

EU/Colombia and Peru Trade Agreement

2011/0249(NLE) - 20/04/2012 - Initial legislative proposal

PURPOSE: to conclude the Trade Agreement between the EU, and Colombia and Peru.

PROPOSED ACT: Council Decision.

BACKGROUND: negotiations between the EU and the Andean Community of Nations for a region-to-region association agreement, including political dialogue, cooperation and trade were launched in June 2007 following a Council decision to authorise these negotiations in April of the same year.

Regrettably, disagreement between Andean countries on approaches to a number of key trade issues covered under the agreement led to the **suspension of talks in June 2008**. Under these circumstances, the Commission presented a recommendation to the Council on 17 December 2008 with a view to modifying the existing authorisation so as to pursue negotiations of a trade agreement with those countries of the Andean Community willing to move ahead.

On 19 January 2009, the Council authorised the Commission to negotiate a multiparty trade agreement with those countries sharing our general objective of a balanced, ambitious, comprehensive and WTO-compatible agreement. The Presidents of Colombia, Ecuador and Peru confirmed their commitment to negotiate in January 2009. Bolivia had been very critical of the new format, and had not shown any interest in participating. New negotiations for a multiparty trade agreement were therefore launched in January 2009 between the EU and Colombia, Ecuador and Peru.

After 4 rounds, Ecuador suspended its participation in the talks and negotiations therefore continued with **Peru and Colombia only**. They were successfully concluded in May 2010 and - after a phase of legal review - the text of the trade agreement was initialled with Colombia and Peru on 23 March 2011. In accordance with a Council Decision, the Agreement was signed on behalf of the Union, subject to its conclusion, and has been applied on a provisional basis.

As set out in the negotiating directives, the Commission reached the objectives of eliminating high tariffs, tackling technical barriers to trade, liberalising services markets, protecting valuable EU geographical indications (GIs), opening-up public procurement markets, including commitments on the enforcement of labour and environmental standards and offering effective and swift dispute settlement procedures. The aim of going well beyond WTO commitments and ensuring a level playing field with competitors in the region such as the US is therefore achieved.

The agreement is an opportunity for the EU to provide an anchor for Colombia and Peru's reforms to integrate the global economy, increase welfare and consolidate their growth with a view to improving the living conditions of their peoples. Other Members of the Andean Community are also encouraged via an accession clause to take part in the trade agreement whenever they see fit.

EU Member States were informed orally and in writing on the process of the negotiations with Colombia, Peru and - until it participated – Ecuador via the Trade Policy Committee of the Council. **The European Parliament has also been regularly informed on developments** through its Committee on International Trade (INTA). The complete text resulting from the negotiations was circulated throughout the process to both institutions.

IMPACT ASSESSMENT: a detailed Trade Sustainability Impact Assessment (SIA) examining the Agreement's potential economic, social and environmental effects has been conducted and published in October 2009.

LEGAL BASIS: Articles 91, 100(2) and 207(4), first subparagraph, in conjunction with Article 218(6)(a) of the Treaty on the Functioning of the European Union.

CONTENT: this proposal approves the Trade Agreement between the European Union and Colombia and Peru.

The essential elements of the Agreement are as follows:

Purpose: the trade agreement establishes the conditions for EU economic operators to take full advantage of the opportunities and the emerging complementarities between the respective economies. Over the course of its implementation, the Agreement will fully relieve EU exporters of industrial and fisheries products to Peru and Colombia from paying customs duties.

Elimination of duties: the Agreement satisfies Article. XXIV GATT criteria:

- to eliminate duties and other restrictive regulations of commerce with respect to substantially all trade between the parties) i.e.: 99% of EU exports are covered (100% of our trade in industrial products in 10 years; and c.85% of agriculture after 17 years);
- dismantling of some difficult non-tariff barriers.

Peru and Colombia, for their part, will benefit from substantial new access to the EU market in particular for their key agriculture exports: bananas, sugar and rum while the EU will grant 100% duty-free coverage for industrial products and fisheries of Colombian and Peruvian origin upon entry into force of the Agreement.

Services: on services and establishment as well as public procurement coverage, the Agreement is among the most ambitious ever negotiated by the Commission. It includes substantial commitments on all key sectors (notably financial services, telecommunications, transport) for cross-border supply and establishment in particular, while the EU's concerns in terms of temporary presence of natural persons for business purposes have been dealt with satisfactorily. In procurement, the EU has obtained the commitment of institutions at both central and sub-central level with reasonably low thresholds.

Other aspects: the Agreement also establishes a set of disciplines which go beyond those agreed in the multilateral framework:

- intellectual property (e.g. 205 EU geographical indications protected, data protection conditions clarified);
- sustainable development (the Agreement is GSP+ equivalent or above on labour and environmental issues and contains specific commitments on sustainable fisheries);
- competition (disciplines on monopolies and State Enterprises – transparency obligations on subsidies);
- technical barriers to trade (WTO+ elements on market surveillance, transparency in regulation procedures and disciplines on labelling and marking);
- sanitary and phytosanitary measures (WTO+ measures on animal welfare, regionalisation, approval of export establishments, on the spot inspections and import checks) among others.

Institutional aspects: the Agreement establishes a Trade Committee as well as a set of sub-committees to allow for consultations on specific trade concerns under its different titles. A key added value of the

agreement is therefore to lock-in and promote – above and beyond those rules that derive from the WTO framework – openness policies and respect for internationally agreed best practices at the domestic level while securing a transparent, non-discriminatory and predictable environment for EU operators and investors in the region – in particular via the bilateral dispute settlement mechanism provided under the Agreement.

Modifications of the Agreement concerning geographical indications to be adopted by the Trade Committee, as proposed by the Subcommittee on Intellectual Property, shall be approved by the Commission on behalf of the Union. Where interested parties cannot reach agreement following objections relating to a geographical indication, the Commission shall adopt such a position on the protection of geographical indications and designations of origin for agricultural products and foodstuffs.

Pursuant to the Agreement, a name protected under the Annex to the Agreement (Lists of Geographical Indications) may be used by any operator marketing agricultural products, foodstuffs, wines, aromatised wines or spirits which comply with the corresponding specification.

The Agreement does not affect the rights of investors of the Member States to benefit from any more favourable treatment provided for in any agreement relating to investment to which a Member State and a signatory Andean Country are Parties.

Moreover, the Agreement should not be construed as conferring rights or imposing obligations which can be directly invoked before Union or Member State courts and tribunals.

Technical assistance: the Agreement also includes a Title on technical assistance and trade capacity building aimed at promoting competitiveness, innovation and facilitating trade and technology transfers between the parties.

BUDGETARY IMPLICATIONS: the proposal has no financial impact on expenditure but has a financial impact on revenue. The result is **EUR 137.5 million** in revenue. This estimation is based on the average imports for the period 2007-2009 and represents the annual loss in revenues due to:

- 1) full implementation of negotiated tariff preferences of the Trade Agreement i.e. 10 years after entry into force and
- 2) initial levels of conceded tariff rate quotas.

During the previous years, revenue losses will be inferior also bearing in mind the likely increase in imports of products that will have duties reduced in stages and that will partly compensate the loss.