

Trade, Regionalism and the Politics of Policy Making in Nicaragua

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Acronyms

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| ALBA | Alternativa Bolivariana para los Pueblos de Nuestra América (<i>Bolivarian Alternative for the People of our Americas</i>) |
| AMNLAE | Asociación de Mujeres Nicaragüenses Luisa Amanda Espinoza (<i>Luisa Amanda Espinoza Association of Nicaraguan Women</i>) |
| ANDEN | Asociación Nacional de Educadores Nicaragüenses (<i>National Association of Educators of Nicaragua</i>) |
| ANIFODA | Asociación Nicaragüense de Formuladores y Distribuidores de Agroquímicos (<i>Nicaraguan Association of Agrochemical Producers and Distributors</i>) |
| ANITEC | Asociación Nicaragüense de la Industria Textil y Confección (<i>Nicaraguan Apparel and Textile Manufacturers' Association</i>) |
| ASA | American Sugar Association |
| ATC | Asociación de Trabajadores del Campo (<i>Rural Workers' Association</i>) |
| BAC | Banco de América Central (<i>Central American Bank</i>) |
| BANADES | Banco Nacional de Desarrollo (<i>National Development Bank</i>) |
| BANCENTRO | Banco de Crédito Centroamericano (<i>Central American Credit Bank</i>) |
| BANDES | Banco de Desarrollo Económico y Social de Venezuela (<i>Economic and Social Development Bank of Venezuela</i>) |
| BANIC | Banco de Nicaragua (<i>Bank of Nicaragua</i>) |
| BANPRO | Banco de la Producción |
| BDF | Banco de Finanzas |
| BIT | Bilateral Investment Treaty |
| CANISLAC | Cámara Nicaragüense del Sector Lácteo (<i>Nicaraguan Dairy Sector Chamber</i>) |
| CBERA | Caribbean Basin Economic Recovery Act |
| CBI | Caribbean Basin Initiative |
| CBTPA | US–Caribbean Basin Trade Partnership Act |
| CDS | Comités de Defensa Sandinista (<i>Sandinista Defence Committees</i>) |
| CECATEC | Consejo Empresarial Centroamericano de Textil y Confección (<i>Council for Central American Textile and Apparel</i>) |
| CEI | Centro de Exportaciones e Importaciones (<i>Centre for Export and Import</i>) |
| CENIDH | Centro Nicaragüense de Derechos Humanos (<i>Nicaraguan Centre for Human Rights</i>) |
| CENTROLAC | Industria Lácteos de Centroamérica (<i>Dairy Producers of Central America</i>) |
| CIPRES | Centro para la Promoción, la Investigación, y el Desarrollo Rural y Social (<i>Centre for the Promotion, Research, and Rural and Social Development</i>) |
| CNPA | Comisión Nacional de Productores de Azúcar (<i>National Commission for Sugar Producers</i>) |
| COSEP | Consejo Superior de la Empresa Privada (<i>Supreme Council of Private Enterprise in Nicaragua</i>) |
| CST | Central Sandinista de Trabajadores (<i>Sandinista Workers' Centre</i>) |
| CST–JBE | Central Sandinista de Trabajadores–José Benito Escobar (<i>Sandinista Workers' Centre–José Benito Escobar</i>) |
| CSU | Corporación de Supermercados Unidos (<i>Corporation of United Supermarkets</i>) |
| DR–CAFTA | Dominican Republic–Central American Free Trade Agreement |
| ENITEL | Empresa Nicaragüense de Teléfonos (<i>Nicaraguan Telephone Enterprise</i>) |
| EPA | Economic Partnership Agreement |
| EPZ | export processing zone |
| FDI | foreign direct investment |
| FENACOOOP | Federación Nacional de Cooperativas Agrícolas y Agroindustriales (<i>National Federation of Agricultural and Agroindustrial Cooperatives</i>) |
| FETSALUD | Federación de Trabajadores de la Salud (<i>Health Workers' Federation</i>) |
| FSLN | Frente Sandinista de Liberación Nacional (<i>Sandinista National Liberation Front</i>) |
| 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 (<i>Trade, Integration and Development Initiative</i>) |
| IP | intellectual property |
| IPR | intellectual property rights |
| MIFIC | Ministerio de Fomento, Industria y Comercio (<i>Ministry of Development, Industry and Trade</i>) |
| MRS | Movimiento Renovador Sandinista (<i>Sandinista Renovation Movement</i>) |
| MT | metric ton |
| NAFTA | North American Free Trade Agreement |
| NGO | non-governmental organization |
| NicaExport | Agencia Nacional para la Promoción del Comercio Internacional (<i>Nicaraguan National Agency for International Trade Promotion</i>) |
| NICARAOCOOP | Empresa cooperativa de transformación y comercialización de productos agrícolas (<i>Cooperative enterprise working on the transformation and commercialization of agricultural products</i>) |
| NTB | non-tariff barrier |
| PLC | Partido Liberal Constitucionalista (<i>Liberal Constitutionalist Party</i>) |
| PPP | Plan Puebla Panamá |
| PROLACSA | Productos Lácteos San Antonio (<i>San Antonio Dairy Products</i>) |
| RTA | regional trade agreement |
| SME | small and medium enterprise |
| sme | square metre equivalent |
| T&C | textile and clothing |
| TACA | Aereolínea Centroamericana (<i>Central American Airlines</i>) |
| 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 (<i>National Union of Farmers and Ranchers</i>) |
| 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 |

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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.

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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

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