Trade agreement between the European Union and Colombia and Peru

European Implementation Assessment

STUDY

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On 29 November 2017, the Committee on International Trade (INTA) of the European Parliament requested authorisation to undertake an own-initiative report on the implementation of the trade agreement (TA) between the EU and Colombia and Peru (2018/2010 (INI)).

Santiago Fisas Ayxelà (EPP, Spain) was appointed rapporteur.

This European implementation assessment has been provided to accompany the work of the INTA committee in scrutinising the implementation of the agreement.

This European implementation assessment (EIA) consists of two parts.

The in-house opening analysis (Part I) outlines the process leading to the signature of the trade agreement between the EU and Colombia and Peru. It also presents the socio-economic situation in Colombia and Peru and relations between the EU and Colombia and Peru, as well as relations between the EU and the Andean Community.

The research paper prepared by external experts (Part II) presents a detailed analysis of trade in goods and services and foreign direct investments. The paper also evaluates, in detail, the implementation of the trade and sustainable development chapter of the trade agreement in both Colombia and Peru. Finally, the paper provides recommendations for the improvement of the implementation of the trade agreement.

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PART I: IN-HOUSE OPENING ANALYSIS

Frequently used acronyms and abbreviations

Agreement or TA	Trade agreement
CAN	Andean Community of Nations (es. Comunidad Andina de Naciones)
CELAC	Community of Latin American and Caribbean States (es. Comunidad de Estados Latinoamericanos y Caribeños)
Commission	European Commission
DAND	The European Parliament delegation for relations with the countries of the Andean Community
DAS	Alternative Development Programme in Satipo (es. Programa de Desarrollo Alternativo en Satipo)
DCI	Development cooperation instrument
EEAS	European External Action Service
EU	European Union
ERC	European Research Council
FARC	Revolutionary Armed Forces of Colombia (es. Fuerzas Armadas Revolucionarias de Colombia)
FTA	Free trade agreement
GDP	Gross domestic product
GDI	Gross national income
GSP	Generalised scheme of preferences
HEI	Higher education institution
HR/VP	High Representative of the Union for Foreign Affairs and Security Policy
IA	Impact assessment
IcSP	The Instrument contributing to Stability and Peace
ILO	International Labour Organization
LAC	Latin America and the Caribbean
MEP	Member of the European Parliament
MIP	Multiannual indicative programme
MSCA	Marie Skłodowska-Curie Actions
ODA	Official development aid
OECD	Organisation for Economic Co-operation and Development
Parliament or EP	European Parliament
p.p.	Percentage point
PPP	Purchasing power parity
SIA	Sustainable impact assessment
SME	Small and medium-sized enterprises

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Introduction

The trade agreement between the EU and Colombia and Peru was signed six years ago, on 26 June 2012, and has been in provisional application since 1 March 2013 with Peru and since 1 August 2013 with Colombia. In November 2016, Ecuador signed the trade agreement, and the agreement has applied provisionally to it since 1 January 2017. At the time of writing this analysis, the trade agreement had still not been fully ratified.

Article 4 of the trade agreement between the EU and Colombia and Peru describes its objectives, which include, inter alia, progressive and gradual liberalisation of trade in goods; facilitation of trade in goods; progressive liberalisation of trade in services; development of an environment conducive to an increase in investment flows; facilitation of trade and investment; the opening of government procurement markets and the protection of intellectual property rights.

The trade agreement between the EU and Colombia and Peru belongs to the 'new generation' of EU trade agreements that, in addition to trade and investment, focus, inter alia, on the sustainable development of the partner countries. This element raises many concerns, in particular owing to the insufficiently described means for its enforcement. In the case of the trade agreements between the EU and Colombia and Peru voices were raised against the signature of the agreement. Civil society organisations and trade unions, for instance, pointed out the insufficient protection or violation of human, labour and environmental rights in Colombia and Peru. In contrast, the signature of the trade agreement was supported by business associations.

Regional cooperation between the European Union and the Andean Community, as well as bilateral cooperation between the EU and the Andean Community Member States, is progressing, bringing the benefits to both sides. The EU supports the sustainable development of the four Andean countries while helping them to terminate internal conflicts or deal with emerging situations arising from natural disasters. The EU has also played an important role in the peace process in Colombia.

The socio-economic situation in both Colombia and Peru is improving, according to various reports prepared by international organisations and civil society organisations. Yet, improvements are needed, especially in the area of human rights, with special attention to the indigenous peoples and other groups in the 'litigation' areas, such as mining areas and areas that are the focus for conflict over land. The need to achieve more equal distribution of the growing wealth of the Andean Community member states and to combat wide-spread corruption are also on-going problems.

1.1. The signature of the trade agreement between the EU and Colombia and Peru

Preliminary stage

In March 2007, the European Parliament adopted a recommendation to the Council on the negotiating mandate for an association agreement between the EU and the Andean Community of Nations (CAN). In the document, the Parliament recommended, inter alia, that the Euro-Latin American Parliamentary Assembly (EuroLat) 'will act as a permanent forum for political dialogue between the two regions', and 'provide for the appointment of members of the EU-CAN Joint Parliamentary Committee, to be set up under the new association agreement, from amongst Members of the European Parliament and the Andean Parliament who also form part of Eurolat, as a practical expression of support for the process of regional integration in the Andean region (…)'. The Parliament also requested annual reports on progress in the application of provisions included in the democracy clause, other social clauses and environmental clauses.

In October 2009, the Commission published a sustainable impact assessment (SIA)[1] on EU-Andean trade.[2] With regard to the environmental protection, the documents underlined that 'the Andean countries have taken an active part in defining and developing legal, policy and institutional measures for environmental policy'. With regard to labour rights, the documents noted that 'the four Andean countries have individually signed most international agreements on labour standards that protect against child labour, forced labour and labour discrimination, and protect free affiliation to unions, collective negotiation, labour inspection in many sectors, and the rights of indigenous people'. With regard to indigenous peoples' rights the document showed that the four Andean countries 'have signed ILO Convention 169, which recognises the special status of indigenous peoples and ensures a wide range of basic human rights and fundamental freedoms for them to preserve their culture and livelihoods, and full participation in determining their own development strategies'.

In July 2012, the Commission published the assessment of the economic impact of the trade agreement between the EU and Colombia and Peru.[3] According to the document, the agreement should have a positive impact on the gross domestic product (GDP) of both partner economies; for Colombia GDP growth of around 0.4 % (~ €500 million) was estimated and for Peru GDP growth of between 0.2 % and 0.25 % (~ €200 million). The estimated gains to the EU were small (€2.3 billion, less than 0.05 % of GDP). The effect of bilateral trade was estimated as positive: the EU's exports to Colombia and Peru would increase by 63 % (€2.5 billion) and 48 % (€2 billion) respectively; the EU's imports from Colombia would increase by 11 % (€390 million) and from Peru by 15 % (€340 million).

It is worth mentioning that trade agreement negotiations were undertaken with all the Andean Community Member States, but that Ecuador and Bolivia withdrew. Ecuador returned to the negotiations subsequently, and may sign the trade agreement at a later stage.

The signature of the trade agreement

The trade agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part was signed on 26 June 2012.[4] The trade agreement has applied provisionally between the European Union and Peru since 1 March 2013,[5] and between the European Union and Colombia since 1 August 2013.[6]

Peru ratified the trade agreement on 8 February 2013 and Colombia on 6 November 2014. Full entry into force is pending ratification by all Member States. At the time of writing two Member States had not yet ratified.[7]

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1 A sustainable impact assessment (SIA) 'is an approach for exploring the combined economic, environmental and social impacts of a range of proposed policies, programmes, strategies and action plans. Such assessments can also assist decision making and strategic planning throughout the entire policy cycle', OECD.

2 EU-Andean trade sustainability impact assessment, European Commission, October 2009.

3 Assessing the economic impact of the trade agreement between the European Union and signatory countries of the Andean Community (Colombia and Peru), Centre for Economic Policy Research, London, at the request of the European Commission, July 2012.

4 Trade agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, OJ L 354 of 21.12.2012.

5 Notice concerning the provisional application between the European Union and Peru, of the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, OJ L 56 of 28.2.2013.

6 Notice concerning the provisional application between the European Union and Colombia, of the trade agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, OJ L 201 of 26.7.2013.

7 Ratification details regarding the trade agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, European Council.

The European Parliament gave its consent to the conclusion of the EU trade agreement with Colombia and Peru (resolution 2011/0249(NLE)) and (resolution 2012/2628(RSP)). However, Parliament stressed, inter alia, the need for substantial work to be done in the field of human rights (despite the enormous efforts made by both Colombia and Peru) and expressed its regret that there was no binding mechanism for dialogue with civil society in the chapter on trade and sustainable development. Prior to giving its consent, the Parliament called on both Andean countries, 'to ensure the establishment of a transparent and binding road map on human, environmental and labour rights' and on the Colombian and Peruvian governments to submit 'action plans on sustainable development'. Both countries presented their action plans in October 2012. Parliament also welcomed 'the Reciprocal Dialogue Mechanism on human rights (EU-Colombia Human Rights Dialogue) which was established voluntarily in 2009 between Colombia and the European Union'.

Parliament suggested establishing a dedicated domestic advisory group on human rights and democratic principles and a transparent and binding road map on human, environmental and labour rights. Parliament called the Commission to report regularly on the progress made.

Selected positive opinions on the signing of the trade agreement

In October 2012, BusinessEurope, together with partner organisations in the coalition of European businesses, sent a letter of strong support to the INTA committee.[8] The coalition supported the ratification of the agreement, not least since Colombia and Peru could 'offer real commercial potential for a variety of European businesses', particularly for the EU telecommunications, construction, distribution, financial and transport services, textiles, chemicals, and wine and spirits sectors, while securing 'access to Colombia and Peru for EU exports in agricultural products and processed agricultural products'. The coalition also welcomed the 'clear rules' regarding respect for fundamental human and labour rights.

In December 2012, Eurochambres welcomed the ratification of the trade agreement, underlining that it was 'a very positive sign for EU-Latin American economic relations' and that the agreement would 'bring strong benefits to the EU in terms of growth and job creation' and would 'reinforce the already strong economic relationship between the EU, Colombia, Peru and Central America'. Eurochambres also argued for 'concrete strategies for the implementation and monitoring of all chapters of the trade agreements'.[9]

Selected negative opinions on the signing of the trade agreement

In March 2011, the Transnational Institute[10] stressed that over 200 civil society organisations and both the International and European Trade Union Confederations were against the trade agreement with Colombia and Peru. They underlined the serious negative socio-economic and environmental impacts of the agreements on the Andean countries. They also pointed out that an agreement signed with only two countries could undermine regional integration processes in the Andean region, which is also the priority of the EU policy in the region. They called, inter alia, for national competence to decide on the ratification of the agreement and no provisional implementation of the agreement until ratification had been completed by the Member States.[11]

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8 Approval of the EU-Colombia and Peru free trade agreement, BusinessEurope, October 2012.

9 EUROCHAMBRES welcomes EP consent to EU trade agreements with Colombia/Peru and Central America, but calls for concrete implementation strategies, EUROCHAMBRES, Press release of 11 December 2012.

10 The Transnational Institute (TNI) was founded in 1974 as the international programme of the Washington DC-based Institute for Policy Studies.

11 Time for Europe to put values and human rights above commercial advantages, Policy Brief: Why EU–Colombia/Peru Free Trade Agreements should not be ratified, Transnational Institute, March 2011.

In February 2012, the European Trade Union Confederation and the Trade Union Confederation of the Americas, together with their partner organisations, sent a letter to the Members of the European Parliament calling on them to oppose the trade agreement. The organisations pointed to the 'continuing violence in Colombia and violation of human and labour rights, and the weakening of the Andean Community through individual EU trade agreements rather than bloc-to-bloc relations'. They also expressed their concern 'that the agreement and its sustainable development chapter do not provide the solid basis required to ensure that human and trade union rights are respected'.[12]

The content of the EU trade agreement with Colombia and Peru

The text of the trade agreement between the EU and Colombia and Peru consists of fourteen chapters, fourteen annexes and two joint statements.[13] Its elements include: Title III on trade in goods, Title IV on trade in services, establishment and electronic commerce, Title V on current payments and the movement of capital, Title VI on government procurement, Title VII on intellectual property (including in Chapter 5 on the transfer of technology), Title VIII on competition and Title IX on trade and sustainable development.

Additionally, Title II describes the institutional provisions for the implementation of the agreements, establishing, inter alia, a trade committee (Article 12) consisting of representatives of the EU and each signatory Andean country with the aim of supervising and monitoring the implementation of the agreement, and specialised bodies, to evaluate the implementation of the agreement, including the sub-committee on trade and sustainable development.

The agreement also establishes a domestic mechanism based on Article 281. Its aim is to allow each of the parties to the agreement to 'consult domestic labour and environment or sustainable development committees or groups'. At the same time, Article 282 obliges the sub-committee on trade and sustainable development to convene meetings with civil society organisations. The EU's domestic advisory group consists of 12 full members: three members of the European Economic and Social Committee and nine members representing European civil society organisations. The members work in three groups: business, labour, and NGOs.

The highlights of the trade agreement

In June 2012, at the signing the trade agreement, the Commission highlighted the benefits of the agreement, including the market opportunities for a number of key export industries that would benefit from the removal or reduction of tariffs (e.g. chemicals, textiles and pharmaceutical products) and the opening of the EU market to exporters from Colombia and Peru (liberalisation in industrial and fisheries products and tariff concessions in agriculture). What is more, the agreement tackles the issues of competition, transparency and intellectual property rights, improves market access in government procurement and services, promotes competitiveness and innovation, and facilitates trade and the transfer of technology.[14]

The Commission also underlined that the agreements included 'far-reaching measures on the protection of human rights and the rule of law, as well as commitments to effectively implement international conventions on labour rights and environmental protection'.[15]

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[12] Joint letter to the Members of the European Parliament, European Trade Union Confederation (ETUC), Bruxelles, 22 February 2012.

[13] Trade agreement between the European Union and Colombia and Peru, European Commission.

[14] Highlights of the trade agreement between Colombia, Peru and the European Union, Memo of 26 June 2012, European Commission.

[15] *Ibidem*.

By way of comparison, there are no general human rights clauses in either the US-Colombia or the US-Peru trade promotion agreements, both signed in 2006, according to a comparative analysis of the EU and US trade agreements with Colombia and Peru.[16] The author of the analysis stresses that during the debate in Congress preceding the approval of the agreement with Colombia, there was more focus on 'labour union homicides than on the general human rights issue'.

In its highlights, the Commission also points out that the trade agreement 'provides for an accession clause that enables other CAN members to join, when they see fit'.

Three annual reports have been already prepared by the European Commission, providing an overview of progress in the implementation of the trade agreement between the EU and Colombia and Peru.[17]

1.2. The accession of Ecuador to the trade agreement

The Protocol of Accession of Ecuador to the Trade Agreement with Colombia and Peru was signed on 11 November 2016. The trade agreement has applied provisionally since 1 January 2017.[18]

Ecuador ratified the protocol on 21 December 2016. Peru ratified it on 23 October 2017 and Colombia on 3 November 2017. At the time of writing fourteen EU Member States had ratified.[19]

The trade agreement with Ecuador is asymmetric and tailored towards the developmental needs of Ecuador – the country's tariff cuts will be implemented gradually over 17 years. The EU liberalised about 95 % of its tariff lines upon entry into force, Ecuador about 60 %.[20]

The European Parliament gave its consent to the accession of Ecuador to the agreement on 14 December 2016 (2015/2656(RSP)) and (2016/0092(NLE)), based on the recommendation[21] of the Committee on International Trade and the opinion[22] of the Committee on Foreign Affairs. The Parliament underlined the benefits of the accession of Ecuador to the trade agreement for Ecuador's exports to the EU. However, prior to giving its consent Parliament called on the Andean countries (in its resolution of 13 June 2012), 'to ensure the establishment of a transparent and binding road

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16 Pasquale De Micco, The US and EU free trade agreements with Peru and Colombia: A comparison, In-depth analysis, Policy Department, European Parliament, February 2014.

17 Report from the Commission to the European Parliament and the Council Annual Report on the Implementation of the EU-Colombia/Peru Trade Agreement, COM(2014) 718 final; Report from the Commission to the European Parliament and the Council Second Annual Report on the Implementation of the EU-Colombia/Peru Trade Agreement, COM(2016) 58 final and Report from the Commission to the European Parliament and the Council Third Annual Report on the Implementation of the EU-Colombia/Peru Trade Agreement, COM(2017) 585 final.

18 Notice concerning the provisional application between the European Union and the Republic of Ecuador of the Protocol of Accession to the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, to take account of the accession of Ecuador, OJ L 358, 29.12.2016.

19 Ratification details on the Protocol of Accession to the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, to take account of the accession of Ecuador, European Council.

20 Multiparty trade agreement between EU, Peru and Colombia, also joined by Ecuador, the European Parliament's Delegation for relations with the countries of the Andean Community (DAND).

21 Recommendation on the draft Council decision on the conclusion, on behalf of the Union, of the Protocol of Accession to the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, to take account of the accession of Ecuador (Consent), European Parliament Committee on International Trade, 14.12.2016 (A8-0362/2016).

22 Opinion of the Committee on Foreign Affairs for the Committee on International Trade on the proposal for a Council decision on the conclusion of the Protocol of Accession to the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, to take account of the Accession of Ecuador, 26.10.2016.

map on human, environmental and labour rights'. Parliament also 'drew attention to the EU objective of including a binding trade and sustainable development chapter in all trade agreements concluded with both industrialised and non-industrialised partners'.

In 2016 the Commission published its economic impact assessment,[23] in which it underlined that Ecuador was now classified as a high-middle-income country, meaning that, as of 2015, it was no longer eligible for unilateral trade preferences under the Generalised Scheme of Preferences (GSP) and would have faced 'most favoured nation' (MFN) tariffs instead.

The IA also predicted that the free trade agreement between the EU and Ecuador would lead to significant increases in bilateral trade. The EU exports to Ecuador would be 42 % higher and exports from Ecuador to the EU 30 % higher, compared with a situation in which Ecuador did not sign the agreement and lost its GSP+ preferences.

In 2017, CEPAL published its evaluation of the possible impact of the trade agreement between Ecuador and the EU, prepared at the request of the Ecuadorian Ministry of International Trade.[24] The study, based on several models, presents very positive prospects for Ecuador after joining the trade agreement, both at the macroeconomic level, with growth in GDP, consumption, investment and trade, as well as in the fight against poverty and inequality.

1.3. Relations with Bolivia

Bolivia benefits from the General Scheme of Preferences Plus (GSP+) in its commercial relations with the European Union.[25] The country may seek accession to the trade agreement between the EU and Colombia and Peru, as Article 329 of the agreement provides conditions for the accession to the agreement of other Member Countries of the Andean Community.[26]

EU-Bolivia trade was worth a total value of €1 225 million in 2016, of which €572 million in imports to the EU and €653 million in exports from the EU. The predominant imports to the EU were mineral products (37.6 %) and vegetable products (26.5 %), while the predominant exports from the EU were machinery and appliances (45.7 %) and transport equipment (18.2 %).[27]

Bolivia is also the largest recipient of bilateral EU development assistance in Latin America, with the budget amounting to €281 million for the 2014 to 2020 period. In the 2014 to 2016 period EU assistance focused on three sectors: justice reform, counter-narcotics and integrated water resources management. Assistance amounting to €164 million was distributed among these three sectors as follows: justice reform – 9 %, counter-narcotics – 52 % and integrated water resources

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23 Assessing the economic impact of the trade agreement between the European Union and Ecuador, European Commission, June 2016.

24 Evaluación de los posibles impactos de un acuerdo comercial entre el Ecuador y la Unión Europea, Documento de Proyecto, CEPAL, January 2017.

25 Report from the Commission to the European Parliament and the Council on the Generalised Scheme of Preferences covering the period 2014-2015, COM(2016) 29 final.

The EU special incentive arrangement for sustainable development and good governance (GSP+) covering the period 2014 – 2015. Joint staff working document accompanying the report from the Commission to the European Parliament and the Council Report on the Generalised Scheme of Preferences during the period 2014 – 2015, SWD(2016) 8 final.

26 European Commission website on trade relations with the Andean Community.

27 European Union, Trade in goods with Bolivia, European Commission.

management – 37 %. The remaining 2 % per cent of the budget was dedicated to support measures.[28]

It is also worth mentioning that on 21 November 2013, the European Parliament adopted a resolution on justice in Bolivia, in particular the cases of Előd Tóásó and Mario Tadić (2013/2953(RSP)). The resolution calls on the Bolivian authorities to ensure a fair and independent trial in the cases of these men as well as an independent investigation involving international experts.

28 Multiannual Indicative Programme (MIP) 2014-2016, Bolivia, European External Action Service and the European Commission.

Annexes

Annex I. Colombia and Peru – basic country notes

Table 1 – Colombia and Peru – the basic data

	Colombia	Peru
Capital	Bogota	Lima
Territory[1]	1 138 910 sq. km	1 285 216 sq. km
Population (2017 est.):[1] – total – share of urbanised population	 47 698 524 77 %	 31 036 656 79.2 %
Government type[1]	presidential republic	presidential republic
Legislative branch[1]	Bicameral: Congress (102 seats) Chamber of Representatives (166 seats)	Unicameral: Congress (130 seats)
Economy classification by income level[2]	Upper-middle income	Upper-middle income
GDP (2016)[2]	US$ 282.463 billion	US$192.207 billion
GNI per capita (2016)[2]	US$ 6 310	US$ 5 950
GDP per capita (2016)[3]	US$ 13 124 (PPP)	US$ 12 072 (PPP)
Global human capital index 2017 (rank)[3]	68	66
Mean years of education[3]	9	9.2
Tertiary education attainment rate (25–54 years)[3]	20.3 %	16.8 %
Unemployment rate[3]	8.6 %	6.7 %
Democracy index 2017 (rank)[4]	53	61
Doing business 2018 (rank)[5]	59	58
Corruption perception index 2017 (rank)[6]	96	96

Data source: [1]Central Investigation Agency data; [2]World Bank data; [3]Global Human Capital Report 2017, World Global Forum; [4]Democracy index 2017, *The Economist*; [5]Doing business, World Bank; [6]Corruption perception index 2017, Transparency International.

Colombia and Peru in a broader context

The year 2017 was a year of extremes for Latin America, according to the Latinobarómetro 2017 report,[29] with a decline in democracy and satisfaction with it on the one hand, and with economic advances (but not always with clear social benefits) on the other. Only 30 % of Latin American citizens expressed satisfaction with politics. This level was even lower in Colombia and Peru – 17 % and 16 % respectively. Trust in government was at 18 % in Peru and 16 % in Colombia and trust in parliament at 15 % in Colombia and 13 % in Peru.

Corruption remained one of the most important problems of Latin America, according to the report, with 10 % of citizens seeing it as a biggest problem in their countries. The share was even bigger in two Andean countries. Corruption was the biggest problem for 20 % of citizens in Colombia and 19 % in Peru. However, some progress in combating corruption has been seen in both countries – 29 % of people in Colombia had noticed progress and 27 % in Peru.[30] Poverty was another problem in America Latina, according to the report, with 24 % of people stating that they did not have enough food. The same percentage of people stated this in Peru and 17 % in Colombia. Another problem was the fear of losing a job, expressed by 41 % of respondents in Latin America, with 40 % in Colombia and 37 % in Peru.[31]

A Transparency International report, Corruption Perceptions Index 2016,[32] signals that bribery rates are at 28 % in Ecuador, 30 % in Colombia and 39 % in Peru. By way of comparison, around 25 % of people in the world pay a bribe when accessing public services.

The OECD's Latin American Economic Outlook 2018[33] also underlined the lack of trust in democracy, with 75 % of the population having little or no trust at all in governments (20 percentage points more than in 2010). According to the OECD report, public trust in the national government has decreased in Colombia (from 48 % in 2006 to 26 % in 2016). Moreover, in 2016, 86 % of Colombians perceived corruption as being widespread. In Peru, public trust in national government increased from 17 % in 2006 to 28 % in 2016, and the belief that corruption is widespread in the country decreased from 89 % in 2006 to 83 % in 2016.[34]

The Global Human Capital Report 2017[35] scores Peru and Colombia, 'in the middle of the region, with Peru outperforming and topping the region on the Deployment sub index due to high levels of labour force participation'. In the global rank, Peru occupies 66th place and Colombia 68th. Colombians spend an average of 9 years in education and have a healthy life expectancy of 65.2 years. Peruvians spend an average of 9.2 years in education and have a healthy life expectancy of 65.7 years. Public spending on education represents 4.5 % of GDP in Colombia and 4 % in Peru, and the workflow participation rate is 64.1 % in Colombia and 68.5 % in Peru.

The Democracy Index 2017[36] ranks Colombia, Peru and Ecuador as 'flawed democracies', with Ecuador recently improving from a 'hybrid regime'. The overall score for democracy in Latin America (on a scale of 0 to 10 with 10 being the highest) declined from 6.33 in 2016 to 6.26 in 2017.

29 Latinobarómetro 2017, Opinión Pública Latinoamericana, Corporación Latinóbarometro, Santiago de Chile, Chile.

30 *Ibidem.*

31 *Ibidem.*

32 Corruption Perceptions Index 2016, Transparency International.

33 OECD Latin American Economic Outlook 2018. Rethinking institutions for development, Organisation for Economic Cooperation and Development.

34 *Ibidem.*

35 Global Human Capital Report 2017, World Economic Forum.

36 Democracy Index 2017: Free speech under attack and Democracy Index 2016. Revenge of the 'deplorables', The Economist.

Colombia's 2017 score was 6.67 (the same as in 2016), Peru's was 6.49 (6.65 in 2016) and Ecuador's was 6.02 (5.81 in 2016). The report also notes 'partly free' media in Peru and 'largely unfree' media in Colombia and Ecuador, stressing that Colombia, together with Brazil, Honduras and Mexico, is 'among the world's most dangerous places for journalists'.

According to OECD-DAC data,[37] Colombia was the biggest recipient of official development aid (ODA) in Latin America in 2015, with aid received amounting to US$1.347 million (13 % of total ODA), Peru occupied ninth place with aid totalling US$332 million (3 %) and Ecuador tenth place with US$311 million in aid (3 %).

Colombia

According to the OECD Economic Surveys: Colombia 2017,[38] 'since 2000, the quality of life of Colombians has improved markedly'. The report underlines that macroeconomic and social policies have contributed to GDP growth and poverty reduction (the latter from 50 % in 2002 to 28 % in 2015). The report also stresses that the 'life satisfaction is now above the OECD average, although incomes, education and life expectancy still fall short' and what is more, 'low productivity, high income inequality and high informality weaken the well-being of many workers and their families'. The report also underlines that the 'peace agreement will further boost economic growth and well-being over time'.

The level of income has risen visibly in Colombia in recent years. Over the 2005 to 2015 period, the share of population in Colombia living on less than US$4 a day (2005 purchasing power parity) declined from 45 % to 28 %, and the share of population with middle incomes increased from 18 % to 31 %, according to the OECD Latin America Economic Outlook 2018.[39]

Table 2: Colombia – the share of population by the level of income, 2005 and 2015, in %

Share of population by level of income	Less than US$ 4 a day (PPP)	Vulnerable	Middle class	Affluent class
2015	28	39	31	2
2005	45	35	18	2

Data source: OECD Latin American Economic Outlook 2018: Rethinking institutions for development, Organisation for Economic Cooperation and Development and LAC Equity Lab: A Platform for Poverty and Inequality Analysis, World Bank.

The share (and number) of unemployed people in Colombia also fell from 12.1 % (2.7 million people) in 2009 to 8.2 % (2.1 million people) in 2015 according to the International Labour Organisation (ILO).[40] However, since 2015 unemployment has been on the rise, with 8.9% (2.3 million people) in 2017 and a projected 9.2% (2.5 million people) in 2019. Furthermore, the share (and number) of people in vulnerable employment rose from 40 % (7.2 million) in 2006 to 47 % (11.3 million) in 2017. According to other ILO data,[41] the rate of the non-agricultural informal employment in Colombia decreased from 57 % in 2009 to 54 % in 2013. There were also differences between men and women, with a fall in informal employment for men from 54 % in 2009 to 50 % in 2013 and for women from

37 Aid at a glance charts, Organisation for Economic Co-operation and Development.

38 OECD Economic Surveys: Colombia 2017, Organisation for Economic Cooperation and Development, May 2017.

39 OECD Latin American Economic Outlook 2018: Rethinking institutions for development, *op.cit.*

40 World Employment and Social Outlook. Trends 2018, International Labour Organisation.

41 Tasas de empleo informal no agrícola por sexo y años según países 2009-2013 (15 años a más), International Labour Organisation.

60 % in 2009 to 58 % 2013.[42] The fall in informal employment in Colombia, according to the ILO,[43] is the result of both economic growth and institutional factors, including several legislative initiatives promoting the formalisation of employment.

The OECD economic forecast[44] predicts economic growth in Colombia of around 3 % both in 2018 and in 2019. What is more, according to the forecast, 'reduced corporate taxation, the historic peace agreement, better financing conditions and new infrastructure projects will boost investment. Private consumption will gain momentum as the labour market strengthens. Increasing activity and a stable exchange rate will put an end to the inflation slowdown'. The forecast also stresses that 'inequalities and informality will remain key social challenges', but 'employment has recently increased, and consumer confidence is improving'.

Other OECD analysis stresses the need for more inclusive growth in Colombia: 'the quality of life of Colombians has improved substantially over the last decade with rising incomes and declining poverty. Nevertheless, Colombia remains one of the most unequal countries in terms of income distribution compared to the OECD and much of Latin America. Too many people are still poor, and regional differences in income or access to public services are large'.[45]

The World Bank's Doing Business 2018[46] report ranks Colombia as the 59th best country for doing business (out of 190 economies examined worldwide). This average rank for Colombia conceals a widely varying results, ranging from 2nd position for 'getting credit' to 177th for 'enforcing contracts', with for instance 81st position for 'dealing with construction permits' and 142nd postition for paying taxes in between.

The BMI Research[47] report presents Colombia as a country with 'substantial opportunities for foreign investors, with businesses able to take advantage of strong market liberalisation, few trade barriers and a large number of FTAs that have opened the country up to a diverse set of trade partners'. It also mentions 'limited government intervention, low profit taxes and strong access to financial markets'. On the obstacles side, the report stresses that 'the business environment is hampered by widespread institutional corruption and a weak rule of law, which increase operational difficulties faced by businesses'. Another BMI Research report underlines that the 'EU – Colombia free trade agreement has a highly positive effect on business, giving access to a wider range of import and export markets'.[48]

As for the human rights situation in Colombia, the Amnesty International 2017/2018 report,[49] stresses that civilian population 'continues to be the main victims of the ongoing armed conflict' (especially indigenous peoples, Afro-descendant and peasant farmer communities, and human rights defenders) and that concerns remain 'about impunity for crimes committed during the armed conflict'. The report also stresses that 'despite the signing of the peace agreement, the armed conflict intensified in some areas of Colombia'. What is more, the report points out that violence

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42 See also: Enrique Gómez Ramírez: Latin America's informal economy. Some formalisation strategies, EPRS, European Parliament, September 2016.

43 Evolución del empleo informal en Colombia: 2009 – 2013, International Labour Organisation.

44 Colombia – Economic forecast summary (November 2017), Organisation for Economic Cooperation and Development, 2017.

45 Towards more inclusive growth in Colombia, Christine de la Maisonneuve, OECD Economics Department Working Papers No 1423, Organisation for Economic Cooperation and Development, 2017.

46 Doing Business 2018: reforming to create jobs - Colombia, World Bank.

47 Colombia Trade and Investment Risk Report. BMI View - Colombia - Q1 2018, 4 January 2018, BMI Research.

48 Colombia Trade and Investment Risk Report. Economic Openness Analysis - Colombia - Q1 2018, 4 January 2018, BMI Research.

49 Colombia 2017/2018, Amnesty International.

against women, particularly sexual violence, persists and that there is no progress on 'access to justice for women survivors of sexual violence'.

The Amnesty International written statement presented to the 34th session of the UN Human Rights Council[50] underlines that 'most crimes under international law and human rights violations and abuses in Colombia are occurring outside the context of direct combat between the parties to the conflict' and also adds that 'this is particularly the case for attacks against human rights defenders, especially community and social leaders'.

The Human Rights Watch 2018 report[51] acknowledges the 2016 peace agreement with the FARC, which 'creates an opening for improvements in human rights'. However the report also stresses that the agreement's 'justice component contains serious shortcomings that risk letting war criminals escape justice'. The report also underlines that groups such as 'the National Liberation Army (ELN) and successor groups to paramilitaries that emerged after an official demobilisation process a decade ago are not party to the agreement and continue to commit abuses'.

The Human Rights Watch 2018 report[52] also stresses that 'violence associated with the armed conflict has forcibly displaced more than 7.7 million Colombians since 1985, generating the world's largest population of internally displaced persons' with more than 48 000 displaced between January and November 2017. The report notes that the 'forced displacement has significantly decreased since 2015', but 'remains high in many areas'. The report also stresses two other problems: widespread gender-based violence and threats and violence faced by activists.

Peru

Over the 2005 to 2015 period, according to the OECD Latin American Economic Outlook 2018,[53] the share of population in Peru living on less than $4 (PPP) declined from 46 % to 19 % and the share of population with middle incomes increased from 18 % to 37 %.

Table 3: Peru – the share of population by the level of income, 2005 and 2015, in %

Share of population by level of income	Less than US$4 a day (PPP)	Vulnerable	Middle class	Affluent class
2015	19	42	37	2
2005	46	35	18	1

Data source: OECD Latin American Economic Outlook 2018. Rethinking institutions for development, Organisation for Economic Cooperation and Development and LAC Equity Lab: A Platform for Poverty and Inequality Analysis

According to the International Labour Organisation (ILO),[54] the share (and number) of unemployed people in Peru fell from 4.9 % (692 700 people) in 2005 to 3 % (516 300) in 2015. However, unemployment has risen since 2015, to 3.6% (643 000 unemployed) in 2017, and is predicted to rise to 3.7% (685 200 unemployed) in 2019. The number of people in vulnerable employment has also

50 The Human Rights Situation in Colombia, Amnesty International's written statement to the 34th session of the UN Human Rights Council (27 February – 24 March 2017), Amnesty International.

51 Colombia, World report 2018, Human Rights Watch.

52 *Ibidem.*

53 OECD Latin American Economic Outlook 2018. Rethinking institutions for development, *op.cit.*

54 World Employment and Social Outlook. Trends 2018, *op.cit.*

risen, from 7.4 million in 2005 to 8.6 million in 2017. According to other ILO data,[55] the level of non-agricultural informal employment in Peru dropped from 69 % in 2009 to 64 % in 2013. There were also differences between men and women, with the percentage of men in informal employment falling from 64 % in 2009 to 58 % in 2013 and the percentage of women from 75 % in 2009 to 70 % 2013.[56]

The World Bank's Doing Business 2018 report[57] ranks Peru as the 58th best country for doing business (out of 190 economies examined worldwide). This position varies from 20th position for 'getting credit' to 121st for 'paying taxes', with 63rd for 'enforcing contracts' and 114th position for 'starting a business'.

The BMI Research report[58] presents Peru as a country that 'offers one of the more attractive locations for investment in Latin America, due to its vast natural resource wealth, international trade connectivity and open policy towards foreign direct investment'. What is more, 'the government treats both foreign and domestic investors equally under law and there are few restrictions on trade, capital flows or access to financing'. On the obstacles side, the report stresses, that 'the operating environment is undermined by an inefficient and corrupt judiciary, which hinders the effective enforcement of contracts and prevents the adequate protection of intellectual property rights'.

Amnesty International's 2017/2018 report,[59] stresses the 'continued threatening and harassing of human rights defenders', 'especially those working on issues related to land, territory and the environment' as well as the weakening rights of indigenous peoples related to land and territory. The report underlines serious concerns regarding impunity and the respect of due process guarantees, and also stresses increasing violence against women and a rising pregnancy rate among girls; both problems lacking 'an effective response from the state'.

The Human Rights Watch 2018 report[60] points out that 'in recent years, security forces have repeatedly wounded and killed civilians when responding to occasional violent protests over mining and other large-scale development projects', but also acknowledges that 'these killings have steeply decreased since 2016'. What is more, between 1980 and 2000, 'almost 70 000 people died or were subject to enforced disappearance', yet, the report underlines that 'judicial investigations into grave human rights abuses committed during the 20-year armed conflict that ended in 2000 remain slow and limited'. The report also stressed that 'threats to freedom of expression and violence against women are other major concerns'.

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55 Tasas de empleo informal no agrícola por sexo y años según países 2009-2013 (15 años a más), *op.cit.*

56 See also: Enrique Gómez Ramírez: Latin America's informal economy. Some formalisation strategies, EPRS, European Parliament, September 2016.

57 Doing Business 2018: reforming to create jobs, World Bank.

58 Peru Trade and Investment Risk Report. BMI View - Peru - Q1 2018, 3 January 2018, BMI Research.

59 Peru 2017/2018, Amnesty International.

60 Peru, World Report 2018, Human Rights Watch.

Annex II. EU – CAN regional cooperation – a brief presentation

On 26 May 1969, Bolivia, Chile, Colombia, Ecuador and Peru signed the Cartagena Agreement and formed an Andean group of nations. It was a step toward future regional integration. The current format of the Andean Community of Nations (CAN) is based on the Trujillo Protocol of 1996.[61] Chile left the group in 1976. Venezuela joined the Andean group pact in 1973 and left the Andean Community of Nations in April 2006. The headquarters of the Andean Community is in Lima, Peru, and the Andean Parliament is in Bogotá, Colombia.

Map 1 – The Andean Community

Data source: Andean Community website.

Formal relations (political dialogue) between the EU and CAN are based on a framework agreement on cooperation signed on 23 April 1993. The agreement entered into force on 1 May 1998 (OJ L 127 of 29.4.1998).

The special trade relations between the EU and the CAN date back to 1991, when the Andean countries' goods were granted preferential access to the EU market as a way to promote sustainable development and good governance, while also contributing to the fight against drugs.

In 1995, the EU-CAN high-level dialogue on drugs was established[62] and in 1996 the EU signed bilateral agreements with Andean Community member countries on the control of chemical precursors (used to produce illicit drugs);[63] these entered into force in 1997. The importance of both was underlined, inter alia, in the 1996 Cochabamba (Bolivia) Declaration (point 28) of the EU-Rio Group.[64]

The fight against drugs is also a factor in the preferential access to the EU market for Andean products. Preferential access (GSP+) came with the obligation for the Andean countries to implement necessary reforms in the field of human rights, labour rights, the environment and the fight against drugs and corruption.[65]

On 30 June 1996, a draft join declaration on political dialogue was signed in Rome. It opened the door for institutional cooperation in the form of a) presidential summits, b) periodical meetings of ministers of foreign affairs and c) ad hoc thematic meetings.

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[61] The Cartagena Agreement was originally drafted and executed in 1969. The agreement was extensively amended and codified by the Trujillo Protocol of 1996 and the Sucre Protocol of 1997, Rafael A Porrata-Doria Jr, 'Andean Community of Nations (CAN)', *Max Planck Encyclopedia of Comparative Constitutional Law*, Oxford Public Intenational Law.

[62] The last (eleventh) meeting on drugs took place in October 2012, XI Reunión de diálogo especializado de alto nivel sobre drogas Comunidad Andina - Unión Europea, Comunicado Conjunto, Quito, Ecuador, 31 de octubre 2012.

[63] The EU's relations with the Andean Community, Welcome Europe's website.

[64] Rio Gruoup s a predecesor of the Community of Latin American and Caribbean States (CELAC) established in 2010.

[65] Based on the Andean Community's relations with the European Union, Communidad Andina.

On 15 October 2003, a political dialogue and cooperation agreement was signed. The agreement strengthened and extended the political dialogue based on the 1996 Roma Declaration, as it incorporated new areas such as human rights, conflict prevention, migration, the fight against drugs and terrorism. The agreement placed special emphasis on regional integration in the Andean Community. The document did not include a trade component.[66] The 2003 agreement, after ratification, was supposed to replace the 1993 framework agreement and the 1996 Roma Declaration.[67] However, the agreement was never concluded, 'due to the internal political and institutional crisis the organisation went through since the departure of Venezuela in 2006'.[68]

In 2006, participants at the fourth EU-CAN summit opened negotiations focusing on the signature of the association agreement including three pillars: political dialogue, cooperation and a trade agreement.[69] Three rounds of negotiations took place in 2007 and 2008. As each member of the CAN could hold negotiations in different areas of interest and at different speeds, the fourth round of negotiations was of a bilateral nature.

In 2006, Andean Community Regional Strategy Paper 2007-2013 was adopted, with planned EU assistance of €50 million, aimed at supporting three priority sectors: social cohesion, regional economic integration and the fight against illicit drugs.

In July 2006, the European Economic and Social Committee (EESC) adopted an opinion on relations between the EU and the CAN, in which the EESC, inter alia, proposed that steps be taken 'towards an association agreement like those signed with Chile and Mexico and currently being negotiated with the Mercosur countries'. In its opinion, the EESC proposed that the agreement include a free trade agreement, broader political dialogue and new cooperation possibilities as well as a more ambitious social dimension, with greater involvement of social players and civil society.[70]

In March 2007, the European Parliament adopted a recommendation to the Council on the negotiating mandate for an association agreement between the EU and CAN. The Parliament specified, inter alia, that 'some of the aims of the association agreement (…) should be the establishment in time of an advanced free trade area, the pursuit of political dialogue and cooperation and, in addition, the promotion of sustainable human development, social cohesion, consolidation of democracy and the rule of law and full respect for human, civil, political, economic, and social rights, without neglecting the cultural and environmental dimension'.[71]

In 2010, Colombia and Peru concluded their respective free trade negotiations with the EU, in the framework of the fourth European Union-Latin America and the Caribbean summit held in Madrid. In 2012, the agreement between Peru, Colombia and the EU was signed in Brussels.[72]

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66 Joint proposal for a Council decision on the conclusion of a political dialogue and cooperation agreement between the European Community and its Member States, of the one part, and the Andean Community and its Member Countries (Bolivia, Colombia, Ecuador, Peru and Venezuela), of the other part (JOIN(2016) 4).

67 Based on the Andean Community, European External Action Service and the Andean Countries - European Union. Foreign trade information system, the Organization of American States.

68 JOIN(2016) 4, *op.cit.*

69 Fourth EU-LAC summit, Declaration of Vienna, C/06/137, 12 May 2006.

70 Opinion of the European Economic and Social Committee on EU-Andean Community relations, OJ C 309 of 16.12.2006.

71 European Parliament recommendation of 15 March 2007 to the Council on the negotiating mandate for an association agreement between the European Union and its Member States, of the one part, and the Andean Community and its member countries, of the other part (2006/2221(INI)), OJ C 301 of 13.12.2007.

72 Based on the Andean Community, European External Action Service and the Andean Countries - European Union. Foreign trade information system, the Organization of American States.

Ecuador formally restarted trade negotiations with the EU in 2013, and in 2016 the country joined the trade agreement between the EU and Colombia and Peru.

In June 2016, a joint proposal for a Council decision on the conclusion of a political dialogue and cooperation agreement between the European Community and its Member States, of the one part, and the Andean Community and its Member Countries (Bolivia, Colombia, Ecuador, Peru and Venezuela) was adopted.[73] It replaced the 2003 proposal (COM(2003) 695), which was withdrawn.

Colombia and Peru take part in various forms of cooperation with the European Union. One is provided within the multiannual indicative programme (MIP) for Latin America 2014-2020, with a budget of €805 million (for the continental part).[74] It provides support for Latin American countries in areas such as security, good governance, human development, the environment and higher education. The MIP was established in accordance with the regulation on the financial instrument for development cooperation 2014-2020 (DCI).[75] Colombia and Peru are in the process of phasing out the DCI, as they are all now 'upper-middle income' countries.

73 JOIN(2016) 4, *op.cit.* with Annex I.

74 The overall budget of the MIP, which totals €925 million, is divided between Component 1: the Continental Programme (€805 million) and Component 2: the Sub-Regional Programme for Central America (€120 million).

75 Regulation (EU) No 233/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for development cooperation for the period 2014-2020, OJ L 77 of 15.3.2014.

Annex III: EU bilateral relations with Colombia and Peru – a brief presentation

Colombia

According the EEAS factsheet 'Colombia is a key partner for the European Union in Latin America. The EU's relations with Colombia are based primarily on political dialogue, trade cooperation, sustainable development and support to peace building'.[76]

Political dialogue is based on the 1996 Rome Declaration and a 2009 Memorandum of Understanding with regular high-level political and sectoral dialogue meetings. The last dialogue took place in Brussels on 13 July 2016. Among the dialogue's most important areas are: the fight against illicit drugs and organised crime, respect for human rights, the responsible conduct of enterprises, climate change, the protection of biodiversity and the sustainable use of natural resources. Since 2014, Colombia has had facilitated access to EU crisis management operations within the common security and defence policy. The last human rights dialogue took place on the 13 July 2016 and the most recent high-level dialogue on 14 May 2018; both took place in Brussels.[77]

In the 2000 to 2017 period, the EU and its Member States offered financial support amounting to €1.5 billion (€950 million from Member States and €550 million from the EU budget). The support was directed to: local productive development and income generation; local institutional strengthening and citizen participation; and to human and victim's rights.

Before 2016, EU support was granted for example via peace laboratories (2002-2012) with 614 projects with benefiting 300 000 people and 220 municipalities, and bilateral cooperation through budget support (with a budget of €120 million since 2012) targeted at rural development policy, social sustainable development and regional competitiveness.[78]

The EU's multiannual indicative programme (MIP) 2014-2017 for Colombia, with a budget of €67 million, provided support for two sectors: a) local economic development and institutional strengthening and b) sustainable trade and investment, focused on using trade as an instrument for poverty reduction.[79] All funds available in the programme had already been committed by 2015 for economic/rural development and for peace building, as well as for the institutional strengthening dimension.[80]

The EU has been supporting Colombian peace building and played a part in the peace negotiations between the Colombian authorities and the Revolutionary Armed Forces of Colombia (FARC). In November 2015, the EU appointed a special envoy for the peace process in Colombia. On 24 November 2016, the final peace agreement was signed, between the Colombian government and the Fuerzas Armadas Revolucionarias de Colombia (FARC) guerrilla group, ending an internal

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76 EU-Colombia relations, factsheet, European External Action Service.

77 *Ibidem.*

78 Enrique Gómez Ramírez, Implementation of Colombia's peace agreement, At a glance, EPRS, European Parliament, February 2018.

79 New funds were granted based on the positive evaluation of progress made by Peru in terms of poverty reduction and economic growth, EU Commissioner announces significant new funding for Peru during visit, press release of 21 July 2014 (IP/14/853).

80 Commission staff working document accompanying the Annual report on the implementation of the European Union's instruments for financing external actions in 2016 (COM(2018) 123 final), SWD(2018) 64 final, part 1 of 2.

conflict that had lasted over 50 years. The conflict claimed the lives of 200 000 people and a further 5 million were forced to leave their homes.[81]

The peace process and the signature of peace agreement were supported by the EU institutions, including by the European Parliament. On 20 January 2015, the European Parliament adopted a resolution on EU support for the peace process in Colombia (2015/3033(RSP)). Parliament welcomed the platform for talks between the Colombian Government and FARC, and the agreements made to date, for instance on comprehensive rural reform. Parliament 'reiterated its readiness to provide all possible assistance to support the implementation of the final peace agreement' and renewed its call on Member States to create a trust fund to accompany the post-conflict phase. Parliament also stressed the need to combat inequality and poverty in the post-conflict phase and recommended that DAND and EurLat 'monitor and, potentially, accompany the peace accords'.

Since 2015, support for the stability process has been offered to Colombia under the Instrument contributing to stability and peace (IcSP).[82] So far 11 projects have been financed, with financial support of €18.7 million, focusing on peace, security and protection of civilians.[83]

In 2016, the EU announced the launch of fresh EU support (over €575 million) for conflict-affected regions, green growth and land rights together with a series of immediate measures to support Colombia. The package included funds provided by the EU Trust Fund, the IcSP, and loans from the European Investment Bank (€400 million) and ongoing cooperation for the 2014 to 2017 period.[84]

In December 2016, a post-emergency EU Trust Fund for Colombia[85] was established for four years, with a possibility of extension. The fund has a budget of €96.4 million, with €73.4 million coming from the EU budget[86] and €23 million from 19 Member States.[87] The fund's objective is to support the implementation of the peace agreement, particularly in rural areas, which 'have been disproportionately affected by the conflict'.[88]

On 29 May 2019, during his speech to the European Parliament, Colombian President Juan Manuel Santos thanked the EU for its support for the peace process and the post-conflict phase in Colombia. He also referred to the above-mentioned fund (with €62 million already committed) and to an additional €85 million for demining. European Parliament President Antonio Tajani 'urged the EU to

81 *Ibidem*.

82 Regulation (EU) No 230/2014 of the European Parliament and of the Council of 11 March 2014 establishing an instrument contributing to stability and peace, OJ L77 of 15.3.2014.

83 Map showing projects under the Instrument contributing to Stability and Peace.

84 EU announces new funding to support post-conflict process in Colombia, press release of 27 May 2016, European Commission (IP/16/1902) and

European Union's peace building support of almost €600 Million for Colombia, factsheet of 12 December 2016, European Commission (MEMO/16/4294).

85 Commission implementing decision of 22.3.2016 on the establishment of a European Union Trust Fund for Colombia, (C(2016) 1653 final).

86 €71,4 million from the EU's Development Cooperation Instrument and €2 million from the EU's department for humanitarian assistance (DG ECHO), The European Union mobilises additional €15 million for peace building support in Colombia, European Commission, Press release of 31 May 2018.

87 Croatia, Czech Republic, Cyprus, France, Germany, Hungary, Italy, Ireland, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Spain, Sweden, the United Kingdom, Slovakia, Slovenia.

88 EU Trust Fund for Colombia website, Constitutive Agreement, Strategy document, List of ongoing projects, Video, European Commission.

remain present and help with investment, so that Colombia can keep progressing towards peace and poverty reduction'.[89]

On 31 May 2018, in Brussels an event entitled Conflict Resolution in the 21st Century: The Case of Colombia was organised, with the participation of key figures from the Colombian peace negotiations, including HR/VP Federica Mogherini and the President of Colombia Juan Manuel Santos. According to the EEAS, 'they discussed lessons learnt from the peace negotiations, the state of the Colombian economy and the country's development, as well as social reconciliation of people affected by conflict, children in particular'.[90] The EU also mobilised an additional €15 million for peace building support in Colombia the aim being to 'scale up concrete actions, such as new programmes that will foster economic activity and contribute to restoring social fabric in conflict-affected areas'.[91]

Colombia also takes part in selected EU programmes. One of them is the Horizon 2020 programme for research and innovation, in which Colombian entities have participated 35 times in 32 signed H2020 grants receiving €1.9 million in direct EU contributions, with the non-EU budget of Colombian beneficiaries at €0.2 million.[92]

The other example is the Erasmus+ programme. Higher education institutions (HEIs) from Colombia are involved in the programme as follows: in 2015-2017, 326 international credit mobility proposals involving Colombia were presented, of which 93 were selected for financing. 419 staff members and students participated in mobility to Europe, and 194 staff members and students took part in mobility to Colombia. In the 2014 to 2017 period, 140 Erasmus Mundus Joint Master Degrees scholarships and nine Erasmus Mundus Doctoral fellowships were granted to Colombian citizens. In the 2015 to 2017 period, 107 capacity building projects for HE projects involving Colombia were proposed, of which 20 received financing, with 88 Colombian HEIs participating. In the 2014 to 2017 period three Jean Monnet projects were presented from Colombia, but none was selected for financing.[93]

In December 2015, the agreement between the EU and Colombia on the short-stay visa waiver was signed. On 8 June 2015, the European Parliament gave its consent to the conclusion of the agreement (2015/0201(NLE)). Based on the agreement, citizens of the EU holding a biometric passport may stay on Colombian territory for a maximum period of 90 days in any 180-day period and citizens of Colombia may stay on the territory of EU Member States, fully applying the Schengen acquis, for a maximum period of 90 days in any 180-day period. The period may be extended. The agreement applies to the European territories of France and the Netherlands only.[94]

[89] Colombia: Santos thanks the EU for its support to the peace process, Press release of 29 May 2018, European Parliament.

[90] Colombia: building peace and moving forward, EEAS.

[91] The European Union mobilises additional €15 million for peace building support in Colombia, European Commission, press release, 31 May 2018.

[92] The data was received from the European Commission (DG Research and Innovation).

[93] Erasmus+ for higher education in Colombia, European Comission, March 2018.

[94] Agreement between the European Union and the Republic of Colombia on the short-stay visa waiver, OJ L 333 of 19.12.2015.

Peru

Peru is a key economic and trading partner for the EU in the region.[95] Bilateral cooperation has strengthened in recent years. The 2017 high-level political meeting focused on various areas including: 'political affairs, cooperation in multilateral fora, migration, drugs, regional development and cross border cooperation, academic and scientific cooperation, consular cooperation and other topics'. The EU deployed EU electoral observation missions to the first and second rounds of the 2016 presidential elections.[96]

The most recent high-level political dialogue took place on 16 April 2018. During the meeting the results and progress of the sectorial dialogues that are part of the mechanism of bilateral consultations were discussed, e.g. human rights, the fight against drugs and regional policy.[97]

The EU committed €135 million to Peru during the 2007 to 2013 period, providing support in particular for drug policies and social inclusion. In 2013, the EU also granted funding in the form of Sector Budget Support to the National anti-Drugs Strategy (€32.2 million). Additionally, Peru participated in different regional programmes, including ALFA III, which provided support for higher education in Latin America, and EUROsociAL, a flagship programme for social cohesion in Latin America. Under the former, 18 higher education institutions (HEIs) from Peru participated in 14 projects. The latter included the financing of projects helping former prisoners to reintegrate into society as well as projects monitoring equity of access to healthcare and medicines.[98]

The multiannual indicative programme (MIP) 2014-2017 for Peru envisaged EU support for Peru to promote social protection policies and to diversify the economy towards sustainable and inclusive growth in its most vulnerable regions. It also provided support for the control of and the fight against the production and trafficking of illicit drugs. EU financial support amounted to €66 million focusing on two areas: a) inclusive development and b) sustainable trade and investment. Under the MIP, in 2016, a new €40 million budget support programme focused on supporting the national social inclusion strategy was signed and its implementation started. The implementation of the current development cooperation portfolio is progressing effectively, according to the Commission.[99]

In addition, bilateral cooperation programmes have been implemented. One example is the Alternative Development Programme in Satipo (DAS),[100] with a budget of around €10 million (with 80 % coming from the EU), financed by the EU and the Peruvian government. The programme was implemented in the central parts of the Peruvian Amazon by the National Anti-Drug Agency (DEVIDA) and contributed to the 2012-2016 National Anti-Drug Strategy. Its aim was to support poverty reduction, promote social integration and prevent activities related to the illegal production

95 Multiannual indicative programme (MIP) 2014-2017 for Peru, European External Action Service and European Commission.

96 Peru and the EU, Delegation of the European Union to Peru, EEAS.

97 Eighth meeting of the mechanism of bilateral consultations Peru - European Union, European External Action Service.

98 EU cooperation with Latin America, European Commission (MEMO/14/493 of 21 July 2014).

99 Commission staff working document accompanying the Annual report on the Implementation of the European Union's Instruments for Financing External Actions in 2016 (COM(2018) 123 final, SWD(2018) 64 final, part 1 of 2).

100 Carlos Cueva Sifuentes (et al.), La experiencia DAS. Desarrollo alternativo, gobernanza local y empoderamiento de la sociedad civil en la Amazonía peruana, Programa de Desarrollo Alternativo en Satipo - DAS, Peru, enero 2017.

of coca leaves.[101] In four districts of Satipo province, 12 000 families benefited from DAS by growing organic crops as an alternative to coca leaf production.[102]

The EU has already offered Peru humanitarian aid in response to crisis situations caused by natural disasters. For example, in March 2017, the EU Civil Protection Mechanism was activated, with a budget of €250 000, for emergency relief to communities affected by floods and mudslides. The natural disaster affected over half of Peru, leaving over 100 000 people in need of assistance.[103]

Peru also participates in selected EU programmes. One of these is the Horizon 2020 programme, in which Peruvian entities have benefited 12 times from 11 signed H2020 grants receiving €1.4 million in direct EU contributions.[104]

The other example is the Erasmus+ programme. Peruvian higher education institutions (HEIs) have participated in the programme as follows: from 2015 to 2017, 180 proposals for international credit mobility involving Peru were presented, of which 46 were selected for financing. 129 staff members and students participated in mobility to Europe, and 80 staff members and students participated in mobility to Peru. In the 2014 to 2017 period, 35 Erasmus Mundus Joint Master Degrees scholarships were granted to Peruvian citizens. From 2015 to 2017, 51 higher education capacity building projects involving Peru were presented, of which nine were selected for financing with 40 Peruvian HEIs participating. In the 2014 to 2017 period, there were four Jean Monnet projects presented from Peru, but none was selected for financing.[105]

It is worth mentioning that participants at the seventh meeting in the framework of the EU-Peru Bilateral Consultation Mechanism, which took place on 1 February 2017, 'stressed the importance of the EU research and innovation programme Horizon 2020 as well as the study grants under the Erasmus+ programme'. Furthermore, Peru 'declared its willingness to increase its participation, further promoting the mobility of students, professors and academic staff' in order to enable more of its citizens to benefit from the programme.[106]

In December 2015, a short-stay visa waiver agreement was signed between the EU and Peru. On 5 July 2016, the European Parliament gave its consent to the conclusion of the agreement (2015/0199(NLE)). Based on the agreement, EU citizens holding a biometric passport can stay in the territory of Peru for a maximum period of 90 days in any 180-day period and citizens of Peru can stay in the territory of the EU Member States, fully applying the Schengen acquis, for a maximum period of 90 days in any 180-day period. The period may be extended. The agreements applies to the European territories of France and the Netherland only.[107]

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101 COM(2018) 123 final and SWD(2018) 64 final, part 1 of 2, *op.cit.*

102 EU alternative development programme benefited 12 000 households in Peru, Andina - Agencia peruana de noticias, Lima, 13 December 2017.

103 EU emergency assistance to help Peru cope with floods, the European Civil Protection and Humanitarian Aid Operations, European Commission, 22.3.2017.

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PART II: EXTERNAL RESEARCH PAPER

Implementation of the Trade Agreement between the EU and Colombia and Peru

Ex-Post Evaluation

Summary. The purpose of this document is to analyse the implementation and evolution of the Free Trade Agreement between the European Union and Colombia and Peru by focusing on financial flows and sustainable development. The agreement entered into force five years ago, so sufficient time has elapsed to allow for an assessment of how it has been operating and for reflection on the aspects which need to be improved. In addition to addressing trade, this document describes the situation regarding environmental issues and the fundamental rights of individuals, including working conditions in Andean countries. Given the importance of these issues, it also proposes some guidelines and recommendations.

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Executive Summary

The objective of this study is to assess the evolution of the Trade Agreement between the EU and Colombia and Peru – or the Free Trade Agreement (FTA) between the EU, of the one part, and Colombia and Peru of the other part – in its fifth year. The aims of the Agreement include offering guarantees to ensure that the new trade structure and the EU's investment relationship promote broad social and environmental protection in Andean countries. The analysis, therefore, covers various aspects influenced by the FTA: Bilateral trade between the Parties, international financial flows of foreign direct investment (FDI) and services, intellectual property, as well as sustainable development and international cooperation. The study's methodology comprises both quantitative analysis, through the description and assessment of indicators based on available statistical information, and qualitative analysis, based on primary and secondary sources of information. It provides an approximate assessment of the progress achieved under the Trade Agreement and concludes with some ideas to develop recommendations on areas where the implementation of the Trade Agreement can be improved.

Regulation (EU) No 978/2012 of the European Parliament and of the Council establishes that the Commission should monitor the status of ratification of the international conventions on human and labour rights, environmental protection and good governance and their effective implementation. It does this by examining the conclusions and recommendations of the relevant monitoring bodies. Every two years, the Commission presents reports to the Parliament and Council on behalf of the beneficiary countries.

The European Parliament required the governments of Colombia and Peru to explicitly undertake an unequivocal commitment to public policies that promote and defend human rights. This requirement is based on Article 21 of the Treaty, regarding fundamental rights, in the light of which all agreements signed by the EU with third countries must include clauses on democracy and human rights that provide for the immediate and unilateral suspension of any agreement in the event of 'serious violations' of such rights and liberties. In principle, this requirement appears to have been fulfilled by the drafting of action plans by the Governments of Colombia and Peru.

Regarding trade, although the period that the agreement has been in force is very short to carry out an impact analysis and obtain robust conclusions, the bilateral flows observed make it possible to infer that the FTA can be, in addition to a mechanism for stabilising the exchange of goods between the parties, a stimulus to greater productive diversification in the Andean economies. The number of new products sold by Colombia and Peru to the EU in the last five years, and which come from industries that are more sophisticated than the usual exporting sectors of the Andean countries, are evidence of this. The dynamism of the FTA and services activity also seem to indicate new opportunities for international expansion between the Parties. The scientific and technological capacity of European countries, and their longstanding experience in international cooperation programmes in this sphere, mean that there is great potential to develop this area under the Agreement.

The environment is a contentious issue. In spite of the efforts of the Governments of Colombia and Peru to develop environmental action plans, in recent years there has been a trend towards more flexible environmental standards and rules governing the mining-energy sector. This sector is important when it comes to both trade and FDI. The environmental deterioration of water resources and forests, along with the socio-environmental effects caused by some products of relevance to trade, such as palm oil, mean the commitment to preserve biodiversity has been called into question.

Human rights are the basis of the domestic and foreign policy of each of the Parties. However, without binding mechanisms to guarantee their protection, they risk being reduced to merely declaratory principles. The provisions regarding labour rights are contained in Title IX on Trade and

Sustainable Development and relate to the strengthening of compliance with labour legislation, guaranteeing the fundamental rights established by the ILO, as well as the contribution of trade to productive employment and decent work.

The abundant information available on violations of the rights of citizens, which greatly affect vulnerable populations (Afro-Colombians, indigenous populations and activists), as well as the criminalising of social protest, demonstrate the need for closer monitoring of how this aspect of the Trade Agreement will evolve. The lack of institutionalised measures to guarantee workers' rights and liberties, as well as high levels of job insecurity, short-term work, informal and illegal employment, characterise the current employment conditions in the productive sector, including among foreign companies. Lastly, there is evidence of lack of compliance in the consultation phase. More effective involvement of civil society organisations should be pursued to fully guarantee the monitoring and defence of human rights.

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List of abbreviations and acronyms

ADEX	Exporters' Association
FTA	Free Trade Agreement
ALOP	Latin American Association of Development Promotion Organisations
CCAJAR	José Alvear Retrepo Lawyers' Collective Corporation
ECLAC	Economic Commission for Latin America and the Caribbean
CNTPE	National Council for Labour and the Promotion of Employment
HR	Human rights
EQS	Environmental quality standards
EIA	Environmental Impact Assessment
MNC	Multinational corporations
ENS	National Trade Union School
FIDH	International Federation for Human Rights
FDI	Foreign direct investment
HDI	Human Development Index
GII	Global Innovation Index
JEP	Special Jurisdiction for Peace
MINAM	Peruvian Ministry of Environment
OHCHR	Office of the United Nations High Commissioner for Human Rights
OECD	Organisation for Economic Cooperation and Development
SDG	Sustainable Development Goals
OEFA	Agency for Environmental Assessment and Enforcement
ILO	International Labour Organisation
WHO	World Health Organisation
CSO	Civil society organisations
PAL	Employment Action Plan
PIB	Gross Domestic Product
SME	Small and medium-sized enterprises
CSR	Corporate Social Responsibility
HS	Harmonised System
SENACE	National Department for Environmental Certification for Sustainable Investments
SNGA	National System for Environmental Management
Sunafil	National Superintendency for Labour Inspection
FTA	Free Trade Agreement
TNI	Transnational Institute
EU	European Union
USA	United States of America
RCA	Revealed Comparative Advantage

Background

Key findings

The implementation of the Trade Agreement has resulted in a positive trade dynamic for the Parties; However, caution is advised when it comes to the activation of the banana safeguarding provisions for trade with Peru. Regarding the goal of sustainable development, the relaxing of environmental standards and the contentious situation regarding biodiversity and resources, as well as the lack of guarantees of respect for human rights and fundamental labour rights, call into question the effectiveness of the roadmap in both Andean countries. The European institutions may consider reflecting on potentially defining actions to improve the implementation of the Agreement.

The Trade Agreement between the European Union (EU), of the one part, and Colombia and Peru[1], of the other part[2], was signed in Brussels in June 2012, after several rounds of negotiations. It entered into force with Peru on 1 March 2013, and with Colombia on 1 August 2013. The Agreement is based on the principle of regional integration, trade promotion and international investment. Its objective is to contribute to sustainable development, poverty eradication, the creation of new employment opportunities and better working conditions for citizens.

The Agreement establishes a Trade Committee, comprising representatives of the EU and representatives of each signatory Andean country. The committee's objective is to supervise and evaluate the operation and correct implementation of all of its provisions. This committee established specialised bodies in the form of eight subcommittees[3] to facilitate how matters exclusively related to the bilateral relations between the EU Party and each participating country are addressed.

In accordance with the European Parliament resolution of 13 June 2012 (2012/2628(RSP)) on the EU trade agreement with Colombia and Peru[4], respect for the EU's founding principles and principles of foreign policy are an essential component of the Agreement and failure to respect human rights and democratic principles would constitute a 'material breach' of the Agreement. This resolution highlights the absence of a binding dispute settlement mechanism, while recognising the importance of constructive dialogue between the partners, the inclusion of a chapter on trade and sustainable development and the creation of domestic dialogue mechanisms with civil society involving the participation of citizens of the Andean countries and the EU. The Andean countries were also requested to develop a transparent and binding roadmap on environmental and labour rights, aimed at safeguarding human rights.

Title IX of the Agreement, on Trade and Sustainable Development, seeks to harmonise the conduct of international trade with acceptable human rights standards and care for the environment. It emphasises in particular the conservation of resources and biodiversity and respect for fundamental rights based on the Rio Declaration on Environment and Development of 1992 and Agenda 21, adopted by the United Nations Conference on Environment and Development on 14 June 1992, the Millennium Development Goals adopted in September 2000, the Johannesburg Declaration on

[1] Throughout the document, the following terms will be used to make reference to the Free Trade Agreement between the EU, Colombia and Peru: Agreement, Trade Agreement, Free Trade Agreement or FTA, and Free Trade Treaty or FTT.

[2] The Agreement is bilateral in nature. The EU is Party to it and the other Party is each of the Andean counties. Parties refers to the EU, and Colombia and Peru, respectively.

[3] The following are the eight subcommittees: Market Access; Agriculture; Technical Obstacles to Trade; Customs, Trade Facilitation, and Rules of Origin; Government Procurement; Trade and Sustainable Development; Sanitary and Phytosanitary Measures; and Intellectual Property.

[4] European Parliament resolution of 13 June 2012 on the EU trade agreement with Colombia and Peru (2012/2628(RSP)).

Sustainable Development and its Plan of Implementation, adopted on 4 September 2002, and the Ministerial Declaration on Attainment of Full, Productive Employment and Decent Work adopted by the United Nations Economic and Social Council in September 2006. Articles 271 and 324 make reference to trade that promotes sustainable development and the promotion of fair and equitable trade. One way forward is to facilitate systems such as equitable and ethical trade, which involve corporate responsibility in the social sphere. Regarding corporate social responsibility (CSR), all parties are requested to promote the best business practices, with due regard for the Guiding Principles on Business and Human Rights of the United Nations, the OECD guidelines and the European Commission's press release of 25 October 2011 on CSR (COM(2011)0681).

1. Introduction

The fundamental purpose of the Free Trade Agreement (FTA) between the European Union (EU), of the one part, and Colombia and Peru, of the other part, is reciprocal trade liberalisation between the parties. It sets out the complete elimination of tariffs for some industrial products as well as for some (62%) agricultural and fishing products. It also represents progress towards a gradual liberalisation of many service activities. However, the scope of the FTA goes beyond financial exchanges and flows to include aspects relating to intellectual property and sustainable development.

Colombia's positive macroeconomic performance has encouraged the growing internationalisation of its national economy[5]. Colombia's cumulative Gross Domestic Product (GDP) growth rate for the period 2005-2016 was 3.95%. The country experienced growth of 4.23% in the period prior to the Trade Agreement with the EU (2005-2013), and 1.66% in the period 2014-2016. In addition, GDP per capita has followed a similar trend, reaching 2.95% cumulative growth per capita for the period 2005-2016. Taking the period 2005-2013, this figure rises to 3.2%, and stands at 1.06% for the post-Agreement period (2014-2016).

The economy of Peru has performed very well in the last 20 years, except for the years marked by financial crisis (1998-1999 and 2008-2009) or the political instability at the beginning of the 2000s. The cumulative GDP growth between 2005 and 2016 was 5.16%. It was even higher in the period prior to the entry into force of the Agreement with the EU (2005-2013), when it reached 5.83%, only to fall to 2.38% in the subsequent period (2014-2016). GDP per capita followed a similar trend, with cumulative growth of 3.94%, reaching 4.64% between 2005 and 2013 before falling to 1.52% in the post-Agreement period (2014-2016).

Colombia has also performed positively in the areas of human development and inequality to the extent that its Human Development Index (HDI) value has increased from 0.626 in 1995 to 0.727 in 2015. Meanwhile, inequality in the country's personal income distribution has fallen, with its Gini[6] index value dropping from 0.57 in 1995 to 0.51 in 2016. Peru's HDI value has also improved, increasing from 0.642 in 1995 to 0.74 in 2015. Also, inequality in Peru's personal income distribution has decreased: Its Gini index value fell from 0.537 in 1997 to 0.443 in 2016.

In general, the development of bilateral trade between the EU and Colombia and Peru has decreased since 2013. This trend can be attributed to the economic slowdown in Latin America and the fall in the global price of commodities, which has affected the exports of the Andean countries. Nonetheless, as highlighted in the Commission's report on the implementation of FTAs (EC, 2017), the FTA has had a stabilising effect, as the drop in trade with the EU has been less than that with third countries.

The sum of foreign direct investment (FDI) to Colombia, despite a recent slowdown in flows, increased by 400% between 2000 and 2016. This FDI trend was even more pronounced in Peru (more than 700%) in this period (UNCTAD, 2017). Furthermore, the World Bank's environment indicator (*Doing Business*) shows that Colombia and Peru were among the best Latin American countries in which to do business in 2017, ranking 59th and 58th respectively, out of a total of 190 economies. Nevertheless, challenges to development persist. They relate to, inter alia, the low level of infrastructure and the level of human capital in the two Andean countries.

Taking into account the general principles of the Agreement, the founding principles of the EU and its foreign policy, as well as the principles that underpin the Rule of Law of the Parties, the first article of the Agreement refers to respect for Human Rights, as laid down in the Universal Declaration of

[5] The statistics in this section come from the World Bank's *World Development Indicators* database.

[6] The Gini index shows the degree of equidistribution of income among the population (deciles) of a country. Its index goes from 0 to 1, with 1 representing maximum concentration.

Human Rights. It establishes the creation of a Free Trade Area between the Parties, in accordance with WTO (GATT and GATS) regulations. It also makes explicit reference to the goal of sustainable development, providing guarantees to ensure that the new trade structure and the EU's investment relationships promote wide-ranging social and environmental protection in the Andean countries. These considerations are part of the goal to avail of the opening up of international trade through the elimination of customs tariffs and the creation of opportunities for investment and business, which will result in greater levels of international competitiveness for each of the Parties[7].

The goal of sustainable development is included in the Agreement by means of references to both social and environmental protection by the Parties. Nevertheless, in spite of the efforts made by the two Andean countries to improve guarantees of the fundamental rights of their citizens, more in-depth and comprehensive work is required. That is why this document explores this issue as well as prevailing problems, and suggests areas in which it is possible to craft ways to improve and strengthen international cooperation.

Below, section 2 analyses trade in goods. Section 3 focuses on foreign direct investment, services and intellectual property. Section 4 examines sustainable development, the environment, the human rights situation and working conditions. Section 5 provides an outline of international cooperation and is followed by conclusions and recommendations in section 6.

[7] The Agreement sets out procedures in the areas of: access to markets; technical obstacles to trade; sanitary and phytosanitary measures; trade defence instruments; services, investments and free movement of capital; competition; public procurement; rules of origin; and intellectual property.

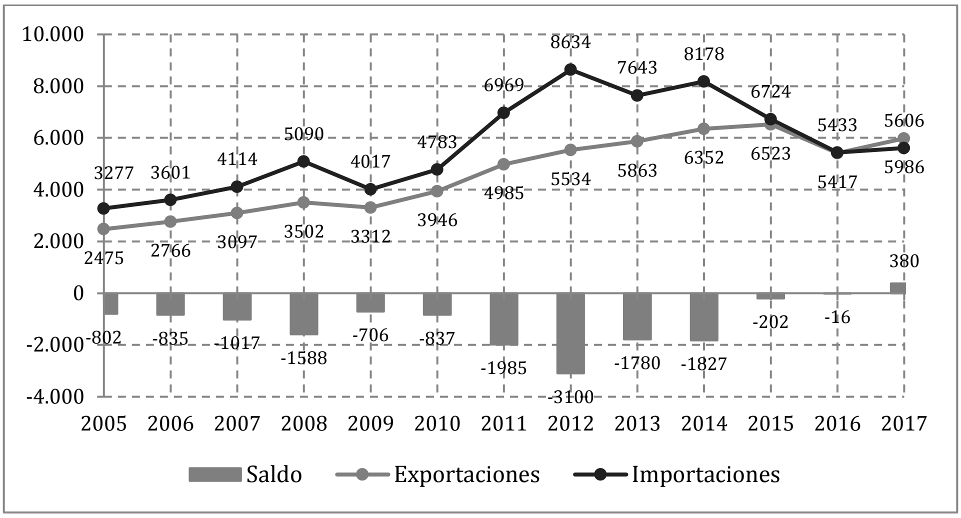
2. Trade

2.1. Trade in goods

2.1.1. EU-Colombia

The value of goods exported from the EU to Colombia in 2017 was EUR 5 986 million. This represents an increase of 8.6% on the year prior to the entry into force of the Agreement (EUR 5 534 million in 2012), and an increase of 10.5% in comparison with 2016. A positive annual growth rate for exports has been maintained in the five-year post-agreement period (2013-2017), except in 2016 when a significant decrease (17%) in comparison to 2015 levels was recorded. The value of goods imported to the EU from Colombia was EUR 5 606 million in 2017, a fall of 35% when compared with 2012 values (EUR 8 634 million). Since the agreement was established, imports have shown a downwards trend, except in 2014 and 2017 when annual growth was 7% and 3.2% respectively. Overall, and as a result of the uneven performance of exports and imports, bilateral trade between the EU and Colombia has dropped by 18% since the year prior to the Agreement. In addition, the EU's trade deficit with Colombia of EUR 3 100 million in 2012 had been turned into a surplus of EUR 380 million in 2017. See Figure 1.

Figure 1. EU-Colombia exports, imports and trade balance



Source: Own production based on Eurostat's Comext data.

The decline in bilateral trade between the EU and Colombia is in line with the decline in bilateral trade between Colombia and the rest of the world. The primary reason for this is the slowing down of economic growth of Latin American countries. In contrast to the increase in sales from the EU to Colombia in the period 2012-2017, Colombian imports from all over the world fell by 21.3%. In addition, the significant drop in EU purchases coming from Colombia is in line with the drop in Colombian exports to the rest of the world. The latter decreased by 39.3% in the period 2012-2017. These data suggest that without the FTA, the decline in bilateral trade between the EU and Colombia would have been even greater.

The EU is one of Colombia's largest trading partners. Over the course of the period that the Agreement has been in force, 15.4% of exports from Colombia went to the EU, making it the second-ranked destination for Colombian exports after the United States of America (USA) which received 29.3% of total sales (Table 1). When compared with the cumulative figures for the five-year period prior to the Agreement, exports to the EU have increased slightly, by 0.8 percentage points.

Table 1. Colombia's main export destinations:

2013-2017				2008-2012			
No	Country	%	% Cumulative	No	Country	%	% Cumulative
1	United States	29.3	29.3	1	United States	39.4	39.4
2	EU	15.4	44.7	2	EU	14.6	54.0
3	China	7.2	52.0	3	Venezuela	7.1	61.1
4	Panama	6.7	58.7	4	China	3.9	65.0
5	Ecuador:	3.6	62.3	5	Ecuador:	3.8	68.8

Source: Own production based on the IMF's DOTS data.

When it comes to Colombian imports, the EU ranked third in the period 2013-2017, with a share of 14.1% of total imports, just 0.2% higher than its share in the five years prior to the Agreement, of 13.9% (Table 2). Once again, the USA ranked first, as the country of origin of 27.8% of Colombia's total purchases from abroad, followed by China with a share of 18.6%.

Table 2. Main countries of origin of Colombia's imports:

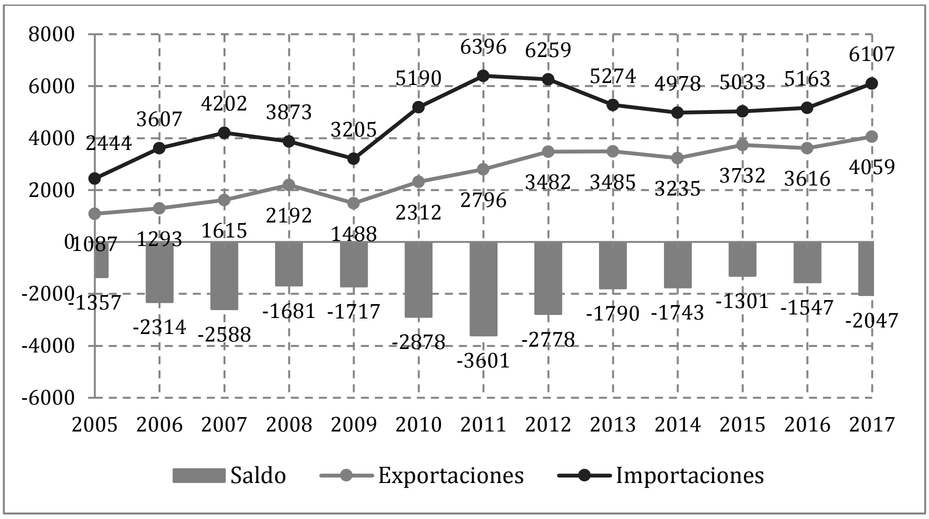
2013-2017				2008-2012			
No	Country	%	% Cumulative	No	Country	%	% Cumulative
1	United States	27.8	27.8	1	United States	26.3	26.3
2	China	18.6	46.3	2	China	13.9	40.2
3	EU	14.1	60.4	3	EU	13.9	54.0
4	Mexico	8.0	68.4	4	Mexico	9.6	63.6
5	Brazil	4.3	72.8	5	Brazil	5.5	69.1

Source: Own production based on the IMF's DOTS data.

2.1.2. EU-Peru

The value of goods exported from the EU to Peru in 2017 was EUR 4 059 million. This represents an increase of 16.6% on the year prior to the entry into force of the Agreement (EUR 3 485 million in 2012), and an increase of 12.3% in comparison with 2016. Since the establishment of the FTA, the annual positive growth rate of EU exports has been maintained, except in 2014 and 2016 when the value of exports fell by 7.2% and 3.1% respectively (Figure 2). In 2017, the value of goods imported from Peru to the EU was EUR 6 107 million, a drop of 2.4% on the 2012 value. This decrease is essentially due to the fall in the first two years of the Agreement (2013 and 2014), when the value of imports fell by some 15.7% and 5.6% respectively. Imports recovered slightly in subsequent years, with an annual increase of 1.1% in 2015 and 2.6% in 2016, while 2017 saw an annual increase of more than 18%. In contrast to what happened in Colombia, EU-Peru bilateral trade has increase by some 4.4% since the year prior to the entry into force of the Agreement. Not only has the EU had a trade deficit with Peru throughout the post-Agreement period, but it has actually increased by 14.4%, from EUR 1 743 million in 2013 to EUR 2 047 million in 2017.

Figure 2. EU-Peru exports, imports and trade balance



Source: Own production based on Eurostat's Comext data.

If we compare the evolution of bilateral trade between the EU and Peru with Peru's total trade with the rest of the world, we can observe the positive effect of the Agreement on trade flows: While bilateral trade between the EU and Peru increased, Peru's foreign trade with the rest of the world fell by 4.5% in the five years that the agreement has been in force. However, total Peruvian imports dropped by 7.4% in the period 2012-2017. The fall in EU purchases from Peru is in line with the fall in Peruvian global exports which, in the period 2012-2017, decreased by 1.6%.

As is the case for Colombia, the EU is one of Peru's main trading partners. Since the FTA has been in force, 15.6% of Peru's total exports have gone to the EU. This makes the EU the third-ranked destination for Peruvian sales, behind China and the USA who receive 21.5% and 16.3% of total Peruvian exports respectively (Table 3). However, Peruvian exports to the EU have decreased by almost 2 percentage points in comparison with the cumulated figure for the five years prior to the Agreement.

When it comes to Peru's imports, the EU also ranked third in the period 2013-2017, with a share of 12.1% of total imports, 0.7% higher than its share in the five years prior to the Agreement, of 11.4 (Table 4). China ranked first, being the country of origin of 21.5% of total Peruvian purchases from abroad, with the USA ranked second with a share of 20.3%.

Table 3. Peru's main export destinations:

2013-2017				2008-2012			
No	Country	%	% Cumulative	No	Country	%	% Cumulative
1	China	21.5	21.5	1	EU	17.5	17.5
2	United States	16.3	37.9	2	United States	15.6	33.1
3	EU	15.6	53.5	3	China	15.2	48.3
4	Switzerland	6.8	60.3	4	Switzerland	12.0	60.3
5	Canada	5.4	65.7	5	Canada	8.2	68.5

Source: Own production based on the IMF's DOTS data.

Table 4. Main countries of origin of Peru's imports:

2013-2017				2008-2012			
No	Country	%	% Cumulative	No	Country	%	% Cumulative
1	China	21.5	21.5	1	United States	19.3	19.3
2	United States	20.3	41.8	2	China	16.4	35.7
3	EU	12.1	53.9	3	EU	11.4	47.1
4	Brazil	5.4	59.3	4	Brazil	7.0	54.1
5	Mexico	4.5	63.7	5	Ecuador	5.0	59.1

Source: Own production based on the IMF's DOTS data.

2.2. Geographical disaggregation of trade in goods

2.2.1. EU-Colombia

In 2017, the countries that provided the greatest share of EU exports to Colombia were Germany (27.7%), Spain (16.3%), Italy (9.9%), the United Kingdom (8.7%) and France (8.4%). See Table 5. These data show the high concentration of EU exports to Colombia: The seven main providers account for around 85% of sales. Of the countries whose exports and share of EU exports to Colombia has increased since 2012, Spain, the United Kingdom and the Netherlands stand out. Spanish exports increased by 56.9% between 2012 and 2017, boosting Spain's share by about 6 percentage points. Exports from the United Kingdom rose by 41.5%, while its share increased by 2.1 percentage points. Exports from France fell considerably (by 40.3% in the period 2012-2017), incurring a drop of almost 7 percentage points in its relative share.

Regarding data on imports, by Member State (Table 5), the main buyers of Colombian products were the Netherlands, with 22.3% of the total share, Spain (17.5%), Italy (11.2%), Belgium (10%) and the United Kingdom (9.7%). These five countries account for more than 70% of total EU imports from Colombia, demonstrating a high degree of concentration once again. Italy and Portugal are the countries with the greatest increases in this category. Italian imports from Colombia increased by 23.1% compared to 2012, constituting a share increase of 5.3 percentage points. Portuguese imports rose by some 30.3%, doubling Portugal's share of total EU imports. In contrast, imports by Spain and the UK decreased considerably (61.2% and 57.1% respectively between 2012 and 2017). In addition, French imports fell by 20.4%, and France's share of total imports dropped by slightly more than one percentage point.

Table 5. EU-Colombia bilateral trade by Member State

	Exports				Imports			
	2017		2012		2017		2012	
	million EUR	%EU	million EUR	%EU	million EUR	%EU	million EUR	%EU
EU	5 985.9	100.0	5 533.9	100.0	5 605.8	100.0	8 634.1	100.0
Euro area	5 023.9	83.9	4 722.3	85.3	4 843.9	86.4	7 064.1	81.8
Germany	1 658.2	27.7	1 628.0	29.4	497.0	8.9	534.3	6.2
Austria	131.2	2.2	129.0	2.3	2.2	0.0	2.8	0.0
Belgium	393.6	6.6	350.8	6.3	561.7	10.0	555.1	6.4
Bulgaria	4.4	0.1	3.6	0.1	2.3	0.0	0.2	0.0
Cyprus	0.7	0.0	0.0	0.0	0.4	0.0	0.1	0.0
Croatia	0.2	0.0	0.5	0.0	6.7	0.1	35.6	0.4
Denmark	88.6	1.5	88.3	1.6	50.4	0.9	145.2	1.7
Slovakia	9.9	0.2	12.2	0.2	3.8	0.1	0.5	0.0
Slovenia	15.6	0.3	6.8	0.1	21.3	0.4	2.0	0.0
Spain	975.9	16.3	622.0	11.2	982.8	17.5	2 533.4	29.3
Estonia	2.1	0.0	0.6	0.0	0.2	0.0	0.0	0.0
Finland	108.4	1.8	81.4	1.5	70.3	1.3	46.0	0.5
France	504.8	8.4	846.2	15.3	327.6	5.8	411.5	4.8
Greece	12.0	0.2	6.3	0.1	21.4	0.4	16.0	0.2

Hungary	42.9	0.7	16.6	0.3	0.6	0.0	21.1	0.2
Ireland	63.3	1.1	33.8	0.6	107.3	1.9	3.6	0.0
Italy	590.0	9.9	635.6	11.5	626.7	11.2	509.3	5.9
Latvia	2.3	0.0	1.4	0.0	0.3	0.0	0.1	0.0
Lithuania	2.2	0.0	0.9	0.0	0.7	0.0	1.7	0.0
Luxembourg	7.6	0.1	3.5	0.1	0.3	0.0	0.2	0.0
Malta	0.5	0.0	0.0	0.0	3.4	0.1	0.1	0.0
Netherlands	500.7	8.4	338.3	6.1	1 249.3	22.3	2 167.4	25.1
Poland	63.1	1.1	36.3	0.7	90.2	1.6	6.4	0.1
Portugal	45.1	0.8	27.8	0.5	367.2	6.6	281.8	3.3
United Kingdom	518.0	8.7	366.1	6.6	545.6	9.7	1 273.3	14.7
Czech Rep.	43.3	0.7	29.5	0.5	2.6	0.0	6.0	0.1
Romania	102.4	1.7	141.8	2.6	10.1	0.2	7.4	0.1
Sweden	99.0	1.7	126.5	2.3	53.4	1.0	73.1	0.8

Source: Own production based on Eurostat's Comext data.

2.2.2. EU-Peru

In 2017, Spain was the EU's biggest exporter to Peru, with a percentage share of total exports of 22%, followed by Germany (21.2%), Italy (16.1%), the Netherlands (9.6%) and France (6%). See Table 6. Overall, exports from the top eight Member States reached EUR 3 632 million, accounting for about 90% of total EU exports to Peru. As with exports to Colombia, the degree of concentration in sales to Peru is very high. Of the main suppliers, the Netherlands, Spain and Italy stand out for their increased exports since the year prior to the entry into force of the Agreement. Exports from the Netherlands to Peru increased by 85.7% between 2012 and 2017, boosting the country's share in total exports by 3.6 percentage points. Spanish exports to Peru increased by 54.1%, seeing Spain's share of EU exports rise by 5.4 percentage points. Italy's exports to Peru increased by 33.3% and its share of exports rose by 2 percentage points. Germany, Belgium and Sweden are the main suppliers to Peru whose sales fell in the period 2012-2017.

Table 6. EU-Peru bilateral trade by Member State

	Exports				Imports			
	2017		2012		2017		2012	
	million EUR	% EU	million EUR	% EU	million EUR	% EU	million EUR	% EU
EU	4 059.2	100.0	3 481.8	100.0	6 106.5	100.0	6 259.4	100.0
Euro area	3 496.7	86.1	2 935.7	84.3	5 478.4	89.7	5 548.4	88.6
Germany	861.2	21.2	931.2	26.7	909.2	14.9	1 294.8	20.7
Austria	62.4	1.5	102.9	3.0	41.1	0.7	6.1	0.1
Belgium	208.0	5.1	215.9	6.2	594.0	9.7	469.7	7.5
Bulgaria	9.5	0.2	3.3	0.1	24.4	0.4	83.2	1.3
Cyprus	0.0	0.0	0.1	0.0	0.7	0.0	0.6	0.0
Croatia	0.9	0.0	3.2	0.1	0.2	0.0	1.5	0.0
Denmark	42.6	1.0	43.6	1.3	68.8	1.1	147.8	2.4
Slovakia	8.3	0.2	8.5	0.2	12.2	0.2	0.7	0.0
Slovenia	6.6	0.2	1.9	0.1	1.1	0.0	0.5	0.0
Spain	891.5	22.0	578.4	16.6	2 188.9	35.8	1 721.7	27.5
Estonia	1.7	0.0	0.6	0.0	1.9	0.0	0.9	0.0
Finland	87.9	2.2	91.3	2.6	32.0	0.5	379.3	6.1
France	243.1	6.0	243.7	7.0	278.5	4.6	232.3	3.7
Greece	12.4	0.3	5.3	0.2	5.9	0.1	23.5	0.4
Hungary	23.8	0.6	9.1	0.3	1.0	0.0	2.0	0.0
Ireland	26.2	0.6	28.6	0.8	15.1	0.2	8.9	0.1
Italy	652.5	16.1	489.5	14.1	521.9	8.5	777.3	12.4
Latvia	5.2	0.1	14.7	0.4	0.3	0.0	0.1	0.0
Lithuania	2.1	0.1	0.4	0.0	3.2	0.1	2.2	0.0
Luxembourg	3.2	0.1	1.3	0.0	0.0	0.0	0.0	0.0
Malta	0.0	0.0	3.2	0.1	0.9	0.0	0.1	0.0
Netherlands	388.5	9.6	209.2	6.0	846.5	13.9	607.3	9.7
Poland	57.9	1.4	40.4	1.2	55.6	0.9	12.7	0.2
Portugal	35.7	0.9	24.0	0.7	25.1	0.4	24.5	0.4
United Kingdom	202.4	5.0	192.6	5.5	403.7	6.6	279.9	4.5
Czech Rep.	34.0	0.8	22.5	0.6	5.8	0.1	7.3	0.1
Romania	6.3	0.2	1.5	0.0	2.2	0.0	3.4	0.1
Sweden	185.2	4.6	214.7	6.2	66.4	1.1	170.9	2.7

Source: Own production based on Eurostat's Comext data

The data shows that the degree of concentration per Member State is even greater for purchases from Peru than it is for sales (Table 6). Peru's largest customer in 2017 was Spain, with its imports from Peru accounting for more than one-third (35.8%) of the EU total. Other than Spain, Peru's main customers were Germany, with a 14.9% share, the Netherlands (13.9%), Belgium (9.7%) and Italy (8.5%). Imports from these five countries represented more than 82% of EU imports from Peru. With the exception of Germany and Italy, imports from these countries have been increasing since 2012. Imports by the Netherlands increased by 39.4%, resulting in a 4.2 percentage point increase in share of total imports. Spain's imports increased by 27.1%, boosting its share by 8.3 percentage points. Imports from Belgium and France rose by 26.5% and 19.9% respectively, increasing their share by 2.2 and 0.8 percentage points respectively. Over the period 2012-2017, German purchases from Peru fell by 29.8%, while Italy's dropped by 32.9%. As a result, these countries' shares of total imports decreased by 5.8 and 3.9 percentage points respectively.

2.3. Disaggregation of trade in goods by product

2.3.1. EU-Colombia

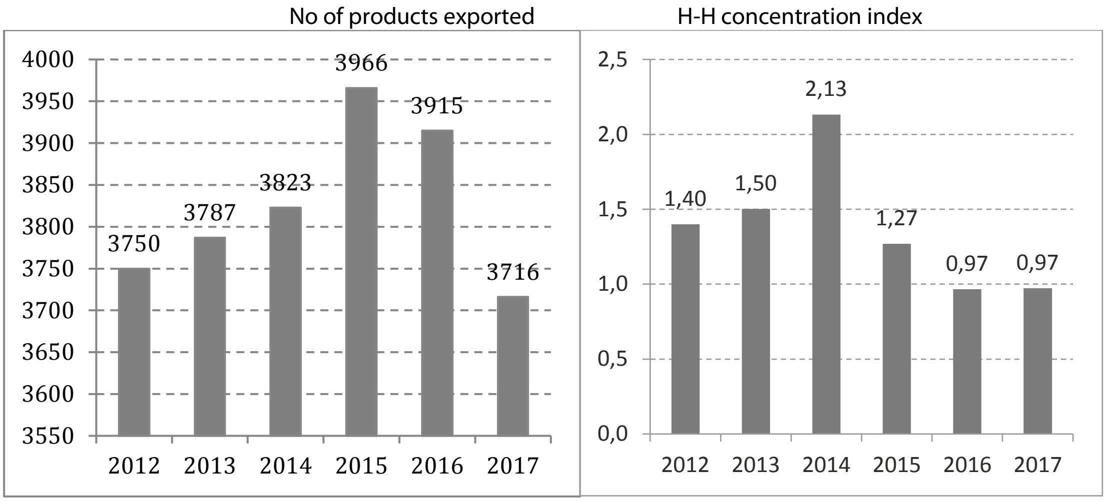
The EU-Colombia bilateral trade data organised into sections according to the Harmonised System (HS), show that EU exports to Colombia in 2017 were focused on three main sections: machinery and appliances and their parts and accessories, accounting for 25.8% of total exports; products of the chemical or allied industries, with a share of 24%; and transport equipment, with a share of 14.4% (Table A1, Annexes). Overall, the value of exports from these three sections was EUR 3 784 million, accounting for almost two-thirds (64.2%) of total EU exports to Colombia.

Within the machinery and appliances and their parts and accessories section, the most prominent products at a six-digit level of disaggregation (see Table A2, Annexes) are turbojet engines of a thrust exceeding 25 kN (code: 841112), with a 2.06% share of total EU exports to Colombia, and machinery and devices for filling, closing, sealing or labelling bottles (code: 842230), with a share of 0.88%. The stand-out products in the chemical or allied industries are medicaments consisting of mixed or unmixed products (code: 300490), with a 4.89% share, vaccines for human medicine (code: 300220), with a share of 1.39%, antisera and other blood fractions (code: 300212), with a share of 1.2%, medicaments containing hormones or steroids (code: 300439), with a share of 0.88%, immunological products (code: 300215), with a share of 0.87% and fungicides (code: 380892), with a share of 0.66%. Within the transport equipment section, the most exported products were aeroplanes and other aircraft (code: 880240), with a 4.29% share of total exports, passenger motor cars of a cylinder capacity exceeding 1 500 but not exceeding 3 000 cc (code: 870323), with a 3.51% share, and self-propelled railway or tramway coaches (code: 860310), with a share of 1.26% of total exports.

In addition to the three aforementioned sections, which account for a large share of total sales to Colombia, the sections that accounted for a mid-ranking share of total exports were optical, photographic instruments and apparatus (5.9%, Section XVIII), plastic, rubber and articles thereof (5%, Section VII), foodstuffs, beverages and tobacco (4.9%, Section IV), base metals and articles of base metals (4.1%, Section XV), pulp of wood, paper or paperboard (3.2%, Section X), mineral products (3.1%, Section V), and textiles and textile articles (3%, Section XI). The sections of mid-ranking and large shares of exports that have shown increases since the year prior to the entry into force of the Agreement are mineral products, with cumulative annual growth of 37% and 2.4 percentage point gain in total share (from 0.7% in 2012), and foodstuffs, beverages and tobacco, boasting cumulative annual growth of 16.1% and a 2.4 percentage point gain in total share (from 2.5% in 2012). Exports of transport equipment suffered a cumulative annual drop of 3.2% and a fall of 3.9 percentage points (from 18.3% in 2012).

Figure 3 shows the number of products exported in the period 2012-2017 and uses the Harmonised System with the classification disaggregated to six digits. It reveals the evolution of trade based on the number of products exported and the degree of concentration. The *Herfindahl-Hirschman* Index, calculating the market concentration by product, is also displayed. The index uses values between 0 and 100 in such a way that the greater (or lesser) the value in this range, the greater (or lesser) the degree of concentration (diversification). It can be seen that the number of products exported increased in the first three years of the Agreement, reaching a total of 3 966 products exported in 2015. In 2016, the number of products exported decreased slightly to 3 915, followed by a significant decrease in 2017 which saw the number of products exported fall below the level of the year prior to the entry into force of the Agreement (3 716 against 3 750 in 2012). The low values of the Herfindahl-Hirschman (H-H) Index show that EU exports to Colombia present a high degree of diversification. The trend shows an increase in the concentration in the early years of the Agreement, while in the last three years of the period it decreased to below 2012 levels.

Figure 3. Number of products exported and H-H Index (EU-Colombia)



Source: Own production based on the United Nations' Comtrade data.

Data disaggregated by section in accordance with the Harmonised System (HS) show that 2017 EU imports from Colombia were mainly concentrated in two sections (Table A1, Annexes): mineral products (Section V), with a 46.5% share and vegetable products (Section II), with a share of 33.4%. Overall, imports from these two sections were worth EUR 4 437 million, representing 80% of total EU imports from Colombia.

Using a six-digit level of disaggregation (Table A3, in the Annexes), the most imported mineral products by the EU from Colombia were bituminous coal; not agglomerated (code: 270112) and coal (270119), with a share of total imports of 25.1% and 11.8% respectively, and crude petroleum oils and oils obtained from bituminous minerals (code: 270900), with a share of 6.3% of imports. Within the vegetable products section, the following products were prominent: bananas[8], fresh or dried (16.4% code: 080390), coffee, not roasted or decaffeinated (10.8%, code: 090111), flowers and cut buds for bouquets or ornamental purposes (1.15%, code: 060312), fresh and/or dried avocados (1.06%, code: 080440) and tamarinds, cashew apples, breadfruit, lychees and others (0.98%, code: 081090). It is worth highlighting that the EU's imports of flowers and buds from Colombia constitute more than half (56.6%) of the EU's total purchases of this product from abroad.

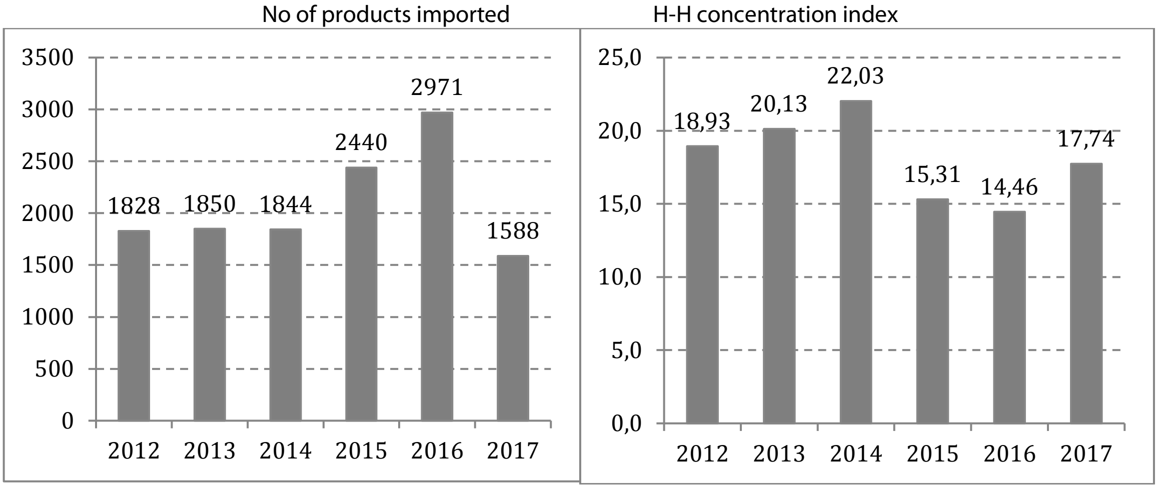
[8] Banana refers to fresh bananas, and excludes plantains, categorised under 08039010 of the Combined Nomenclature.

The sections with a mid-ranking share include animal or vegetable fats and their oils (Section III) and food products, beverages and tobacco (Section IV). In 2017, animal or vegetable fats and oils accounted for 6.6% of total EU purchases from Colombia and they comprised mostly crude palm oil (5.16%, code: 151110) and crude palm kernel or babassu oil (1.08%, code: 151321). Food products, beverages and tobacco accounted for 3.7% of the EU's imports from Colombia, mainly in the form of extracts, essences and concentrates of coffee (code: 210111) and prepared or preserved tuna, skipjack and bonitos (code: 160414), with an import share of 0.81% and 0.77% respectively. In addition, while they account for a lesser share of total imports, it is worth mentioning machinery and appliances and their parts and accessories (2%, Section XVI), base metals and articles of base metal (1.7%, Section XV), and pearls, precious metals and articles thereof (1.6%, Section XIV). Of products in these sections, animal or vegetable fats and oils (Section III) stand out for their increase in prominence since the year prior to the entry into force of the FTA. They boast a cumulative annual growth of 40.4% and have increased their share in total imports more than eightfold (from 0.8% in 2012 to 6.6% in 2017). This is a result of the increased imports of crude palm oil (code: 151110) and crude palm kernel or babassu oil (code: 151321), which enjoyed cumulative growth in the period 2012-2017 of 37.9% and 80.6% respectively.

The cumulative annual increase in imports of vegetable products was 6.3%, thereby increasing their share of total imports by 16.8 percentage points (in 2012 it was 16.7%). The performance of the main products in this section was very positive throughout the period. For example, the cumulative annual increase in banana imports was 3.9%, practically doubling the share of total imports accounted for by bananas (from 8.8% in 2012 to 16.4% in 2017). The cumulative annual growth for coffee was 8.6%, meaning an increase in its share of more than 6 percentage points (from 4.6% in 2012 to 10.8% in 2017). Meanwhile, products from the food industry registered cumulative annual growth of 4.6%, constituting a 1.7 percentage point increase since 2012 in its share of the total. In contrast to the growth of the aforementioned sections, the trends for mineral products have been negative. They have suffered a cumulative annual drop of 15.3%, leading to a significant fall in their share of total imports, from 72.3% in 2012 to 46.5% in 2017. Imports of bituminous coal, coal and petroleum oils fell significantly (-8.2%, -14.3% and -30% of cumulative annual growth respectively).

Regarding the diversification of products in Colombia's sales to the EU facilitated by the FTA, Figure 4 shows the number of products imported and the H-H concentration index for the period 2012-2017. The number of products imported by the EU remained stable during the early years of the agreement, before increasing considerably in the third and fourth years to reach a total of 2 971 products. However, in 2017 the number of products plummeted to 1 588 products, a level far below the corresponding level for the year prior to the entry into force of the FTA (1 828 products). The H-H Index shows that the concentration by product of EU imports from Colombia is much higher than that of EU exports and its evolution shows an increase in concentration in the first two years of the Agreement before decreasing considerably in 2015 and 2016. While the index shows an increase for 2017, this value remains below that of the year prior to the entry into force of the FTA.

Figure 4. Number of products imported and H-H Index (EU-Colombia)



Source: Own production based on the United Nations' Comtrade data.

2.3.2. EU-Peru

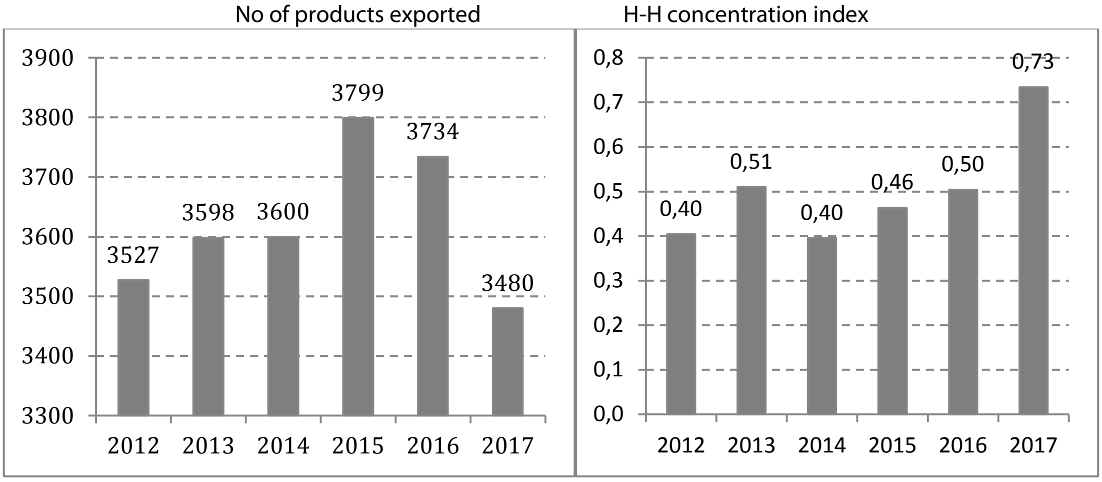
The EU-Peru bilateral trade data disaggregated by sections show that EU exports to Peru in 2017 were focused on three main sections (Table A4, Annexes): machinery and appliances and their parts and accessories (Section XVI), with a share of 35%, products of the chemical or allied industries (Section VI), with a share of 15.8%, and transport equipment (Section XVII), with a share of 15.7%. Overall, exports from these three sections totalled EUR 2 674 million, 66.5% of total EU exports to Peru.

In machinery and appliances and their parts and accessories, six-digit disaggregation (Table A5, Annexes) shows the most exported products were wind-powered electric generating sets (code: 850231), with a 1.07% share of total EU sales, boring or sinking machinery parts (code: 843143), with a share of 0.99%, taps, cocks, valves and similar appliances for pipes (code: 848180) with a share of 0.75%, boards and panels for electric control (code: 853710), with a share of 0.74%, and machines for the reception, conversion and transmission of voice and images (code: 851762), with 0.72%. In chemical and allied industries, the most exported products were biodiesel and mixtures thereof (2.1%, code: 382600), medicaments consisting of mixed or unmixed products (1.62%, code: 300490), and vaccines for human medicine (1.34%, code: 300220). Prominent exported transport equipment products were railway or tramway coaches (4.41%, code: 860310), passenger vehicles of a cylinder capacity between 1 500 and 3 000 cc (3.16%, code: 870323), vessels (1.82%, code: 890690), and aeroplanes and other aircraft (0.93%, code: 880240).

The mid-ranking sections in total sales to Peru were base metals and articles of base metal (5.6%, Section XV), optical and photographic instruments and apparatus (5%, Section XVIII), plastics, rubber and articles thereof (4.4%, Section VII), and foodstuffs, beverages and tobacco (4.3%, Section IV). Almost all of these sections recorded an increase since the year prior to the entry into force of the Agreement. The mid-ranking and top-ranking sections to have registered the greatest increase in the period 2012-2017 were foodstuffs, beverages and tobacco, with a cumulative annual increase of 13.1% and a 1.6 percentage point gain in total share; transport equipment, with cumulative annual growth of 10.7% and a 4.7 percentage point increase in total share; products of the chemical or allied industries, with a cumulative annual growth of 8.6% and a 3.6 percentage point increase in total share, optical instruments and apparatus, with a cumulative annual increase of 8.5% and a 1.1 percentage point gain in total share; and plastics, rubber and articles thereof, with a cumulative annual growth of 5.7%. Of the sections that recorded decreases, the most significant were machinery and appliances and their parts and accessories, with a cumulative annual growth of -2% and a 10.3 percentage point fall in total share (from 45.3% in 2012).

Figure 5 shows that fewer products were exported from the EU to Peru than were exported to Colombia even though the trends for both countries since the Agreement entered into force have been quite similar. The number of products exported increased in the first three years of the FTA, reaching a total of 3 799 products exported in 2015. In 2016, the number of products exported decreased to 3 734, followed by a significant decrease in 2017 which saw the number of products exported fall slightly below the level of the year before the Agreement entered into force (3 480 against 3 527 in 2012). Similarly to EU-Colombia exports, the H-H index shows low values indicating a high degree of diversification in the EU's exports to Peru. The H-H index shows relatively stable results between 2012 and 2016, before an increase in 2017, which indicates a greater level of concentration.

Figure 5. Number of products exported and H-H concentration index (EU-Peru).



Source: Own production based on the United Nations' Comtrade data.

Data disaggregated by section in accordance with the Harmonised System (HS) show that EU imports from Peru in 2017 were mainly concentrated in two sections (see Table A6, Annexes): mineral products, with a share of 40.9%, and vegetable products, with a share of 28.3%. The value of imports from these two sections was EUR 4 190 million and they accounted for 69.2% of total EU imports from Peru.

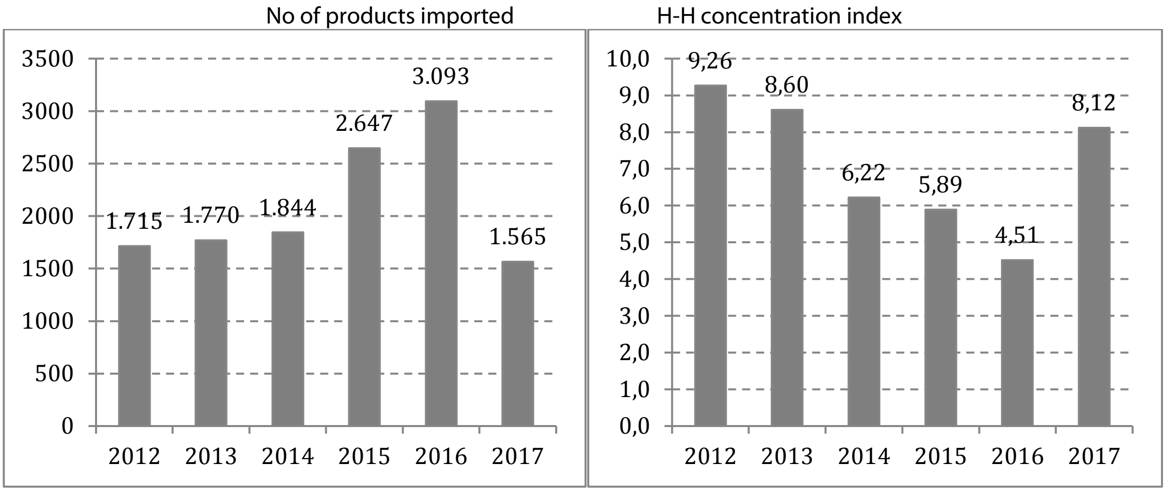
Within the mineral products section, the most imported products were copper ores and concentrates (code: 260300) which, with a 17.45% share of the total, was the most imported product from Peru; liquid natural gas (code: 271111), with a 10.98% share; zinc ores and concentrates (code: 260800), with a share of 9.43%; and lead ores and concentrates (code: 200599) with a 1.6% share. Within the vegetable products section, the following products are prominent among imports: fresh or dried avocados (6.21%, code: 080440); coffee, not roasted or decaffeinated (5.86%, code: 090111); fresh or chilled asparagus (2.4%, code: 070920); fresh or dried guavas, mangoes and mangosteens (2.36%, code: 080450); and fresh grapes (2.32%, code: 080610), Table A6, Annexes.

The most imported products from the sections with mid-ranking levels of imports were base metals and articles of base metal (Section XV), with a 10.9% share. Within that section, the main products imported were copper, refined, in the form of cathodes and sections of cathodes (4.2%, code: 740311); unwrought non-alloy tin (2.24%, code: 800110); and unwrought non-alloy zinc (2.12%; code: 790112). The second most imported products were food products, beverages and tobacco (Section IV), with a share of 7.7%. The most imported food products were cocoa beans, raw or roasted (code 180100), with a 1.62% share of the total imports; and vegetables and mixtures of vegetables (code: 200599), with a share of 1.52%. In third place is the section for live animals and animal products (Section I), which accounted for 4.3% of total imports.

Animal product imports have increased since the year prior to the FTA, with cumulative growth of 7% in the period 2012-2017. This growth led to an 8.3 percentage point rise, from 20% in 2012 to 28.3% in 2017. The products driving this growth were avocados, with a cumulative annual growth of 31.1%, and guavas, mangoes and mangosteens, fresh or dried, with a cumulative increase of 15.3%. The live animals and animal products also enjoyed a high degree of growth, with cumulative growth rates of 6.1% and a 1.13 percentage point increase in total share. In contrast, mineral products suffered negative cumulative annual growth of -2.2% in the period 2012-2017. This meant that the share of total imports accounted for by mineral products fell by more than 4 percentage points, from 45.2% in 2012 to 40.9% in 2017. Copper ores and concentrates, the most imported mineral product, suffered cumulative annual growth of -7.4%, reducing its total share by almost 8 percentage points.

Taking into account opportunities for diversification of products sold by Peru to the EU, Figure 6 shows the number of products imported (six-digit Harmonised System) and the H-H concentration index for the period 2012-2017. The number of products imported by the EU from Peru remained stable in the first two years of the agreement (2013 and 2014), and increased significantly in the third and fourth years to peak at 3 093 products, exceeding the number of products imported by the EU from Colombia. However, there was a considerable drop in 2017 to 1 565 products, fewer than the 1 715 products imported in the year before the FTA entered into force. The H-H concentration index shows that the product concentration of EU imports from Peru is much higher than that of exports, although it is lower than the degree of concentration of EU imports from Colombia. The trend emerging from the H-H concentration index shows a decrease in the concentration during the first four years of the Agreement (2013-2016). While the index shows an increase for 2017, this value remains below that of the year prior to the entry into force of the FTA.

Figure 6. Number of products imported and H-H Index (EU-Peru)



Source: Own production based on the United Nations' Comtrade data.

2.3.3. Imports of bananas

In 2017, EU imports of bananas from Colombia rose to EUR 920 million, which was an increase of 21.1% on the year before the Agreement came into force (Table 7). The total number of bananas imported was 1 412 949 tonnes, 24.3% more than in 2012. This quantity represents 77.5% of the trigger volume to apply the fixed stabilisation mechanism as per the FTA. In the five years since the Agreement entered into force, the quantity of bananas imported from Colombia has remained between 67% and 78% of the trigger volume, never reaching the 80% threshold that would trigger the Commission reporting to the European Parliament and Council in order to analyse the effect of imports on the European market. In the first three months of 2018, the quantity of bananas imported from Colombia was 338 903 tonnes, 10.7% fewer than in the same period in 2017. This suggests that the 80% threshold is unlikely to be reached in 2018 either.

EUR 26 million worth of bananas were imported by the EU from Peru in 2017, a 39.8% increase on 2012. In 2017, the amount imported was 117 808 tonnes, a 46% increase on 2012. Therefore, and as was the case in the first four years (2013-2016) after the Agreement entered into force, the quantity of bananas imported was above the trigger volume. Specifically, this imported quantity constituted almost 126% of the trigger volume. In the first three months of 2018, 35 738 tonnes of bananas were imported, 3.5% more than in the first three months of 2017. This means that in just three months, 37% of the 2018 trigger volume has been imported. Therefore, it can be expected that the relevant trigger volume for 2018 will be exceeded.

Table 7. EU imports of bananas from Colombia and Peru

	2012	2013	2014	2015	2016	2017	2018 Jan-Mar
COLOMBIA							
EUR mil	759.8	747.1	698.6	850.4	837.8	919.8	214.8
AAR %	0.4	-1.7	-6.5	21.7	-1.5	9.8	-15.6
Tonnes	1 136 542	1 150 980	1 086 274	1 315 399	1 292 212	1 412 494	338 903
AAR %	-0.6	1.3	-5.6	21.1	-1.8	9.3	-10.7
% of trigger volume (1)	76.5	74.1	67.1	77.9	73.6	77.5	17.9
Trigger volume	1 485 000	1 552 500	1 620 000	1 687 500	1 755 000	1 822 500	1 890 000
PERU							
EUR mil	60.8	84.4	65.9	69.1	82.9	85.1	26.0
AAR %	27.2	38.8	-22.0	4.9	20.0	2.6	1.1
Tonnes	80 698	112 396	96 650	102 326	115 472	117 808	35 738
AAR %	24.8	39.3	-14.0	5.9	12.8	2.0	3.5
% of trigger volume (1)	107.6	142.7	117.2	118.6	128.3	125.7	36.7
Trigger volume	75 000	78 750	82 500	86 250	90 000	93 750	97 500

Notes: (1) Ratio (%) between the number of tonnes imported and the trigger volume for the application of the stabilisation mechanism for bananas established in Annex 1, Appendix 1, Section B of the Agreement (Subsection 1: Colombia; Subsection 2: Peru). Source: Own production based on Eurostat's Comext data.

2.4. New products and opportunities for diversification

In order to identify new products traded between the EU and Colombia and Peru, we are using the United Nations' Comtrade bilateral trade data, following the Harmonised System with the classification disaggregated to six digits. New products are considered to be those that were traded for the first time at any moment during the period since the Treaty entered into force (2013-2017) and which were not traded between the Parties in the five-year period before the Agreement entered into force (2008-2012). The results are shown in Table 8. In the period 2013-2017, there were 349 new products exported to Colombia and 414 new products exported to Peru. These were mainly products from the vegetable products, textiles and textile articles, and products of the chemical or allied industries sections.

Colombia exported 1 086 new products to the EU (Table 8). These new products largely came from four sections: products of the chemical or allied industries (23.9% of new products), base metals and articles of base metal (16.4%), machinery and appliances and their parts and accessories (15.4%), and textiles and textile articles (9.9%). Peru exported 1 296 new products to the EU. They can be also be categorised as products of the chemical or allied industries (25.6% of the new products), machinery and appliances and their parts and accessories (16.2%), base metals and articles of base metal (14.8%), and textiles and textile articles (10%). Although new products still account for only a very small share of total bilateral trade between the EU and Colombia and Peru, these are products from non-traditional sectors or sections, mainly in exports from Colombia and Peru to the EU. This could indicate a certain degree of trade diversification towards products with greater added value. This could be a result of the implementation of the FTA.

Table 8. New products traded, by section, 2013-2017

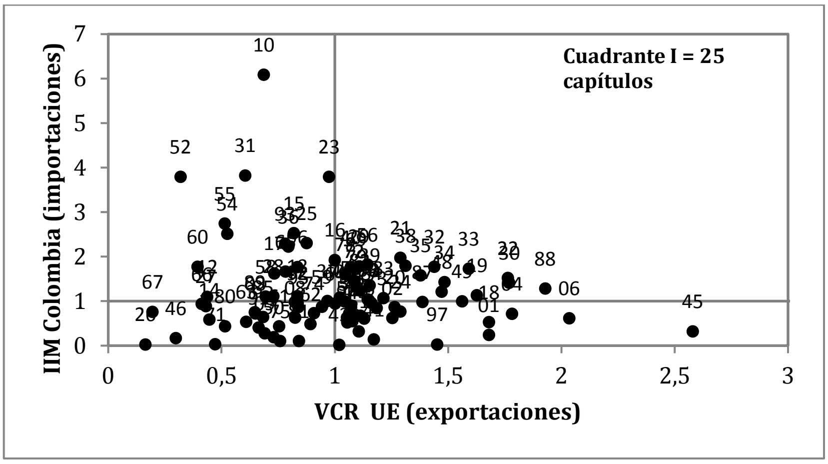
Section	Description	EU28-Colombia				EU28-Peru			
		Exp		Imp		Exp		Imp	
		N.	%	N.	%	N.	%	N.	%
I	Live animals and animal products	51	14.6	39	3.6	51	12.3	49	3.8
II	Vegetable products	59	16.9	48	4.4	83	20.0	27	2.1
III	Animal or vegetable fats and oils	8	2.3	13	1.2	5	1.2	17	1.3
IV	Foodstuffs, beverages and tobacco	30	8.6	34	3.1	25	6.0	33	2.5
V	Mineral products	27	7.7	40	3.7	25	6.0	36	2.8
VI	Products of the chemical or allied industries	36	10.3	260	23.9	43	10.4	332	25.6
VII	Plastic, rubber and articles thereof	2	0.6	59	5.4	5	1.2	85	6.6
VIII	Raw hides and skins, leather, furskins and articles thereof	5	1.4	1	0.1	8	1.9	4	0.3
IX	Wood, wood charcoal, cork and articles of cork	3	0.9	11	1.0	5	1.2	12	0.9
X	Pulp of wood, paper and paperboard	3	0.9	23	2.1	9	2.2	29	2.2
XI	Textiles and textile articles	46	13.2	108	9.9	57	13.8	130	10.0
XII	Footwear, headgear and parts thereof	0	0.0	4	0.4	2	0.5	6	0.5
XIII	Stone, ceramic products, glass	6	1.7	24	2.2	5	1.2	27	2.1
XIV	Pearls, precious metals and articles thereof	9	2.6	6	0.6	5	1.2	9	0.7
XV	Base metals and articles of base metal	24	6.9	178	16.4	37	8.9	192	14.8
XVI	Machinery and mechanical appliances, parts and accessories	19	5.4	167	15.4	18	4.3	210	16.2
XVII	Transport equipment	9	2.6	28	2.6	17	4.1	36	2.8
XVIII	Optical, photographic instruments and apparatus	10	2.9	23	2.1	10	2.4	34	2.6
XIX	Arms and ammunition; parts and accessories thereof	0	0.0	4	0.4	1	0.2	4	0.3
XX	Miscellaneous manufactured articles	2	0.6	16	1.5	3	0.7	24	1.9
XXI	Works of art, collectors' pieces and antiques	0	0.0	0	0.0	0	0.0	0	0.0
	TOTAL	349	100	1 086	100	414	100	1 296	100

Note: N. Number
Source: Own production based on the United Nations' Comtrade data.

In order to more deeply analyse the sectors with most potential for growth in the context of EU-Colombia and EU-Peru bilateral trade, those products with a greater degree of complementarity have been identified. This was done on the basis of products whose exporter has a Revealed Comparative Advantage (RCA) or a high degree of specialisation, and where the importer has a high import intensity. So, for each product exported, the RCA index has been calculated as the ratio between the share of a product in total exports of a country and the share of that product in global exports. If the RCA index is greater (less) than one, it indicates that the country in question has a high (low) degree of specialisation in said product. Meanwhile, the Import Intensity Index (III) has been calculated as the ratio between the share of a product in the total imports of a country and the share of that product in imports at a global level (see Tables A7, A8, A9 and A10, Annexes). If the index is greater (less) than one, it indicates that the country in question has a high (low) degree of specialisation in the importing of said product. Foreign trade data from the United Nations' Comtrade database has been used, with two-digit disaggregation (chapters).

Figure 7 shows the results for EU exports to Colombia. The horizontal axis represents the RCA index for EU exports to the world and the vertical axis represents the Import Intensity Index for Colombia's global imports. The total number of chapters in which the EU is competitive (RCA>1) and in which Colombia has import intensity (Index > 1) is 25. In general, these are products that involve industrial processing. Very few activities in the primary sector emerge in the results. Seven of these chapters belong to products of the chemical or allied industries: pharmaceutical products, essential oils and perfumery preparations, and soap and other similar preparations. Various chapters from the base metals and articles of base metal section also feature, such as iron and steel; tools and other metal tools; and lead and articles thereof.

Figure 7. Trade potential of EU exports to Colombia

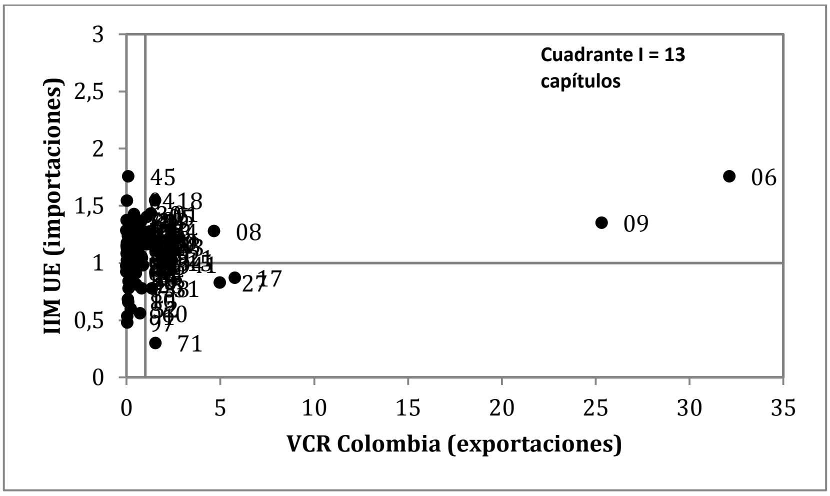


Source: Own production based on Comtrade data.

In relation to Colombia selling products to the EU, the results as displayed in Figure 8 show that there are 13 chapters with high potential, mostly involving primary products, with a low level of industrial processing. Eight of the chapters relate to the living animals; vegetable products; animal or vegetable fats and oils; and processed foodstuffs sections. However, some chapters from chemical or allied industries – essential oils and perfumery preparations; and soaps and other similar preparations – also feature heavily. This gives rise to the possibility of intra-industrial exchanges.

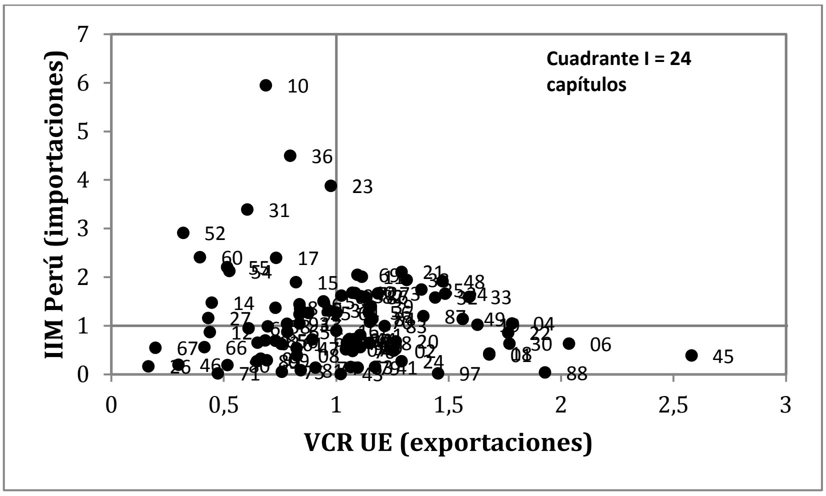
The results for exports of EU products to Peru are shown in Figure 9. There are 24 chapters that have a high potential for exchanges. In the same vein as EU exports to Colombia, chapters from the section pertaining to chemical or allied industries dominate. The following five chapters belong to that section: tanning or dyeing extracts; essential oils and perfumery preparations; and soap and other similar preparations. Chapters from the sections on stone, glass and ceramic; base metals and articles of base metal; and transport equipment also perform well.

Figure 8. Trade potential of Colombian exports to the EU



Source: Own production based on Comtrade data.

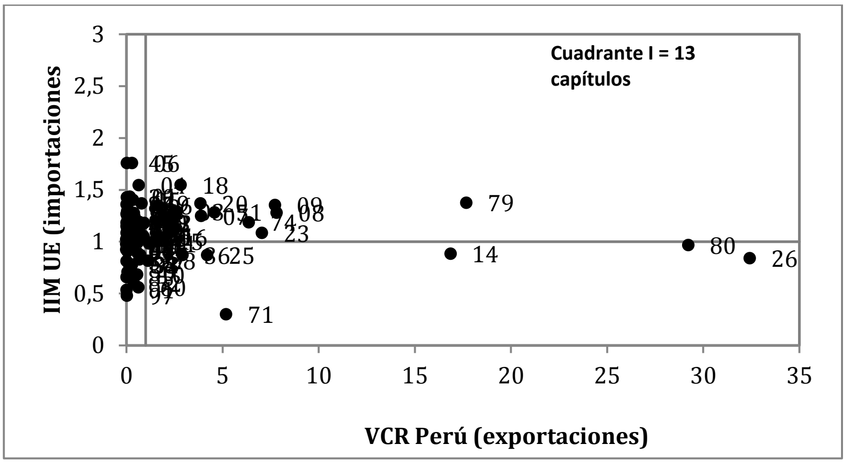
Figure 9. Trade potential of EU exports to Peru



Source: Own production based on Comtrade data.

Figure 10 shows the sale of products from Peru to the EU. The information available shows that there are 13 chapters in which Peru has a high degree of specialisation and the EU has a high import intensity. Of these, primary products with a low level of industrial processing predominate. Almost half the chapters fall under the sections pertaining to vegetable products (edible fruit, coffee and tea, vegetables) and foodstuffs (preparations of vegetables, cocoa, preparations of meat and fish and residues and waste from the food industries). Textile products and base metals, copper and zinc, and articles thereof also feature.

Figure 10. Trade potential of Peruvian exports to the EU



Source: Own production based on Comtrade data.

It is worth mentioning here the idea that the trade diversification that the Agreement can generate can be seen through the internationalisation of small and medium-sized enterprises (SMEs). Although there is a dearth of statistical information regarding exports from the two Andean countries to the EU disaggregated by business size, this aspect has been identified in previous Commission reports and in the report on the mission by an INTA delegation visit to Colombia and Peru, which took place in February 2018. The objective of the mission was to assess the progress made in the implementation of the FTA and in the human rights and sustainable development action plans[9]. It has been ascertained that some 2 000 SMEs exported from Colombia in 2016. In 2012, this figure stood at about 1 600 small and medium sized companies. Even though accurate data for Peru was lacking when it came to carrying out this work, statements from the business sphere express a positive view of the effect of the Agreement on the internationalisation of SMEs. Statements by representatives of Peru's Ministry of Foreign Trade and Tourism to the INTA delegation also indicate that the Agreement with the EU has facilitated diversification and this can be seen in the increase in exports of non-traditional products (or superfoods). Notwithstanding this, INTA continues to stress the importance of devoting even greater attention to micro-SMEs (EP, 2018).

[9] The report of the INTA mission will be published at the beginning of the second half of 2018.

3. FDI, Services and Intellectual Property

Foreign direct investment (FDI) represents the international movement of capital which, in turn, has a strong connection with the dynamism of international trade. As identified in the Sixth Balance of Payments and International Investment Position Manual of the International Monetary Fund, direct investment is associated with exercising control or a significant degree of influence and with having a lasting relationship, in such a way that, in comparison with other forms of investment, investing businesses can contribute additional factors such as technology and technical, administrative and *marketing* knowledge. Businesses that are part of a direct investment relationship also have more opportunities to trade with one another and to provide mutual finance to one another (IMF, 2009).

Therefore, FDI reflects business internationalisation capacity, for large and small and medium-sized enterprises (SMEs) alike, and it is a good indicator of a country's competitiveness in a globalised economy. In addition, FDI can create direct knock-on effects in recipient countries, such as job creation and increasing added value, as well as other, indirect effects linked to access to new technologies and foreign knowledge, training and developing human capital, and even the promotion of management capabilities. This can result in the achievement of sustainable economic development (Walsh and Yu, 2010).

According to the OECD, FDI is a means to establish direct, stable and long-lasting links between economies through investing business organisations and in an appropriate political environment it can serve as an important vehicle for the development of local business, while also helping to improve the competitiveness of the 'recipient' economy that receives the FDI flows and the 'issuing' economy that makes the investment (OECD, 2008). FDI can also foster the transfer of technologies and know-how between economies, which can generate spillover effects that benefit the local productive fabric due to the differences in productivity and the superior technology used by foreign multinational enterprises. In this regard, the Agreement seeks to guarantee a stable and transparent legal framework for enterprises interested in investing, as well as to facilitate trade and investment between the Parties through the liberalisation of current payments and movements of capital related to FDI. However, only general provisions on investment were envisaged in the FTA because of the EU's lack of powers to collectively negotiate this element. Negotiations in this sphere are bilateral in nature and, for some EU Member States, are governed by agreements for the promotion and reciprocal protection of investment.

3.1. Bilateral foreign direct investment

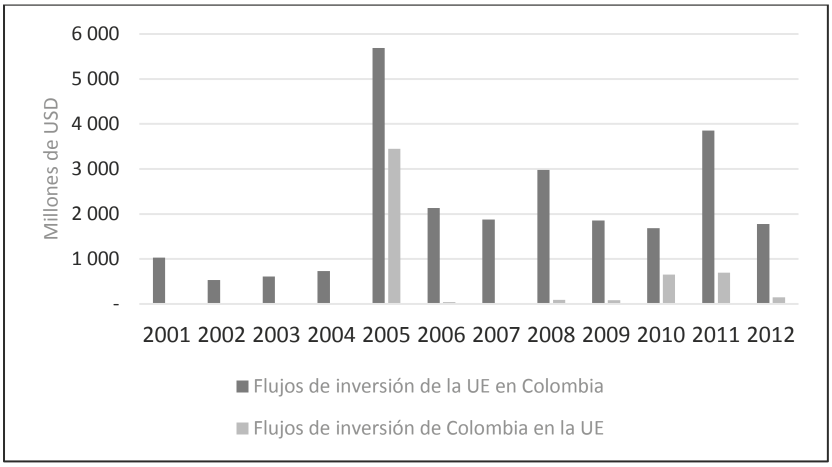
3.1.1. EU-Colombia

Historically, Colombia has not been a preferred location for FDI because of the absence of government incentives and the instability caused by the armed conflict in the country. However, since the Constitution of 1991, Colombia has been moving towards greater macro stability and becoming an attractive economy for FDI. This has resulted in an increase in FDI. It can be anticipated that the peace process, concluded in 2016, will result in broader future prospects and a framework to stimulate investment. The process will further promote the climate of stability in the country and business internationalisation. Indeed, the IMF forecasts growth rates of 2.3% and 3% in 2017 and 2018 respectively (Andonova et al., 2017). The progressive opening up of the economy, as well as its enhanced economic presence on the global stage, will also lead to Colombia being an economy that provides FDI, thereby joining the process of creating emerging multinational enterprises, in what has come to be known in the Latin American context as the 'Multilatinas' phenomenon. Although not as strong as Brazil and Mexico, the internationalisation of Colombia's enterprises has been growing and is characterised by high geographic concentration along with a strong regional component.

The EU has been one of the biggest investors in Colombia, even since before the entry into force of the Agreement (Figure 11). The flow of FDI from the EU to Colombia peaked in 2005 at approximately USD 6 000 million dollars[10], and in 2011 stood at approximately USD 4 000, at a time of high volatility in the years before the entry into force of the Agreement. FDI flows from Colombia to the European Union increased significantly in 2005 and also in the years prior to the FTA entering into force, particularly 2010 and 2011.

In the period since the entry into force of the FTA, FDI flows from the EU to Colombia rose to EUR 587.6 million in 2015 (Figure 12). In 2016, the balance of FDI flows from the EU to Colombia was negative, EUR -612.2 million. Investment flows from Colombia to the EU also followed a volatile trajectory, peaking in 2015 at EUR 1 886 million. Generally, Colombian FDI flows abroad have been regular since 2008. Regarding destinations, it is noteworthy that only two European countries, Spain and the United Kingdom, received Colombian FDI in 2016. FDI from Colombia flows mainly to other Latin American countries such as Chile, Mexico and Peru. According to Andonova et al. (2017), the factors explaining the internationalisation of Colombian enterprises are linked to market size, the oligopolistic nature of some industries, and the delayed opening up of the Colombian economy. One of the most international enterprises is *Grupo Nutresa*, in the food sector. It is present in 14 countries according to data published by AméricaEconomía in 2016. It must be stressed, however, that Colombian multinationals in the EU are still scarce.

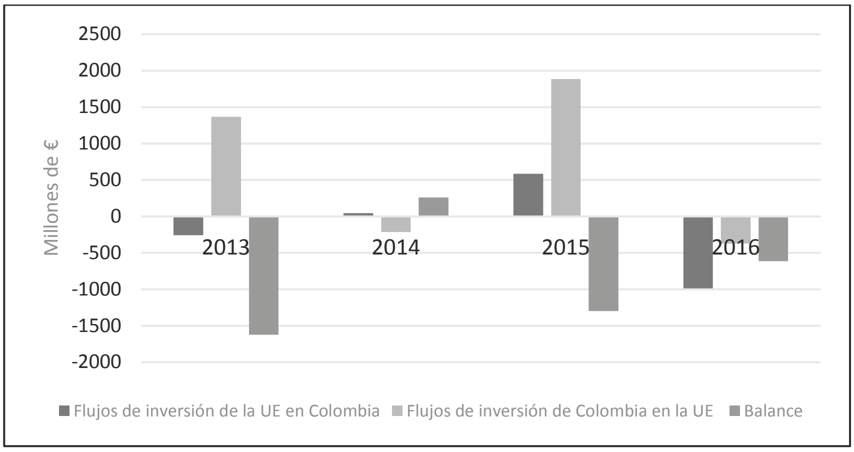
Figure 11. EU-Colombia FDI flows, 2001-2012



Source: UNCTAD, Bilateral FDI Statistics

10 UNCTAD is the source of statistical information for the period before the Agreement entered into force and the data are expressed in US dollars for this period. Since the entry into force of the Agreement, Eurostat is the source of information and the Euro is the currency referenced.

Figure 12. EU-Colombia FDI flows, post-Agreement period



Source: Eurostat

Cumulative FDI stocks from the EU to Colombia grew constantly over the decade prior to the Agreement, from 2001 to 2010 (Table 9). For its part, Colombian FDI stocks in the EU peaked in 2011 at USD 3 497 million. In the post-FTA period, the trend for bilateral FDI stocks appears to have been consolidated. According to Eurostat data, the EU's cumulative FDI stocks in Colombia increased by 2 percentage points between 2014 and 2015, while Colombia's FDI in the EU increased by 1 point (Eurostat, 2018). In 2016, the EU's cumulative investment in Colombia (stock) registered EUR 14 731 million, a decrease in comparison with the three immediately preceding years. In addition, of the top 10 countries investing in Colombia in 2016, the majority were European. Spain ranked third, behind Canada and the United States, followed – by some distance – in descending order of investment, by the Netherlands, the United Kingdom, Germany and France.

Combining stocks, inward stock and outward stock into one indicator, the Balassa Index[11] results show that Colombia is a *predominantly recipient economy when it comes to its FDI relationship with the EU. This was the case both before and after the Agreement (see Table 9).* However, since before the FTA entered into force, Colombia has been stepping up its efforts to increase FDI flows to the EU. This is reflected in the higher values in the Balassa Index for 2011 and 2013, although these increases have not changed the country's relative investor position for the time being. In addition, the Colombian Government has recently taken measures aimed at providing new incentives for foreign investment and increasing the internationalisation of the national economy. Specifically, the Ministry of Finance and Public Credit issued Decree 119 on 26 January 2017, modifying the foreign investment registration system, eliminating the existing deadlines and modalities to register investments. It is also worth emphasising that Colombia currently has an agreement for the promotion and reciprocal protection of investment with two EU Member States: the United Kingdom and Spain.

11 The Balassa Index shows the relative investor position of a country. It is calculated by ascertaining the ratio between the difference between cumulative outward and inward investment and the sum of these investment variables (stock), as follows:

Relative investor position = (Outward Stock – Inward Stock) / (Outward Stock + Inward Stock),

where: index values between -1 and -0.33 indicate that the country is predominantly a recipient of investment; values between -0.33 and 0.33 indicate that the country is a provider and recipient of investment simultaneously and values between 0.33 and 1 indicate that the country is predominantly a provider of investment.

Table 9. EU-Colombia bilateral FDI stocks. Balassa Index of FDI.

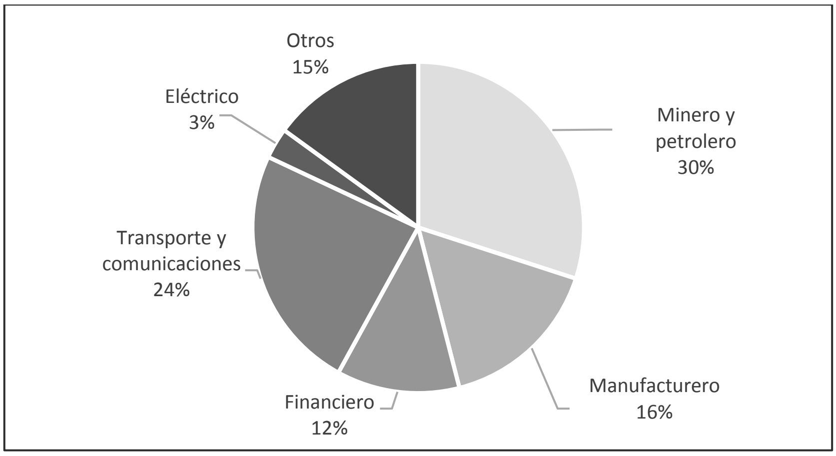
	Pre-Agreement (*)				**Post-Agreement (**)**			
	2009	2010	2011	2012	2013	2014	2015	2016
Inward stock	12 461	13 872	11 902	n. a.	17 824	16 566	16 957	14 732
Outward stock	856	804	3 497	n. a.	4 789	3 828	3 379	2 756
Balassa Index Colombia	-0.87	-0.89	-0.55	n. a.	-0.58	-0.62	-0.67	-0.68

Notes: The reference economy for the position of inflows and outflows is Colombia.
(*) USD millions; (**)EUR millions; (n.a.) not available
Source: Own production based on *Bilateral FDI Statistics,* UNCTAD (Pre-Agreement) and *EU Direct Investments Eurostat* (Post-Agreement).

Regarding the distribution by activity sector, according to the information compiled and published by the Technical Department for Economic Information of the Bank of Colombia, FDI is mainly concentrated in the mining sector (30%), transport and communications (24%) and manufacturing (16%) (Table 13). Indeed, as outlined in the report by the Economic Commission for Latin America and the Caribbean (ECLAC, 2015), the FDI structure is in line with the region's patterns of productive specialisation, namely, that mining is a sector of particular importance for acquiring FDI.

Recent data published by *ProColombia*, the Agency within Colombia's Ministry of Industry and Tourism responsible for promoting internationalisation, highlight the following two relevant FDI cases from 2017: In the first case, 12Tree *Finance Asset Management*, a German agribusiness investment fund, invested EUR 150 million in agroforestry projects in both Colombia and Peru. The investment in Colombia was in a forest plantation in Puerto Carreño, a plant to generate power using biomass in the same region (Vichada) and cocoa farming in Urabá and Magdalena Medio, and amounted to USD 85 million. The second case involves *Deceuninck*, a Belgian construction materials company specialising in the production of PVC windows and doors[12].

Figure 13. Percentage distribution of FDI in Colombia, by sector, 2017



Source: Banco de la República, Subgerencia de Estudios Económicos (Bank of Colombia, Division for Economic Studies).

In addition, the information provided by Bogotá's investment promotion agency, Invest in Bogotá, highlights some noteworthy cases of EU companies investing in the city of Bogotá in 2017: Arup, (UK), which specialises in offering professional services in design, planning, engineering and consultancy for infrastructure projects; Mott MacDonald(UK), a multinational consultancy firm specialised in project engineering, management and development; Systra (France), an engineering and consultancy firm working in the areas of urban and rail transport; Decathlon (France), selling

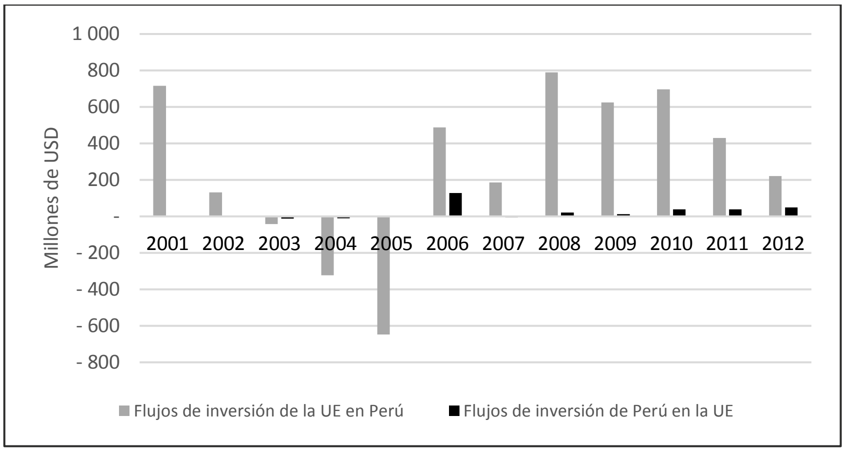
[12] Procolombia

sports products that are not easily available on the local market; H&M (Sweden), a retail company specialising in producing and selling low-cost clothes; Inkemia (Spain), a multinational specialising in the generation and exploitation of knowledge for the chemical, pharmaceutical, biotechnology, cosmetics, nutraceutical and food industries; Gaes (Spain), a multinational leader in the hearing aids sector that produces, distributes and sells hearing aids; and, Rockstart (Netherlands), a company specialising in building ecosystems in specific domains such as digital health, smart energy and artificial intelligence.

3.1.2. EU-Peru

Although FDI flows from the EU to Peru dropped significantly in 2004 and 2005, positive values for FDI flows to the Andean nation were recorded from 2006 onwards. FDI flows going in the other direction, from Peru to the EU, have remained at minimal, but constant levels. The peak, USD 127 million, was recorded in 2006 (Figure 14).

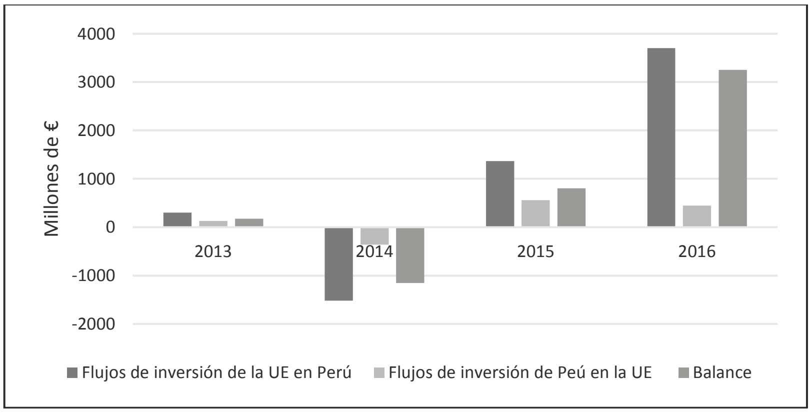
Figure 14. EU-Peru FDI flows, 2001-2012



Source: UNCTAD, Bilateral FDI Statistics

In the post-Agreement period, FDI flows from the EU to Peru reached EUR 3 702 million in 2016, an increase of 171% on 2015. Meanwhile, Peru's investment in the EU was EUR 449 million in 2016, a drop of 20% on the previous year (see Figure 15). In the last two years, the balance has remained positive.

Figure 15. EU-Peru FDI flows, post-Agreement period



Source: Eurostat

Table 10 also shows the positive trend of cumulative FDI stock from the EU in Peru, which increased throughout the period prior to the signing of the Agreement. In addition, the Balassa Index shows that while Peru is predominantly a recipient country of investment, in the years after 2014 the index value fell since cumulative FDI stock from Peru to the EU increased significantly to reach EUR 1 971 million in 2016, an eightfold increase on 2013. In the post-Agreement period, cumulative EU stock in Peru increased 32% in comparison with 2015, while Peru's accumulated stock in the EU has been increasing, peaking in 2016.

According to data from the Peruvian Agency for the Promotion of Private Investment, (ProInversión), there is a high concentration from just three countries, representing almost 40% of FDI stock in the country[13]. These countries, where the investment originates, are Spain (18%), the UK (13%) and the Netherlands (6%). Furthermore, according to information available in the Peruvian Ministry of Economy and Finance, Bilateral Investment Treaties (BITs) have been agreed with the following EU countries: Germany, Belgium, Luxembourg, Denmark, Spain, Finland, France, the Netherlands, Italy, Portugal, the United Kingdom, the Czech Republic, Romania and Sweden. ProInversión has also indicated that the main EU investors moving capital, through contributions or acquiring shares, for the period 2011-2016, were the following: Telefónica Latinoamérica Holding, S.L, from Spain, Perú Copper Syndicate Ltd., from the UK, Odebrecht Latin Finance S.A.R.L from Luxembourg and NII Mercosur Telecom, S.L, from Spain. In addition, it is worth noting that, according to ECLAC (2017), 'the largest transaction in Peru was for a highway concession, with the French group Vinci purchasing Vía Expresa Línea Amarilla for USD 1 660 million. *Meanwhile, European companies won tenders for solar and wind energy projects, with investments announced by Italy's Enel, Spain's Grenergy Renovables and France's EnerSur (ENGIE Energía Perú)'*. Regarding the distribution according to activity sector, it is also noteworthy that around 75% of the FDI is concentrated in four sectors: mining (22%), communications (19%), finance (19%) and energy (14%) (see Figure 16). It is worth highlighting that sectoral patterns of FDI are increasingly shifting towards services in both Peru and Colombia (ECLAC, 2015).

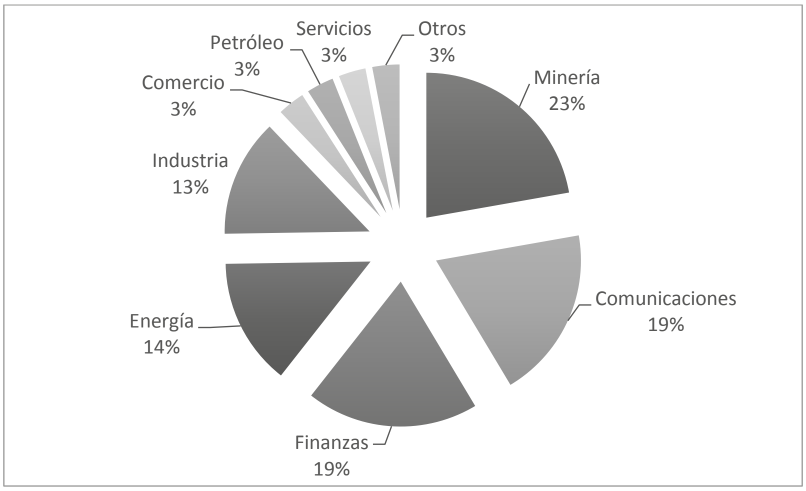
Table 10. EU-Colombia bilateral FDI stocks. Balassa Index of FDI

	***Pre-Agreement (1)**				****Post-Agreement**			
	2009	2010	2011	2012	2013	2014	2015	2016
Inward stock	9 926	10 623	11 053	11 274	9 360	9 384	10 146	13 149
Outward stock	21	51	n. a.	n. a.	244	159	1 493	1 971
Balassa Index	-0.99	-0.99	n. a.	n. a.	-0.95	-0.97	-0.74	-0.74

Notes: the reference economy for inward and outward position is Peru. (1) There is no data available regarding cumulative stock from Peru to the EU in 2011 and 2012. (*)USD millions; (**)EUR millions; (n.a.) not available.
Source: Own production based on *Bilateral FDI Statistics,* UNCTAD (Pre-Agreement) and *EU Direct Investments Eurostat* (Post-Agreement).

[13] Investinperú

Figure16. FDI by sector, Peru 2017



Source: ProInversión, Peru

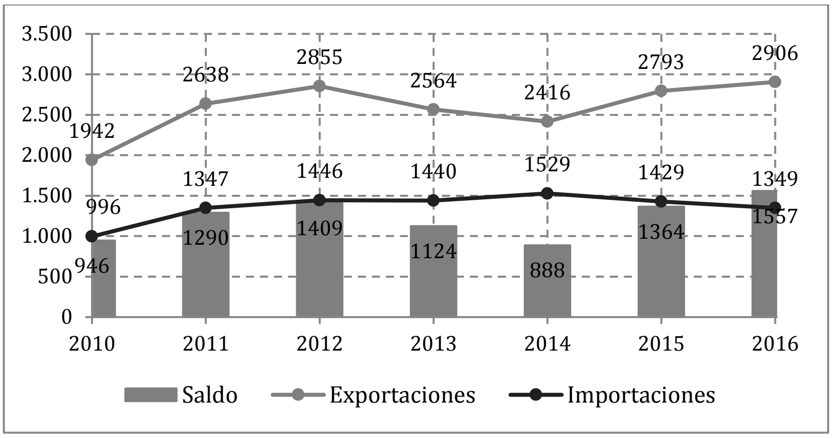
3.2. Recent evolution of trade in services

3.2.1. EU-Colombia

In 2016, EU exports of services to Colombia reached EUR 2 906 million, an increase of 1.8% on 2012, the year prior to the entry into force of the FTA (Figure 17). Although Colombia's service exports fell in the first two years of the Agreement, with annual growth of -10.2% and -5.8% respectively, in 2015 and 2016, they recovered, increasing by 15.6% and 4% respectively. The value of services imported by the EU from Colombia was EUR 1 349 million, a drop of 6.7% on 2012. Since the FTA entered into force, imports have declined, except in 2014 when annual growth of 6.2% was recorded. Unlike trade in goods, the EU has maintained a positive balance with Colombia in the exchange of services (EUR 1 557 million in 2016).

Overall, bilateral trade in services between the EU and Colombia fell by 1.1% between 2012 (EUR 4 300 million) and 2016 (EUR 4 254 million). Notwithstanding that, this fall is not overly alarming if we take into account the decline in the import of services from all over the world to Colombia, 11.5%.

Figure 17. Services: EU-Colombia exports, imports and trade balance

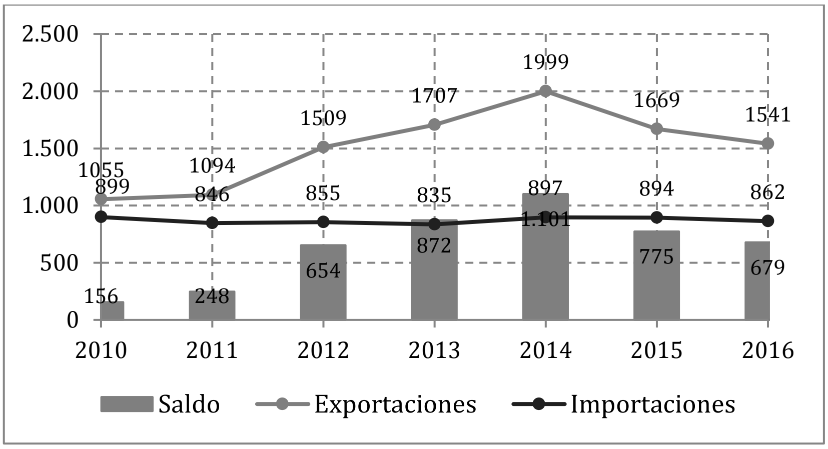


Source: Own production based on Eurostat's Comext data.

3.2.2. EU-Peru

The value of services exports from the EU to Peru rose to EUR 1.54 billion in 2016, with a cumulative increase of 2.1% on 2012 (Graph 18). In the first two years of the FTA, exports had increased markedly in line with the existing trend, with an annual increase of 13.1% and 17.1% respectively. However, the value of service exports dropped by 16.5% and 7.7% annually in 2015 and 2016 respectively. Service imports from Peru to the EU remained stable over the first four years of the Agreement. In 2016, service imports from Peru rose to EUR 862 million, which was an increase of 0.9% on the year before the Agreement came into force (EUR 855 million in 2012). Unlike in the trade of goods, the EU still has a positive balance with Peru in the exchange of services. The services balance was EUR 679 million in 2016, which was a drop of almost EUR 200 million on 2012. Total bilateral trade between the EU and Peru grew by 1.7% to EUR 2 563 million between 2012 and 2016, mainly as a result of a positive trend in the sale of services to Peru.

Figure 18. Services: EU-Peru exports, imports and trade balance



Source: Own production based on Eurostat's Comext data.

3.3. Disaggregation of trade in services by category

There are very limited data on bilateral trade in services between the EU, and Colombia and Peru that are disaggregated by category. However, the existing data on external trade with the rest of the world indicate which are the main categories of services traded. The category with the largest proportion of total service exports from the EU was other business services, with a relative weighting of 30% (Table 11). Also significant were transport services (18.4%), travel services (14.4%), computer and information services (11.1%), financial services (9%), and royalties and licencing rights (7.8%). There was a remarkable growth in royalties and licencing rights services from 2012 to 2015, with an increase of 45.3%, followed by other business services with an increase of 21.5%, and computer and information services, with an increase of 20.8%.

The distribution of EU services imports by category shows important similarities to service exports (Table 11). The category with the highest weighting was that of other business services, with 31.3%. Also significant are imports of transport services (19.2%), travel services (15%), and royalties and licencing rights (14.8%). The most dynamic category of service imports was royalties and licencing rights, with an increase of 92.3%. It is also worth pointing out the increase in computer and information services (26.6%), and other business services (20.6%).

Table 11. External trade in services, EU, 2015

	Exports			Imports		
	USD (m)	%	TA 2015-12	USD (m)	%	TA2015-12
Transport	159 333	18.4	-13.7	140 793	19.2	-7.1
Travel	124 790	14.4	1.7	110 095	15.0	-4.9
Communications	20 249	2.3	-14.1	16 683	2.3	-0.3
Construction services	14 712	1.7	3.1	5 841	0.8	-19.8
Insurance	28 788	3.3	-28.6	15 923	2.2	10.3
Financial	77 891	9.0	3.0	39 397	5.4	9.9
Computer and information services	96 518	11.1	20.8	49 254	6.7	26.6
Royalties and licencing rights	67 478	7.8	45.3	108 691	14.8	92.3
Other business services	260 737	30.0	21.5	230 055	31.3	20.6
Personal, cultural and recreational	8 678	1.0	-12.3	11 863	1.6	1.1
Governmental (NIOP)	8 420	1.0	-23.5	5 566	0.8	-38.0

Source: Own production based on the United Nations' Comtrade data.

In the case of Colombia, service exports are highly concentrated on three groups: travel services, at 60%; transport services, at 22.3%; and other business services, at 9.8% (Table 12). These three groups represent almost 92% of the total sales of services. The categories that saw the highest growth from 2012 to 2015 were: insurance, with a cumulative growth of 52.7%; travel, with an increase of 22.7%; and personal, cultural and recreational services, which increased by 21.8%. Similarly, service imports from Colombia are mainly concentrated in the same three groups, with travel at 40.2%, transport at 23.2% and other business services at 17.6%. The most dynamic ones were communications services with a growth of 22.4%, travel services (19.3%), and computer and information services (12%).

Table 12. External trade in services: Colombia, 2015

	Exports			Imports		
	USD (m)	%	TA 2015-12	USD (m)	%	TA 2015-12
Transport	1 586.1	22.3	7.1	2 491.9	23.2	-29.9
Travel	4 245.3	59.6	22.7	4 324.2	40.2	19.3
Communications	235.4	3.3	-20.1	342.2	3.2	22.4
Construction services	-	-	-	0.5	0.0	-86.6
Insurance	1.4	0.0	52.7	561.4	5.2	-33.1
Financial	39.4	0.6	-27.7	261.1	2.4	-6.2
Computer and information services	69.0	1.0	3.6	224.4	2.1	12.0
Royalties and licencing rights	51.4	0.7	-42.7	442.4	4.1	-16.0
Other business services	697.4	9.8	-6.1	1 894.0	17.6	-15.6
Personal, cultural and recreational	102.9	1.4	21.8	95.9	0.9	-3.1
Governmental (NIOP)	88.9	1.2	-6.3	124.5	1.2	-5.6

Source: Own production based on the United Nations' Comtrade data.

Table 13. External trade in services: Peru, 2015

	Exports			Imports		
	USD (m)	%	TA 2015-12	USD (m)	%	TA 2015-12
Transport	1 375.7	22.1	12.5	2 779.8	34.9	-2.5
Travel	3 319.7	53.3	24.9	1 691.1	21.2	13.5
Communications	101.3	1.6	-31.0	347.6	4.4	57.0
Construction services	-	-	-	2.2	0.0	-94.8
Insurance	636.1	10.2	76.0	1 028.2	12.9	41.3
Financial	84.0	1.3	41.3	83.1	1.0	-3.4
Computer and information services	42.4	0.7	-7.7	263.1	3.3	46.3
Royalties and licencing rights	21.8	0.4	89.3	292.2	3.7	27.3
Other business services	480.5	7.7	2.4	1 267.5	15.9	-8.0
Personal, cultural and recreational	8.6	0.1	-14.0	35.0	0.4	46.9
Governmental (NIOP)	156.0	2.5	7.1	168.5	2.1	7.3

Source: Own production based on the United Nations' Comtrade data.

The categories with the highest proportion of the total services exports from Peru were travel services (53.3%), transport services (22.1%), insurance (10.2%) and other business services (7.7%). Royalties and licencing rights was the most dynamic category, with growth of 89.3% (Table 13). There was also marked growth in insurance (76%), financial services (41.3%), travel (24.9%) and transport (12.5%). Imports of services from Peru were concentrated on the same four categories as exports: transport services, at 34.9%, travel services, at 21.2%, other business services, with a relative weighting of 15.9%, and insurance services, with 12.9%. The most dynamic categories were communications services, which grew by 57%; personal, cultural and recreational services, which grew by 46.9%; computers and information services, which increased by 46.3%, and royalties and licencing rights services, which grew by 27.3%.

3.4. Intellectual property

According to the World Intellectual Property Organization (WIPO), 'Intellectual property is divided into two categories: Industrial Property includes patents for inventions, trademarks, industrial designs and geographical indications. Copyright covers literary works [...], films, music, artistic works [...] and architectural design.' Title VII refers to intellectual property, and defines the overall objectives as being to 'promote innovation and creativity and facilitate the production and commercialisation of innovative and creative products between the Parties; and achieve an adequate and effective level of protection and enforcement of intellectual property rights that contributes to transfer and dissemination of technology and favour social and economic welfare and the balance between the rights of the holders and the public interest.'

Colombia and Peru, like most countries in Latin America and the Caribbean, have a significant shortfall in technology and innovation. This is reflected in the national R&D effort, which has not exceeded 0.3% of GDP in the last decade in either of the Andean countries[14]. The indicator for invention patents also reveals a low technological capacity in these countries, where there is also a marked difference between the high number of patents requested by non-resident agents, and the very low number requested by resident agents. As would be hoped, in the case of the EU, the same indicator is not only drastically higher, but the distribution is such that most patent applications are made by residents.

It is also important to bear in mind that seven EU countries were in the top ten on the Global Innovation Index (GII) in 2017, in the following order: Sweden (2), the Netherlands (3), the United Kingdom (5), Denmark (6), Finland (8), Germany (9) and Ireland (10). Furthermore, the remaining EU countries are among the 50 most innovative countries in the world, according to the ranking[15]. The GII is put together by following a systematic understanding of the countries' capacity for innovation. It provides information about capacities and outcomes in innovation, by assessing input indicators (institutions; human capital and research; infrastructure; market sophistication; and business sophistication), and output indicators (knowledge and technology outputs, and creative outputs). The GII calculation makes it possible to rank countries according to an international classification made up of a total of 127 economies. Colombia and Peru were ranked 65 and 70 respectively. It is also worth noting that the poorest performing pillars in Colombia are institutions, knowledge and technology outputs, and creative outputs. In Peru, they are human capital and research, knowledge and technology outputs, and creative outputs. The best performing pillar for the two countries was market sophistication (WIPO, 2017).

[14] See Network for Science and Technology Indicators (RICYT) data.

[15] Each country's relative position is given in brackets: Luxembourg (12), France (15), Austria (20), Czech Republic (24), Estonia (25), Malta (26), Belgium (27), Spain (28), Italy (29), Cyprus (30), Portugal (31), Slovenia (32), Latvia (33), Slovakia (34), Bulgaria (36), Poland (38), Hungary (39), Lithuania (40), Croatia (41), Romania (42) and Greece (44).

Co-invention registered in patent documents allows patterns of collaboration between inventors from different countries to be identified, and shows the geographical spread of the generation of technological knowledge internationally. In order to verify this in the context of collaboration between the EU and the two Andean countries, an analysis has been done of the number of patent applications submitted to the United States Patent and Trademark Office (USPTO) between 1976 and 2016 that included co-inventions by inventors from either Colombia and Peru, with inventors from another country or countries. In the case of Colombia, the total number of patents examined was 1 224, which included at least one Colombian inventor or organisation with at least one inventor or organisation from another country, whether companies, research centres or universities. Of the total patents for co-inventions, 28% were registered as a co-invention with the EU, while the remaining 72% were in collaboration with other countries. The main EU countries participating in those co-inventions were France, Germany, Italy, Spain, the UK, Belgium, Denmark and the Netherlands. The largest number of patents from Colombia are within sections A, B, C and G[16] of the International Patent Classification (IPC). In the case of Peru, the number of patents for international co-inventions analysed is 488, of which 26% were co-inventions with the EU and the remaining 74% were in collaboration with other countries. There were six main EU countries that were involved in co-inventions with Peruvian inventors or organisations: France, Germany, Italy, the Netherlands, the UK and Spain. The majority of patents from Peru are also under the same sections of the IPC.

Trademark applications from Colombia and Peru have remained between 20 000 and 30 000 per year. A trademark allows the owner to have the exclusive right to use it to identify goods and services, or to authorise another person to use it in exchange for payment. In Colombia, the highest number of applications (32 030) was registered in 2012, when the country joined the Trademark Law Treaty[17]. Peru joined the treaty earlier, in 2009, but the highest number of applications it made was in 2015, when there were 26 354.

When it comes to international transactions for the use of intellectual property, Colombia is more dynamic than Peru in activities associated with patenting, registering trademarks and copyrights. According to the World Bank's definition: 'Royalties and licence fees are payments and receipts between residents and non-residents for the authorised use of intangible, non-produced, non-financial assets and proprietary rights (such as patents, copyrights, trademarks, industrial processes and franchises) and for the use, through licensing agreements, of produced originals or prototypes (such as manuscripts, cinematographic works and sound recordings).' The upward trend that this indicator has followed since 2005 reached its peak for Colombia in 2012, before starting to decline in 2013[18]. In contrast, the value of this indicator for the period 2005-2016 is notably lower for Peru, but shows continuous growth from 2013, reaching EUR 9 million in 2016.

Lastly, the reports that the European Commission presented to the Parliament and Council suggest that Geographical Indications (GIs) were one of the main issues discussed at the first meeting of the Sub-Committee on Intellectual Property on 11 February 2014. Colombia submitted a list of 18 new GIs, 9 of which were related to agricultural products. Peru also submitted a list of 4 new GIs for agricultural products so that the EU could assess them in line with the provisions of the Agreement. The insistence of Colombia and Peru on starting the process of adding new GIs to the list was noted at the subcommittee's second meeting on 11 June 2015. At the next meeting, on 8 December 2016,

[16] The IPC is divided into eight sections at the highest level of the classification system: Human necessities (A); Performing operations, transporting (B); Chemistry, metallurgy (C); Textiles, paper (D); Fixed constructions (E); Mechanical engineering, lighting, heating, weapons, blasting (F); Physics (G) and Electricity (H). These sections are divided into classes, subclasses and groups. 'Unclassified' patents are for other categories, such as design and floor plans, among others.

[17] Trademark Law Treaty (WIPO).

[18] According to data on payments for the use of intellectual property, 'Balance of payments' in the World Bank's World Development Indicators.

the debate about GIs centred on the pending problems with registering them and the Andean countries' intention to introduce new ones. The procedure for registering and updating the lists has become more protracted over time, which has affected Colombia and Peru because they are a valid alternative for promoting different products that could benefit their economies.

4. Sustainable development

The Trade Agreement between the EU and Colombia and Peru can be evaluated from a sustainable development perspective, bearing in mind that its impacts on the environment, human rights, and labour standards are included in Title IX on Trade and Sustainable Development. This section first reviews the aspects associated with the environment, and secondly, assesses the human rights situation in the two Andean countries.

4.1. Protection of the environment and use of biological diversity

4.1.1. Colombia

The European Parliament resolution 2012/2638(RSP) led to the formulation of the Colombia Action Plan 2010-2014[19] and the EU Roadmaps for Engagement with Civil Society in partner countries for 2014-2017. In accordance with the information available about the degree to which both instruments have been implemented, the following analysis reviews the evidence and focuses on certain aspects of their development in an attempt to reflect the different perspectives of government, civil society and academia in Colombia.

Much like the FTA between Colombia and the USA, the negotiation of the trade agreement with the EU generated a response from different actors from national civil society, which was echoed by European organisations. As an example, on 23 March 2011, the José Alvear Retrepo Lawyers' Collective Corporation (CCAJAR) announced that more than 200 Latin American and European social organisations and trade unions presented a manifesto to the European Parliament. It demanded that the FTA with Colombia and Peru not be ratified as it was considered detrimental to Latin American countries because of its potential socioenvironmental impact. According to CCAJAR, the results of the evaluation led by the European Commission, which were published shortly before the formal close of negotiations, were not known.[20]

Questions such as this arose in Andean countries as well as in Europe, leading the European Parliament to ask the Colombian Government for an action plan on human rights and international humanitarian law, labour and trade union rights, and sustainable development, as a condition for signing the trade agreement. The Government responded on 26 October 2012 with a plan structured into 56 goals, 101 measurements and 37 advances and outcomes, to be implemented in 2010-2014. On 13 June 2012, through resolution 2012/2628(RSP), the European Parliament drew up a roadmap for dialogue with Colombian civil society. It was structured around three priorities for 2014-2017, each including three actions.

According to the reflections made by Macías (2015) on the potential interactions between FTAs and the environment, there are two different perspectives: The first asserts that FTAs generate negative consequences because of the more intensive use of natural resources, particularly in developing countries that produce raw materials (such as Colombia). This is normally accompanied by consequences that undermine environmental legislation. The other perspective presupposes that FTAs will boost social and economic development in relatively less developed countries, because of the increase in commercial activity. This is coupled with a greater availability of funds for environmental protection and conservation, along with greater consolidation of institutions. The high environmental standards that are usually adopted in FTAs also translate into broader and more effective protection in practice[21]. As noted by the INTA mission in 2018 (European Parliament, 2018),

[19] Plan de Acción Colombia 2010-2014 (accessed 24 April 2018).

[20] Organizaciones sociales y sindicales presentan manifiesto contra TLC con la UE (accessed 26 April 2018).

[21] La relación entre tratados de libre comercio y medio ambiente (accessed 26 April 2018).

the opposite would involve social and environmental dumping: a practice that is openly unfair in international trade.

Title IX of the Agreement takes a conceptual approach to the nexus between international trade and the environment, which would be included under the second of these perspectives. It therefore would not be lawful to reduce the environmental protection requirements as a strategy to attract trade and investment. However, in 2017, the Colombian FTA observatory, Observatorio TLC, warned of a gradual regression in Colombia's national environmental legislation. This coincided with the country's economic liberalisation in the early 1990s, which has led to the creation of a number of international trade alliances[22]. The following pages examine the question of whether this premise is maintained in the implementation of the Agreement. Due to the limited scope of this study, which prevents an exhaustive analysis, some specific examples that illustrate the issue will be given instead.

Taking into account the progress that the Colombian Government has demonstrated on the demands made by civil society organisations (CSOs) at the last subcommittee meeting in late 2016[23], it is worth highlighting the Constitutional Court's endorsement of Law 1844 (April 2017), which smooths the way for ratification of the Paris Agreement[24]. Other provisions are also designed to mitigate and adapt to a similar phenomenon: the Draft Law on Climate Change; the National Climate Change Policy; the National Climate Change Adaptation Plan; Decree 926/2017 (on carbon tax, although it does not tax coal); and the Colombian Low Carbon Development Strategy.[25]

In March 2018, the Chamber of Representatives of the Congress of the Republic approved Colombia's joining of the Minamata Convention on Mercury: an international instrument that aims to reduce global mercury emissions, and minimise their impact on health and the environment. This measure complements Law 1658/2013 (the 'Mercury Law'), which outlawed the use of the heavy metal in gold mining, and in the remaining industrial sectors from 2023[26]. This law is closely related to the FTAs signed by Colombia because of the importance of the mining and energy sector to total national exports.

Another area in which CSOs urged the Government to make progress is in applying the International Labour Organisation (ILO) Convention No 169 on indigenous and tribal peoples. Colombia was the third country in the world to ratify this international agreement (after Mexico and Norway in 1990), through Law 21/1991[27]. However, in 2016, the ILO itself highlighted a series of difficulties in implementing prior consultation processes, aimed at state and businesses, with regard to the fulfilment of their commitments under Convention No 169. These include: the lack of a statutory law on prior consultation; weak state intervention; the lack of systematic mapping of ethnic communities; mistrust between parties; the emergence of 'new' communities; the lack of criteria to define compensatory measures; and armed conflict.

This aspect is undeniably important in the implementation of the Trade Agreement, given that, as laid out in the constitution, any alteration of the physio-biotic environment that could affect legally recognised minority groups requires their prior informed consent. The use of natural resources, and infrastructure projects, which are two key areas for FDI, must therefore adhere to that regulation. Bearing that in mind, during the FTA negotiation phase, the Government produced a document that attempted to explain to ethnic groups the benefits that signing the agreement would have for the

22 Observatorio TLC is a civil society organisation that was set up to monitor (in the broadest sense) the performance of the FTAs signed by Colombia, using a set of indicators called the Alternative Information System (SIA). It is supported by international NGOs such as Oxfam and Christian Aid (accessed 20 May 2018).

23 Resumen de la discusión de los representantes y participantes de la sociedad civil de la UE, Colombia y Perú (accessed 8 May 2018).

24 Colombia a punto de ratificar el acuerdo de París (accessed 8 May 2018).

25 http://www.minambiente.gov.co/index.php/proyecto-de-ley-de-cambio-climatico (accessed 20 May 2018).

26 Congreso aprobó vinculación de Colombia al Convenio de Minamata (accessed 8 May 2018).

27 Ley 21 de 1991 (accessed 11 May 2018).

whole of society. It also explained that the Agreement posed no threat to their way of life, cultural identity or the natural environment linked to the survival of their ancestral communities (Ministry of Commerce, Industry and Tourism, 2010). Pérez's report (2007), which was produced before the Agreement was signed, gives a conceptual critique of the logic and practice of FTAs, and the way of life of native peoples of Latin America, from an indigenous perspective.

Supervision of the basic regulations on environmental protection under international conventions recognised by the signatory parties is a requirement of implementation of the Agreement. The third annual report therefore includes the EU's request that the Colombian Government (and the Peruvian) improve controls over the crocodile and caiman leather market, in line with its obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES, European Commission, 2017). It is important to remember that Colombia has been part of CITES since 1981, and has recently held positions of leadership and even hosted international workshops. In line with the EU's requirement, the Government made a proposal for the sustainable management of an indigenous species of caiman, which was adopted at the 17th Meeting of the Conference of the Parties in Johannesburg, in 2016[28]. In view of this apparently intensive activity, it is surprising that the EU requested this of Colombia, and raises questions around the coherence between discourse and reality.

Some of the key questions on the issue of the sustainable use of biological diversity are reviewed below. These questions enable possible opportunities and challenges to be identified, along with the implications for the conservation of natural resources. Firstly, it seems there is no legal incompatibility between the precautions on this issue in the Agreement with the EU and Decision No 486 issued by the Andean Community of Nations' (CAN) in 2000. This is maintained in Murcia's study (2016), which analyses the rights, guarantees and requirements for the patentability of living matter and outlawing of patents on biological matter. It is important to note that in the initial stage of FTA negotiations, the interlocutor for Latin America was the CAN bloc, but Bolivia and Ecuador withdrew, leaving Colombia and Peru as the only countries to sign it. For analysts such as Fritz (2010), this final outcome was related to the discussion of the patenting system under the FTA, and was a destabilising factor in the Andean regional integration dynamic[29].

Also in the context of the CAN bloc, Gómez (2007) assesses the effects of the FTA with the USA in terms of safeguarding Colombia's biological diversity. The author also alludes to the legitimisation of biopiracy, as patent applicants are not obliged to divulge the country or community of origin of biological or genetic resources, or the traditional knowledge involved in that scientific or technological development. The sharing of this information is laid down in the Convention of Biological Diversity (CDB), which the USA has not ratified. The author asserts that it would be an opportunity for the country if, unlike the agreement with the USA, the FTA with the EU were guided by the rules stipulated in the CDB on access and distribution of the benefits associated with biological and genetic resources, and traditional knowledge. This is as opposed to the World Trade Organisation's guidance which, the author believes, was used in the agreement with the USA (Gómez, 2007). In fact, although the agreement with the EU explicitly recognises biological diversity in accordance with CBD procedures, Colombia could be at a disadvantage compared with the EU because of the implications of Directive 98/44/EC on biotechnological patents. The safeguarding mechanisms covered in Articles 15b, 26 and 75 of CAN Decision No 486 are also lacking (Gómez, 2013; 2014).

The Colombian Government is promoting 'a strategy of economic growth based on *bioeconomy*'. This is understood to be an economy 'in which biodiversity and residual biomass is managed efficiently and sustainably to generate new added-value products, processes and services based on knowledge and innovation, which leverage growth, development and progress in Colombia's

[28] Convention on International Trade in Endangered Species of Wild Fauna and Flora (accessed 20 May 2018).

[29] The author cites the preeminence of Decision No 486 over the Budapest Treaty.

regions'. The country has remarkable potential in this field, which spans a number of sectors, including agriculture and fishing, chemicals, food, services and energy (Betancur Giraldo, 2017). It is important to note that this development is envisaged in a post-conflict context, and assumes normal access to the country's biodiversity reserves, vast areas of which were inaccessible for decades as a result of the war.[30] There is now a promising window of opportunity for international investment and trade as a means for Colombia's sustainable development. The FTA and the EU could play a leading role here, ensuring the rigorous recognition of resources and knowledge, as well as the fair distribution of the benefits derived from progress. Colombia attended the fourth annual meeting of the Sub-Committee on Trade and Sustainable Development (Lima 2017) having made progress that included publishing the National Biodiversity Plan (2016-2030), and the outcomes of the Policy for the Integrated Management of Biodiversity and Ecosystem Services (Ministry of Environment and Sustainable Development, 2017).

With regard to the conservation of renewable and non-renewable resources, since the start of dialogue before the Agreement with the EU was signed, civil society raised objections about its potential risk to Colombian ecosystems. For example, a forecast of the potential environmental impacts, which was produced by a CSO group and presented to the European Parliament at the time, highlighted that the most severe damage caused could be water and soil degradation, along with the loss of forests. Such effects would result from the expansion of the agricultural frontier (with the incentive to produce biofuels), as well as the intensification of extractive activities. That would reflect the country's 're-specialisation' as a producer of raw materials and basic goods, with little added value. This could be accompanied by social consequences that would have a disproportionate effect on the most vulnerable sections of society (ALOP et al., 2011).

The 2016 analysis by the Transnational Institute (TNI) and the International Office on Human Rights Action on Colombia (Oidhaco) describes an abusive relaxation of energy and mining permits, including in special protection areas such as moorlands and ancestral lands. There was no formal record of this being debated by the Sub-Committee on Trade and Sustainable Development. With regard to environmental protection, it was not plausible to soften environmental regulations in order to facilitate investment. The Constitutional Court had to intervene, and decided to specify the areas of competence and amend several points of the National Development Plan. The cited work also warns of Colombia's systematic failure to meet its constitutional obligation to require a rigorous consultation and consent process, free from any manipulation, to be carried out with indigenous people and people of African descent. This is an essential prerequisite for the granting of permits and licences for projects that will have an impact on their community lands, and is also set out in the roadmap, Title IX and ILO Convention No 169. An example of this is the El Cerrejón coal mine (a business with European capital) in La Guajira, which is one of the country's poorest departments. Although a consultation was officially conducted there, the Ministry of the Interior was clearly deceitful in not consulting the indigenous and black communities directly affected by the plans to extend the mine and divert the Bruno stream. Diverting the Bruno stream would involve privatising the water in an area where there was already a shortage because of its widely known use for industrial purposes, to the detriment of human consumption[31]. These signs of socioenvironmental conflict could call into question whether the Agreement is actually intended to be an instrument that promotes sustainable development.

Another very controversial sector is palm oil production. TNI and Oidhaco (2016) give the example of environmental deterioration in the area of Mapiripán (Meta department), where around 15 000 hectares have been cultivated, which the local population see as being harmful to the natural and

[30] https://www.elespectador.com/noticias/medio-ambiente/bioeconomia-proxima-revolucion-de-colombia-articulo-655255 (accessed 21 May 2018).

[31] This example is revisited below because of its repercussions in the area of human rights.

human environment[32]. The most severe damage is the depletion and degradation of water bodies: 13 surface sources have already been dried out by overexploitation of the aquifers, from which more than 1 700 cubic metres are taken per day, causing a shortage for 200 families. The Italian multinational Poligrow operates there. Another environmental impact attributed to the large-scale exploitation of oil palms (and not just in Colombia) is the deforestation of tropical forests, which threatens the ecosystem and its biodiversity. This has stimulated a discussion in the European Parliament about adopting mechanisms to control imports of palm oil. On 28 November 2016, the Committee on the Environment, Public Health and Food Safety discussed the draft report on palm oil and deforestation of rain forests, produced and put forward by Czech MEP and rapporteur Kateřina Konečná. The measures considered included taxing imports of palm oil produced using unsustainable methods (which would inevitably involve a certification process), or even prohibiting imports of biodiesel made using palm oil. Although a plenary vote was expected in the first half of 2017, at the time of writing this report, in May 2018, there was no further information on this matter. In 2016, the French legislature debated similar action for a draft law on biodiversity[33]. This is confirmation that there is some concern in the EU about the potential environmental impacts of palm oil production. It would therefore be reasonable to expect the issue to be dealt with specifically in EU trade agreements (Sub-Committee on Trade and Sustainable Development), to reflect the debate that has started in EU institutions.

Another environmental aspect that is closely linked to FTAs, including the one with the EU, is the farming of avocados, demand for which has grown by 320% since the Agreement was signed[34]. According to the INTA mission, it is one of the products that has been boosted most by the FTA (EP, 2018). In a similar way to what happened in Michoacán (Mexico) in connection with the implementation of the FTA with the USA, (Chávez et al., 2012), avocados could threaten the iconic landscape of Valle de Cocora. The valley is a protected area that is home to the Palma de Cera del Quindío – Colombia's national tree – in the Andean Quindío department[35]. The INTA mission listened to the concerns of the President of FEDEPALMA (the sector's employers' association) about a European Parliament resolution on palm oil and deforestation of the rainforests, and about future legislation that could affect exports to the EU. This has been contrasted with the sector's 'zero forestation' commitment, resulting in the industry's role as a driver of sustainable rural development and its post-conflict potential. The Vice-Minister of Agriculture and Rural Development expressed similar views (EP, 2018). This could be an indication of the potential path that the described initiative is starting to take.

There are also some interesting environmental considerations relating to minerals and petroleum, and the potential environmental impact of the agreement with the EU, given that it has been closely associated with extractive activity, even during the negotiation phase (ALOP et al., 2011). The Observatorio TLC document (2017) notes the environmental consequences of these sectors in relation to FTAs. With regard to the trends in FDI between 2008 and 2014, the mining and petroleum sectors reached nearly 80% of the total in 2010. Their weighting then did not drop below 50% between 2011 and 2014, which shows a clear coincidence between the FTAs coming into effect and the growth of FDI in the mining and energy sector. According to the Observatorio TLC (2017), taking data from the Environmental Justice Atlas[36], Colombia was the country with the second highest

[32] Idem.

[33] http://www.fratinivergano.eu/static/upload/1/1/16.12_.02_TP_Issue_22_1.pdf (accessed 31 March 2018).

[34] Colombia y la UE promueven oportunidades comerciales y de inversión en el marco de la paz (accessed 24 May 2018).

[35] http://m.eltiempo.com/colombia/otras-ciudades/aguacate-amenazaria-a-la-palma-de-cera-del-quindio-159054 (accessed 24 May 2018).

[36] Environmental Justice Atlas. (accessed 22 May 2018).

number of environmental conflicts[37] in the world, with 122 cases in 2016, behind only India, with 232 cases. By type, most are the result of mineral extraction (coal and gold), petroleum and water. By number of cases, the most damaged natural resource is water (30%), followed by soil (24%), landscape (24%) and biodiversity (22%). In terms of ecosystems, the first are rivers (36%), followed by forests (24%), moorlands (7%) and the sea (7%). Of a total of 4.3 million hectares that are currently or potentially affected by conflicts, 63% are linked to fossil-fuel extraction (coal and petroleum).

This context seems to suggest a potential link between FDI and environmental conflict, and a direct link between FDI in the mining and energy sector and FTAs. This explains concerns about the effect of the agreement on environmental degradation and conflict in the country. The Observatorio TLC (2017) alludes to a number of legal proceedings brought against Colombia by foreign mining companies before international courts. These allege supposed damages for not complying with the terms agreed in the FTAs. Some of the cases cited are corporations such as Glencore (Switzerland), Tobie Mining and Eco Oro (Canada), Cosigo Resources (USA), and Cerro Matoso (UK). This 'non-compliance' often involves seeking a more equal distribution of utilities or the introduction of higher environmental standards (generally in response to pressure from civil society). Bodensiek and Peluffo (2016) review the regulations in the FTAs that Colombia has signed with the USA, the EU and Canada with regard to environmental protections that apply to mining and energy activity. They conclude that these agreements have been a setback in national regulations, and that the obligations established are not specific enough. Lastly, under the auspices of the Office of the General Controller of the Republic, Garay (2013) provides a compendium of articles that highlight the many dimensions of mining in the unique context of Colombia, and the complex framework that includes factors such as drug trafficking, conflict and corruption.

4.1.2. Peru

The key points in the debate over the issue of the environment in Peru are discussed below, in line with the various opinions expressed by the Government, business owners and civil society.

Peru's position on the implementation of Title IX is described from 2014 onwards, when Peru reported on the Legal and Political Framework for Environmental Matters, the Strategic Focus for Environmental Management, as well as the National Agenda and National System for Environmental Action. It also provided details of the National System of Environmental Impact Assessment and the National Service of Environmental Certification for Sustainable Investments (SENACE). One year later, in 2015, the Peruvian Government presented its Environmental Agenda 2015-2016, which was structured around the following four pillars: 1) biological diversity 2) climate change 3) environmental quality 4) environmental governance. These pillars were included in the framework of the National Environmental Management System (SNGA), which is cross-sectoral, decentralised and participative. The National Agenda for Environmental Action 2015-2016 was made up of a set of environmental strategies and programmes[38]. A national environmental award was also created as an incentive to apply best practices (EC, 2016).

Later, in 2016, Peru presented its environmental policy position for 2016-2021, emphasising the need to work in coordination with all ministries, at regional and local level, and with businesses and other parties. The following five priorities were agreed: a) the sustainable use of biological diversity, particularly forests; b) climate change mitigation and adaptation; c) efficient management of solid waste; d) integrated management of coastal areas; e) pollution prevention and control, and eco-efficiency; f) an appropriate institutional framework. Similarly, the Ministry of Environment (MINAM) highlighted the strategic pillars known as: 'Clean Peru', for solid waste management, eco-efficiency

[37] Environmental conflicts are defined as 'those originating from struggles associated with the appropriation of natural resources and environmental services by different actors' (Observatorio TLC, 2017).

[38] Joint Statement of the Sub-Committee on Trade and Sustainable Development (June 2015).

and sustainable public bodies; and 'Natural Peru', for biodiversity, bio-business and water plants, as well as the main objectives to achieve in the first three months of former president Kuczynski's administration[39].

In 2017, Peru presented the progress made in the environmental sector in the context of its specific positions on the following areas: a) sustainable use of biodiversity; b) green growth and climate change adaptation; c) integrated marine-coastal management; d) solid waste management; e) pollution prevention and eco-efficiency; f) environmental institutions; g) methods of implementing environmental policy. The country has also been taking action to implement its national contributions for the Paris Agreement on climate change.[40]

According to former minister Pulgar Vidal, and despite the varying regulations that made environmental standards in Peru more flexible, the business sector was opposed to applying the environmental regulations under Title IX. Action was taken against regulatory bodies such as the Agency for Environmental Assessment and Enforcement (OEFA)[41], and there were even attempts to make the progress that MINAM[42] had made on environmental control disappear. Law 30230, passed in 2014, establishes measures that reduce the OEFA's sanctioning power and the fines that businesses must pay if they do not meet environmental standards, which reduced the OEFA's funds. Similarly, some businesses also questioned the OEFA's role in recovering fines[43], suggesting that those funds should be collected and sent to the public treasury. Furthermore, in 2015, the National Society for Mining, Petroleum and Energy began legal proceedings before the Judiciary to avoid paying the contribution (called 'Aporte por Regulación') that finances environmental control by the OEFA. The payment was established under Law 27332 in the year 2000 as a contribution from the sectors to the bodies that regulate public services. Nevertheless, the Judiciary recognised the legality and constitutionality of the contributions that the OEFA[44] receives and, although the control was tedious, it was necessary to ensure responsible investments.

More recently, in June 2017, the Peruvian Government approved new environmental standards that apply to extractive, productive and services activities. New Environmental Quality Standards for air and water reduce the permissible levels that have a direct impact on human health[45]. This change did not escape criticism from some mining business owners who had deemed the previous quality standards to be 'strict', implying that it was almost impossible to meet them[46]. It would also raise the risk that the country would face ongoing legal proceedings and would have to appeal to the courts to resolve disputes. This would directly benefit companies such as the metallurgical complex Complejo Metalúrgico de La Oroya, the sale of which was frustrated last year after tenders were left unfilled because investors wanted more flexible environmental quality standards[47].

With regard to civil society's position on the implementation of Title IX from an environmental perspective, one of the main criticisms of the Agreement is that it does not ensure the environmental standards are met. The reason for this is that it does not establish mechanisms to resolve disputes over non-compliance claims. The investigations carried out by civil society representatives indicate that if one of the parties dropped their environmental standards, there

[39] Joint Statement of the Sub-Committee on Trade and Sustainable Development (December 2016).

[40] Joint Statement of the Sub-Committee on Trade and Sustainable Development (November 2017).

[41] *Gestión* newspaper (20 March 2015). 'Empresarios mineros y ministro Pulgar Vidal enfrentados por fiscalización ambiental'.

[42] *Gestión* newspaper (20 March 2015) 'Hay empresarios que buscan desaparecer la fiscalización ambiental, afirma Pulgar Vidal'.

[43] Declaration by the proposal and action network Minería Ambiente Comunicaciones (MUQUI).

[44] Echave, J., *Diario Uno* newspaper (13 April 15) 'La fiscalización ambiental en la mira.'

[45] Peruvian Society for Environmental Law (21 April 2017, SPDA) 'SPDA cuestiona propuesta del MINAM sobre nuevos Estándares de Calidad Ambiental para el Aire'.

[46] *Gestión* newspaper (7 June 2017) 'Perú oficializó estándares ambientales más flexibles para actividades extractivas y productivas'.

[47] Gestión newspaper (20 April 2017) Pulgar Vidal: Peru would lose a claim for USD 800 million from the former owner of Doe Run as a result of relaxing environmental regulations.

would not be mechanisms and processes to urge exporters to implement best practice, or in the case of Peru, to improve management and regulation in accordance with the commercial benefits set out (Fernández Maldonado, 2016).

The Agreement lays down minimal environmental regulations compared with the Generalised Scheme of Preferences (GSP+), due to the lack of an obligation to fulfil environmental agreements. On the contrary, GSP+ makes the validity of commercial benefits dependent on meeting environmental, labour and human rights standards. The FTA therefore represents an environmental setback (Fernández Maldonado, 2016). The evidence here shows that as the result of eagerness to attract investment in the country's strategic sectors, environmental controls have become more lax, as have the main regulations on the matter. Changes have been made to environmental certifications, and particularly to the right of native populations to prior consultation, careful use of water resources and access for local people[48]. According to civil society representatives, the relaxation of environmental standards has benefited the private sector and foreign capital from EU countries in specific sectors such as hydrocarbons, energy, infrastructure and transport[49]. These legislative changes began in Ollanta Humala's government and have continued. Table A11 in the Annexes details the main changes.

With regard to the sustainable use of biodiversity and conservation of renewable and non-renewable resources, Peru has highlighted, at the meetings of the Trade Committee, that the sustainable use of biological diversity, climate change mitigation and adaptation, proper resource management, and pollution control and prevention are among its priorities. These priorities are in line with the application of the Agreement's provisions on trade and sustainable development. However, it is worth noting that in recent years, the environmental regulatory framework has become more relaxed. This has happened as laws and supreme decrees have come into force that hinder the conservation of biodiversity because of the environmental impact that some investments, mainly in mining, can have on the environment. Furthermore, Peru's National Commission Against Biopiracy has identified potential applications to register products made from Peruvian natural resources in other parts of the world, without the due authorisation or compensation of the Peruvian peoples or state as the owner of those resources and/or that knowledge. The January 2018 report refers to around 14 000 cases and the majority of them are from Asia, in particular China. This means that a commercial profit is being made from traditional resources and knowledge, benefiting inappropriately from Peruvian products and harming native populations[50].

The different regulations on investment and the conditions established have led to an increase in the number of socioenvironmental conflicts. In March 2018, the number had reached 125, which is over 66% of the total 188 social conflicts recorded in Peru by the Public Prosecutor's Office (SIMCO). Of the 89 active socioenvironmental conflicts, 64% are linked to mining activity, followed by conflicts in the hydrocarbon and energy sector. The main claims relate to pollution of water resources, access to natural resources and the impact on ecosystems, as well as the harm to the economic activity of the communities in the area affected by the project. Madre de Dios is the region with the most illegal mining activity, which has led to the deforestation of 7 000 hectares of forest. People trafficking is an alarming problem in the region that is driven by the demand from mining settlements. Different studies have confirmed high levels of mercury in fish consumed in Puerto Maldonado, which are above the levels permitted by the World Health Organization (WHO). This also leads to deforestation in national reserves such as Tambopata, which has a negative impact on

[48] Based on: 'Queja contra el gobierno peruano por falta de cumplimiento de sus compromisos laborales y ambientales previstos en el acuerdo comercial entre Perú y la Unión Europea (2017)'.

[49] Based on: 'Queja contra el gobierno peruano por falta de cumplimiento de sus compromisos laborales y ambientales previstos en el acuerdo comercial entre Perú y la Unión Europea (2017)'.

[50] Presentation to the National Commission Against Biopiracy by the engineer Andrés Valladolid.

environmental conservation, natural resources and health. Similarly, illegal mining infringes upon fundamental rights by not complying with labour or environmental regulations.

Some of Peru's greatest challenges are related to the fight against illegal mining, as well as informal mining. These issues have become a regional and national problem, given that several native communities are demanding an end to these activities and the immediate withdrawal from their lands. In the case of Madre de Dios and other regions, illegal mining has enabled the development of an informal economy, which is increasing local social and environmental problems.

The forestry sector has not developed to its full potential, partly due to the fact that farming has been prioritised over forestry development. In fact, various threats are putting pressure on forests, such as migratory agriculture and illegal logging, which has increased deforestation. Other difficulties identified include limited coordination between institutions, reduced financing and/or the number of projects that promote conservation and proper forest management. The EU stressed this issue at meetings of the Sub-Committee on Trade and Sustainable Development in 2014, and it introduced initiatives to combat the illegal timber industry and the trade derived from it. The forestry sector also has great potential that must be developed to allow business opportunities to be generated under the Agreement, which would also promote the sustainable management of forests.

However, despite the progress made in regulation to protect forests, there is a need to recognise their value, the biodiversity and ecosystem services that they provide, and their cultural and social value for the communities that develop within them. The sustainable management and use of forests and their resources should therefore be promoted. However, it should still be pointed out that the official position maintains that forest management and governance has been improved, and that progress has been made in implementing conservation activities.

4.2. Human rights

The EU has responsibilities to protect human rights in its trade policy. As already mentioned, the European Parliament required the governments of Colombia and Peru to make an explicit, unequivocal commitment on public policies that promote and defend fundamental rights[51]. That requirement is based on Article 21 of the Treaty, according to which all agreements that the EU signs with third countries must incorporate a clause on democracy and human rights. Such a clause must stipulate the immediate and unilateral suspension of any agreement in the face of 'serious violations' of those rights and freedoms[52]. In principle, that requirement will have been satisfied by the formulation of action plans by both Governments. However, although human rights are the foundation of each contracting party's domestic and foreign policies under these democracy clauses, there is a risk that they will remain only a declarative principle, as they do not include mechanisms that require their protection.

4.2.1. Colombia

In 2017, the Office of the United Nations High Commissioner for Human Rights (OHCHR) registered 441 attacks on human rights defenders, including 121 murders (84 leaders, 23 members of social and political movements, and 14 people killed in social protests). The OHCHR also recorded 41 attempted murders; 213 threats; 61 violations of privacy and property; 4 forced disappearances; and the rape of a female activist. The groups most at risk were community, indigenous, rural, Afro-Colombian and trade union leaders (OHCHR, 2018). Amnesty International (2018) also raised cause

[51] See Paasch (2011) andhttp://www.europarl.europa.eu/news/pt/press-room/20120612IPR46704/meps-want-human-rights-pledge-before-backing-trade-pact-with-peru-and-colombia (accessed 27 April 2018).

[52] http://www.dw.com/es/comercio-pro-derechos-humanos/a-15822611 (accessed 17 April 2018).

for serious concern on this issue. Within the overall area of human rights, labour rights demand particular attention given their enormous sensitivity in the Colombian context. Since the negotiation process, the Agreement has also been marked by criticism of its possible implications for labour standards and trade union rights in Colombia. In 2009, CCAJAR warned of the possible risk that insecurity in trade union action would intensify even more in the country, as the result of the decline of labour and pension guarantees in the trade or services of foreign businesses[53].

Despite the European Parliament's requirement and the existence of an action plan on the subject, five years after the Agreement was signed, there are still concerns about human rights in Colombia. This was made clear in a letter to the President, the Ministers and the Director of Public Prosecutions in March 2018, which was signed by 27 MEPs from seven countries and four parties[54]. The MEPs applauded the progress made in protecting human rights defenders and in investigating crimes against them. However, they also emphasised the serious situation often faced by trade union leaders, the flare-up of violence against them, and the stigma they experience, sometimes even from the state itself. It is important to remember that this communication took place in a context defined by the peace agreement between the Government and FARC, for which the MEPs reiterated their unconditional support. They expressed their great disappointment that magistrates with a history of human rights activism were excluded when the Special Jurisdiction for Peace (JEP) was formed. In fact, this last measure has been appealed before the Constitutional Court of Colombia by the International Federation of Human Rights, after noticing signs of discrimination in access to public office[55]. Nevertheless, critics of the 27 MEPs question the recourse to human rights in the EU's foreign policy in relation to Latin America. Some critical voices have even dismissed the EU's official discourse on the subject as partial and inconsistent, serving geostrategic and economic interests more than being an authentic defence of human dignity (Hernández, 2017).

Alongside these kinds of controversies, it is important to mention a report that analyses the reality of Colombian civil society in the light of the roadmap (García, 2016)[56]. It observes the concerning difficulties that it faces in providing representation locally, and refers, for example, to the unbalanced dialogue between organisations and authorities when dealing with technical documents. Added to this is the insecurity that civil society leaders face in carrying out their work. In any case, despite the complicated human rights context in Colombia both historically and today, it is difficult to establish a link between the current state of affairs and the Trade Agreement as such. It is therefore helpful to review studies such as Saura's (2013), which analysed the negotiation process and warned of negative effects on food, health, water, sanitation and land that would be felt most severely by vulnerable groups, including informal workers, farmers, Afro-Colombians, indigenous people and women. Some of these impacts had already been demonstrated in the context of the GSP+ trade regime, which also included safeguards for rights and freedoms. Now that the Trade Agreement is in place, there do not seem to be many promising signs of change, according to the author.

It is also worth reviewing the assessment of the human rights situation in Colombia by two CSOs, three years after the Agreement was signed. TNI and Oidhaco (2016) give specific examples of human rights violations in the context of productive activities linked to European businesses. They explicitly mention Cerrejón and Drummond, the two biggest exporters of Colombian coal. They are accused of violating the economic, social and cultural rights, as well as rights to health, housing, access to water, a safe environment or to remain on the land, of vulnerable communities (farmers, indigenous peoples and people of African descent). Two cases that had a great impact in the media

[53] https://www.colectivodeabogados.org/TLC-entre-Colombia-y-Peru-con-la (accessed 26 April 2018).

[54] http://www.omct.org/es/human-rights-defenders/urgent-interventions/colombia/2018/03/d24777/ (accessed 27 April 2018).

[55] https://www.fidh.org/es/region/americas/colombia/colombia-la-exclusion-de-defensores-y-defensoras-de-derechos-humanos (accessed 27 April 2018).

[56] The reference is García (2016) and it does not constitute the official opinion of the European Parliament.

at the time, both of which took place in La Guajira (one of the country's poorest departments), were the diversion of the Bruno stream[57] and the violent displacement of the Roche community[58]. The first affected a population of African descent and the second an indigenous settlement.

Another sector tainted by these reports is palm oil, which has sometimes been linked to threats, land grabbing and population displacement. The Italian company Poligrow is referred to as an almost ironic example, with its notorious presence in Mapiripán (Meta). The resistant communities on the land state that they have been threatened, and have reported degradation of their environment, mainly as a result of the depletion and contamination of water resources. The paradox lies in the fact that Poligrow presented itself as the first corporation in Colombia to be certified with the Sustainable Agriculture Network's Rainforest Alliance stamp, and even took part in the Milan Expo 2015 as an exemplary business in the country.

The TNI and Oidhaco report (2016) also voiced criticism of the role of EU institutions with regard to the Trade Agreement specifically. It particularly questioned whether the mechanisms adopted by the European Commission are sufficient to supervise the progress of the FTA, beyond trade and investment flows. It suggested that a deeper analysis of the Agreement's impact on Colombia's economic structure is required, taking into account living conditions, labour rights, and social and environmental conflicts[59]. TNI and Oidhaco believe that the democracy clause would need to introduce monitoring and evaluation tools for that purpose. They also call for spaces for more direct CSO participation that goes beyond merely providing technical and scientific reports, helping to complete and contrast the information provided by the Colombian Government. There are questions over why the European Parliament has not driven more positive changes in the human rights situation in Colombia. During the INTA mission in February 2018, it was again concluded that effective guarantees for human rights and labour freedoms are still lacking, along with transparent and inclusive consultation mechanisms (EP, 2018).

As a complement to what has already been described, the statistics leave no room for doubt over the severity of the human rights problem in Colombia. Other international human rights organisations, such as Amnesty International (2018) and Human Rights Watch[60], have also expressed cause for concern. This is based on highly concerning data used in both reports, which address issues such as armed conflict (which in their opinion persists, despite the peace agreement), the security forces, human rights defenders, gender violence and ethnic minorities.

The section on labour standards demands particular attention within the overall area of human rights because of their great sensitivity in the Colombian context. Since the negotiation process, the Agreement has also been marked by strong criticism of its possible implications for trade union and labour standards. In 2016, three years after the Trade Agreement was signed, CSOs put the spotlight on the stagnation of collective negotiations, along with the increase in trade union contracts, which were seen as a method of labour outsourcing that violated the roadmap. In connection with this, collective agreements persisted as a tactic to undermine trade unions. It was condemned by the ILO and OECD, and had already led to sanctions (three, of small amounts) involving two multinationals (BBVA and SAB Miller). However, it did not generate any tangible change in that illegal practice.

In the field of labour inspection, although there have been improvements in inspectors' salaries (with the expected effects on reducing corruption and strengthening independence), there is still

[57] https://www.elheraldo.co/la-guajira/pese-protesta-indigena-desviacion-del-arroyo-bruno-sigue-su-curso-366589 (accessed 9 May 2018).

[58] https://www.colectivodeabogados.org/?Desalojo-violento-de-comunidad-afro-Roche-La-Guajira-para-favorecer-intereses (accessed 9 May 2018).

[59] Despite the efforts made by the working team during the last phase of this document's development, circumstances beyond our control have prevented us from asking the qualitative opinion of European Commission representatives (DG Trade) on the Agreement's progress. This would have enabled a comparison with this assessment and other similar ones set out in later sections.

[60] https://www.hrw.org/sites/default/files/colombia_sp_1.pdf (accessed 6 May 2018).

no department for inspection, monitoring and control that has adequate capacity and resources. The Government has also not met its obligation to increase the team of labour inspectors, which was a substantial element of the Obama-Santos Labour Action Plan (PAL) agreed in 2011, in the context of the FTA with the USA: In March 2016, there were 828 inspectors, and the target was 904, meaning there were 76 fewer than agreed (TNI and Oidhaco, 2016)[61].

From the start, the roadmap was designed to strengthen the PAL in an attempt to ensure the basic conventions on labour regulations and human rights were applied. That explains the importance of following the PAL (as a political instrument that must be consulted) when assessing the process of implementing the labour and trade union aspects of the Trade Agreement with the EU. During the INTA mission in February 2018, a meeting was held in Bogotá between a delegation of the US Office of the United States Trade Representative (USTR) and Department of Labor (DOL), with the aim of reviewing the status of the PAL. At the meeting, the INTA suggested conducting joint monitoring with the USA (and Canada) of its respective FTAs with Colombia (EP, 2018).

A study by the National Trade Union School (ENS, 2016) was published on the fifth anniversary of the PAL coming into effect. It begins by recalling the plan's objectives, which were to: 1) strengthen public labour institutions to broaden protection of labour and trade union rights; 2) reduce informality and illegal labour outsourcing; 3) broaden protection for freedom of association; 4) improve protection for the lives, integrity and freedom of trade union members; 5) make progress in overcoming impunity of crimes committed against union members. The five economic sectors prioritised in the PAL, because of their importance to Colombia's external trade and their particular susceptibility in labour and trade union matters, are palm oil, sugar cane, flowers, ports and mining.

Some of the most relevant points of the ENS' findings (2016) are set out below in broad thematic areas:

a) *PAL and public labour policy*: The measures adapted to date do not appear to reflect the tangible changes in public policies on inspection, formalisation, mediation, protection for freedom of association, prevention of violence and overcoming impunity. There seemed to be signs of a lack of political will to seek and achieve consensus with the union body, and to apply the proposed measures and report on the development process, ultimately, to safeguard the original spirit of the PAL.

b) *PAL and the protection of labour rights:* There is an undeniable contradiction in labour relations regulations in Colombia. On the one hand, significant steps appeared to have been made in: curbing outsourcing (Article 63 of Law 1429/2010); strengthening the Ministry of Labour's sanctioning power (Law 1610 /2013); establishing prison sentences for violating freedom of association (Article 200 of the Penal Code); and strengthening pubic institutions ('recreating' the Ministry of Labour, contracting and training inspectors, updating the inspection system and improving investigative competence). Nevertheless, the practical implementation of such provisions in the form of decrees and resolutions seems to gave fallen short of the intention of the PAL and its desired objectives.

c) *PAL and international commitments:* The PAL is open to suggestions made by international bodies on the full realisation of labour and trade union rights for Colombian workers. Texts that are formulated for that purpose include the European Parliament resolution 2012/2628(RSP), a study launched by the OECD in 2016 on the labour market and social policies in Colombia, and recommendations of the ILO's High-Level Mission in 2011. All of these documents agree on the need to end informal and illegal labour; improve workers' access to justice and defend freedom of association; eliminate violence against trade unionists; eradicate impunity for crimes against trade unionists; support victims' right to the truth, justice and reparation; and reform the institutional structure for managing labour conflicts.

d) *PAL and model labour clauses:* The PAL is not truly binding, which is why its definitive implementation has remained at the mercy of political will in the Colombian Government. This has led to outcomes that fall too short of those forecast in 2011, when the plan was introduced, with regard to public policies designed to protect the labour and trade union rights of Colombian workers, particularly in the context of free trade.

[61] https://www.tni.org/files/publication-downloads/ue-colombia_fta.pdf (accessed 2 May 2018).

Hawkins and García (2014) make a similar appraisal, emphasising the 'political rather than legal nature' of the PAL, and the fact that it has no sanctioning capacity.

e) *PAL and peace:* In view of the current political and social context in Colombia, there is no doubt about the PAL's potential to contribute to stable and long-lasting peace in the country. The issue is that, in addition (or parallel) to the political agreements, the issue of work requires new legal frameworks that support labour relations that are founded on respect for labour rights, freedom of association and social dialogue.

The ENS study (2015) is very relevant to a specific assessment of the implementation of the roadmap derived from the European Parliament resolution 2012/2628(RSP) as it describes the Colombian Government's failure to adhere to the roadmap in five key areas: 1) labour coordination bodies that are not independent trade unions; 2) lack of transition from informal work to formal contracted work; 3) violence against trade unionists; 4) limited participation of civil society; 5) shortcomings in legal aspects and implementation. In its analysis of the degree to which the roadmap has been implemented, it notes that between 2012 and 2013, 36 agreements were signed to formalise 12 030 workers. However, that figure equates to 0.05% of the total workforce. These agreements will have been signed between the Ministry of Labour and businesses, without the direct or delegated participation of workers. The most serious issue was undoubtedly the continued violence against trade unionists: 20 murders, 22 attacks, 12 arrests and 181 threats (in 2014 alone). The reactive rather than preventative nature of the official protection programme is questionable, as it is limited to assigning bodyguards to threatened leaders and does not advocate an environment for trade union action that is free of violence. It is worth remembering that, according to the abovementioned OHCHR statistics (2018) on the alarming context for human rights defenders in Colombia in 2017, trade unionists are one of the groups most affected. Unfortunately, the collection of data on defenders does not draw an exact picture the situation of violence against the trade union movement.

With regard to the nexus between human rights and the environment, it is important to emphasise the problematic nature of mining in Colombia. This is despite the efforts of the Ministry for Environment and Sustainable Development to discourage investment in the sector, because of its serious socioeconomic and environmental repercussions, and despite its vital role in the country's overall exports. The fact is that the sector's multinationals have, at times, bypassed labour legislation by using contractors or alternative contracting methods. In this context, international and multilateral forums are an effective platform for motivating multinational corporations to adopt the Responsible Mining Development Initiative (World Economic Forum, 2013) and other similar certification programmes.

The complex current human rights context in Colombia was recently verified on the ground, in February 2018, by the INTA delegation chaired by MEP Bernd Lange. He issued a stern statement expressing his support for progress in this area. The conclusions of that mission (EP, 2018) will be published officially in the second semester of 2018[62].

In 2015, the Colombian Government published the National Human Rights Action Plan, with huge potential positive implications for labour and trade union rights. With that, it agreed to apply the Guiding Principles on Business and Human Rights: implementing the United Nations 'Protect, Respect and Remedy' Framework. This is based on the precepts of protecting human rights against third parties, corporate social responsibility, and the need to act proactively on risks and impacts affecting people as a result of business activity (Presidential Advisory for Human Rights, 2015).

[62] http://www.europarl.europa.eu/news/de/press-room/20180219IPR98103/we-need-improvement-in-labour-rights-says-lange-after-colombia-peru-visit (accessed 27 April 2018).

The fact that Colombia recently joined the OECD – the 'Best practice club'[63] – brings the Government new international commitments on sustainable development in relation to the environment, human rights, and labour and trade union rights. In February 2018, the Ministry of Labour gave INTA delegates an update on the official progress made in the areas of labour inspection, protection of trade unionists, the creation and formalisation of jobs, and collective negotiation. It also presented the Stamp of Labour Equality in the area of gender equality (Equipares) (EP, 2018).

The roadmap is also designed to strengthen the EU's work to foster more inclusive participation of civil society, not just in the context of trade agreements, but in processes associated with national public policies. It would therefore seem quite sensible to resort to this instrument as a valid and legitimate tool for international cooperation to promote and defend human rights in Colombia, in virtue of its status as a partner country of the EU.

4.2.2. Peru

The democracy clause included in the Trade Agreement with the EU does not allow Peru to take measures to guarantee that human rights are respected in situations that contravene the provisions of the Agreement. The clause only allows measures to be taken against the other country when it has committed a serious human rights violation, and as long as that can be proved (Bartels, 2014). However, in order for the country to progressively fulfil its human rights obligations, it must retain its regulatory powers to protect those rights under such agreements. This would require an addendum to be incorporated into the Trade Agreement that explicitly mentions ILO Convention No 169 and the UN Declaration on the Rights of Indigenous Peoples, in order to guarantee respect for indigenous people's right to consultation. Another important aspect that must be regulated is business activities in the context of human rights. In line with the UN's Guiding Principles on Business and Human Rights[64], the parties must commit to monitor and control the activities of European multinationals operating in Peru.

Peru has declared several districts to be in a state of emergency as a result of the supposed threat that social protests can pose to public security. These districts include the Apurímac-Cusco-Arequipa road corridor, where there are significant mining operations, such as the Las Bambas copper mine. Human rights organisations[65] agree that this is a response to the Government's strategy of criminalising social protest in reaction to conflicts that have arisen from the serious impact that extractive activity has on the environment, health and the life of rural communities. Declaring a state of emergency would, without any justification, violate Peru's political constitution, which states that this option should only be used 'in the event of disturbance of the peace or internal order, catastrophe or serious circumstances that affect the life of the nation.' It also contravenes the Inter-American Commission on Human Rights, which states '[...] that the emergency measures must be justified by a threat to the conditions necessary to maintain the state's political structure in accordance with the principles of representative democracy.'[66].

With regard to labour standards under the FTA, it is worth reviewing the differing positions of the State, businesses and civil society in Peru. With regard to the reports presented to the European Parliament committee on the application of the FTA, and especially the fulfilment of Title IX, in 2014 the Peruvian Government reported on the progress made on labour issues as part of the work plan presented to the European Parliament in 2012. It referred to strengthening the System of Collective Relations, which was intended to reinforce the existing inspection system. The National Superintendency for Labour Inspection (Sunafil) was created for this purpose. Its aim is to 'promote, supervise and control compliance with the socio-labour legal system, and the occupational health

[63] Colombia fue admitida para entrar en la OCDE (accessed 31 May 2018).

[64] http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

[65] http://derechoshumanos.pe/2018/04/los-estados-de-emergencia-limitan-la-democracia-en-el-peru/

[66] https://prohomine.wordpress.com/2014/05/10/la-excepcionalidad-de-los-estados-de-excepcion/

and safety legal system, as well as offering technical advice, carrying out investigations and proposing rules on those issues'.[67] The scale of the fines applicable for non-compliance was also increased. In the same year, special regulations were introduced to register trade unions for the construction sector (SD 006-2013-TR), along with an optional arbitration regulation (SD 014-2011-TR), with the aim of promoting workers' fundamental rights in line with ILO standards. Plans of action and strategies against child labour and forced labour were also introduced, and regulations on equal opportunities for people with disabilities were approved. There was also an increase in the number of inspections aimed at protecting labour rights.[68]

In 2015, in the context of the second meeting of the Sub-Committee on Trade and Sustainable Development, the Peruvian Government presented its strategy and action plan to formalise labour that year. It also reported on the main advances made in implementing the National Strategy to Prevent and Eradicate Child Labour (2012-2021). The strategy sets out various measures to be implemented simultaneously by state institutions and the private sector, with the aim of eradicating child labour and exploitation in Peru[69]. Reference was also made to progress in eradicating forced labour[70] through the implementation of the National Plan to Combat Forced Labour (2013-2017). The plan's objective was to eradicate forced labour, ensure a comprehensive support system for rescued victims, and define conditions to prevent it from reoccurring in the future, as well as approving the intersectoral protocol against forced labour. The inspection regime had also been strengthened through Sunafil, and some positive changes were made with regard to the resolution of labour conflicts and social dialogue. A national award was also introduced for companies that apply best labour practices (EC, 2016).

After the change of government in December 2016, Peru set new labour priorities that focused on the following aspects: a) labour formalisation; b) social dialogue; c) the prevention and eradication of child labour; d) the prevention and eradication of forced labour; e) labour inspection. ILO Convention No 183 on maternity protection was also ratified. Social actors played an active part in the National Labour and Employment Promotion Council (CNTPE), which met every month (EC, 2017).

Lastly, in the context of the fourth meeting of the Sub-Committee on Trade and Sustainable Development, the Peruvian Government emphasised its approval of the Regulation on the Collective Work Relations Law. It was approved with Supreme Decree No 003-2017-TR, which lays down that a trade union licence can be granted, and defines what events are considered eligible and which leaders have the right to request such a permit. It also lays down the necessary criteria for declaring a strike[71]. Approval of this regulation was designed to promote freedom of association and collective negotiation[72]. With the aim of strengthening the labour inspection system, the Supreme Decree modifies the Regulation on the Collective Work Relations Law (No 015-2017-TR) to adapt it to the changes to Law 28806 (General Law on Labour Inspection) and to the provisions of the Consolidated Text of Law 27444 (Law on General Administrative Procedure (D.S. 016-2017-TR). At national level, decentralised Sunafil offices are being set up to increase the number of inspectors[73].

According to the data presented by the business sector, the FTA between Peru and the EU generated a 72% increase in jobs in the non-traditional export sector between 2012 and 2017. In

67 LAW 29981: The law that creates the National Superintendency for Labour Inspection (Sunafil).

68 Joint Statement of the Sub-Committee on Trade and Sustainable Development (2014).

69 National Strategy to Prevent and Eradicate Child Labour 2012-2021, PD.37.

70 Joint Statement of the Sub-Committee on Trade and Sustainable Development (June 2015).

71 See: *El Peruano* newspaper (6 March 2017) 'Modifican e incorporan artículos al Decreto Supremo N° 011-92-TR que aprueba el Reglamento de la Ley de Relaciones Colectivas de Trabajo DECRETO SUPREMO Nº 003-2017-TR.'

72 Joint Statement of the Sub-Committee on Trade and Sustainable Development (November 2017).

73 Joint Statement of the Sub-Committee on Trade and Sustainable Development (November 2017).

2017, 32% of the total job posts were direct, 14.5% indirect and 53% induced. The agriculture and fishing, and agroindustry subsectors were the most important ones, employing 78% of the non-traditional export sector's workers in 2017[74].

For the Peruvian Exporters Association (ADEX), the increase in jobs has led to the Law on Promotion of the Agricultural Sector (Law 27360), given that the labour regime takes into consideration the seasonal nature of agricultural activity[75]. The labour regime for non-traditional exports (Law 22342) not only generates new jobs but also promotes external trade. It also enables businesses in the sector to plan their growth, bearing in mind the difficulties that companies face in maintaining a fixed number of workers as the international environment is very variable, which makes sales volumes unstable[76]. In meetings with business owners and economic analysts in Lima during the INTA mission in February 2018, business owners pointed out the benefits of the Agreement and the fact that exporters are creating formal and decent jobs. However, they emphasised a persisting high level of informality in the Peruvian labour market and the high rate of corruption (EP, 2018).

The National Society of Industries believes that the importance of these labour regimes revolves around the fact that export companies, particularly in trades such as textiles or agroindustry, can contract workers temporarily and indefinitely, depending on the orders they receive from abroad. These kinds of contracts enable formal jobs to be created and have generated an annual growth of 7.2% in the added value exported[77]. Faced with the possibility, in 2017, that the unlimited renewal of non-traditional export contracts could be ended, the business sector argued that this labour regime offers workers the same rights as laid down by law. The sector considers there to be a valid need for export companies to have a temporary contracting system, as their commercial activity depends on the external, rather than internal, market. The export business sector is also exposed to external factors such as a high level of competition, international prices, variations in economic and trade policies, and fluctuations in exchange rates. This means that there are more limitations for non-traditional exporters when it comes to offering greater job stability[78].

According to civil society and research carried out by its representatives, since signing the Agreement, Peru has committed a series of labour infringements, which has limited the extent to which it fulfils workers' fundamental rights. Firstly, it has approved and implemented special labour regimes that directly affect workers linked to trade, which includes the textiles, clothing and agriculture sectors. These regulations are an affront to their freedom of association, access to sources of decent employment, and rights to equality and non-discrimination. Table 12 in the Annexes details the current labour regimes, which do not promote labour stability as they allow businesses to contract workers for short periods, limiting their opportunity to join unions. According to the platform TrabajoDigno.pe. 4.2% of workers in the non-traditional export regime were unionised in 2008. However, in 2016, that group was only 3.3%. This fact is also reflected in the scope of the negotiation. In 2016, 2.5% of workers in the sector were part of the collective agreement, while in 2008, 4.3% were. With regard to salaries, evidence suggests that, on average, a unionised worker subject to the non-traditional export regime earned around PEN 1 525 in 2016. This is more than the average salary that non-unionised workers received. That means that the salary of unionised workers was not only higher, but represented 106% of the average income in the sector, which was PEN 1 437[79]. The Congress of the Republic's Committee on Labour and Social Security is currently promoting an initiative for the gradual incorporation of public sector workers contracted

[74] América Económica magazine(28 March 2018) 'Tratado comercial con la Unión Europea generó más de 470.000 empleos en Perú en el 2017.'

[75] ibid.

[76] Agencia Peruana de Noticias (27 November 2016) ADEX: 'Régimen laboral de exportación no tradicional genera 80,000 empleos.'

[77] *El Comercio* newspaper (23 November 2017) 'Régimen laboral de exportación creó más de 85 mil empleos formales'

[78] *Gestión* newspaper (4 May 2017) 'Adex pide analizar implicancias de cambios a Ley de Contratos de Exportación No Tradicional'

[79] TrabajoDigno.pe portal (12 June 16) 'Claves para entender el debate sobre el régimen laboral de las Exportaciones No Tradicionales cuando el objetivo es impedir la sindicalización'.

under an Administrative Services Contract (CAS), under the Labour Productivity and Competitiveness Law (Law 728). The aim is for workers who are carrying out those activities to enjoy all the relevant benefits.

Secondly, the scarce protection of workers' fundamental rights, and particularly the right to freedom of association, has meant that the rate of unionisation in the private sector is six times lower than it was 30 years ago. It should be noted that Peruvian labour legislation lacks a Labour Code. The non-fulfilment of rulings that restore labour rights, both in the national legal system and the Inter-American Court of Human Rights, often results in impunity for those who infringe labour regulations: mainly companies linked to trade with the EU. On top of that, there has been a proliferation of temporary contracting by private sector companies linked to trade (exports), which has had a negative impact on workers' rights (security, type of employment, income and their right to unionisation and collective negotiation). According to the ILO, Peru is one of the countries in the region with the most records in its database of complaints about violations of freedom of association[80].

Thirdly, the institutional weakness of the authorities responsible for labour control, and the severe limitations in guaranteeing proper adherence to national labour regulations, not only promotes informality but contributes to making labour rights more vulnerable. In fact, Sunafil (the institution in charge of monitoring compliance with labour regulations) does not have the technical or human capacity to carry out its work nationally, as there are only 15 regional offices[81]. There is also a deficit of labour inspectors[82], which means the Peruvian government cannot ensure that its own laws will be applied effectively or that labour standards in international regulations will be respected[83].

It should be noted that in the FTA with the EU the levels of protection for workers are lower than in the FTA with the United States. The labour rights referred to in the Agreement are not the same as those included in the EU GSP+ scheme[84], of which Peru is a beneficiary. The Trade Agreement with the EU only covers fundamental rights and not other standard rights related to decent work, minimum salaries, occupational health and safety, working hours, etc. Furthermore, it does not include a socio-labour dispute settlement mechanism, and the mechanisms for civic participation in monitoring compliance with labour standards in the FTA are weak (RedGE, 2016).

On balance, according to civil society, the workplace, current regulations, the Law on Non-Traditional Exports and the Law for the Promotion of the Agricultural Sector have direct implications for workers' labour rights, as they are employed under unlimited temporary contracts. This situation creates job insecurity and uncertainty regarding the worker's future. It also restricts their freedom of association and collective bargaining. The government at the time did not take appropriate action to remedy this situation, but instead extended the Law for the Promotion of the Agricultural Sector until 31 December 2021 (this law's benefits ended in December 2010). Moreover, various institutions have spoken out about the harmful effects of these labour schemes. For example, as part of its monitoring of the commitments that Peru made, the United States Department of Labour recommended improving labour standards, making short-term contracts consecutive and not restricting workers' rights of association[85]. Report No 357 of the Committee on Freedom of Association of the International Labour Organization (Case No 2675) calls on the Peruvian

[80] Based on the statistics in the ILO's QVILIS database (http://white.lim.ilo.org/qvilis_mundial/).

[81] Sunafil website.

[82] Gestión newspaper (19 January 2017) Sunafil: inspectors demand the creation of 15 offices around the country.

[83] Based on: 'Queja contra el gobierno peruano por falta de cumplimiento de sus compromisos laborales y ambientales previstos en el acuerdo comercial entre Perú y la Unión Europea (2017).'

[84] Trade relations between Peru and the EU are based on the application of tariff preferences that the EU grants unilaterally to certain products originating from Peru, under the special incentive arrangement for sustainable development and good governance (GSP+), which has been implemented since July 2005.

[85] *El Comercio* (20 March 2016), 'Informe de EE. UU. da cuatro recomendaciones laborales al Perú'.

Government to examine a way of ensuring that temporary workers in the non-traditional export sector are not prevented from exercising their trade union rights[86].

Suggestions from the business sector focus on the nature of international trade in agricultural goods and the seasonal nature of these products, which makes it difficult to maintain a fixed number of workers as there is a high dependency on external demand. In this regard, it is believed that short-term employment schemes help to increase formal work in the sector. However, at the third meeting of the Sub-Committee on Trade and Sustainable Development, the EU expressed concerns about labour issues raised by the ILO supervisory system and urged Peru to continue to address the identified shortcomings and improve the effective implementation of international standards[87].

With regard to human rights, both the EU and the Andean countries commited to establishing a domestic advisory group on human rights and democratic principles to ensure the proper implementation of the Trade Agreement. Civil society must also participate in this group. There have been complaints that the scope of those channels is not wide enough to fully achieve the stated objectives (Table A13 in the Annexes shows the current situation). It should be mentioned that, during the INTA mission in February 2018, MEP and Chair of the INTA Committee Bernd Lange stressed the Committee's commitment to supporting Peruvian civil society in their efforts to create an independent domestic advisor group made up of NGOs, trade unions and companies, which would enable progress to be made (EP, 2018). There have also been calls to promote best business practices related to CSR in accordance with the United Nations Guiding Principles on Business and Human Rights and the OECD guidelines for CSR. Finally, the criminalisation of protest is a very serious problem, which suggests that, in order to protect foreign investments, fundamental human rights are being violated.

During the recent meetings with the INTA Committee, which were held in February 2018, the Director of the ILO Office for the Andean countries referred to a high level of fragmentation in the regulatory framework, within which 40 labour schemes coexist. He also mentioned informality, which continues to be the main problem, despite income growth and pressure on the Government to make legislative changes that will guarantee labour rights and effective protection without discrimination. In addition, he alluded to the fact that there are clear inequalities in the labour market based on a significant gender gap, which is reflected in wage discrimination and violence against women. These issues are related to shortcomings in institutional policies and legislation (EP, 2018).

[86] Explanatory memorandum to the draft law amending the labour scheme for non-traditional exports No 509/2016 CR.

[87] European Commission (2017b). Third Annual Report on the Implementation of the EU-Colombia/Peru Trade Agreement.

5. International cooperation

5.1. Colombia

The peace process is a reference framework in Colombia today for exploring international cooperation. The final version of the peace agreement was signed on 24 November 2016, after the text was amended following the plebiscite on 2 October 2016, in which the number of 'No' votes was slightly higher than the number of 'Yes' votes. The peace agreement is built on the following six pillars: 1) comprehensive rural reform; 2) political participation; 3) end of the conflict; 4) solution to the problem of illicit drugs; 5) victims; and 6) implementation, monitoring and verification – all the details can be found in the agreement text (Mesa de Conversaciones, 2017). A year and a half since it was signed, there are serious indications that the implementation process is not proceeding as planned. Civil society organisations, such as the Latin American Association of Development Promotion Organisations (ALOP), have denounced the escalation of violence against social leaders and organisations which support the process. In their opinion, this violence is sponsored by anti-peace political and economic factions whose own interests may suffer[88]. This remark is in line with the concerning human and labour rights assessment made at an earlier date.

Some field research has revealed that there is a real risk that this agreement may fail in practice, which would cause great disappointment – and even frustration – both in and outside Colombia. The report of the Kroc Institute for International Peace Studies (2017)[89] describes the Colombian accord as 'one of the best designed in the world', and it acknowledges that valuable progress has been made, particularly on short-term goals, such as disarmament, the ceasefire and the creation of verification mechanisms. Despite this, it expresses concern for the Special Jurisdiction for Peace (JEP) and the safety of social leaders and former combatants. It recommends increased efforts in the areas of replacing illegal crops, comprehensive rural reform and the special organised crime unit. However, this report can be interpreted in different ways, leading to almost contradictory assessments, ranging from the complacency of the Government, which talks of 'significant progress'[90], to the mistrust of the FARC (now known as the political party Common Alternative Revolutionary Force), which does not endorse the report, essentially due to methodology issues[91].

There has been criticism regarding the progress made in implementing the peace agreement. Mundubat (2017), for example, refers to a widespread failure to fulfil the commitments that the Government made and to the serious risk that incursions by new armed groups, in areas which were previously under FARC control and which the State has not yet reclaimed, pose for former combatants and human rights defenders. The result is a climate of conflict which has not yet been overcome and which has led to an alarming phenomenon of ex-guerrillas abandoning the Territorial Training and Reintegration Spaces, in response to what they see as unrealistic chances of socioeconomic reintegration. This could lead to increased distrust in the current peace talks with the National Liberation Army (ELN). The recommendations that Mundubat (2017) makes to the international community in its report include supporting the implementation of the peace agreement, by requiring the Government to respect the principles of transparency and accountability in the management of technical and financial resources that it receives from abroad, through international development cooperation.

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[88] ALOP por la paz de Colombia (accessed 29 April 2018).

[89] The Kroc Institute is responsible for monitoring the implementation of the peace agreement under the mandate that both parties assigned to it in point 6.3.2 of the final text.

[90] El Acuerdo de paz colombiano es uno de los mejor diseñados en todo el mundo:Instituto Kroc (accessed 16 May 2018).

[91] Razones para no avalar el primer informe sobre la implementación del Acuerdo final realizado por el Instituto Kroc (accessed 16 May 2018).

Soon after the peace agreement was signed, on 12 December 2016, the EU set up the Trust Fund (TF) to provide financial support for the enormous task of implementing it in the post-conflict era[92]. This TF, which is worth EUR 95 million, was added to the EUR 485 million which had been offered previously, EUR 400 million of which were refundable and came from the European Investment Bank and EUR 85 million of which were allocated to humanitarian demining and cooperation for sustainable development (combating climate change, innovation and technology). The EU TF is part of the Colombia in Peace Fund (Fondo Colombia en Paz), in addition to both cooperation channels of the UN, the World Bank and the Inter-American Development Bank with a combined allocation of almost USD 280 million[93], to which the resources from the general national budget are added as the fifth source. With regard to the distribution of the sources of post-conflict funding, 85 % of investment comes from the Colombian State through different channels. International cooperation, which is organised within the Colombia in Peace Fund, and which encompasses the EU Trust Fund, accounts for almost 9 %, while private contributions make up just over 6 %.

In late 2017, the first project financed by the Trust Fund was approved; the 'Sustainable Caquetenian Territories for Peace' project supports agricultural and agroindustrial activity, as well as production and social infrastructure, in two towns in the Caquetá department, which was one of the departments most affected by the armed conflict, and, related to this, has a high presence of illicit crops. The budget for this project includes EUR 3.15 million from the EU, EUR 800 000 from Portuguese companies such as Mota-Engil and Jerónimo Martins, in addition to other contributions from the Galician Fund for Cooperation and Solidarity, the Extremadura Agency for International Development Cooperation and a number of public authorities in Caquetá. The Portuguese NGO Instituto Marqués de Valle Flor and the National Network of Local Development Agencies of Colombia (RedAdelco) are responsible for implementing it. The fact that the project is a joint initiative is one of the features that the High Council for Post-conflict praised most highly when it was presented[94]. Despite these achievements, there has been recent news of corruption in the management of resources allocated to the post-conflict period, which involves the Colombia in Peace Fund. In fact, a series of complaints regarding the alleged irregular conclusion of a significant number of contracts, in a context of dubious transparency, are being investigated. Of even greater concern is the fact that by April 2018, not one production project designed to help ex-guerilla fighters integrate into civilian life had been launched. Following a letter from the Ambassadors of Norway, Switzerland and Sweden to the Ministry of Finance, in which they expressed their concern about such deficiencies, this issue was given more prominence. Shortcomings of this type raise questions about the feasibility of implementing the peace agreement.[95]

The peace process with the FARC, the negotiations with the ELN and the situation in Venezuela (resulting in the arrival of half a million refugees in Colombia) were discussed in Bogotá by the INTA Committee, the Head of the European Union Delegation and the Heads of Mission of several EU Member States. Furthermore, the High Commissioner for Peace stressed to the Mission that the parties were making strenuous efforts to honour their obligations, while the INTA Committee stated that the implementation of the peace agreement could encourage even more European investment in Colombia (EP, 2018).

Connecting the peace agreement and the Trade Agreement, on 28 February 2017, the Bogotá Chamber of Commerce and the Delegation of the EU to Colombia held a seminar on 'Sustainable Trade and Investment between the EU and Colombia: business opportunities in a state of peace', with the purpose of showing Colombian and European businesses the wide range of opportunities

[92] EU Trust Fund for Colombia (accessed 16 May 2018). The list of concepts and procedures which define how the European Union Trust Fund for Colombia operates are included in the agreement establishing the Fund (European Commission, 2016).

[93] Iniciativas de desarrollo para financiar con Fondo Fiduciario Europeo para el posconflicto (accessed 16 May 2018).

[94] Firman primer proyecto del Fondo Fiduciario de la UE para la paz de Colombia que beneficia al Caqueta (accessed 17 May 2018).

[95] Plata del posconflicto pone en riesgo implementación de la paz (accessed 18 May 2018).

for action that the country's new sociopolitical and economic scenario offers in various production sectors[96]. This event was part of the Government's campaign to publicise its sustainability – in a broad sense – approach, which it intended to apply to the Rural Development with a Territorial Approach (DRET) plan, as a tool to implement the first point of the peace agreement, that is comprehensive rural reform. This campaign also included identifying in situ areas hit by armed conflict which are eligible for the implementation of DRET projects (European Commission, 2017). There appears to be, therefore, a potential synergy between both agreements (the peace agreement and the Free Trade Agreement), which enables two-way interaction that benefits both processes and provides a possible avenue of international cooperation.

The link between the peace agreement and the Free Trade Agreement can also be illustrated by the III Hungary-Latin America Forum, which took place in Budapest on 15 November 2017. On this occasion, the Colombian Chancellor promoted the wide range of opportunities which, in her opinion, were available to FDI in 'post-conflict Colombia', and she referred to key sectors such as agriculture and tourism, which could benefit from successful experiences in Hungary. She also announced the firm intention of Colombia and Peru to open a joint embassy in Budapest, while the host Government noted that they had already opened their own diplomatic offices in Bogotá and Lima, as well as in Quito and Sao Paulo (all since 2015)[97]. Although this is an occasional event, it shows that Colombia's official relations have deepened since the FTA was signed and that its relations with other European countries, which were traditionally regarded as 'distant', have expanded. Similarly, Colombia is now attracting the (economic, political and social) interest of those countries, partly as a result of the Trade Agreement.

Historically, the international cooperation that the EU provided to Colombia was aimed primarily at overcoming the causes of the conflict, which bled the country dry for decades, and mitigating its impact. This EU approach to foreign policy reflects an implicit assumption that, in a globalised world, all realities, including those which are dissimilar, have a positive or negative impact on the immediate surroundings, thereby affecting welfare and security in those areas. Under the current complex and interconnected system, this approach to the concepts of development and security goes beyond a purely military strategy and positions the EU as what could be referred to as a 'civil power' on the international stage. The peace laboratories strategy in Colombia was part of that logic at the time (Pastrana and Aponte, 2006).

Traditionally, the EU and its Member States have sought to nurture their close (political, economic and cultural) relationship with Colombia by closely monitoring developments in certain internal affairs which, as highly sensitive issues, demanded particular attention and assistance from the international community. For those purposes of cooperation, the Trade Agreement offers great potential through Title IX on Trade and Sustainable Development. This was shown by the visit of Phil Hogan, European Commissioner for Agriculture and Rural Development, in February 2016, which started a discussion process aimed at establishing a bilateral agreement on trade in organic products (European Commission, 2017). Although at present it is not known how much progress has been made in those negotiations, it is clear that this class of goods could be a promising production alternative in the post-conflict context. In 2017, the Delegation of the EU to Colombia also scheduled a three-day workshop, during which the topic of labour legislation was addressed, with the aim of describing the current trade union landscape in the country (European Commission, 2017). As was explained in detail in the section on labour rights, this area continues to be one of the main concerns for Colombian civil society, which has led to continued demand for improvements under Title IX of the Trade Agreement.

[96] Colombia y la UE promueven oportunidades comerciales y de inversión en el marco de la paz (accessed 24 May 2018).

[97] Colombia destaca la importancia de TLC con la UE en pleno proceso de paza (accessed 1 May 2018).

Against this background, Parra (2012) refers to what she views as a change in the long-standing EU international policy guideline concerning Colombia and Peru. This became apparent after the signing of the Trade Agreement, based on a comparison of the articles of the FTA signed by both Andean countries with the USA, on the one hand, and with the EU, on the other. The difference in the focus of the two FTAs is that the European agreement includes clauses on disarmament and human rights, which go beyond trade and are not featured in the North-American agreement. The latter text prioritises trade and investment much more heavily.

Apart from strong objections to the influence that the signing of the Agreement between the EU, Colombia and Peru could have had, in terms of the dynamics of integration in the Andean Community, García and Jiménez (2014) present a generally positive assessment of the partnership between the EU and Latin America and the Caribbean, based on a historical review of relations between the two blocks, with regard to a number of topics of common interest, such as the biregional partnership, a strategic alliance, a trade boost, action plans, LAC-EU political dialogue and bilateralism. The authors stress in particular that the trade agreements have helped to launch beneficial synergistic processes, including in areas other than trade. With regard to challenges, creativity is required in order to find new forms of interaction in new areas of shared interest.

In addition to the positive views on this type of initiative, some questions have been raised concerning the action of EU institutions in relation to the Trade Agreement, the role of the European Commission in monitoring and evaluating the FTA and more direct communication with CSOs[98] (TNI and Oidhaco, 2016). In this regard, the methodology used by the EU to evaluate the impact of free trade agreements should be reviewed, as is mentioned in the Commission's report (European Commission, 2017a). In relation to the previous point, it should be noted that Law 1868 (1 September 2017)[99] clarifies 'the submission of the annual report on the development, progress and consolidation of trade agreements ratified by Colombia', and it only requires a report on the exchange of goods and services, FDI and their impact on employment but not on the environment. The aforementioned report (TNI and Oidhaco, 2016) also mentioned the European Parliament and the commitment that it made to CSOs when the Trade Agreement was ratified given that, subject to the democracy clause, greater monitoring and involvement in the development of human rights in the country would be expected. In this respect, during the 2018 Mission to Colombia and Peru, it was acknowledged that INTA is an example of the role that the European Parliament could play in supporting other European institutions in monitoring Title IX, as it facilitates dialogue with civil society, on the basis of the action plans proposed by both countries. On 20 June 2018, INTA held a public hearing on trade with Latin America; the topics included an analysis of the implementation of the Trade Agreement (EP, 2018).

Finally, the dialogue on drugs, money laundering, minerals and oil should be mentioned. This is an example of the assistance that the EU gives to Colombia under the Agreement and as part of cooperation on difficulties that the Sub-Committee on Trade and Sustainable Development identified during the monitoring of Title IX (European Commission, 2017). In the light of the section on the environment, there is evidence of the Agreement's impact as a result of promoting mining activities, among which the energy-mining industry is particularly prominent. In response to this reality, in December 2016, the EU was actively involved in a regional seminar that the OECD held in Colombia on mineral supply chain management, with a view to future regulation of conflict minerals. Following that event, the EU Delegation in Bogotá called on several embassies of Member States to set up a working group on illegal mining. In the field of energy mining, the know-how arising from processes like this one – in addition to scientific and technological developments in EU

[98] Despite attempts made by the team in the final stage of this document's drafting process, circumstances beyond its control prevented it from obtaining the qualitative opinion of representatives of the European Commission (DG Trade) on the progress of the Agreement, which would have made it possible to verify this assessment.

[99] Law 1868/2017 (accessed 25 May 2018).

countries – could be very useful in helping the Colombian Government to manage environmental disasters, such as the spill at La Lizama oil well 158, which is owned by Ecopetrol, in the department of Santander, and was described by experts as the country's worst environmental disaster in history[100].

5.2. Peru

There is a long tradition of cooperation between Peru and the EU, and, since 2003, this cooperation has developed under the Political Dialogue and Cooperation Agreement between the EU and the Andean Community. Changes have occurred as Peru has become a middle-income country (see the amount of the cooperation for the 2014-2017 programme in Table 14). Peru was classified as a middle-income country in 2008, which has had an impact on the type of cooperation, in such a way that it is no longer provided in the form of contributions or finance (which has been decreasing) but rather primarily as technical assistance. This status poses new challenges for international cooperation in Peru, related to the drop in funding for cooperation, the move towards South-South cooperation and the need to meet a wider range of SDG priorities, which, as will be shown, are the basis of EU cooperation in Peru.

In fact, the EU supports Peru by implementing various cooperation programmes with funding and technical assistance and working with different institutions and national authorities in the areas shown in Table 15. The programmes are coordinated directly with ministries and also with CSOs. As can be seen, the main areas of cooperation are higher education, social inclusion, competitiveness and innovation, democracy and human rights, the implementation of the OECD country programme, climate change and security, justice and drugs, which have been prioritised with the aim of promoting sustainable development and the 2030 Agenda in Peru. In these fields, the EU promotes policy coherence to increase the impact on the development of other policy proposals.

Table 14. EU-Peru bilateral cooperation framework

Multi-annual Indicative Programme 2014-2017	Agreements being implemented *(EUR million)*	Agreements to be signed in 2018 *(EUR million)*	Total *(EUR million)*
Sector 1: Inclusive development at local level	40	12.04	52.04
Sector 2: Sustainable trade and investment	0	10	10
Support measures	3.96	0	3.96
Total	43.96	22.04	66

Source: Delegation of the European Union to Peru

With the aim of further utilising the benefits of the Trade Agreement between Peru and the EU, programmes aimed at supporting the implementation of public policies through initiatives which improve competitiveness and innovation and, in turn, diversify the economy, are important. One of the priority areas is the Amazonia, where EU contributions total more than EUR 50 million. A number of meetings took place with local and national authorities in 2018 to establish cooperation agreements. The issues which are promoted are the conservation of native species, production chains and the sustainable use of natural resources , as well as the fight against drugs, criminality and initiatives which encourage social inclusion[101]. The massive influx of refugees from Venezuela, estimated to total around 100 000, was one of the topics that were addressed at the meeting with a number of Peruvian Government representatives during the INTA mission in February 2018. It was viewed as one of the areas in which international cooperation could be deepened (EP, 2018).

100 Derrame de petróleo en el pozo La Lizama (accessed 24 May 2018).

[101] Delegation of the European Union to Peru (15 May 2018)Unión Europea renueva compromiso para el desarrollo económico y social en regiones amazónicas.

With regard to strengthening production chains, the EU has developed the Inpandes project, which the Andean Community is implementing and has been focused on the use of cacao, fish farming and fishing on the Peru-Colombia border. The project establishes how to manage production chains properly while conserving and using resources sustainably, with the aim of fostering the economic and social development of communities. The EU also supports the Ministry of Development and Social Inclusion (MIDIS), the Ministry of Economy and Finance, with the cooperation of Germany, in implementing development and inclusion policies for vulnerable communities located in Amazonian regions. The programme is focused on reducing poverty indicators, the comprehensive development of children, access to drinking water, electricity and sanitation, and medical support.[102]

Following recommendations from the OECD, Peru has started to create Regional Development Agencies (RDA), which are intended to enhance the participation of regional governments and cooperation of State bodies in fostering inclusive economic development. In this regard, the EU has committed to supporting the launch of RDAs and regional development and innovation strategies through a financing agreement, for which a Memorandum of Understanding was signed[103].

Other initiatives supported by the EU include the National Plan for Green Jobs, which is promoted by the Ministry of Labour and Promotion of Employment and the ILO and which encourages good labour practices in a green economy, in accordance with the international commitments that Peru has made and the National Green Growth Strategy. According to the Coordinating Body of International Cooperation Organisations (Coordinadora de Entidades Extranjeras de Cooperación Internacional, or COEECI)[104], one of the priority areas for cooperation in Peru is social inclusion, through programmes that reduce inequalities. Another key topic is the defence of human rights. In this area, work is needed to strengthen institutions and permanent mechanisms. Analyse and disseminating policies and institutionalising cooperation results are recommended actions, as are continuing to work on a culture of citizenship and democracy, and increasing areas for coordination and synergies with various actors at different levels. This agenda seems to be ongoing.

EuroCámaras Perú[105] has identified a series of topics and/or constraints to be addressed, with the aim of improving the performance of the Trade Agreement in both regions. These issues include double taxation, which increases the tax costs of trading. Joint work is, therefore, recommended on double taxation agreements with EU Member States. More generally, actions that would improve taxation are suggested in order to combat tax evasion and avoidance. Another topic is the registration of medicinal products and medical devices, as well as the registration of dietary foods and dietary supplements, with respect to health authorisation and registration procedures in Peru.

Finally, it should be noted that the mobility of professionals and public procurement are other subjects of interest. In fact, during the meetings held with entrepreneurs as part of the INTA mission in 2018, the importance of tackling the remaining obstacles in areas such as pharmaceuticals, medical devices, short-term visas and public procurement was highlighted (EP, 2018).

[102] *El Peruano* (2016) Convenio de Financiación entre la Unión Europea y la República del Perú.

[103] Delegation of the European Union to Peru (1 March 2018) Perú y Unión Europea Suscribirán Convenio para Promover el Desarrollo Económico y la Formación de las Agencias Regionales De Desarrollo.

[104] COEECI- Belgian NGO Group (2013), 'Seis desafíos de la Cooperación Internacional en el Perú. Definiciones, implicancias y recomendaciones.'

[105] EuroCámaras Perú (2017) 'Potenciar el Acuerdo Comercial Multipartes entre el Perú y la Unión Europea.'

Table 15. EU cooperation with Peru, areas, actions and/or programmes

Areas	Actions and/or programmes
Country programme – OECD	-Support in implementing the recommendations of the 'public governance review' -Establishing a monitoring mechanism
Promotion of EU-Peru trade and investment	-ELAN regional programme: Promotion of technology transfer -'Al-Invest' regional programme: Promotion of SME exports.
Local and regional economic development: exchange of experiences in territorial development and innovation	-INNOVACT: promoting innovation and territorial cohesion on the Peru-Chile and Peru-Colombia borders -Project to strengthen regional capacities for promoting economic development and innovation. Cofunded by Spain and Germany. -Support for local initiatives to strengthen territorial management, local economic development, transparency, civic participation and accountability.
Science and higher education	-Horizon 2020 programme: science and innovation projects -Erasmus+ programme: student mobility at undergraduate, postgraduate and doctorate levels and inter-university cooperation.
Inclusion and social development	-EURO ENDIS budgetary support programme: implementation of the National Development and Social Inclusion Strategy -Support for public policy reforms which promote social cohesion
Security, fight against drugs and organised crime	-Alternative Development Project in the Satipo Province -Project for the prevention of illicit drug use and rehabilitation, implemented by the UNODC -Budgetary support for drugs policy and technical assistance -Bilateral project against drugs and organised crime for 2018 -Regional and global programmes to combat drugs and organised crime: El Pacto, Copolad and Cocaine Route Programme.
Climate change, environment, water management	-The regional FLEGT programme: improving forest management and legal wood trade -Euroclima+ regional programme: Nationally Determined Contributions under the Paris Agreement (consulting and exchange of experiences) -Support for Agrobanco's strategy to become a green bank through technical assistance -Water and wastewater management project in metropolitan Lima with Sedapal
Humanitarian aid	Support for disaster prevention initiatives Funding of initiatives to assist those affected by the coastal El Niño in 2017
Peace process, democracy and human rights	-Peace process: contribution to the Truth and Reconciliation Commission -Political reform: technical assistance for political parties, electoral authorities and civil society, support for public debate and exchange of good practices -Human rights:: support for initiatives to promote human rights
Support for civil society initiatives	Support for civil society proposals and initiatives

Source: Delegation of the European Union to Peru

6. Conclusions and Recommendations

Colombia and Peru have experienced positive macroeconomic development in the context of the Latin America and Caribbean region, which reflects the increasing globalisation of their economies, a process which is supported by the Trade Agreement with the EU. One of the conclusions of the analysis on trade is that the trend in trade flows before and after the Agreement reflects **a stabilising effect on trade**. In fact, if EU bilateral trade with Colombia and Peru and the countries' external trade with the rest of the world are compared, the Agreement has had a clear positive impact after five years.

The second feature to highlight is the **very high concentration of trade**: in EU exports to Colombia, the seven main suppliers account for almost 85% of sales. Similarly, the concentration of imports is high, given that only eight countries account for 92% of total EU purchases of goods from Colombia. In Peru, the level of concentration of imports by Member States is even higher than the corresponding level of EU exports, as only five countries account for 82% of purchases from Peru.

Furthermore, **a diverse range of products are exported from the EU and the concentration of imports** from the Andean countries is high. The concentration of imports from Colombia is much higher than the concentration of EU exports to that country. The concentration of products that the EU imports from Peru is much higher than that of exports, although it is lower than the concentration of EU imports from Colombia. It should be noted that banana imports from Peru have exceeded the trigger level of the safeguard clause every year since the Agreement entered into force and that, according to data for the first quarter of 2018, they are also expected to exceed that level this year.

As regards foreign direct investment, bilateral FDI flows between the EU and Colombia and Peru are highly volatile. This is due to a number of factors and, therefore, they are not necessarily attributable to the implementation of the Trade Agreement. The **sources of FDI are highly concentrated in a few European countries**, and Colombian and Peruvian companies still make very few investments in the EU. Furthermore, although FDI has significant potential in both Andean countries, there is no clear evidence that it makes a significant contribution to diversifying production, creating new sectors or highly technological activities in these countries.

With regard to intellectual property, Article 324 of Title XIII refers to improving and creating new trade and investment opportunities, fostering competitiveness and innovation, as well as modernising production, facilitating trade and the transfer of technology. However, **as regards intellectual property, the Agreement has not yet been exploited fully** for the benefit of Colombia and Peru, both in relation to geographical indications and the potential effects on improving capacities for innovation, and their effects on the production specialisation of the Andean countries.

With respect to sustainable development, and specifically to environmental aspects, there are serious concerns about the impact of the Agreement related to, among other things, the **lack of guarantees that environmental standards will be met and that those standards will be relaxed** to facilitate investment in extractive industries. Colombia is witnessing a gradual relaxation of environmental legislation, which coincides with the implementation of the Agreement with the EU, preferably in favour of the energy and mining industry and, although it has made progress towards ratifying key international instruments, such as the Paris Agreement and the Minamata Convention, challenges concerning ILO Convention No 169 and the prior consultation process still remain. In Peru, there is also a lack of a **dispute settlement mechanism**, and standards have been relaxed, which, combined with the weakened role of the Ministry of the Environment, has led to the rights of investors being given precedence in socioenvironmental conflicts, apart from the commitments made in the Agreement.

The approach adopted in the Trade Agreement is **inadequate to ensure the sustainable management of natural resources and biological diversity**. Despite the opportunities for sustainable development that the Colombian Government *bioeconomy* strategy offers, cases such as the palm oil industry are the source of severe socioenvironmental impacts. Moreover, the Agreement exposes the State to legal action by companies to defend national sovereignty over access to natural resources and the enjoyment of the benefits of exploiting those resources. The major challenges facing the Peruvian State also include combating illegal mining, informal mining and the problem of deforestation in the Peruvian Amazon, as well as increasing international biopiracy and the misuse of Peru's resources and traditional knowledge without the relevant authorisation and payment.

The human rights landscape in Colombia continues to be concerning, despite the peace agreement between the Government and the FARC, and the positive measures that the State has adopted. Furthermore, the National Action Plan on Business and Human Rights may help to ensure respect for labour and trade union rights. However, **the violation of rights by some European businesses is disturbing** and affects vulnerable groups of the population (farmers, indigenous people or people of African descent). There is also a growing trend towards the **criminalisation of social protest in Peru**. In addition, there is no overall picture of labour conditions, including the right to freedom of association and to decent work. The direct implications of current legislation, as well as the temporary and provisional nature of labour regulations, restrict the freedom of association and create uncertainty among Peruvian workers. In Colombia, it also appears that the roadmap has not been implemented as planned. trade union activity and the defence of human rights in general are still criminalised by illegal agents and, sometimes, the State itself, and the leaders of such activities face serious risks. Furthermore, it is concerning that labour and trade union conditions in some European companies do not comply with the roadmap, which reveals the uneven progress of the Obama-Santos Labour Action Plan, depending on the commitment under scrutiny.

In international relations, **the FTA has helped to deepen institutional relationships between Colombia and Peru and the EU**. In this respect, taking into account the challenges of implementing the peace agreement – suspicions of corruption, and violence against social leaders and ex-combatants – it is reasonable to state that the FTA offers great potential for strengthening the peace agreement. Moreover, the Amazon is a priority area for EU cooperation, through the promotion of the conservation of native species, production chains and exploitation of resources. The fight against drugs, criminality and social inclusion are also areas of major interest for cooperation. However, **CSOs have been critical of the European institutions' monitoring of the FTA**. They have suggested that the Commission gives little importance to sustainable development, as it is described as adopting a distant position, and referred to the limited demands that Parliament has made in relation to the democracy clause, as it has not made more pressing demands in the field of human rights.

The analysis and conclusions in this document have helped to outline the following ideas as a basis for recommendations:

1. In trade in goods and services, taking account of the high concentration of EU imports from Colombia and Peru, there is scope for greater diversification of EU purchases from Andean countries. Establishing actions to promote external trade that helps to achieve greater diversification, of both exporting countries and importing countries in the EU, could also be suggested. In the specific case of banana imports, and given that imports from Peru have exceeded the trigger volumes set in the Agreement, it would be appropriate to analyse the effect that they have on the European market.

2. There is still scope for the European institutions to help to promote the diversification of exports, also based on the biodiversity in Andean countries, by potentially further relaxing rules on organic products and 'novel food', in particular for products that are already consumed in Colombia and Peru and, which, therefore, as experience has shown, do not pose a risk to human health. Greater importance should also be given to biodiversity, by supporting the implementation and monitoring of international conventions.

3. The Trade Agreement should be regarded as an instrument that may further help to encourage the setting-up of cooperation projects aimed at building capacities in science, technology and innovation. To that end, a revision of the procedure to include Colombian and Peruvian geographical indications (GI) is recommended, in addition to promoting scientific and technological capacity-building, and the globalisation of higher education, taking into account that the significant achievements that have been made in this area as part of the European integration process could be used as a reference. In particular, the possibility of offering greater scientific and technological cooperation for managing the socioenvironmental impacts of the energy mining industry could be mentioned, for example.

4. In terms of the environment, the causes that may lead to unfair demands on States should be explored, as they have sovereignty over their natural resources and claim their benefits. International and multilateral fora can be used more in all sectors and, especially, in sensitive sectors in Andean countries, such as the mining, energy and hydrocarbon sectors. Companies could also be further encouraged to support the Responsible Mineral Development Initiative.

5. Another way in which the European institutions can contribute to the environmental aspects of the Agreement is by enhancing the monitoring of the good practices of European enterprises in their activities in Colombia and Peru and focusing on corporate social responsibility. As regards the sustainable use of biological diversity, the Trade Agreement should be revised taking into account Decision No 486 of 14 September 2000 of the Andean Community of Nations. Discussion on the socioenvironmental impacts of palm oil must also be urgently encouraged. In this respect, it should be noted that progress has been made in discussing this issue at the European Parliament (draft report presented by MEP Kateřina Konečná).

6. The Parliament and the Council could also give greater attention to the regulatory framework which is affecting human rights and the fundamental freedoms of persons; for example, the declaration of a state of emergency, the reason for which could be linked to protecting investments and may not be completely justified.

7. As well as referring to democratic governance, territorial governance also has implications, taking into account institutional weakness and the lack of laws, which intensify the occurrence of socioenvironmental conflicts. An example could be the concessions for investments in oil or mining in territories where indigenous communities live, or to which they have a claim, in the mountains or rainforest. Europe has a long history and experience in these issues, and it could play a key role in cooperation to raise awareness of important good practices. Unfortunately, several of these key issues are not a priority in the Andean Community (CAN) following the 'reengineering' process[106]. Therefore, they would have to be implemented bilaterally or by further developing the EU-Colombia/Peru FTA.

8. The lack of an overall picture of labour conditions, including the right to freedom of association and to decent work, makes it appropriate to consider adding an addendum to the Agreement,

[106] The reengineering process of the CAN started with the goal of renewing the dynamism of the integration process and its functioning, leading to a new agenda, in which topics related to trade and telecommunications were prioritised in particular, as the intention was to position the CAN on international markets. The environmental issues were removed and, in line with that decision, the ad hoc committees and groups that were not related to the priority lines and areas of action were abolished. For more information, see Decisions 792 and 797 of the CAN and the Work Plan of the Colombian Interim Presidency of the Andean Community.

referring explicitly to ILO Convention No 169. To ensure respect for human rights, and in particular labour and trade union rights, Andean governments must make efforts in these areas, and the EU can offer to assist them, under the democracy clause of the Trade Agreement. There also seems to be an opportunity to exploit the potential of the FTA to support the peace process in Colombia in creative ways, such as trade in goods produced by victims of the conflict or promoting production projects in which victims and ex-combatants participate. It is equally important to stress the need to support the monitoring of efficient and transparent management of financial resources allocated to implementing the peace agreement and, in particular, contributions under the Trust Fund.

9. A recommendation should also be made in relation to business. European multinationals are expected to conduct their activities with full respect for human rights, and labour and trade union rights. In this area, the parties could consider making a serious commitment to monitoring and controlling the operations of European companies in the territories of both Andean countries. Renewed impetus should also be given to building the capacities and conditions for the collaboration to succeed and generate spillover effects, which will help local companies to learn about highly technological activities.

10. The role of civil society organisations encourages reflection on action that the European institutions could take to guarantee and evaluate their fuller participation in discussions to improve the implementation of the democracy clause, focusing more on monitoring Title IX by means of closer, continuous and smoother interaction with civil society organisations.

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Annexes

Table A1. EU-Colombia bilateral trade by sections of the Harmonised System, 2017.

Section	Description	Exports				Imports			
		million EUR	% EU	% Extra-EU	CAGR 2017-2012 %	million EUR	% EU	% extra EU	CAGR 2017-2012 %
I	Live animals; animal products	19.3	0.3	0.06	15.2	35.6	0.6	0.13	3.7
II	Vegetable products	54.5	0.9	0.22	8.7	1 854.9	33.4	3.33	6.3
III	Animal or vegetable fats and oils	31.0	0.5	0.53	9.2	367.5	6.6	3.33	40.4
IV	Food products, beverages and tobacco	288.9	4.9	0.38	16.1	207.3	3.7	0.47	4.6
V	Mineral products	184.0	3.1	0.17	37.0	2 581.6	46.5	0.71	-15.3
VI	Products of the chemical or allied industries	1 416.1	24.0	0.48	2.2	32.4	0.6	0.02	4.7
VII	Plastic, rubber and articles thereof	294.4	5.0	0.41	2.8	41.7	0.8	0.07	9.2
VIII	Raw hides and skins, leather, furskins and articles thereof	14.6	0.2	0.08	5.1	26.7	0.5	0.17	-7.0
IX	Wood and articles of wood; wood charcoal	22.6	0.4	0.17	5.1	1.1	0.0	0.01	-4.8
X	Pulp of wood, paper and paperboard	187.4	3.2	0.61	3.7	5.8	0.1	0.04	5.3
XI	Textiles and textile articles	174.6	3.0	0.36	4.8	38.2	0.7	0.03	-3.2
XII	Footwear, headgear and parts thereof	19.0	0.3	0.18	10.7	1.5	0.0	0.01	3.7
XIII	Articles of stone, ceramic products and glass	65.5	1.1	0.31	2.7	5.4	0.1	0.04	3.9
XIV	Pearls, precious metals and articles thereof	29.4	0.5	0.05	19.4	91.4	1.6	0.13	3.9
XV	Base metals and articles of base metal	242.7	4.1	0.23	-4.8	96.9	1.7	0.09	-22.2
XVI	Machinery and mechanical appliances, parts and accessories	1 520.7	25.8	0.31	-0.5	108.5	2.0	0.02	22.0
XVII	Transport equipment	847.0	14.4	0.28	-3.2	6.4	0.1	0.00	15.2
XVIII	Optical or photographic instruments and apparatus, etc.	350.1	5.9	0.35	2.5	12.8	0.2	0.02	-2.8
XIX	Arms and ammunition; parts and accessories thereof	5.0	0.1	0.11	5.8	-	-	-	-
XX	Miscellaneous manufactured articles	91.3	1.5	0.27	0.4	9.5	0.2	0.02	8.9
XXI	Works of art, collectors' pieces and antiques	0.5	0.0	0.01	-4.4	1.8	0.0	0.05	-5.0
XXII	Unclassified	30.7	0.5	0.11	0.3	21.1	0.4	0.10	2.2

Notes: CAGR = compound annual growth rate
Source: own production based on Eurostat's Comext database.

Table A2. Main products exported from EU to Colombia (HS 6-digit).

Code	Product description	2017				2012	CAGR 2017-2012 %
		million EUR	% EU	% EU Cumulative	% extra EU	% EU	
300490	Medicaments consisting of mixed or unmixed products...	292.7	4.89	4.89	0.41	4.77	2.1
880240	Aeroplanes and other aircraft...	257.0	4.29	9.18	0.54	8.83	-12.1
870323	Passenger motor vehicles; cylinder capacity over 1 500 cc but not over 3 000 cc	210.3	3.51	12.70	0.28	2.64	7.6
841112	Turbojets or turbofans of a dry thrust > 25 kN	123.6	2.06	14.76	0.92	0.35	45.2
271012	Light oils and preparations, petroleum oils...	122.9	2.05	16.81	0.39	0.00	386.3
300220	Vaccines for human medicine	83.1	1.39	18.20	0.84	1.32	2.5
860310	Self-propelled railway or tramway coaches, vans and trucks	75.3	1.26	19.46	6.51	0.06	85.5
300212	Antisera and other blood fractions	72.1	1.20	20.66	0.84	-	-
230990	Preparations of a kind used in animal feeding	55.8	0.93	21.60	1.83	0.12	54.3
300439	Medicaments containing hormones or steroids...	52.8	0.88	22.48	0.65	0.42	17.8
842230	Machinery for filling, closing, sealing or labelling bottles...	52.4	0.88	23.36	1.54	0.46	15.6
300215	Immunological products	52.3	0.87	24.23	0.35	-	-
901890	Instruments and appliances used in medical, surgical or veterinary sciences, n.e.s.	44.0	0.74	24.97	0.50	0.61	5.4
380892	Fungicides	39.8	0.66	25.63	2.11	0.64	2.2
210690	Food preparations, n.e.s.	39.7	0.66	26.29	0.70	0.46	9.2

Notes: CAGR = compound annual growth rate
Source: own production based on Eurostat's Comext database.

Table A3. Main products imported by EU from Colombia (HS 6-digit).

Code	Product description	2017				2012	CAGR 2017-2012 %
		million EUR	% EU	% EU Cumulative	% extra EU	% EU	
270112	Bituminous coal 'ECSC', whether or not pulverised, but not agglomerated	1 407.2	25.10	25.10	10.74	25.00	-8.2
080390	Bananas, fresh or dried	919.9	16.41	41.51	23.78	8.80	3.9
270119	Coal 'ECSC', whether or not pulverised, but not agglomerated (other than anthracite and bituminous)	663.1	11.83	53.34	22.50	16.61	-14.3
090111	Coffee, not roasted, not decaffeinated	606.3	10.81	64.16	8.37	4.65	8.6
270900	Petroleum oils and oils obtained from bituminous minerals, crude	355.3	6.34	70.50	0.19	24.42	-30.0
151110	Crude palm oil	289.4	5.16	75.66	10.39	0.67	37.9
841112	Turbojets or turbofans of a dry thrust > 25 kN	84.5	1.51	77.16	0.67		-
710391	Rubies, sapphires and emeralds	70.9	1.27	78.43	12.39	0.38	16.6
060312	Cut flowers and flower buds, of a kind suitable for bouquets or for ornamental purposes, fresh	64.5	1.15	79.58	56.58	0.74	0.1
151321	Palm kernel or babassu oil, crude	60.4	1.08	80.66	9.57	0.04	80.6
080440	Avocados, fresh or dried	59.5	1.06	81.72	5.08	0.00	3 488.4
720260	Ferro-nickel	56.7	1.01	82.73	10.10	3.27	-27.4
081090	Tamarinds, cashew apples, jackfruit, lychees and sapodilla plums...	55.1	0.98	83.71	18.11	0.43	8.0
210111	Extracts, essences and concentrates, of coffee	45.6	0.81	84.53	11.11	0.50	1.1
160414	Tunas, skipjack and Atlantic bonito, prepared or preserved...	43.2	0.77	85.30	1.92	0.75	-7.7

Notes: CAGR = compound annual growth rate
Source: own production based on Eurostat's Comext database.

Table A4. EU-Peru bilateral trade by sections of the Harmonised System, 2017.

Section	Description	Exports				Imports			
		million EUR	% EU	% extra EU	CAGR 2017-2012 %	million EUR	% EU	% extra EU	CAGR 2017-2012 %
I	Live animals; animal products	30.1	0.7	0.10	6.6	259.0	4.3	0.95	6.1
II	Vegetable products	37.8	0.9	0.15	12.1	1 714.2	28.3	3.08	7.0
III	Animal or vegetable fats and oils	11.9	0.3	0.20	21.4	66.3	1.1	0.60	-17.6
IV	Food products, beverages and tobacco	173.2	4.3	0.22	13.1	468.5	7.7	1.06	-3.9
V	Mineral products	83.7	2.1	0.08	8.4	2 475.7	40.9	0.68	-2.2
VI	Products of the chemical or allied industries	636.4	15.8	0.22	8.6	115.3	1.9	0.07	6.7
VII	Plastic, rubber and articles thereof	176.4	4.4	0.24	5.7	4.8	0.1	0.01	11.9
VIII	Raw hides and skins, leather, furskins and articles thereof	4.6	0.1	0.03	6.6	5.4	0.1	0.04	-5.9
IX	Wood and articles of wood; wood charcoal	25.5	0.6	0.19	7.2	12.3	0.2	0.10	2.1
X	Pulp of wood, paper and paperboard	117.7	2.9	0.38	1.8	1.2	0.0	0.01	6.3
XI	Textiles and textile articles	76.9	1.9	0.16	6.3	144.8	2.4	0.13	0.5
XII	Footwear, headgear and parts thereof	5.6	0.1	0.05	9.4	1.5	0.0	0.01	4.4
XIII	Articles of stone, ceramic products and glass	45.0	1.1	0.21	1.0	4.1	0.1	0.03	7.5
XIV	Pearls, precious metals and articles thereof	7.8	0.2	0.01	7.9	46.3	0.8	0.06	-24.8
XV	Base metals and articles of base metal	226.9	5.6	0.21	-4.6	661.8	10.9	0.58	-0.3
XVI	Machinery and mechanical appliances, parts and accessories	1 407.6	35.0	0.29	-2.0	33.7	0.6	0.01	29.4
XVII	Transport equipment	630.2	15.7	0.21	10.7	3.5	0.1	0.00	-0.2
XVIII	Optical or photographic instruments and apparatus, etc.	199.5	5.0	0.20	8.5	3.1	0.1	0.00	2.2
XIX	Arms and ammunition; parts and accessories thereof	7.7	0.2	0.16	30.3	0.0	0.0	0.00	-
XX	Miscellaneous manufactured articles	87.2	2.2	0.26	7.8	3.3	0.1	0.01	-1.6
XXI	Works of art, collectors' pieces and antiques	3.7	0.1	0.05	59.0	0.8	0.0	0.02	-5.4
XXII	Unclassified	25.0	0.6	0.09	-3.5	28.1	0.5	0.13	-11.7

Notes: CAGR = compound annual growth rate
Source: own production based on Eurostat’s Comext database.

Table A5. Main products exported from EU to Peru.

Code	Product description	2017				2012	CAGR 2017-2012 %
		million EUR	% EU	% EU Cumulative	% extra EU	% EU	
860310	Self-propelled railway or tramway coaches, vans and trucks	179.2	4.41	4.41	15.48	1.00	38.6
870323	Passenger motor vehicles; cylinder capacity over 1 500 cc but not over 3 000 cc	128.2	3.16	7.57	0.17	2.51	8.0
382600	Biodiesel and mixtures thereof	85.1	2.10	9.67	26.39	0.70	28.5
890690	Vessels, including lifeboats	74.0	1.82	11.49	9.88	-	-
300490	Medicaments consisting of mixed or unmixed products...	66.0	1.62	13.12	0.09	1.17	10.1
300220	Vaccines for human medicine	54.4	1.34	14.46	0.55	0.73	16.4
271012	Light oils and preparations, petroleum oils and oils from bituminous minerals...	43.5	1.07	15.53	0.14	0.37	27.3
850231	Electric generating sets; wind-powered	43.3	1.07	16.60	1.99	0.00	290.9
843143	Parts for boring or sinking machinery	40.1	0.99	17.58	2.02	0.93	4.3
880240	Aeroplanes and other aircraft; of an unladen weight exceeding 15 000 kg	37.9	0.93	18.52	0.08	-	-
220830	Whiskies	36.8	0.91	19.42	0.82	0.71	8.4
721012	Flat-rolled products of iron and non-alloy steel...	30.4	0.75	20.17	3.16	0.72	3.8
848180	Taps, cocks, valves and similar appliances for pipes	30.3	0.75	20.92	0.32	0.73	3.6
853710	Boards, panels, consoles, desks and other bases...	30.0	0.74	21.66	0.30	0.39	17.4
851762	Machines for the reception, conversion and transmission of voice, images or other data...	29.2	0.72	22.38	0.28	0.17	37.7

Notes: CAGR = compound annual growth rate
Source: own production based on Eurostat's Comext database.

Table A6. Main products imported by EU from Peru.

Code	Product description	2017				2012	CAGR 2017-2012 %
		million EUR	% EU	% EU Cumulative	% extra EU	% EU	
260300	Copper ores and concentrates	1 065.3	17.45	17.45	17.38	24.96	-7.4
271111	Natural gas, liquefied	670.5	10.98	28.43	10.94	10.72	0.0
260800	Zinc ores and concentrates	575.7	9.43	37.85	9.39	4.08	17.6
080440	Avocados, fresh or dried	379.4	6.21	44.07	6.19	1.56	31.1
090111	Coffee, not roasted, not decaffeinated	357.8	5.86	49.93	5.84	8.72	-8.1
740311	Copper, refined, in the form of cathodes and sections of cathodes	256.3	4.20	54.12	4.18	6.58	-9.0
070920	Asparagus, fresh or chilled	146.6	2.40	56.53	2.39	1.97	3.5
080450	Guavas, mangoes and mangosteens, fresh or dried	144.3	2.36	58.89	2.35	1.13	15.3
080610	Grapes, fresh	141.6	2.32	61.21	2.31	1.60	7.2
800110	Tin; unwrought, not alloyed	137.0	2.24	63.45	2.24	1.76	4.4
790112	Unwrought zinc, not alloyed, containing by weight less than 99.99% of zinc	129.6	2.12	65.57	2.11	0.72	23.5
030743	Cuttle fish (Sepia officinalis, Rossia macrosoma and Sepiola spp.) and squid...	115.3	1.89	67.46	1.88	-	-
180100	Cocoa beans, whole or broken, raw or roasted	98.7	1.62	69.08	1.61	0.69	17.9
260700	Lead ores and concentrates	97.8	1.60	70.68	1.60	1.15	6.4
200599	Vegetables and mixtures of vegetables	92.8	1.52	72.20	1.51	1.17	4.8

Notes: CAGR = compound annual growth rate
Source: own production based on Eurostat's Comext database.

Table A7. Trade potential of EU exports to Colombia

Chap.	Description	Section	RCA EU	IIM Col.	%
30	Pharmaceutical products.	6	1.77	1.41	12.92
88	Aircraft, spacecraft, and parts thereof.	17	1.93	1.28	4.35
39	Plastics and articles thereof.	7	1.15	1.35	3.77
38	Miscellaneous chemical products.	6	1.31	1.79	3.29
48	Paper and paperboard; articles of paper pulp, of paper...	10	1.47	1.21	2.96
29	Organic chemicals.	6	1.11	1.78	2.81
22	Beverages, spirits and vinegar.	4	1.76	1.52	1.71
33	Essential oils and resinoids; perfumery preparations...	6	1.59	1.73	1.49
32	Tanning or dyeing extracts; tannins and their derivatives...	6	1.44	1.77	1.42
40	Rubber and articles thereof.	7	1.07	1.76	1.31
21	Miscellaneous edible preparations.	4	1.29	1.97	1.15
72	Iron and steel.	15	1.09	1.45	1.12
34	Soap, organic surface-active agents, washing preparations...	6	1.48	1.43	0.97
19	Preparations of cereals, flour, starch or milk...	4	1.63	1.13	0.73
69	Ceramic products.	13	1.09	1.72	0.47
35	Albuminoidal substances; modified starches...	6	1.38	1.58	0.44
83	Miscellaneous articles of base metal.	15	1.22	1.06	0.44
82	Tools, implements, cutlery, spoons and fork...	15	1.11	1.24	0.37
70	Glass and glassware.	13	1.15	1.02	0.35
68	Articles of stone, plaster, cement, asbestos, mica...	13	1.15	1.04	0.31
56	Wadding, felt and nonwovens; special yarns; twine...	11	1.14	1.82	0.19
16	Preparations of meat, of fish or of crustaceans...	4	1.00	1.93	0.09
5	Products of animal origin (n.e.s.i.)	1	1.02	1.08	0.05
78	Lead and articles thereof.	15	1.05	1.61	0.02
79	Zinc and articles thereof.	15	1.10	1.33	0.01

Note: % = share of the total EU exports to Colombia.
Source: own graph based on Comtrade data.

Table A8. Trade potential of Colombian exports to the EU

Chap.	Description	Section	RCA Col.	IIM EU	%
8	Edible fruit and nuts; peel of citrus fruits or melons.	2	4.67	1.28	21.60
9	Coffee, tea, maté and spices.	2	25.31	1.35	9.96
15	Animal or vegetable fats and oils and their cleavage products...	3	2.06	1.01	3.98
6	Live plants and products of ornamental horticulture.	2	32.12	1.76	2.28
21	Miscellaneous edible preparations.	4	2.10	1.04	1.17
39	Plastics and articles thereof.	7	1.13	1.17	0.69
18	Cocoa and cocoa preparations.	4	1.53	1.55	0.61
33	Essential oils and resinoids; perfumery preparations...	6	1.62	1.14	0.05
70	Glass and glassware.	13	1.25	1.19	0.04
34	Soap, organic surface-active agents, washing preparations...	6	1.26	1.28	0.04
38	Miscellaneous chemical products.	6	1.40	1.16	0.03
5	Products of animal origin (n.e.s.i.)	1	1.09	1.40	0.01
1	Live animals.	1	1.31	1.43	0.00

Note: % = share of the total Colombian exports to the EU.
Source: own graph based on Comtrade data.

Table A9. Trade potential of EU exports to Peru

Chap.	Description	Section	RCA EU	IIM Peru	%
84	Nuclear reactors, boilers, machinery and mechanical appliances...	16	1.16	1.14	27.99
87	Vehicles other than railway or tramway rolling-stock...	17	1.39	1.20	8.58
38	Miscellaneous chemical products.	6	1.31	1.94	3.81
39	Plastics and articles thereof.	7	1.15	1.40	3.22
48	Paper and paperboard; articles of paper pulp...	10	1.47	1.91	2.72
73	Articles of iron or steel.	15	1.19	1.67	2.62
86	Railway and tramway vehicles and products...	17	1.13	1.59	1.85
72	Iron and steel.	15	1.09	1.67	1.81
32	Tanning or dyeing extracts; tannins and their derivatives...	6	1.44	1.58	1.59
40	Rubber and articles thereof.	7	1.07	1.68	1.40
33	Essential oils and resinoids; perfumery preparations...	6	1.59	1.59	1.28
21	Miscellaneous edible preparations.	4	1.29	2.10	1.09
82	Tools, implements, cutlery...	15	1.11	1.61	0.92
19	Preparations of cereals, flour, starch...	4	1.63	1.02	0.82
49	Printed books, newspapers, pictures and other products of the industry...	10	1.56	1.14	0.79
69	Ceramic products.	13	1.09	2.04	0.75
11	Products of the milling industry; malt; starches...	2	1.11	2.01	0.74
34	Soap, organic surface-active agents, washing preparations...	6	1.48	1.66	0.72
35	Albuminoidal substances; modified starches...	6	1.38	1.74	0.47
4	Dairy produce; birds' eggs; natural honey...	1	1.78	1.05	0.43
70	Glass and glassware.	13	1.15	1.08	0.33
56	Wadding, felt and nonwovens; special yarns...	11	1.14	1.28	0.15
64	Footwear, gaiters and the like...	12	1.00	1.27	0.14
5	Products of animal origin (n.e.s.i.)	1	1.02	1.62	0.05

Note: % = share of the total EU exports to Peru.
Source: own graph based on Comtrade data.

Table A10. Trade potential of Peruvian exports to the EU

Chap.	Description	Section	RCA Peru	IIM EU	%
8	Edible fruit and nuts; peel of citrus fruits or melons.	2	7.82	1.28	20.01
9	Coffee, tea, maté and spices.	2	7.74	1.35	7.16
3	Fish and crustaceans, molluscs and other aquatic invertebrates.	1	2.63	1.29	4.86
20	Preparations of vegetables, fruit, nuts...	4	3.85	1.37	4.34
74	Copper and articles thereof.	15	6.37	1.19	4.28
7	Edible vegetables and certain roots and tubers.	2	3.89	1.25	4.18
18	Cocoa and cocoa preparations.	4	2.83	1.55	4.02
79	Zinc and articles thereof.	15	17.68	1.38	4.00
23	Residues and waste from the food industries...	4	7.06	1.08	1.69
61	Articles of apparel and clothing accessories, knitted or crocheted.	11	1.66	1.35	1.45
15	Animal or vegetable fats and oils their cleavage products...	3	1.54	1.01	1.06
51	Wool, fine or coarse animal hair; horsehair yarn and woven fabric.	11	4.59	1.28	0.95
16	Preparations of meat, of fish or of crustaceans...	4	1.74	1.05	0.83

Note: % = share of the total Peruvian exports to the EU.
Source: own graph based on Comtrade data.

Table A11. Legislative amendments

Year	Environmental legislation	Amendment
2013	Supporting Technical Reports (ITS) Decree No 054-2013-PCM	*With regard to environmental provisions for investment projects*, this Decree (Article 4) establishes that cases which require modifying auxiliary components, extending investment projects for which environmental certification has already been approved and which have no significant environmental impact or make technological improvements to operations, will not have to go through an environmental management instrument modification procedure. The project owner shall inform the environmental sectoral authority of any modifications in a supporting technical report (ITS). This means that it is not necessary to amend the Environmental Impact Assessments (EIA) and, given that the ITS approval procedures are more flexible than the EIAs and shorter (decreasing from 120 to 15 working days), the EIA does not need to be updated and there is no requirement for informed citizen participation in order to approve the modification, as is the case for the EIAs. The use of ITSs has led to a number of socioenvironmental conflicts, as this instrument has been used to justify major changes to investment projects in the extractive sector (mining and hydrocarbons), in which environmental damage is usually more significant than in others.
2013	Special provisions for the performance of administrative procedures and other measures to encourage public and private investment projects. Supreme Decree No 060-2013-PCM.	Article 2 of these provisions aims to change the deadlines for approval of EIAs, through special provisions for the performance of administrative procedures and other measures to encourage public and private investment. It stipulates that the public bodies that participate in the processes have 20 working days from the entry into force of the decree to assess the detailed and semi-detailed environmental impact assessments and approve the terms of reference. It also prohibits public officials from making requests for information or corrections to the environmental impact assessments regarding matters which have not been included in the terms of reference.
2014	Law No 30230: Law establishing tax measures and simplification to promote and encourage investment in the country.	In *Chapter III: Measures to promote environmental investment*, Article 19 restricts the power of the OEFA to impose penalties for environmental offences for a period of three years, from the entry into force of the law. If an environmental law is breached, the OEFA can only establish corrective measures, and only in the event of non-compliance can it impose special and exceptional penalties (of no higher than 50% of the fine that the OEFA would judge to be applicable), and they can only be applied in certain cases: a) Very serious offences, which cause real and very serious harm to human life and health; b) Activities carried out without the environmental management instrument or the authorisation to start operations, or in a prohibited area; c) A repeat offence within the 6 months after a penalty was imposed. The implementation of this law has encouraged non-compliance with environmental regulations, since penalties for a failure to comply with the laws are only imposed exceptionally. Furthermore, Article 22 defines land-use planning as a 'political, technical and administrative process intended to guide orderly occupation and sustainable use of the land based on the identification of potential and limitations while considering economic, sociocultural, environmental and institutional criteria. *The national land-use planning policy is adopted by Supreme Decree, endorsed by the President of the Council of Ministers and subject to a vote of approval by the Council of Ministers. Neither Ecological Economic Zoning nor Land-Use Planning assign or exclude uses.'* This new definition had negative implications for land-use policy implemented by regional governments since, as part of the land-use planning process, decisions are taken on land use and occupation, either to define or regulate uses. In addition, in Title III, special procedures are established for the physical and legal titling of land involved in the development of public and private investment projects. This measure created great legal uncertainty about rural and native communities' (indigenous peoples) ownership and possession of lands and territories, as well as among smallholders and farmers whose lands were classified as of interest and necessary for the development of an investment project.
2014	Regulation for environmental protection in hydrocarbon activities Supreme Decree No 039-2014-EM	The regulation established measures which relaxed existing environmental and social standards, especially in hydrocarbon exploration, with regard to guaranteeing the right to public participation. The main points of criticism against this law include the following: 1) Annex 1 of the regulation establishes that seismic exploration in maritime, coastal and mountain areas shall only require a semi-detailed environmental impact assessment, even when the exploration projects are located in protected natural areas (PNAs), including their buffer zones or regional conservation areas. 2) No restrictions are imposed on hydrocarbon exploitation in areas which are occupied by indigenous peoples in voluntary isolation and initial contact. Annex 1 to the decree provides for the possibility of carrying out hydrocarbon activities affecting reserved areas or indigenous reserves. In this context, it does not provide for public participation through prior consultation in accordance with Article 15(2) of ILO Convention No 169. 3) Article 54 makes no reference to the inviolability of protected natural areas of indirect use.

2015	Decree approving the law on the acquisition, expropriation and transfer of property, State-owned property, release from interference and other measures for infrastructure works. Legislative Decree No 1192	Its purpose is to simplify the procedures for the acquisition and expropriation of property linked to investment projects, by establishing expropriation of such property as a general rule that must be applied whenever there are large-scale investment projects that have been declared a public need. Difficulties relating to the titling of the lands and territories of Peru's indigenous and native communities are not addressed. This directly affects indigenous territories without a title and their collective rights as the expropriation processes would be approved by a declaration of public need.
2016	Framework Law on the Promotion of Private Investment through Public-Private Partnerships Legislative Decree No 1251	It changes the legal framework for public-private partnerships (PPPs). Article 16 also states that PPPs considered to be self-sustaining shall be exempted from having to obtain the prior opinions of the relevant regulatory body and the Ministry of the Economy and Finance, among others; this means that the PPPs are exempted from having to submit documents which are necessary for public auditing.
2017	Simplification of access to land for priority investment projects Legislative Decree No 1333	It facilitates large-scale infrastructure works considered to be of national interest by creating the 'Special project to facilitate access to land for priority investment projects' (APIP) and implements Legislative Decree No 1192, as well as identifying the need to relocate populations and convene community assemblies, despite the fact that only indigenous peoples have the power to convene assemblies for this purpose. It should be emphasised that this decree is still in force.

Source: Queja contra el gobierno peruano por falta de cumplimiento de sus compromisos laborales y ambientales previstos en el acuerdo comercial entre Perú y la Unión Europea (2017). Own table.

Table A12. Current labour schemes, Peru

Labour Scheme	Description
Law on Productivity and Labour Competitiveness. (Supreme Decree No 003-97-TR)[107]	The decree provides for the possibility of both open-ended employment contracts and fixed-term contracts. However, it makes a formal requirement for a reason to use temporary contracts. It also provides for almost 10 different types of temporary contract including wage benefits and the payment of additional remuneration in July and December as a 'bonus', as well as compensation for length of service (CTS), which means that employees receive a total of 15 payments a year.
Law on Non-Traditional Exports. Decree-Law No 22342.	Article 32 on the 'labour scheme' establishes that industrial companies in the non-traditional export sector can hire 'any number of temporary staff required [...] to perform export production operations'.
Law for the Promotion of the Agricultural Sector. Law No 27360[108]	The scheme created by this law provides for workers in this sector to receive wage benefits in a different way than under the general system. Under this scheme, the bonus and CTS are part of the monthly wage paid to each worker (12 payments a year). In addition, the annual holiday entitlement under the agricultural scheme is 15 days; Social Health Insurance (EsSalud) contributions are only 4%, compared to 9% under the general system.

Source: Queja contra el gobierno peruano por falta de cumplimiento de sus compromisos laborales y ambientales previstos en el acuerdo comercial entre Perú y la Unión Europea (2017). Own table.

[107] Legislative Decree No 728 was enacted on 8 November 1991. The consolidated text was adopted by Supreme Decree No 003-97-TR on 21 March 1997.

[108] The Law for the Promotion of the Agricultural Sector was enacted by Legislative Decree No 885 of 8 November 1996. Law No 27360, which approves the rules for the promotion of the agricultural sector, was enacted on 31 October 2000 and establishes benefits until 31 December 2010. Finally, Law No 28810 was enacted on 22 July 2006, which extended Law No 27360 until 31 December 2021.

Table A13. National Mechanism for Peruvian Civil Society Participation adopted in the context of the Trade Agreement

Participation mechanisms	Institutions involved	Description
labour matters	National Council for Labour and the Promotion of Employment (CNTPE)	National Confederation of Private Business Institutions (Confiep), National Society of Industries (SNI), Lima Chamber of Commerce (CCL), Peruvian Association of Small and Medium-Sized Enterprises (Apemipe), General Confederation of Peruvian Workers (CGTP), Central Workers' Federation of Peru (CUT), the Confederation of Workers of Peru (CTP) and the Autonomous Federation of Workers of Peru (CATP). In April 2017, the Peruvian trade union federations withdrew from the CNTPE after accusing the Government of ignoring policy on social dialogue.
	National Council for Occupational Health and Safety	It was created as a consultation body in the field of occupational health and safety and is comprised of representatives of the State and workers' and employers' organisations. The objective of the Council is to promote an occupational risk prevention culture.
	National Commission to Combat Forced Labour and the National Executive Committee on the Prevention and Eradication of Child Labour	Both are multisectoral bodies led by the Directorate-General for Fundamental Rights of the Ministry of Labour and Promotion of Employment (MTPE) and include representatives from workers' and employers' organisations.
environmental matters	National Commission for Biodiversity (Conadib)	Scope of action is the Convention on Biological Diversity and the Cartagena Protocol, Nagoya Protocol and Aichi Targets.
	National Commission on Climate Change	Scope of action is the United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol thereto.
	National Commission on Combating Desertification and Drought	Scope of action is the United Nations Framework Convention to Combat Desertification.
	National Committee on Wetlands	Scope of action is the United Nations convention on wetlands of international importance especially as waterflow habitats.
	Technical Group on Chemicals	Rotterdam Convention on the Prior Informed Consent Procedure for certain hazardous chemicals and pesticides in international trade; Stockholm Convention on Persistent Organic Pollutants; etc.
	Working Group in charge of coordinating and monitoring proper management of the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora	Scope of action is the CITES Convention.

Source: Queja contra el gobierno peruano por falta de cumplimiento de sus compromisos laborales y ambientales previstos en el acuerdo comercial entre Perú y la Unión Europea (2017). Own table.

Table A14. List of people interviewed in Colombia, institutions, category and position

INSTITUTION/PERSON	CATEGORY	NAME	POSITION
Ministry of Trade, Industry and Tourism	Government	Ana Mercedes Potes Macías	Officer responsible for the use of trade agreements
Ministry of the Environment and Sustainable Development	Government	Andrés Felipe Marmolejo Egred	Contractor at the Office of International Affairs
Institute of Hydrology, Meteorology and Environmental Studies (IDEAM)	Government	Catherine Fonseca Hortúa	Contractor for Cooperation and International Affairs
Ministry of External Relations	Government	Lina Vanessa Triana Salazar Susana Lozano Ramos	Directorate for Human Rights and International Humanitarian Law
University of Valle	Academia	Mario Alejandro Pérez Rincón	Professor at the Cinara Institute
Pontifical Javeriana University	Academia	Lya Paola Sierra Suárez	Associate Professor in the Department of Economy
		Jaime Rafael Ahcar Olmos	Associate Professor in the Department of Organisations Management
Macías Gómez & Asociados	Academia/Consultancy	Luis Fernando Macías Gómez	Manager
Centre of Possibilities and Innovation for Peace (Obserpaz)	Civil Society	Vera Grabe Loewenherz	Director

Table A15. List of people interviewed, Peru.

NAME	POSITION
Felipe Palacios Sureda -	Head of Trade and Economic Affairs Section of the Delegation of the European Union to Peru
Julio Gamero -	Employment and Employment Policy Specialist at the Office of the ILO for the Andean Countries
Juan Varilias -	President of the Exporters Association of Peru (ADEX).
Carlos Alberto González -	Manager of Economic Studies at the ADEX Exporters Association.
Vanesa Cueto -	President of the NGO Derecho, Ambiente y Recursos Naturales (Law, Environment and Natural Resources)
Pedro Francke -	Senior Professor at the Pontifical Catholic University of Peru

This European implementation assessment has been provided to accompany the work of the European Parliament's International Trade Committee in scrutinising the implementation of the trade agreement between the EU and Colombia and Peru.

The in-house opening analysis (Part I) presents the process leading to the signature of the trade agreement. It outlines the socio-economic situation in Colombia and Peru, and relations between the EU and Colombia and Peru, as well as relations between the EU and the Andean Community.

The research paper prepared by external experts (Part II) presents a detailed analysis of trade in goods and services and foreign direct investment. The paper also provides a detailed evaluation of the implementation of the trade and sustainable development chapter of the agreement in Colombia and in Peru. Finally, the paper recommends ways in which implementation of the trade agreement could be improved.

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