

PART V

FINAL PROVISIONS

ARTICLE 352

Definition of the parties

1. The Parties to this Agreement are the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, referred to as the "Republics of the CA Party" on the one hand, and the European Union or its Member States or the European Union and its Member States, within their respective areas of competence, referred to as the "EU Party" on the other.
2. For the purposes of this Agreement, the term "Party" shall refer to each Republic of the CA Party, without prejudice to the obligation of acting collectively under the provisions set out in paragraph 3, or the EU Party respectively.
3. For the purposes of this Agreement, the Republics of the CA Party agree and commit to act collectively in the following provisions:
 - (a) in the decision making through the bodies referred to in Title II (Institutional Framework) of Part I of this Agreement;

- (b) in the implementation of the obligations provided in Title IX (Regional Economic Integration) of Part IV of this Agreement;
- (c) in the implementation of the obligation of establishing a Central American Competition Regulation and competition authority, according to Articles 277 and 279, paragraph 2 of Title VII (Trade and Competition) of Part IV of this Agreement; and
- (d) in the implementation of the obligation of establishing a single point of access at a regional level, according to Article 212, paragraph 2 of Title V (Government Procurement) of Part IV of this Agreement.

When acting collectively in accordance with this paragraph, the Republics of the CA Party shall be referred to as the "CA Party".

4. For any other provision under this Agreement, the Republics of the CA Party shall assume obligations and act individually.

5. Notwithstanding the provision of paragraph 3, and consistent with the further development of Central American regional integration, the Republics of the CA Party commit to seek progressively to increase the scope of areas in which they will act collectively and will notify the EU Party accordingly. The Association Council shall adopt a decision indicating precisely the scope of those areas.

ARTICLE 353

Entry into force

1. This Agreement shall be approved by the Parties in accordance with their own internal legal procedures.
2. This Agreement shall enter into force the first day of the month following that in which the Parties have notified each other of the completion of the internal legal procedures referred to in paragraph 1.
3. Notifications shall be sent, in the case of the EU Party, to the Secretary General of the Council of the European Union and, in the case of the Republics of the CA Party, to the *Secretaría General del Sistema de la Integración Centroamericana (SG-SICA)*, who shall be the depositories of this Agreement.
4. Notwithstanding paragraph 2, Part IV of this Agreement may be applied by the European Union and each of the Republics of the CA Party from the first day of the month following the date on which they have notified each other of the completion of the internal legal procedures necessary for this purpose. In this case, the institutional bodies necessary for the functioning of this Agreement shall exercise their functions.

5. By the date of entry into force as provided in paragraph 2, or by the date of application of this Agreement, if applied pursuant to paragraph 4, each Party shall have fulfilled the requirements established in Article 244 and Article 245, paragraph 1(a) and (b) of Title VI (Intellectual Property) of Part IV of this Agreement. If a Republic of the CA Party has not fulfilled such requirements, this Agreement shall not enter into force in accordance with paragraph 2 or shall not be applied in accordance with paragraph 4 between the EU Party and such non-compliant Republic of the CA Party, until those requirements have been fulfilled.

6. Where a provision of this Agreement is applied in accordance with paragraph 4, any reference in such provision to the date of entry into force of this Agreement shall be understood to refer to the date from which the Parties agree to apply that provision in accordance with paragraph 4.

7. The Parties for which Part IV of this Agreement has entered into force in accordance with paragraph 2 or 4 may also use materials originating in the Republics of the CA Party for which this Agreement is not in force.

8. From the date of its entry into force in accordance with paragraph 2, this Agreement shall replace the Political Dialogue and Cooperation Agreements that are in force between the Republics of the CA Party and the EU Party.

ARTICLE 354

Duration

1. This Agreement shall be of indefinite duration and validity.
2. Any Party shall give written notification to the respective depositary of its intention to denounce this Agreement.
3. In case of denunciation by any Party, the other Parties shall examine in the context of the Association Committee the effect of such denunciation on this Agreement. The Association Council shall decide on any necessary adjustment or transition measures.
4. Denunciation shall take effect six months after notification to the respective depositary.

ARTICLE 355

Fulfilment of the obligations

1. The Parties shall adopt any general or specific measures required for them to fulfil their obligations under this Agreement, and shall ensure that they comply with the objectives laid down in this Agreement.

2. If a Party considers that another Party has failed to fulfil an obligation under this Agreement, it may have recourse to appropriate measures. Before doing so, except in cases of special urgency, it shall submit to the Association Council within thirty days all relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties. In selecting which measures to adopt, priority shall be given to those which are least disruptive to the implementation of this Agreement. Such measures shall be notified immediately to the Association Committee and shall be the subject of consultations in the Committee if a Party so requests.

3. The Parties agree that the term "cases of special urgency" in paragraph 2 means a case of material breach of this Agreement by one of the Parties. The Parties further agree that the term "appropriate measures" referred to in paragraph 2 means measures taken in accordance with international law. It is understood that suspension would be a measure of last resort.

4. A material breach of this Agreement consists in:

- (a) repudiation of this Agreement not sanctioned by general rules of international law;
- (b) violation of the essential elements of this Agreement.

5. If a Party has recourse to a measure in case of special urgency, the other Party may request that an urgent meeting be called to convene the Parties within fifteen days.

6. Notwithstanding paragraph 2, if one Party considers that another Party has failed to fulfil one or more obligations under Part IV of this Agreement, it shall exclusively have recourse to, and abide by, the dispute settlement procedures established under Title X (Dispute Settlement) and the mediation mechanism, established under Title XI (Mediation Mechanism for Non-Tariff Measures) of Part IV of this Agreement or other alternative mechanisms foreseen for specific obligations in Part IV of this Agreement.

ARTICLE 356

Rights and obligations under this Agreement

Nothing in this Agreement shall be construed as conferring rights or imposing obligations on persons, other than those rights or obligations created by this Agreement nor as obliging a Party to permit that this Agreement be directly invoked in its domestic legal system, unless otherwise provided in that Party's domestic legislation.

ARTICLE 357

Exceptions

1. Nothing in this Agreement shall be construed:
 - (a) to require any Party to furnish or allow access to any information, the disclosure of which it considers contrary to its essential security interests; or
 - (b) to prevent any Party from taking any action which it considers necessary for the protection of its essential security interests:
 - (i) relating to fissionable and fusionable materials or the materials from which they are derived;
 - (ii) relating to economic activities carried on directly or indirectly for the purpose of supplying a military establishment;
 - (iii) connected with the production of or trade in arms, munitions, or war materials;
 - (iv) relating to government procurement indispensable for national security or for national defence purposes;
 - (v) taken in time of war or other emergency in international relations;

- (c) to prevent any Party from taking any action in pursuance of obligations it has accepted for the purpose of maintaining international peace and security; or
 - (d) to prevent any Party from independently deciding on budgetary priorities or to require any Party to increase budgetary resources towards implementing the obligations and commitments contained in this Agreement.
2. The Association Council shall be informed to the fullest extent possible of measures taken under paragraphs 1(a) and (b) and of their termination.

ARTICLE 358

Future developments

1. The Parties may agree to broaden and supplement this Agreement by amending it or by concluding agreements on specific sectors or activities, including in the light of the experience gained during the implementation of this Agreement.
2. The Parties may also agree on any other amendment of this Agreement.
3. All the above mentioned amendments and agreements shall be approved in accordance with each Party's internal legal procedures.

ARTICLE 359

Accession of new members

1. The Association Committee shall be informed of any request made by a third State to become a member of the European Union and of any request made by a third State to join the political and economic integration processes in Central America.
2. During the negotiations between the European Union and the applicant State, the EU Party shall provide the CA Party with any relevant information and in its turn, the CA Party shall convey its views (if any) to the EU Party so that it can take them fully into account. The CA Party shall be notified by the EU Party of any accession to the European Union.
3. Equally, during the negotiations between the CA Party and the State applying to join the political and economic integration processes in Central America, the CA Party shall provide the EU Party with any relevant information and in its turn, the EU Party shall convey its views (if any) to the CA Party so that it can take them fully into account. The EU Party shall be notified by the CA Party of any accession to the political and economic integration processes in Central America.
4. The Parties shall examine in the context of the Association Committee the effect of such accession on this Agreement. The Association Council shall decide on any necessary adjustment or transition measures which shall be approved in accordance with each Party's internal legal procedures.

5. If the act of joining the political and economic integration processes in Central America does not provide for an automatic accession to this Agreement, the State concerned shall accede by depositing an act of accession with the respective depository bodies of the Parties.

6. The instrument of accession shall be deposited with the depositaries.

ARTICLE 360

Territorial application

1. For the EU Party, this Agreement shall apply to the territories in which the Treaty on the European Union and the Treaty on the Functioning of the European Union are applied and under the conditions laid down in those Treaties.

2. Notwithstanding paragraph 1, to the extent that the European Union customs territory includes areas not covered by the preceding territorial definition, this Agreement shall likewise apply to the European Union customs territory.

3. For Central America, this Agreement shall apply to the territories of the Republics of the CA Party, in accordance with their respective domestic legislation and international law.

ARTICLE 361

Reservations and interpretative declarations

This Agreement does not allow unilateral reservations or interpretative declarations.

ARTICLE 362

Annexes, appendices, protocols and notes, footnotes and joint declarations

The Annexes, Appendices, Protocols and Notes, Footnotes and Joint Declarations to this Agreement shall form an integral part thereof.

ARTICLE 363

Authentic texts

This Agreement is drawn up in duplicate in the Spanish, Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, and Swedish languages, each of these texts being equally authentic.

IN WITNESS WHEREOF, the undersigned, duly authorised, have signed this Agreement.