed. In response, social actors demanded to be included in the same room as business representatives.[78] Moreover, some level of mistrust characterized the relationship between these actors. To avoid the risk of being co-opted by the government to legitimize the negotiations and to underline their autonomy vis-à-vis governmental positions, Iniciativa CID actors always presented their proposals to the negotiating teams publicly. The goal was to demonstrate that civil society proposals did not always coincide with official positions.[79]

Interestingly, these actors also found a common front with some of the business representatives, particularly on issues of unfair competition, asymmetrical productive capacity and technological gaps, in particular for SMEs. The farmers' organization, UNAG, clearly illustrated the structural constrains of peanut and corn producers, as both of these products receive US federal subsidies, making Central American exports more costly and unviable in comparison with the United States (Fiallos 2003). According to Alvaro Fiallos, president of UNAG, the limited area of cultivation and low levels of mechanization and availability of technologies among peanut and corn farmers were some of the arguments put forth (Fiallos 2003). Furthermore, on issues such as agricultural subsidies affecting large and small and medium producers alike, social and business actors would coordinate strategies to exert pressure on the national, Central American and US delegations in order to deal with these issues directly.[80]

Tensions also emerged among the business and Nicaraguan representatives of Iniciativa CID, particularly with large business representatives such as TNCs and nationally based economic groups. In the context of sugar negotiations, UNAG questioned the internal price subsidy of the San Antonio sugar refinery (owned by the Pellas Group), which created distortions in the national market by allowing the refinery to sell at $23 per hundredweight, whereas internationally sugar costs $10 per hundredweight. According to Alvaro Fiallos (2003:16), "with this price differential, Nicaraguan sugar consumers are subsidising the powerful Pellas Group, which makes around $180 million a year". On the dairy production side, these actors stressed that although the authorization for exporting cheese originating from the Nicaraguan central highlands could be potentially beneficial for the region's small and medium cheese producers, the sanitary and phytosanitary measures would render its market access ineffective (Fiallos 2003).

Iniciativa CID's proposals in DR–CAFTA

From the onset of the negotiations, the proposals by Nicaraguan representatives of the Iniciativa CID were creatively drafted to address both the structure and content of the negotiations. The major basis of these actors' proposals centred on structural and transversal issues such as economic, political and social asymmetries, agricultural and export subsidies, non-tariff barriers, as well as highly sensitive areas of the negotiations including issues concerning the environment, labour, intellectual property rights, biodiversity and health, agricultural market access, and to a lesser extent, investment and services (Iniciativa CID 2003, 2004).

[77] Interview with Amado Ordóñez.

[78] Interview with Amado Ordóñez.

[79] Interview with Amado Ordóñez.

[80] Interview with Amado Ordóñez.

The representatives warned negotiators about the potential dangers of reciprocity in the negotiations if issues of power and economic asymmetries vis-à-vis the United States were not effectively addressed. Mangas said that they initially proposed that Central American countries be classified as developing countries and granted special and differentiated treatment in accordance with their level of development, as in the WTO. The US delegation, however, immediately rejected the proposal, and negotiations were in fact reciprocal.

Nicaraguan representatives of Iniciativa CID argued that the lack of a Central American negotiating mandate and a common vision of development could erode the region's bargaining power and ability to use the FTA as a strategy linked to the country's development and poverty eradication plans. To address this, according to Cáceres, FENACOOP and other Iniciativa CID representatives proposed that spaces for dialogue be created with the different actors in each country in order to identify national and regional sensitivities and establish common negotiating "bottom lines" to limit commitments.

Touching upon politically sensitive issues, such as agricultural subsidies and non-tariff barriers, Nicaraguan representatives of Iniciativa CID adopted an ambitious proposal in relation to their treatment. They argued that Central American countries should not agree to phasing out their tariffs if non-tariff barriers and sanitary and phytosanitary measures, which affected real market access for exports, were not fully discussed and addressed in the context of the agreement (Iniciativa CID 2004). Due to the centrality of these issues to the commercialization of agricultural products, the actors linked them directly to their proposal for negotiations on the market access for agricultural products.

In these negotiations, they argued for the protection of "sensitive" sectors, which would be chosen based on identification criteria, such as employment generation, food security and their contribution to value added in national production chains (Iniciativa CID 2003). They also proposed the exclusion of products central to Nicaragua's basic diet, such as white corn—used to make tortillas—rice and beans, in order to protect small and medium grain producers and subsistence farmers, who make up a majority of the rural population, from unfair competition due to subsidized grain exports from the United States (Cáceres 2003).

On the environment, Nicaraguan Iniciativa CID actors believed in the need for stringent commitments. Their proposal centred on introducing a separate environmental chapter based on national environmental legislation to establish sanctions (that is, fines) for perpetrators—be they states or national and foreign investors—in the case of environmental damage. In order to enforce regulatory and monitoring mechanisms effectively, these actors further proposed the introduction of an annex to the agreement on cooperation issues, geared mainly to strengthening the capacity of national labour regulatory and enforcement institutions (Iniciativa CID 2003:6). Furthermore, the Iniciativa CID actors argued against the potential dangers of introducing genetically modified organisms (GMOs) into Central America and the use of pesticides sold by US operators but no longer permitted in the United States. These actors also stressed the need to preserve Central America's autonomy to regulate GMOs as well as the use of potentially toxic chemicals (Cáceres 2003).

On labour issues, Iniciativa CID representatives also argued for the inclusion of a separate chapter to deal with trade-related labour activities and issues. According to a proposal from CST–JBE, Centro Humboldt and FENACOOP, the chapter needed to embody the promotion, monitoring and compliance of both national and international labour rights commitments and the promotion of each country's national labour legislation (Iniciativa CID 2003).

The representatives argued further for the establishment of normative and enforcing mechanisms to ensure the state's transparency in the verification of compliance, the creation of a supervisory body for the agreement, and the introduction of a transparent dispute settlement mechanism to solve potential differences between workers and employers, and determine levels of sanctions according to the degree of violation of the national labour legislation (Iniciativa

CID 2003, 2004). Economic sanctions were proposed for potential violators (whether governments or national and foreign investors) of crucial International Labour Organization (ILO) conventions and national labour legislation.

Additionally, Iniciativa CID representatives promoted the treatment of labour issues as a transversal element in the negotiations. They proposed the elaboration of studies of the impact of potential trade liberalization on particular productive sectors and employment in order to identify any requirements for special treatment. They also proposed the use of employment indicators related to services in order to determine differentiated levels of liberalization (Iniciativa CID 2003:7). Similarly, they urged that the investment chapter in DR–CAFTA would have to contain dispositions geared to promote employment and development through the creation of performance requirements for foreign investors directly linked to compliance with labour rights, capacity building among the work force, and value-added and quality jobs (Iniciativa CID 2003, 2004).

The Iniciativa CID actors also highlighted the potential threats of some elements of the IP chapter for health and biodiversity in Central America. They warned negotiators that the US proposal to increase patent protection for five additional years beyond the standard 20-year protection for pharmaceutical products could reduce access and harm the current production of generic drugs (Iniciativa CID 2004). They argued against the TRIPS–plus provisions of the IP chapter in DR–CAFTA which would lead to a loss of autonomy of Central American governments to declare national health threats and allow parallel imports of generic medicines (Iniciativa CID 2004). Actors such as Centro Humboldt actively engaged with negotiators to discuss the potential risks of allowing the patenting of plant varieties for biodiversity and the exploitation of traditional knowledge.

According to these actors, the adhesion of Nicaragua to UPOV would limit and condition the ability of Central American states to exploit and use their own natural resources. Since the commitments agreed to under UPOV establish that DR–CAFTA countries grant national treatment[81] to all UPOV member states, according to Iniciativa CID actors, this would open up the possibility that individuals, plant breeders, and agribusiness corporations conducting biotechnology research could, for example, claim the intellectual property of a Nicaraguan plant variety and obtain exclusive rights over its exploitation (Iniciativa CID 2004:7).

Iniciativa CID's outcomes in DR–CAFTA negotiations

Although the Iniciativa CID actors presented technically sound proposals and actively lobbied both Nicaraguan and US trade negotiators on a variety of issues, the outcomes for these actors were fairly limited. DR–CAFTA was, in some cases, "fine tuned". This took the form of gradual tariff elimination (from five to 20 years, depending on the product), the creation of quotas with percentage increases for sensitive products, and the inclusion of a special agricultural safeguard to be triggered by price and volume of imports, and applied only until tariffs for sensitive products such as dairy, poultry, rice and beans reached zero (Office of the USTR 2004). By and large, however, Iniciativa CID representatives felt that the agreement did not take into account the region's level of development, its trade inequalities, social and economic disparities, and structural productive constraints, but was based instead on reciprocity (Iniciativa CID 2004).

In general, the Nicaraguan representatives of Iniciativa CID acknowledged the Nicaraguan negotiating team's receptiveness to their proposals, positions and involvement in the process (Fiallos 2003) and recognized the government's relative openness compared to other Central American governments, since Nicaragua was the only country in the region that allowed non-

[81] National treatment means that imported and locally produced goods should be treated equally—at least after the foreign goods have entered the market. The same should apply to foreign and domestic services, and to foreign and local trademarks, copyrights and patents. This principle of national treatment (giving others the same treatment as one's own nationals) is also found in all the three main WTO agreements (Article 3 of the General Agreement on Tariffs and Trade/GATT, Article 17 of the General Agreement on Trade in Services/GATS and Article 3 of TRIPS), although once again the principle is handled slightly differently in each of these (WTO 2007b).

state actors to read the agreed DR–CAFTA texts.[82] However, the representatives also argued that Central American governments were not able to defend proposals of high political sensitivity and long-term developmental impact, such as asymmetry, subsidies, non-tariff barriers, patents and biodiversity (Fiallos 2003). For Iniciativa CID representatives, the outcomes of DR–CAFTA negotiations primarily reflected the negotiators' pro-business and liberal ideology as well as the United States structural power.[83] The limited "gains" that Iniciativa CID actors obtained in the negotiations centred on specific issues in the agriculture, labour and environment negotiations.

In the case of the protection of basic staple foods, such as white corn, rice and beans, the generalized assumption between both Iniciativa CID and business actors was that white corn had been excluded from the agreement.[84] The reality, however, was slightly different. No product was excluded from the agreement. White corn was exempted from tariff elimination, but import quotas were created. The United States could thus export white corn to Nicaragua under an initial quota of 5,100 MT, which would increase every year by 2 per cent (FAS 2005).

The only difference with other agricultural products was that the import tariff of white corn would remain at its current level while others would eventually reach zero. Nicaragua did nevertheless negotiate the smallest import quota for white corn from the United States in the region (FAS 2005). Although Iniciativa CID and other organizations played a crucial role in obtaining this outcome, the US delegation was still able to strike a concession in one of the highly sensitive products for the Nicaraguan peasant economy and culture. This clearly illustrates both the limitations of social actors' influence in the context of a powerful player like the United States, and the ability of the latter to demarcate the negotiating space of Central American countries on an issue of great political, economic and social sensitivity.

On labour and environmental issues, separate chapters were created in congruence with what these actors were demanding. However, instead of putting the "burden of proof" on investors or employers, the labour chapter in DR–CAFTA placed it on the government's ability to comply with its national labour legislation (Office of the USTR 2004). Given that DR–CAFTA is an intergovernmental agreement, the introduction of economic sanctions (fines) would only target the state and not the potential national and/or foreign investors, who violate labour and environmental standards.

These provisions do not capture the increasing influence and involvement of business in economic planning and activity, and the role it plays in shaping and setting up labour and environmental standards. The chapters also tackle US fears of potential relaxation of these standards by Central American governments in order to attract US foreign direct investment, since it is ultimately the state that will be monitored and held accountable. In terms of what Iniciativa CID actors had previously proposed as binding instruments for both states and investors regarding labour and environmental standards, these chapters were not as fully encompassing as the actors had wished for.

The final agreement's main commitments in the chapter on labour centred around:

- "not failing to effectively enforce" its own labour laws in a manner affecting trade;
- striving to ensure that both the ILO's core labour principles and internationally recognized worker rights are in fact recognized and protected by domestic law;
- striving to "not waive" or "derogate from" its own labour laws to encourage trade or investment;
- respecting the sovereignty of other countries; and

82 Interview with Bianca Mangas.

83 Interview with Sinforiano Cáceres.

84 Interviews with Mario Amador, Amado Ordóñez and Bianca Mangas.

- establishing mechanisms for cooperative activity and labour-related trade capacity building with other countries.

Of these shared commitments, only the sustained failure to enforce one's own labour laws is subject to binding dispute settlement and ultimately to fines or sanctions. The maximum fine is set at $15 million per year per violation (Bolle 2005:2).

However, critics have pointed out that even these agreed provisions may not properly safeguard labour rights and environmental standards in the long run. Although the parties agreed to "strive to ensure" that they would not weaken labour laws in a manner affecting trade, and reaffirmed their commitment to the labour rights enshrined in the 1998 ILO Declaration, the two provisions are, according to Greven (2005:29), "unenforceable since disputes arising under them cannot even be brought to dispute resolution…potentially creating what critics consider an incentive to simply weaken or eliminate labour laws". According to these critics, the differences between the dispute resolution of commercial and labour issues make the latter de facto less enforceable. For instance, "in contrast to the commercial chapters, the consultative process before labour issues can move to dispute resolution is cumbersome (60 days), especially the provision of an optional second round of consultations before an arbitral panel is established" (Greven 2005:30).

Moreover,

> in contrast with commercial chapters, the terms of the calculation of fines or sanctions (which, according to Article 15(2) and (3), are to have 'an effect equivalent to that of the disputed measure') for labour rights violations make reference to mitigating factors such as the reason why a party has failed to enforce its labour law, the level of enforcement that could be reasonably expected or 'any other relevant factor' (Greven 2005:30).

In commercial disputes, trade sanctions can be imposed in the full original amount if the fine is not paid. In contrast, the labour chapter limits trade sanctions to the value of the assessment or $15 million (Greven 2005).

Given the political importance of labour and environmental standards for Democrats and their constituencies in the United States, it is difficult to draw a direct causal link between the inclusion of these two chapters and the direct influence and lobbying of Nicaragua's Iniciativa CID representatives. For Amado Ordóñez, this was not clear when assessing the outcomes: "We strongly demanded both environmental and labour rights to be binding. It is still unclear to us, however, whether these chapters were included because they were part of the US negotiating mandate or because of our influence." On the part of the United States, Greven argues, business interests pressured the USTR to defer labour and environmental issues to side agreements. But in order to comply with the Trade Promotion Authority (TPA),[85] the USTR had to propose separate chapters for both labour and the environment (Greven 2005:32). Interestingly, the differences between dispute resolution processes and remedies between commercial and labour issues (previously pointed out) ended up violating the provision of the TPA, which stated that dispute resolution procedures and remedies should be "equivalent" for all matters, commercial as well as labour and environmental (Greven 2005:30).

Hence, the outcomes that Iniciativa CID actors obtained in the DR–CAFTA negotiations were rather limited in comparison to the breadth of the proposals they presented to Nicaraguan negotiators and to the results obtained by business. Iniciativa CID representatives, however, still regard their participation in DR–CAFTA negotiations as positive since, according to Ordóñez, it provided Iniciativa CID organizations with the opportunity to deepen their knowledge and analysis of complex trade issues; enter into dialogue with the government and

[85] International trade agreements can be voted up or down, but not amended by the US Congress.

business representatives and exchange views and debate positions; and show that trade policy making in Central America is no longer the exclusive realm of the state. Social movements, for their part, saw DR–CAFTA negotiations in a different light.

Social movements and the role of the media

The influence of social movements in the negotiating process was highly marginal. Negotiators tended to dismiss their demands and arguments on the grounds that they were not "technical", but "ideological".[86] They were largely absent from the formal and informal consultation mechanisms prior to and during the negotiations. For these actors, the official consultation mechanisms were only a façade where, according to Haydée Castillo, coordinator of the Foro de Mujeres para la Integración Centroamericana (FMIC)—an agglomeration of approximately 15 women's organizations and movements—no real dialogue took place.[87] Instead, several social movements organized mass protests against DR–CAFTA. Others opposed it, but did not protest against it because of internal differences on how to mobilize around the FTA. Instead, many of these actors participated in discussion forums organized by the Iniciativa CID.[88]

Social movements opposed the negotiations from a trade justice perspective. They questioned the neoliberal and geopolitical roots of the FTA and argued that power differentials were so insurmountable that instead of promoting regional prosperity, the agreement would lock Central American countries in low-value added commodity production activities.[89] The TNCs and powerful regional groups were considered the real winners of the negotiations. In addition, actors such as the human rights centre, Centro Nicaragüense de Derechos Humanos (CENIDH), strongly believed that DR–CAFTA would facilitate the privatization of vital natural resources (for example, water) and promote the misuse of genetic resources.

The Anti–CAFTA movement emerged through regional alliances and by September 2003 had carried out public demonstrations, which had borne some fruit. M&R Consultores, a national consulting firm that conducts public opinion analysis, presented a study entitled *The State of Public Opinion in Relation to DR–CAFTA* to the Nicaraguan Ministry of Development, Industry and Trade (M&R Consultores 2003). According to this study, the FTA negotiations faced two crucial obstacles: society's lack of knowledge of DR–CAFTA and the Anti–CAFTA campaign. Although DR–CAFTA negotiations had begun eight months before, only 7 per cent of the population recognized DR–CAFTA as an FTA under negotiation and only 2 per cent professed to know what was being negotiated (M&R Consultores 2003).

In response, the ministry formed a multidisciplinary team to design, under the auspices of external sources, a communication campaign in favour of the DR–CAFTA negotiations. The Task Force, as it was called, prepared and diffused TV and radio spots, popular education texts, brochures, web pages and newspaper supplements. The campaign was called "CAFTA, Our Bridge to Progress". Its strategy rested on creating short slogans linking DR–CAFTA to positive ideas such as more FDI, exports, employment, quality products and greater opportunities for SMEs. The central idea was to generate a "hopeful" discourse around DR–CAFTA in order to face the challenges of the Anti–CAFTA campaign (Fonseca-López 2007).

The official campaign proved to be highly successful. According to M&R Consultores (2005), of the 800 people surveyed to evaluate the efficacy of the government's campaign, 75.8 per cent had "read, heard, or seen" the FTA spots, 81.5 per cent identified they related to DR–CAFTA, and 82.9 per cent thought the spots helped them to understand DR–CAFTA. By the time the

86 Interview with Arturo Cruz, former technical advisor to the business sector in DR–CAFTA negotiations, in 2005.

87 Interview with Haydée Castillo in 2007. Subsequent quotes and information attributed to Castillo, unless otherwise cited, are taken from the interview by the author.

88 Interviews with Bayardo Izabá, executive director of CENIDH and Sandra Ramos, president of the Movimiento María Elena Cuadra in 2007. Subsequent quotes and information attributed to Izabá and Ramos unless otherwise cited, are taken from the interviews by the author.

89 Interviews with Bayardo Izabá and Sandra Ramos.

FTA was sent to the National Assembly for ratification, 66 per cent out of 1,200 people surveyed supported DR–CAFTA and 23.4 per cent rejected it; 54.5 per cent claimed to be in favour of ratification while 29.7 per cent opposed it; 51 per cent considered it beneficial and 31.4 per cent thought it would be harmful (M&R 2005). The media, thus, played a crucial role in shaping national public perception and winning back the space the gained by the Anti–CAFTA campaign.

The structural characteristics of Nicaraguan social movements limited their influence. The weakening and fragmentation of social movements as a result of neoliberal policies played an important role in their varied response to the FTA. DR–CAFTA undoubtedly became a controversial subject that created important ruptures within the social movements.[90] According to Castillo, their members were largely divided on how to position themselves and proceed in relation to the negotiations. At the start of negotiations, the agenda of the FMIC was not focused on the negotiations. Instead, the forum was involved in a regional study of women's issues, which limited its capacity to fully engage in formulating an integral DR–CAFTA response.[91]

The lack of technical knowledge and limited access to financial resources further delimited the social movements' participation and potential bargaining power. The highly complex nature of trade issues and negotiations worked against the influence of social movements. For the negotiating team to consider non-state actors' positions, proposals required an in-depth knowledge of trade issues and needed to be framed in accordance with the technicalities and legal language of the agreement. This proved to be an important barrier for most members of the social movements.[92] Unlike many NGOs that receive funding from aid donors or have the know-how to access external financial sources, social movements were not able to mobilize resources to hire consultants, create internal technical capacity and be present for all the rounds. Participation, thus, became mostly accessible to those who could afford to pay for the journey and had access to technical knowledge.

Within the social movements, there was a pessimistic vision of what civil society participation could really obtain from the negotiations. Bayardo Izabá, director of CENIDH, called it pragmatism: "We reached the conclusion that DR–CAFTA would be signed with or without the resistance of social movements and NGOs and thus we realized that our participation would not bear fruit. We decided not to waste time and resources on a cause that was already lost." The government's strong media campaign and the structural limitations of social movements largely weakened the political momentum of the Anti–CAFTA movement and the extent of its influence during the negotiating process. Once the negotiations ended, however, the legislative bargain that took place in Nicaragua's National Assembly further disempowered both the Anti–CAFTA movement and the Iniciativa CID in the context of DR–CAFTA's national ratification.

The complementary agenda, DR–CAFTA ratification and the Nicaraguan legislative bargain

By the time the FTA had reached the National Assembly, the Anti–CAFTA movement began a series of mobilizations to denounce and reject the agreement based on the potential harm it could cause to vulnerable sectors of the national economy. In order to pressure the government into dealing with structural economic and social issues, these actors and Iniciativa CID representatives demanded the creation of a complementary agenda.[93]

The complementary agenda became a compromise for the executive and legislative powers, as well as NGOs and social movements, to incorporate instruments left out of DR–CAFTA. To advance this process, Iniciativa CID representatives presented comprehensive proposals on

[90] Interview with Mario Quintana.

[91] Interview with Haydée Castillo.

[92] Interview with Sandra Ramos.

[93] Interview with Bianca Mangas.

structural issues, which a national complementary agenda could tackle. The proposals largely contained a range of binding tools, and monitoring and compliance mechanisms in relation to labour and environmental standards; TNC regulation and performance evaluations of FDI; and effective protection mechanisms for biodiversity and traditional knowledge, as well as access to generic drugs (CST–JBE 2003; Iniciativa CID 2004). CST–JBE, for instance, proposed the introduction of economic sanctions to address violations by potential foreign investors of the ILO conventions, the National Labour Legislation and Constitutional Rights (CST–JBE 2003:2). Similarly, Iniciativa CID representatives proposed a law to defend and preserve biodiversity, natural resources and ecosystems in the context of free trade agreements (CST–JBE 2003:7) in order to tackle biopiracy and address traditional knowledge issues and patents on drugs.

Moreover, the NGOs and social movements proposed the creation of a state-owned development bank to increase and ensure access to credit for SMEs and farmers, and the introduction of state-run cohesion funds to help them withstand unfair competition from US agricultural subsidies (CST–JBE 2003). Mechanisms for effective technology transfer of FDI (such as performance requirements and tax breaks to companies that transferred knowledge and technology to local producers and entrepreneurs), and the creation of backward linkages with other productive sectors of the economy such as SMEs and value added to national production, were also structural parts of their proposals.[94]

The complementary agenda these actors envisioned was both comprehensive and legally binding. When the Nicaraguan National Assembly ratified DR–CAFTA, however, the complementary agenda that was annexed to the official publication of the DR–CAFTA texts had significantly lost its teeth. According to some actors such as the Coordinadora Civil, the complementary agenda offered the government the possibility to "speak the language of NGOs and social movements" regarding the need to tackle national structural constraints and the defence of national interests (such as traditional knowledge and access to generic drugs).[95] However, in practice, the scope of the agenda proposed by the social movements and Iniciativa CID actors was reduced to general statements where there should have been binding and regulatory mechanisms (for example, on labour rights and standards).

Both the ratification of DR–CAFTA and the passing of the complementary agenda entered into a larger and more complex political game.[96] Although Bolaños' administration introduced the FTA texts to the Special DR–CAFTA Commission three months after the region signed the agreement, the National Assembly did not ratify it until 14 months later.[97] There were two reasons for this delay: on the one hand, legislators were busy discussing the legal reforms and introduction of IP laws to pass DR–CAFTA (see the subsection on DR–CAFTA extra-official negotiations). On the other, they were trying to obtain key political concessions from the government.

Although President Bolaños came from the Liberal Constitutionalist Party (PLC), many of the PLC parliamentarians and other party members turned against him when, at the start of his presidency, he initiated an anti-corruption campaign that ended up placing former president and PLC leader Arnoldo Alemán in prison for corruption. Alemán was a strong populist leader in the party who cemented his power through patron-client relations with his party followers and as a result, maintained control over much of the PLC's strategic decisions. By the time DR–CAFTA reached the National Assembly for ratification, the Bolaños administration did not have too many political allies within the PLC.

---

[94] Interview with Bianca Mangas.

[95] Interview with Mario Quintana.

[96] Other Central American countries also had politically tense legislative processes. In Guatemala, DR–CAFTA's ratification was conducted in the midst of strong social mobilization, which ended in clashes with the police. In Costa Rica, DR–CAFTA's ratification also faced strong social opposition, ending in a referendum only narrowly won by the "yes" camp.

[97] Interview with Alvaro Porta in 2007.

Given the FSLN's de facto control over the national judicial system, Alemán's corruption case also became a powerful bargaining card for the FSLN vis-à-vis the Bolaños administration, since this party held the "key" to the fate of Alemán. DR–CAFTA ratification, thus, entered the national realpolitik. PLC parliamentarians tried to take the DR–CAFTA ratification process hostage in order to use it as a bargaining chip for Alemán's liberation.[98] This required the government to negotiate with the FSLN. When the FSLN parliamentarians were interviewed, however, they would not confirm whether or not they took part in the negotiations to trade Alemán for DR–CAFTA. According to Congressman Carlos Noguera, former president of the National Assembly's Special DR–CAFTA Commission, the negotiations on this issue were discontinued.

Publicly, FSLN parliamentarians tended to reiterate their party's opposition to the FTA based on existing unfair trade practices, regional asymmetry and inequalities.[99] However, as the year 2005 went on, new political pressures and priorities entered the political scenario. National elections were to be held in 2006, and political parties were starting to measure carefully the costs and benefits of their political decisions. For the FSLN, maintaining "good" political and economic relations with the United States became a crucial priority.

In order to avoid high political costs from opposing the DR–CAFTA ratification, the FSLN opted for what Bayardo Arce, economic advisor to President Daniel Ortega, characterized as a "pragmatic approach". According to Arce, the FSLN decided not to obstruct the ratification process by allowing the Pro–FTA political forces to bring it to the plenary voting process when they had a majority. "This was a sort of complicity on our part. We did not support it, [but] we did not sabotage it either. The Left of the country criticizes us for this, but I think it is a matter of vision."[100]

Pragmatism thus related to the fact that DR–CAFTA became part of a political game where support for or against the agreement became entangled with the issue of political alliances and divisions in the run-up to elections. It was also facilitated by the considerable property and other business interests that some party officials or their families had developed in the previous decade (Rodgers 2008), precisely in areas that stood to benefit from DR–CAFTA, such as textile and clothing *maquiladoras*, and the agroindustry.

The approval of the complementary agenda seems to have followed a similar path. Although the final draft contained elements of the proposals presented by Iniciativa CID actors on issues such as accessing generic drugs, protecting traditional knowledge, improving access to credit for SMEs, introducing binding instruments to ensure compliance with labour and environmental standards, and addressing infrastructural matters, it did so in very general terms.

Concerning intellectual property, for instance, the approved complementary agenda stipulates that the Nicaraguan government shall "define mechanisms to ensure access to generic drugs and the protection of traditional knowledge" (La Gaceta 2005:6556). How these mechanisms would address structural issues and concerns, and which institutions would be responsible and accountable for their creation and follow-up, however, was never specified. Similarly, regarding infrastructural issues, the complementary agenda referred to the importance, in general terms, of "strengthening and modernising trade-related infrastructure in the country" (La Gaceta 2005:6555) without identifying where the financial resources would come from and who would be in charge. As such, the approved complementary agenda was not as binding as Iniciativa CID representatives originally envisioned.

---

98 Interview with Congressman Carlos Noguera, former president of the National Assembly's Special DR–CAFTA Commission, in 2007.

99 Interview with Alba Palacios.

100 Interview with Bayardo Arce in 2007. Subsequent quotes and information attributed to Arce, unless otherwise cited, are taken from the interview by the author.

The current complementary agenda also includes actions that had already been concluded, like the transformation of the Centro de Exportaciones e Importaciones (CEI) into NicaExport.[101] According to the agenda, this public-private entity would have to develop mechanisms to provide SMEs with updated information of international markets and commodity prices (La Gaceta 2005). However, the agenda does not specify how these mechanisms would be set up to reach these particular actors and to whom this institution could be accountable. Moreover, the agenda also identifies a series of laws geared to protect water resources, promote competition and enhance access to credit, among others. These laws, however, are at an impasse in the National Assembly and are yet to be approved.

When questioned about the reasons for the striking differences between the complementary agenda proposed by Iniciativa CID and the one finally annexed to the official publication of DR–CAFTA texts, Bayardo Arce argues that the Bolaños administration was the only player responsible for the watering down of the originally proposed complementary agenda. Interestingly, the complementary agenda, in its current version, was discussed and approved by the National Assembly during the DR–CAFTA ratification process.

By and large, crucial development issues such as structural national productive constraints, low value-added production and exports, unfair trade competition (such as agricultural subsidies), and social and economic inequalities were left out of both the Nicaraguan complementary agenda and DR–CAFTA. In 2007, however, newly elected President Daniel Ortega announced Nicaragua's adhesion to ALBA.

ALBA was presented as the "alternative" integrationist regime that would tackle all the supply-side issues and power asymmetries that DR–CAFTA failed to deal with. Immediately, a debate was sparked off among key stakeholders about whether or not DR–CAFTA and ALBA were complementary or contradictory. The paper now turns to a discussion of the emergence of ALBA and its potential contribution to inclusive development.

5. The Emergence of ALBA

This section introduces ALBA's major discursive and theoretical underpinnings. Two issues in particular are explored: the role of ALBA in dealing with the structural constraints that were ignored by DR–CAFTA, and the apparent paradox between ALBA's founding principles (such as solidarity and equity) and the marginalization of non-state actors in the policy-making process.

ALBA has emerged as an alternative regional integration scheme to the FTAA, promoted by the United States. Ideologically, it inserts itself within a critique of current neoliberal integrationist projects as well as the policies and institutions of the Washington consensus. ALBA proposes a shift from the neoliberal paradigm of integration and economic growth to a model centred on "cooperation, poverty eradication, and social inclusion".[102] By acknowledging existing asymmetries and inequalities within and outside the Latin American region, ALBA's proponents state that the model breaks from the notion of "competitive advantage" and, instead, proposes the notion of "cooperative advantage".

The concept of cooperative advantage rests on two main ideas: the inclusion of solidarity in international relations and the maintenance of national sovereignty. To address this notion further, ALBA entails the creation of regional compensatory funds. The allocation of funds follows social and economic goals with established implementation periods and review

[101] CEI, the Centre for Export and Import, became NicaExport, one of Nicaragua's export promotion agencies, a few years before the complementary agenda came into existence.

[102] www.alternativabolivariana.org/index.php, accessed on 5 June 2007.

mechanisms for ALBA members. Economies need to be classified as "small" to be eligible.[103] To identify these, ALBA proponents have introduced a series of social and economic variables, such as export structure, level of industrial development and external vulnerability, to facilitate the identification of economies that need assistance in enhancing their productive and competitive capacities.[104] Furthermore, the assistance received by ALBA member countries would need to be targeted to decrease internal disparities among national productive sectors, ensuring high levels of efficiency and transparency in the use of the funds.[105]

ALBA proponents argue that the model is geared to address structural conditions that cause regional and national economic and social disparities. In this sense it could tackle the issues ignored by DR–CAFTA. Resources are to be directed to areas that include credit, energy, communication, health, basic industries, food and water (Núñez 2007). Structural development issues would be addressed among members by the creation of a development bank (Banco ALBA); access to cheaper oil and energy sources (PetroALBA, ALBAGas, ALBAElectricidad); development of communication, infrastructure and services (ALBACOM, TELESUR, ALBA TV, Aeroportuaria); access to and production of generic medicines (ALBA-Medicinas); production of agricultural and industrial inputs (ALBA-Alimentos); and finally access to potable water (ALBA-Agua) (Núñez 2007).

These would be delivered or facilitated regionally by a state version of transnational corporations: the *grannacionales*. In theory, these would defend national sovereignty by acting as a counterweight to the influence of TNCs in national and regional political decision making; strengthening state control in relation to the private management of the "rules of the game"; protecting public services from privatization; allowing for technology transfer and the development of local technologies; and inhibiting capital flows towards the North as a result of profit repatriation (Núñez 2007). The *grannacionales*, though state owned, would enter into partnerships and strategic alliances with business actors, including SMEs. At the core, ALBA proposes a return of the state to economic life (Rosales 2006). Furthermore, the notion of the state as a facilitator of the development process is challenged, and a more active role of the state is envisioned.

Discursively, ALBA has been portrayed as a tool to attain social justice in contrast to a capitalist conception of democracy. According to Orlando Núñez (2007), a former executive director of CIPRES and current rural development advisor to the president, ALBA reinforces the contradiction between democracy and social justice. Núñez says that neoliberal governments in Nicaragua have until now, promoted a representational, good governance and transparency agenda typical of capitalist democracies that has failed to address issues of social justice (Núñez 2007). In the past the FSLN, Núñez argues, was concerned with attaining social justice objectives regardless of the means used. Now, however, "we [the FSLN government] are trying to attain social justice from a *democratic* perspective. Sometimes, democracy [in the sense of good governance] and social justice might coincide, but a tension will always exist between the two" (Núñez 2007:16).

Therefore, in order to attain the objectives of social justice, the newly elected administration might resort to processes and schemes, which proponents of the good governance agenda may not necessarily consider democratic. These tensions have already begun to emerge. Moreover, for Núñez, the coexistence of both ALBA and DR–CAFTA illustrates the tension: "CAFTA–ALBA is a contradiction we [the FSLN government] will have to administer. We have more sympathy for ALBA and cooperation comes from ALBA, not DR–CAFTA. We, however, see the reality and administer the contradiction. It is not a matter of hiding these options, but learning how to manage the contradictions they generate" (Núñez 2007:19).

103 www.alternativabolivariana.org/index.php, accessed on 5 June 2007.

104 www.alternativabolivariana.org/index.php, accessed on 5 June 2007.

105 www.alternativabolivariana.org/index.php, accessed on 5 June 2007.

Nicaragua joined ALBA on 11 January 2007, a few days after Ortega took office. Two months later, the National Assembly passed a total of five decrees of cooperation in areas including energy, agriculture, health and the setting up of a macro-level framework for cooperation led by a High Level Mixed Commission composed of the foreign affairs ministers of Nicaragua and Venezuela. The commission will, in the future, coordinate and follow–up on the implementation of the cooperation agreements (Oquist 2007).

Since the approval of the decrees, action has been taken regarding the development of alliances with business actors, the formation of potential telecommunications' *grannacionales* and the importation of agricultural inputs—such as natural fertilizers like urea—at cheaper rates, which is crucial for rural production. However, ALBA's regional implementation is still in its incipient stage. As Bayardo Arce says, "ALBA is a process, an agreement in formulation, not yet finalized". Although ALBA's regional implementation is largely in its infancy, it is possible to identify trends in its current national implementation to understand potential implications for inclusive development.

Nicaragua's adhesion to ALBA has been largely the result of a top-down political decision made by the newly elected president. As such, and in light with what Núñez referred to as the tension between democracy and social justice, little or no prior consultations were held with Nicaraguan non-state actors and society at large. As a result, the majority of these actors have only a vague idea of ALBA's potential opportunities and costs. For business actors like CANISLAC, ALBA represents an unknown territory: "As an organized sector we do not know what ALBA entails. We asked for a meeting with the president to discuss ALBA and negotiations regarding the Central American integration and the Economic Partnership Agreement (EPA) with the European Union, but we have not received any response."[106]

CANISLAC members claim that the little that they do know about ALBA has been "picked up in the news".[107] They believe their sector could potentially benefit from ALBA, but to ensure its sustainability, a national productive strategy would need to be set in place. Although associations such as CNPA and ANITEC say that they are informed about ALBA only through national media, they view it as a potentially positive deal. According to Mario Amador, sugar exports to Venezuela already receive preferential treatment based on previous unilateral concessions granted by the country.

The associations, however, have usually dealt directly with Venezuelan businesspeople and prefer to maintain the relationship. "We do not know if under ALBA we will need to deal with the Venezuelan government or export to a state-owned commercial plant. We prefer to continue business privately because when the state is involved it complicates things."[108] For ANITEC, opening new markets for T&C and attracting FDI are the priority. Thus, if ALBA can create opportunities to access Venezuelan and other South American markets, then they would have "no problem with it".[109]

Among NGOs, the views are highly diverse. For organizations like CENIDH, it is an agreement with a clear political agenda. "ALBA seeks to redistribute wealth within the framework of formal democracies. It is mainly a cooperation project for governments that sympathize with Hugo Chavez's politics in order to face US imperialism."[110] For others like Bianca Mangas, ALBA is basically a cooperation agreement that needs to be publicly scrutinized in relation to the funds that Nicaragua will receive (for example, conditionality and fiscal costs) and ALBA's potential benefits and complementarities with DR–CAFTA. According to Mangas, ALBA could be a useful instrument to strengthen less competitive sectors in regard to trade liberalization

[106] Interview with Wilmer Fernández.

[107] Interview with Wilmer Fernández.

[108] Interview with Mario Amador.

[109] Interview with Fernando Traversari.

[110] Interview with Bayardo Izabá.

and improve Central America's competitiveness. Currently, however, "it is mainly an expression of good will that is yet to be concretized".

Social movements for their part have responded to ALBA differently. While some old social movements, particularly those with historical ties to the FSLN, were invited to participate in ALBA's summit in Caracas in January 2008 and to contribute to ALBA-related discussions (Gobierno de Nicaragua 2008), new social movements like the Movimiento de Mujeres Maria Elena Cuadra and the Women's Forum for Central American Integration claim to have little knowledge of ALBA and are focusing more on the preparation for future negotiations with the European Union.[111]

The return to power of the FSLN has created further internal cracks within the Coordinadora Civil, between the old social movements historically linked to the Sandinista party and NGOs. At the beginning of 2007, several of these movements left the Coordinadora Civil and joined the Coordinadora Social, a similar body created in 2005 by the old social movements, which according to them better represents the voices of the popular classes.

A basic contestation to legitimately represent Nicaraguan society's concerns and demands is thus currently taking place among civil society actors. At a more profound level, however, the increasing interrelation of the Coordinadora Social with the Sandinista government[112] is questioning the limits between the state and an autonomous civil society. This situation is both stressing the divisions among Nicaraguan civil society actors and challenging the emergence of cohesive responses from these players to key policy-making processes.

Unlike the DR–CAFTA negotiations, the minor or negligible involvement of non-state actors in consultation processes prior to Nicaragua's adhesion to ALBA, and their scarce knowledge of the agreements, do not seem to be causing a major problem for old social movements. According to Mangas, the lack of social mobilization to demand greater transparency in relation to ALBA could be interpreted in three ways. First, some organizations and social movements agree ideologically and conceptually with ALBA's proposals. Second, social movements have been weakened, as Nicaraguan society has become more NGO-ized. Third, social movements that might disagree with the lack of transparency in ALBA's implementation could be afraid of being characterized as "traitors" if they criticize the government's approach openly in light of recent political developments.[113]

Other actors like FENACOOP, however, have decided to open up the debate. Although they identify several common goals and visions with the current administration in relation to health, education, food security and poverty eradication, they also denounce elements of ALBA's implementation that are contradictory to its apparent long-term objectives (Cáceres 2007). FENACOOP strongly criticizes the current lack of information that reigns over the public administration. It argues that there is a generalized lack of knowledge about plans, projects and programmes that Daniel Ortega's government intends to implement and that decision making has become highly centralized, with ministers being uncertain of the extent of their authority (Cáceres 2007).[114]

Furthermore, both agricultural inputs, such as urea, and Venezuela's cooperation funds are, according to Sinforiano Cáceres, being distributed mainly based on strategic political interests.

[111] Interview with Haydée Castillo.

[112] President Ortega has publicly delegitimized the Coordinadora Civil and proclaimed the Coordinadora Social as the main public policy consultative body between the state and civil society. Old social movement representatives under the Coordinadora Social, such as UNAG, have recently taken up important posts in ministries.

[113] Interview with Bianca Mangas.

[114] In the first few months after President Ortega took office, the ministers of culture, environment and trade were asked to step down from their posts. Moreover, a nomination to a high-profile diplomatic post was cancelled immediately after the nominee made statements in the media declarations that might have been construed as "direct criticisms of the government".

In Nicaragua, large retailers grouped under the Asociación Nicaragüense de Formuladores y Distribuidores de Agroquímicos (ANIFODA) control the distribution of fertilizers, allowing the association to set prices nationally. In February 2007, ANIFODA announced that it would stop importing urea. It argued that cheaper Venezuelan urea was hurting the business of its members and representing an "unfair" competition (Cáceres 2007). The government ignored this and announced an increase in the import of urea from Venezuela to cover national demand. According to Cáceres, however, the government decided to channel the distribution of urea exclusively through a cooperative named Nicaraocoop, whose legitimacy has been questioned by several Nicaraguan cooperatives (Cáceres 2007:17).

According to Cáceres, Nicaraocoop is a private enterprise that uses the cooperative form to gain political leverage. When FENACOOP questioned the government about the mechanism for the distribution of the urea, it was told that a private delegate from the government would distribute it according to its immediate need: "Why, however, should the government delegate responsibilities to private individuals?" (Cáceres 2007:15). Venezuelan urea is being sold at three different prices: "the price that party members pay, the price for leaders of selected associations, and the price others who do not belong to either group pay" (Cáceres 2007:15).

There was also discontent because $10 million assigned by President Hugo Chavez through BANDES—a Venezuelan bank, geared to increase credit availability for small and medium rural producers—was only distributed among five enterprises (Cáceres 2007:18). When FENACOOP members demanded to know the criteria that would be used to gain access to these resources, the government informed them that the criteria had been defined and funds already distributed (Cáceres 2007). For Cáceres, these actions clearly enhance inequalities among national actors and defeat the purpose of Venezuelan cooperation funds.

> Who is actually deciding how to distribute the aid funds? Which technical criteria are prevailing? We believe weaker players within the rural sector should be prioritized. ... The tendency, however, is that the groups receiving most of the resources are not the most in need, but those who are led by national legislators or high profile members of the party and government (Cáceres 2007:18).

Discursively, ALBA has been portrayed as an instrument to deal with those of Nicaragua's structural constraints that were excluded from DR–CAFTA, such as energy, infrastructure and finance, and also to address social development needs. However, its potential impact on inclusive development would need to be assessed on the basis of its "in situ" implementation, that is, who benefits, who loses and how the internal prevailing inequalities are to be effectively contested and addressed at the national level.

Although ALBA is still an incipient process, its early stages of implementation are posing important challenges for the pursuit of its long-term objectives. The lack of information, inclusion and participation of the different actors, as well as the inadequate transparency and accountability in the administration of ALBA fund, could in the long run be counterproductive in attaining its goals of original social and inclusive development.

For Nicaraguan non-state actors, both DR–CAFTA and ALBA are largely complementary. Maintaining coherence at the policy level, however, while also tackling structural supply-side constraints and social development issues in a sustainable manner through both regimes, remain some of President Ortega's and Nicaraguan society's major trade and development conundrums.

6. Conclusions

This paper has shown how trade policy is made in the context of asymmetrical power relations. The case of Nicaragua in DR–CAFTA negotiations shows that low-income countries can and do use their negotiating space in the creation of international trade regimes. However, their strategies and tactics, as well as the power differentials in relation to other players, will have a profound effect on the boundaries of this negotiating space. In these negotiations, the policy space for Nicaragua and other Central American countries was limited to the market access pillar. The other pillars were out of reach for the Central American players for agenda-setting purposes. Instead, they were central to the political-economic bargain of DR–CAFTA: enhanced market access in exchange for more stringent commitments in IPR and investment rules.

This suggests that a closer study of the role of power and, in particular, asymmetrical power in trade regime formation is needed to better understand the dynamics at play and the potential implication on policy space and inclusive development for weaker players in the international economic system. The increasing direct involvement of business actors in international trade negotiations has blurred the distinction between both the levels proposed by the two-level bargain model. New ways of understanding preference and interest formation will be required to move beyond the fluidity and linearity implicit in the two-level bargain model of international trade negotiations theory.

DR–CAFTA negotiations did constrict the policy space of Central American countries. In the case of IPR, the agreement further limited the definition of what constituted a national health threat in relation to the TRIPS Agreement, potentially curtailing the autonomy of Central American governments to allow parallel imports of generic drugs in case of need. Likewise, it allowed for the patenting of plant varieties and crucial genetic material (for example, through UPOV and the Budapest Agreement on the Patenting of Microorganisms). This could lead in the future to the "privatization" of Central America's rich biodiversity resources and traditional knowledge, which have until now been a common good.

In the case of investment, host countries can no longer use some of the tools that have been central to the development of East Asian countries, such as local content (the ability of host governments to demand a certain percentage of locally produced inputs in the production process of foreign investors), performance requirements of FDI in order to receive incentives and tax breaks granted to national economic actors, and technology transfer. This will have clear implications for the ability of Central American governments and policy makers to foster creative state-crafting in the future and the use of policy space to generate the synergies from industrial and other supply-side policies responsible for the growth levels experienced by developed and more advanced developing countries.

In terms of labour and environmental rights and standards, DR–CAFTA stresses that parties should enforce their own national labour legislations. However, criticisms have arisen regarding the capacity of the region to safeguard labour rights and environmental standards in the long term, based on the provisions of chapters dealing with these issues. In DR–CAFTA, the burden of proof as well as the costs of potential sanctions and fines for any likely violations of labour and environmental standards are borne only by governments, even though business actors play a key role in shaping and implementing these standards. These actors, however, do not bear any direct liability for labour and environmental violations in the context of international trade regimes. And although trade agreements are ultimately agreed upon and implemented by states, these provisions do not capture the increasing influence and involvement of business in economic planning and activity.

Furthermore, the existing differences in dispute resolution procedures and remedies between commercial issues and those of labour and environment in DR–CAFTA may in the future render their enforcement more difficult.

In the case of DR–CAFTA, the level of power that non-state actors wielded at the national and regional levels dictated the extent of their influence in the negotiations. Nicaraguan business in particular was strengthened in comparison with other players, such as organized workers and other civil society actors, as a result of the privatization process and the implementation of Washington consensus policies in the 1990s. Moreover, economic globalization and regional integration processes in Central America have allowed business actors to regionalize and integrate with key transnational players, expanding their space for wealth accumulation and policy influence.

As transnational actors become active in trade policy-making processes, the idea of what actually constitutes "national" preferences is increasingly problematic. In the context of current changes in global governance structures, particular economic actors within and beyond the boundaries of the nation-state are transforming trade policy making into a more complex and multilevel process in which power dynamics have a decisive role in shaping final outcomes. This has profound development implications for low-income developing countries like Nicaragua.

Certain business actors have not only become more important economically, but have also emerged as key political players, given the ideological legitimacy that they gained within the neoliberal development paradigm. In the case of Nicaragua, the pro-business inclination of the Bolaños administration was key to the pre-eminent role that business associations played during the negotiations. As seen earlier in the paper, their participation was crucial to the creation of a national negotiating agenda and strategy based on knowledge sharing with the negotiating team. In exchange, business associations exerted direct influence in the negotiations through formal and informal mechanisms.

The extent of their influence, however, varied according to the size and importance in the economy of the sector they represented; their capacity to mobilize financial resources; the level of access to technical knowledge; the relationship they had and fostered with the negotiators; and the presence or absence of transnational capital in particular sectors. Ultimately, they were forced to confront limitations to their influence when faced with the structural power of the USTR and key US industry and agroindustry lobby groups (for example, textiles).

Nicaragua's major outcome in the negotiations (the 10-year special and differentiated rules of origin regime for textiles) was eroded when DR–CAFTA was sent to the US Congress for approval. Extra-official DR–CAFTA negotiations began upon the request of the powerful National Council for Textile Organizations in the United States. As a result, the two T&C associations were in charge of striking a "new" deal, which led to the establishment of a one-to-one rule. Similarly, as the opening quotation of this paper states, DR–CAFTA was signed, and negotiators and business actors began to celebrate its completion, without an actual agreement on sugar quotas. The agreement was finally reached in the offices of the USTR, clearly showing the ability of the United States to dictate the rules of the game.

Nicaraguan civil society has, for its part, undergone a series of changes that have shaped it internally and externally (for example, the terms of its relation to the state and vice versa). Indeed, Nicaraguan civil society has been characterized as highly NGO-ized, with weakened social movements, as a result of neoliberal economic and social reforms. DR–CAFTA negotiations prompted a series of highly diverse opinions and divided responses among civil society actors. Two major factions emerged: those that participated in the "room next door" (Iniciativa CID actors) and those that joined an Anti–CAFTA movement (which brought together both new and old social movements, and a few NGOs). Iniciativa CID actors channelled their participation through the mobilization of resources and the ability to identify political opportunities (such as good governance discourse and funding).

Their influence, however, was limited by (i) the different levels of access that NGOs and social movements had to technical knowledge; (ii) their weaker political and ideological leverage compared to business actors, which allowed the latter to directly craft trade preferences in the negotiations; (iii) the direct influence of the government to dismantle the Anti–CAFTA movement (for example, the in conducting a successful media campaign against the Anti–CAFTA movement); and (iv) US structural power and interests, which prevailed throughout the negotiating process (such as the inclusion of labour and environmental chapters and the exclusion of agricultural subsidies from the agreement).

Although identifying the impact of DR–CAFTA would be premature and a potentially difficult exercise—given methodological limitations (such as general equilibrium models) and heterogeneity among actors and sectors (Jansen et. al. 2007)—the first year of its implementation has shown apparent disparities in the export performance of different economic sectors. According to the Ministry for Development, Industry and Trade, the market access exporting quotas obtained under DR–CAFTA have not yet been fully utilized by Nicaraguan producers, excluding those producing sugar, and textile and clothing (MIFIC 2007).

Dairy producers have in general been able to use their quotas fully, although these are, as a result of the negotiations, very low. Their performance should therefore be analysed within this context. Several small and medium dairy producers continue to face severe infrastructural and production challenges to transform and add value to milk output. They also face non-tariff barriers that curtail real access to the US market. For both TNCs and regional economic groups with a fully established export capacity, export and import quotas have been largely utilized (MIFIC 2007).

However, structural constraints are by no means relevant only to the small and medium dairy producers. This is a cross-cutting national and regional reality for many Nicaraguan SMEs. Access to roads, credit, productive inputs, and technology and innovation continues to be a profound challenge to the participation of SMEs in national and international markets. Similarly, the lack of productive structure that inhibits the creation of economies of scale among Nicaraguan SMEs, clearly limits their ability to compete with other regional and international players, and respond to potential product and quality demands from international partners and importers.

Therefore, it is essential to deal with supply-side constraints at the national and regional levels to enhance the competitiveness of Central American SMEs. A "macro complementary agenda" geared to address these structural limitations and strengthen potential losers from trade liberalization is key to ensure a more equal distribution of costs and benefits between business and civil society actors and, subsequently, a better positioning of Nicaragua in the world economy.

Discursively and conceptually, alternative integrationist regimes like ALBA embody issues of regional and national asymmetries, fair trade, solidarity and sovereignty among its members. Although these could potentially be used to support a macro complementary agenda in Nicaragua, it is critical to analyse more closely how ALBA is being implemented at the national level. To become an instrument for inclusive development, ALBA's implementation needs to be more encompassing and transparent and ensure that it does not undermine its core purpose by turning into a scheme that narrowly selects its beneficiaries.

It will be essential to establish effective participation and accountability mechanisms that ensure both inclusive consultation processes with the different sectors of Nicaraguan society and the levels of legitimacy that the sustainability of an instrument of this nature requires. ALBA's potential to tackle structural limitations of Nicaragua's economy should be assessed in the short, medium and long terms. Although ALBA could become more tangible as resource availability is ensured, the political-economic tensions that may arise by being part of both DR–CAFTA and ALBA should not be overlooked. This will require skilful political framing and policy coherence in order to ensure the coexistence and sustainability of both regimes. For many

Nicaraguan state and non-state actors, however, DR–CAFTA and ALBA can and should be used as complementary instruments to reach sustainable development objectives.

A number of lessons and policy implications arise from this study, which could be relevant to current trade negotiations between Central America and the European Union. The negotiating experience of DR–CAFTA highlights that in order to make international trade regimes compatible with sustainable development goals, it is crucial that Central American governments strengthen their bargaining positions by establishing clear negotiating mandates; identifying development and competitiveness objectives; creating sustainable development benchmarks to evaluate the results of the negotiations; and developing and sustaining coalitions and strategic alliances among countries prior to the negotiating process.

Certain innovations in the governments' negotiating strategies could be particularly beneficial for Central America. These countries should strengthen and transcend the market access pillar by developing offensive, defensive and pro-development proposals in negotiating areas, including services, IPR, government procurement and investment. Similarly, the identification of strategic development policies that could be supported by current or new trade rules will be crucial and should be fed into national and regional negotiating strategies in order to defend policy spaces in all or key areas of the negotiations. In-depth studies and analysis of the remaining policy space post–DR–CAFTA will be crucial to determine negotiating "ceilings" in the context of the economic partnership agreement negotiations with the European Union.

Central American governments should also improve the transparency and participation of all actors in international trade negotiations. Important in this regard is the establishment of effective mechanisms to access both negotiators and technical knowledge required to balance the different levels of power among national, regional and transnational non-state actors. Increasingly trade policy making is no longer solely the realm of the state. However, its role in mediating conflicting interests and ensuring that the results of negotiations are conducive to a national vision of development strategy remains key.

Finally, it is crucial that Central American governments tackle national and regional supply-side constraints, such as lack of infrastructure, productive capacity bottlenecks, access to credit, innovation, and technical and technological upgrading, in order to fully benefit from the opportunities that these instruments create. Without the domestic and regional capacity to connect trade regimes with inclusive and sustainable development policies, linking to the world economy on better terms will remain an elusive challenge.

Appendix 1: Latin America and the Caribbean: Gross domestic product

(Annual growth rates)

	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006[a]	1997
Latin America and the Caribbean	**5.5**	**2.6**	**0.4**	**3.9**	**0.3**	**–0.8**	**2.0**	**5.9**	**4.5**	**5.3**	**5.5**
Latin America	**5.5**	**2.5**	**0.3**	**4.0**	**0.3**	**–0.8**	**1.9**	**6.0**	**4.5**	**5.3**	**5.5**
Argentina	8.1	3.9	–3.4	–0.8	–4.4	–10.9	8.8	9.0	9.2	8.5	8.1
Bolivia	5.0	5.0	0.4	2.5	1.7	2.5	2.9	3.9	4.1	4.5	5.0
Brazil	3.3	0.1	0.8	4.4	1.3	1.9	0.5	4.9	2.3	2.8	3.3
Chile	6.6	3.2	–0.8	4.5	3.4	2.2	3.9	6.2	6.3	4.4	6.6
Colombia	3.4	0.6	–4.2	2.9	1.5	1.9	3.9	4.9	5.2	6.0	3.4
Costa Rica	5.6	8.4	8.2	1.8	1.1	2.9	6.4	4.1	5.9	6.8	5.6
Cuba	2.7	0.2	6.3	6.1	3.0	1.5	2.9	4.5	–	–	2.7
Cuba[b]	–	–	–	–	3.0	1.8	3.8	5.4	11.8	12.5	–
Dominican Republic	8.1	8.3	6.1	7.9	2.3	5.0	–0.4	2.7	9.2	10.0	8.1
Ecuador	4.1	2.1	–6.3	2.8	5.3	4.2	3.6	7.9	4.7	4.9	4.1
El Salvador	4.2	3.7	3.4	2.2	1.7	2.3	2.3	1.8	2.8	3.8	4.2
Guatemala	4.4	5.0	3.8	3.6	2.3	2.2	2.1	2.7	3.2	4.6	4.4
Haiti	2.7	2.2	2.7	0.9	–1.0	–0.3	0.4	–3.5	1.8	2.5	2.7
Honduras	5.0	2.9	–1.9	5.7	2.6	2.7	3.5	5.0	4.1	5.6	5.0
Mexico	6.8	5.0	3.8	6.6	0.0	0.8	1.4	4.2	3.0	4.8	6.8
Nicaragua	4.0	3.7	7.0	4.1	3.0	0.8	2.5	5.1	4.0	3.7	4.0
Panama	6.4	7.4	4.0	2.7	0.6	2.2	4.2	7.5	6.9	7.5	6.4
Paraguay	3.0	0.6	–1.5	–3.3	2.1	0.0	3.8	4.1	2.9	4.0	3.0
Peru	6.9	–0.7	0.9	3.0	0.2	5.2	3.9	5.2	6.4	7.2	6.9
Uruguay	5.0	4.5	–2.8	–1.4	–3.4	–11.0	2.2	11.8	6.6	7.3	5.0
Venezuela	6.4	0.3	–6.0	3.7	3.4	–8.9	–7.7	17.9	9.3	10.0	6.4
Caribbean	**3.5**	**4.1**	**3.9**	**3.4**	**1.9**	**3.3**	**5.8**	**3.8**	**4.9**	**6.8**	**3.5**
Antigua and Barbuda	4.9	4.4	4.1	1.5	2.2	2.5	5.2	7.2	4.6	11.0	4.9
Bahamas	4.9	6.8	4.0	1.9	0.8	2.3	1.4	1.8	2.7	4.0	4.9
Barbados	4.6	6.2	0.5	2.2	–2.6	0.5	1.9	4.8	3.9	3.8	4.6
Belize	3.6	3.7	8.7	12.9	4.9	5.1	9.3	4.6	3.5	2.7	3.6
Dominica	2.5	3.2	0.6	0.6	–3.6	–4.2	2.2	6.3	3.3	4.0	2.5
Grenada	5.4	8.2	7.0	7.0	–4.9	1.5	7.5	–7.4	13.2	7.0	5.4
Guyana	6.2	–1.7	3.8	–1.4	2.3	1.1	–0.7	1.6	–3.0	1.3	6.2
Jamaica	–1.0	–1.2	1.0	0.7	1.5	1.1	2.3	0.9	1.4	2.6	–1.0
Saint Kitts and Nevis	7.4	0.9	3.6	4.3	2.0	1.1	0.5	7.6	5.0	5.0	7.4
Saint Lucia	–1.0	6.4	2.4	–0.2	–5.1	3.1	4.1	5.6	7.7	7.0	–1.0
Saint Vincent and the Grenadines	2.9	5.2	4.4	1.8	1.0	3.7	3.2	6.2	1.5	4.0	2.9
Suriname	2.2	3.1	–2.4	4.0	5.9	1.9	6.1	7.7	5.7	6.4	2.2
Trinidad and Tobago	7.7	8.1	8.0	6.9	4.2	6.9	12.6	6.4	8.9	12.0	7.7

Notes: [a] Preliminary figures. [b] These data have been supplied by the National Statistical Office of Cuba and are currently being assessed by the United Nations Economic Commission on Latin America and the Caribbean (ECLAC). **Source:** ECLAC 2006b, on the basis of official figures expressed in constant 2000 dollars.

Appendix 2: Latin America: Net foreign direct investment[a]

(millions of dollars)

	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006[b]
Latin America	**57,599**	**60,999**	**79,923**	**70,308**	**63,659**	**45,213**	**35,114**	**43,149**	**49,206**	**33,483**
Argentina[c]	5,507	4,965	22,257	9,517	2,005	2,776	878	3,832	3,579	869
Bolivia	728	947	1,008	734	703	674	195	63	–280	100
Brazil	18,608	26,002	26,888	30,498	24,715	14,108	9,894	8,339	12,550	–6,858
Chile	3,809	3,144	6,203	873	2,590	2,207	2,701	5,646	4,764	6,600
Colombia	4,753	2,033	1,392	2,069	2,509	1,283	820	2,975	5,751	3,949
Costa Rica	404	608	614	400	451	625	548	733	904	1,611
Dominican Republic	421	700	1,338	953	1,079	917	613	909	1,023	1,050
Ecuador	724	870	648	720	1,330	1,275	1,555	1,160	1,646	2,899
El Salvador[d]	59	1,103	162	178	289	496	123	430	300	222
Guatemala	84	673	155	230	456	111	131	155	208	325
Haiti	4	11	30	13	4	6	14	6	10	46
Honduras	122	99	237	282	193	176	247	325	272	299
Mexico[e]	12,831	12,409	13,631	17,588	21,800	18,154	14,003	14,509	12,460	17,300
Nicaragua	203	218	337	267	150	204	201	250	241	290
Panama	1,299	1,203	864	624	467	99	771	1,004	1,027	2,500
Paraguay	230	336	89	98	78	12	22	38	58	90
Peru	2,054	1,582	1,812	810	1,070	2,156	1,275	1,599	2,579	3,500
Uruguay	113	155	238	274	291	180	401	315	715	1,193
Venezuela	5,645	3,942	2,018	4,180	3,479	–244	722	864	1,400	–2,500

Notes: [a] Refers to direct investment in the reporting economy, minus direct investment abroad by reporting-economy residents. Includes reinvested profits. [b] Preliminary figures. [c] For 1999, includes the value of the investment by REPSOL in Yacimientos Petrolíferos Fiscales. Part of this amount corresponds to the purchase of shares in the company held by non-residents. In the balance of payments, the value of those shares is reflected as a debit under the portfolio investment item. [d] From 1998 onward the figures are not comparable, since up to 1997 no official records were kept. [e] For 2001, includes the value of the investment by Citigroup in BANAMEX; for 2004, includes investment in Bancomer. **Source:** ECLAC 2006b, on the basis of official figures and data from the International Monetary Fund (IMF).

Bibliography

Amsden, A. 1989. *Asia's Next Giant: South Korea and Late Industrialization*. Oxford University Press, Oxford.

Bendell, J., A. Ellersiek, and P. Vermeulen. 2008. *The Potential of Networks in Social Movements for Global Equality*. UNRISD, Geneva. Mimeo. www.scribd.com/doc/490444/Bendell-et-al-chapter-1-for-INEQ, accessed in January 2009.

Bolle, M.J. 2005. *CRS Report for Congress: DR–CAFTA Labor Rights Issues*. Foreign Affairs, Defense, and Trade Division, Congressional Research Library, The Library of Congress, Washington, DC. Mimeo.

Borchgrevink, A. 2006 *A Study of Civil Society in Nicaragua: A Report Commissioned by Norad*. NUPI Working Paper No. 699. NUPI, Oslo.

Bresser-Pereira, L. 2007. "Estado y mercado en el nuevo desarrollismo." *Nueva Sociedad*, No. 210, pp. 110–125.

Bull, B. 2007. "Comparing critical junctures: The democratic inclusion of social movements in Norway and Latin America." *Forum for Development Studies*, No. 1, pp. 63–89.

———. 2004. *Business Regionalization and the Complex Transnationalization of the Latin American States*. Working Paper No. 2004/02. Centre for Development and the Environment, University of Oslo, Oslo.

Cáceres, S. 2007. "El gobierno debe cambiar: El desarrollo rural no se resuelve en secreto." *Envío*, May, No. 302.

———. 2005. "El CAFTA será como un huracán Mitch con nombre comercial." *Envío*, September, No. 282.

———. 2003. "Nicaragua: En el TLC definimos si nos suicidamos o si morimos de muerte natural." *Envío*, October, No. 259.

Carrión, G. 2004. "China y el mercado textil nicaraguense: La amenaza del dragón." *El Observador Económico*, No. 149, June. www.elobservadoreconomico.com/archivo/149/principal.php, accessed on 20 July 2007.

Central Sandinista de Trabajadores—José Benito Escobar (CST–JBE). 2003. *Declaración de Principios Fundamentales del Movimiento Sindical Nicaraguense en Torno al Tratado de Libre Comercio con Estados Unidos*. CST–JBE. Mimeo.

Chang, H. 2003a. "The East-Asian development experience." In H. Chang (ed.), *Rethinking Development Economics*. Anthem Press, London.

———. 2003b. "Trade and industrial policy issues." In H. Chang (ed.), *Rethinking Development Economics*. Anthem Press, London.

Corrales, G. 2007. "El dinamismo del sector lácteo nicaragüense." *La Prensa*, 28 March, No. 23851. www.laprensa.com.ni/archivo/2007/marzo/28/suplementos/negocios/181230.shtml, accessed on 4 September 2007.

Corrales, W. and F. Baritto. 2006. *Aplicaciones e Ilustraciones de Casos para América Latina y el Caribe, Empleando Estrategias de Desarrollo Sostenible Apoyadas en el Comercio*. CEPAL, Santiago de Chile.

Della Porta, D. and M. Diani. 2006. *Social Movements: An Introduction*. Edgard Elgar, Oxford.

Diani, M. 1999. *Social Movement Networks Virtual and Real*. Paper prepared for the conference on A New Politics?, CCSS, University of Birmingham, 16–17 September.

Drahos, P. 2001. "BITs and BIPs: Bilateralism in intellectual property." *Journal of World Intellectual Property Rights*, Vol. 4, pp. 791–808.

Dugger, C. 2004. "The food chain-survival of the biggest: Supermarket giants crush Central American farmers." *The New York Times*, 28 December.

Eckstein, S. (ed.). 2001 *Power and Popular Protest: Latin American Social Movements*. University of California Press, Berkeley.

Economic Commission for Latin America and the Caribbean (ECLAC). 2006a. "Foreign direct investment and transnational corporations in Latin America and the Caribbean." In *Foreign Investment in Latin America and the Caribbean 2006*. ECLAC, Santiago de Chile.

———. 2006b. "Statistical appendix." In *Preliminary Overview of the Economies of Latin America and the Caribbean: 2006*. ECLAC, Santiago de Chile.

———. 2002. "Regional overview: Recent trends in foreign direct investment in Latin America and the Caribbean." In *Foreign Investment in Latin America and the Caribbean 2002*. ECLAC, Santiago de Chile.

Equipo Envío. 1991. "Privatización: tres puntos de vista." *Envío*, October, No. 120. www.envio.org.ni/688 accessed on 21 March 2007.

Escobar, A. and S. Alvarez. 1992. *The Making of Social Movements in Latin America: Identity, Strategy, and Democracy*. Westview Press, Boulder, CO.

Evans P., H. Jacobson and R. Putnam. 1993. *Double-Edge Diplomacy: International Bargaining and Domestic Politics*. University of California Press, Berkeley.

Fiallos, A. 2003. "Decimos NO al TLC con argumentos y con condiciones." *Envío*, October, No. 259.

Food and Drug Administration (FDA). 2007. *The Bioterrorism Act of 2002*. US Food and Drug Administration. www.fda.gov/oc/bioterrorism/bioact.html, accessed on 3 July 2007.

Fonseca-López, R. 2007. *CAFTA-DR: El Reto del Gobierno en Materia de Comunicación*. Mimeo.

Foreign Agricultural Service (FAS). 2005. *Central American–Dominican Republic–United States–Free Trade Agreement: Overall Agriculture Fact Sheet. US Foreign Agricultural Service*. www.fas.usda.gov/info/factsheets/CAFTA/overall021105a.html, accessed on December 2007.

Gereffi, G. 1995. "Global production systems and third world development." In G. Gereffi, *Global Change, Regional Response: The New International Context of Development*. Cambridge University Press, Cambridge.

Giugni, M., M. Bandler and N. Eggert. 2006. *The Global Justice Movement: How Far Does the Classic Social Movement Agenda Go in Explaining Transnational Contention?* Programme on Civil Society and Social Movements, Paper No. 24. UNRISD, Geneva.

Gobierno de Nicaragua. 2008. *Declaración Política del Consejo de Movimientos Sociales del ALBA–TPC*. Mimeo.

———. 2004. *Plan Nacional de Desarrollo (PND)*. Gobierno de la República de Nicaragua, Managua.

Greven, T. 2005. *Social Standards in Bilateral and Regional Trade and Investment Agreements: Instruments, Enforcement, and Policy Options for Trade Unions*. Dialogue on Globalisation, Occasional Papers No.16, March. Friedrich Ebert Stiftung, Geneva.

Grigsby, W. 2005. "Why so little social mobilization?" *Envío*, July, No. 288, pp. 19–27.

Haas, P. 1992 "Introduction: epistemic communities and international policy coordination" *International Organization*, Vol. 14, No. 1, pp. 1–36.

Haggard, S. 1995. *Developing Nations and the Politics of Global Integration*. The Brookings Institution, Washington, DC.

Haufler, V. 2000. "Private sector international regimes." In A. Higgot, G. Underhill and A. Bieler (eds.), *Non-State Actors and Authority in the Global System*. Routledge, London.

Iniciativa CID. 2004. *Desafíos y Propuestas para Sector Ambiental, Laboral, y Agropecuario de Nicaragua ante la Firma del CAFTA*. Iniciativa Mesoamericana, Comercio y Desarrollo—CID. Mimeo.

———. 2003. *Propuesta General ante el DR–CAFTA*. Iniciativa Mesoamericana, Comercio y Desarrollo—CID. Mimeo.

Jansen, Hans G.P., Sam Morley and Máximo Torero. 2007. *Impacto del Tratado de Libre Comercio de Centroamérica en la Agricultura y el Sector Rural de Cinco Países Centroamericanos*. Proyecto RUTA and IFPRI, San José, Costa Rica.

Keeley, J. and I. Scoones. 2003. "Understanding environmental policy processes: A conceptual map." In J. Keeley and I. Scoones. (eds.), *Understanding Environmental Policy Processes: Cases from Africa*. Earthscan Publications, London.

Kitschelt, H. 1993. "Social movements, political parties, and democratic theory." *The Annals of the American Academy of Political and Social Science*, Vol. 528, No. 1. pp. 13–29.

La Gaceta. 2005. "Agenda complementaria de país para el mejor aprovechamiento del CAFTA–DR." *La Gaceta Diario Oficial*, No. 199, 14 October, pp. 6554–6556.

Lall, S. 2000. "Technological change and industrializations in the Asian newly industrializing economies: Achievements and challenges." In Kim Linsu and Nelson Richard (eds.), *Technology, Learning, and Innovation: Experiences of Newly Industrializing Economies*. Cambridge University Press, Cambridge.

Levy, D. and A. Prakash. 2003 "Bargains old and new: Multinational corporations in global governance." *Business and Politics*, Vol. 5, No. 2, pp. 131–150.

López, G. 2003. *Comercialización de la Caña de Azúcar en Nicaragua, Casos Comparativos con Honduras y Costa Rica*. Proyecto IICA/EPAD. Mimeo.

Marchetti, P. and R. Mendoza. 2005. "CAFTA: A disempowering fetish." *Envío*, April, No. 285, pp. 43–48.

Mayorga, F. 2007. *Megacapitales de Nicaragua*. Ediciones Albertus, Managua.

Ministerio de Fomento, Industria y Comercio (MIFIC). 2007. *CAFTA–DR: Desempeño del Comercio Exterior y la Inversión Extranjera*. Paper presented at the Nicaraguan Chamber of Commerce, 1 November.

———. 2004. *Estrategia de negociación de Nicaragua*. MIFIC, Managua.

———. 2003. *Lo Que se Dijo en la VIII Ronda de Negociación del CAFTA*. MIFIC, Managua. Mimeo.

Montenegro, S. 2002. "Our weak civil society has been weakened further." *Envío*, May, No. 250.

M&R Consultores. 2005. *CAFTA, Sismo IX, Encuesta Nacional*. M&R Consultores. September. Mimeo.

———. 2003. *Estado de Opinión Pública en Torno al CAFTA*. M&R Consultores, January. Mimeo.

National Council of Textile Organizations (NCTO). 2005. *NCTO Applauds Major Improvements in CAFTA that Will Promote Textile Exports and Protect Textile Jobs: US Pocketings and Trouser Fabric Makers to Benefit*. www.ncto.org/newsroom/pr200526.asp, accessed on 29 January 2008.

Núñez, O. 2007. "Vamos hacia el Sur, en alianza con las asociaciones navegando en la contradicción democracia-justicia social." *Envío*, April, No. 301, pp. 13–19.

Office of the United States Trade Representative (USTR). 2008. *Preference Programmes*. www.ustr.gov/Trade_Development/Preference_Programs/CBI/Section_Index.html, accessed on 25 August 2008.

———. 2004. *DR–CAFTA Texts*. www.ustr.gov/Trade_Agreements/Bilateral/CAFTA/CAFTA-DR_Final_Texts/Section_Index.html, United States Trade Representative. Accessed on 20 May 2007.

Oquist, P. 2007. *Convenio Marco de Cooperación entre el Gobierno de la República de Nicaragua y el Gobierno de la República Bolivariana de Venezuela para la Aplicación de la Alternativa Bolivariana para las Américas*. Gobierno de Reconcialición y Unidad Nacional, 13 February, Nicaragua. Mimeo.

Palacios, M. 2005. "Investigación no. 3: Pros y contras del capítulo de propiedad intelectual del TLC." Executive summary. *Revista Centroamericana en la Economía Mundial del Siglo XXI*. Vol. 7, pp. 1–5. www.ca-asies.org/ca1/Revista%20Virtual/07_03.PDF, accessed in July 2005.

Permanent Mission of Venezuela. 1999. *Special and Differential Treatment and the Spaces for Policies in WTO: Two Elements of the Development Dimension in the Multilateral Trading System*. Preparations for the 1999 Ministerial Conference. Document no. WT/GC/W/279. WTO, Geneva.

Polanyi, K. 1944. *The Great Transformation: The Political and Economic Origins of Our Time*, Beacon Press, Boston.

Putnam, R. 1988. "Diplomacy and domestic politics: the logic of two-level games." *International Organization*, Vol. 42, No. 3, pp. 427–460.

Riain, S. 2000. "States and markets in an era of globalization." *Annual Review of Sociology*, Vol. 26, pp. 187–213.

Ricker, T. 2004. "Competition or massacre? Central American farmers' dismal prospects under CAFTA." *The Multinational Monitor*, Vol. 25, No. 4. http://multinationalmonitor.org/mm2004/04012004/april04corp1.html accessed on 15 April 2007.

Rodgers, Dennis. 2008. "A symptom called Managua." *New Left Review*, No. 49, January-February, pp. 103–120.

Rosales, A. 2006. *Between Desarrollismo and Post-Development: Assessing ALBA's Views on Development*. South-South Summer Institute. Mimeo.

Sánchez-Ancochea, D. 2007. "La globalización en países pequeños en desarrollo: Nicaragua en perspectiva comparada." *Revista Mexicana de Sociología*, Vol. 69, No. 2, pp. 199–242.

Sánchez-Ancochea, D. and K. Shadlen. 2008. *The Political Economy of Hemispheric Integration: Responding to Globalization in the Americas*. Palgrave Macmillan, New York.

Segovia, A. 2007. "¿Quién tiene el poder en Centroamérica? Más desiguales y cada vez más integrados." *Envío*, No. 298–299, pp. 49–55.

———. 2005. *Integración Real y Grupos de Poder Económico en América Central: Implicaciones para el Desarrollo y la Democracia de la Región*. Friedrich Ebert Stiftung, San José, Costa Rica.

Sell, S. 2003. *Private Power, Public Law: The Globalization of Intellectual Property Rights*. Cambridge University Press, Cambridge.

———. 2000. "Structures, agents and institutions: Private corporate power and the globalization of intellectual property rights." In A. Higgot, G. Underhill and A. Biele (eds.), *Non-State Actors and Authority in the Global System*. Routledge, London.

Serra, L. 2006. "Un balance de las luchas sociales en Nicaragua en el contexto electoral del 2006." *Universidad Centroamericana*. Mimeo.

Shadlen, K. 2008. "Globalisation, power, and integration: the political economy of regional and bilateral trade agreements in the Americas." *Journal of Development Studies*, Vol. 44, January, pp. 1–20.

———. 2005a. "Exchanging development for market access? Deep integration and industrial policy under multilateral and regional-bilateral trade agreements." *Review of International Political Economy*, Vol. 12, No. 5, December, pp. 750–775.

———. 2005b. *Bilateralism, Regionalism, and Deep Integration*. Lecture at the London School of Economics, 21 February 2005.

Sholk, R. 1984. "The national bourgeoisie in post-revolutionary Nicaragua." *Comparative Politics*, Vol. 16, No. 3, pp. 253–276.

Singh, J. 2003. *Wiggle Rooms: New Issues and North-South Negotiations during the Uruguay Round*. Paper presented at the Conference on Developing Countries and the Trade Negotiation Process, UNCTAD, Geneva, 6–7 November.

Spoor, M. 2000. *Two Decades of Adjustment and Agricultural Development in Latin America and the Caribbean*. Series Reformas Económicas. ECLAC, Santiago de Chile.

Teichman, Judith A. 2001. *The Politics of Freeing Markets in Latin America: Chile, Argentina and Mexic*o. University of North Carolina Press, Chapel Hill.

Tilly, C. 1984. *Big Structures, Large Processes, Huge Comparisons*. Russell Sage Foundation, New York.

Trejos, M. 2003. "Las desigualdades del TLCEUCA vistas desde los textiles." *Rebelion*. www.rebelion.org/noticia.php?id=13346, accessed 2 April 2005.

Trigueros, G. 2003. "Más apertura pero con limitaciones: textileros ponen sus cartas sobre la mesa." *El Diario de Hoy*. www.elsalvador.com/noticias/2003/2/28/negocios/negoc8.html, accessed on 15 July 2007.

United Nations Conference on Trade and Development (UNCTAD). 2007. *World Investment Directory: Nicaragua country profile*. www.unctad.org/Templates/Page.asp?intItemID=3198&lang=1, accessed on 17 April 2007.

United Nations Department of Economic and Social Affairs (UNDESA). 2005. *The Inequality Predicament: Report on the World Social Situation*. UNDESA, New York.

Utting, P. (ed.). 2006. *Reclaiming Development Agendas: Knowledge, Power and International Policy Making*. Palgrave Macmillan, Basingstoke.

Ventura-Dias, V. and M. Lengyel. 2004. *Trade Policy Reforms in Latin America: Multilateral Rules and Domestic Institutions*. Palgrave Macmillan, New York.

Wade, R. 2004. "On the causes of increasing world poverty and inequality, or why the Matthew effect prevails." *New Political Economy*, Vol. 9, No. 2, pp. 163–188.

———. 1990. *Governing the Market*. Princeton University Press, Princeton, NJ.

Walter, A. 2000. "Globalisation and policy convergence: The case of direct investment rules." In A. Higgot, G. Underhill, and A. Bieler (eds.), *Non-State Actors and Authority in the Global System*. Routledge, London.

Woll, Cornelia and Alvaro Artigas. 2007. "When trade liberalization turns into regulatory reform: The impact on business-government relations in international trade politics." *Regulation and Governance*, Vol. 1, No. 2, pp. 121–138.

World Bank. 1993. *The East Asian Miracle*. Oxford University Press, New York.

World Trade Organization (WTO). 2007a. *Understanding the WTO: Some Issues Raised*. www.wto.org/english/thewto_e/whatis_e/tif_e/dev4_e.htm, accessed on 18 April 2007.

———. 2007b. *Understanding the WTO: Principles of the Trading System* www.wto.org/english/theWTO_e/whatis_e/tif_e/fact2_e.htm accessed on 19 April 2007.

Interviews

Mario Amador, president, Comité Nacional de Productores de Azúcar (CNPA), 3 August 2007.

Bayardo Arce, economic advisor to President Daniel Ortega, 8 August 2007.

Sinforiano Cáceres, president, Federación de Cooperativas de Nicaragua (FENACOOP), 13 September 2007.

Haydée Castillo, president, Foro de Mujeres para la Integración Centroamericana, 17 August 2007.

Arturo Cruz, former technical advisor to the business sector in DR–CAFTA negotiations, 11 July 2005.

Wilmer Fernández, vice-president, Cámara Nicaragüense del Sector Lácteo, 28 August 2007.

Dean García, former rules of origin negotiator, Ministry of Development, Industry and Trade, 5 July 2005.

Bayardo Izabá, executive director, Centro Nicaragüense de Derechos Humanos (CENIDH), 17 August 2007.

Ambrosia Lezama, former director, Intellectual Property Rights Division, Ministry of Development, Industry and Trade, 12 July 2005.

Bianca Mangas, former coordinator for international trade negotiations, Centro Humboldt, 3 August 2007.

Fernando Mansell, president, Asociación de Arroceros de Nicaragua (ANAR), 21 August 2007.

Alfredo Marín, president, Matadero San Martín, 8 August 2007.

Alicia Martin Gallegos, former market access negotiator, Ministry of Development, Industry and Trade, 4 February 2004.

Carlos Noguera, former president, Special DR–CAFTA Commission of the National Assembly, 9 August 2007.

Amado Ordóñez, executive director, Centro Humboldt, 8 August 2007.

Alba Palacios, FSLN congresswoman, 5 August 2007.

Alvaro Porta, former Nicaraguan director of international trade, 11 August 2007 and 21 July 2005.

Mario Quintana, national coordinator for the Coordinadora Civil, 14 August 2007.

Sandra Ramos, president, Movimiento de Mujeres María Elena Cuadra, 30 August 2007.

Fernando Traversari, vice-president, Asociación Nicaragüense de la Industria Textil y de Confección, 20 August 2007.

UNRISD Programme Papers on **Markets, Business and Regulation**

PP MBR 5	**Trade, Regionalism and the Politics of Policy Making in Nicaragua** Gloria Carrión, June 2009
PP MBR 4	**Assessing the Impact of Public-Private Partnerships in the Global South: The Case of the Kasur Tanneries Pollution Control Project** Peter Lund-Thomsen, October 2007
PP MBR 3	**Social Policies and Water Sector Reform** Naren Prasad, September 2007
PP MBR 2	**Corporate Partnerships and Community Development in the Nigerian Oil Industry: Strengths and Limitations** Uwafiokun Idemudia, March 2007
PP MBR 1	**Beyond Pragmatism: Appraising UN–Business Partnerships** Peter Utting and Ann Zammit, October 2006

Printed at the United Nations, Geneva
GE.09-01073-June 2009-1,500

UNRISD/PPMBR5/09/1