European Commission

Trade Agreement between the EU and Colombia & Peru

Trade

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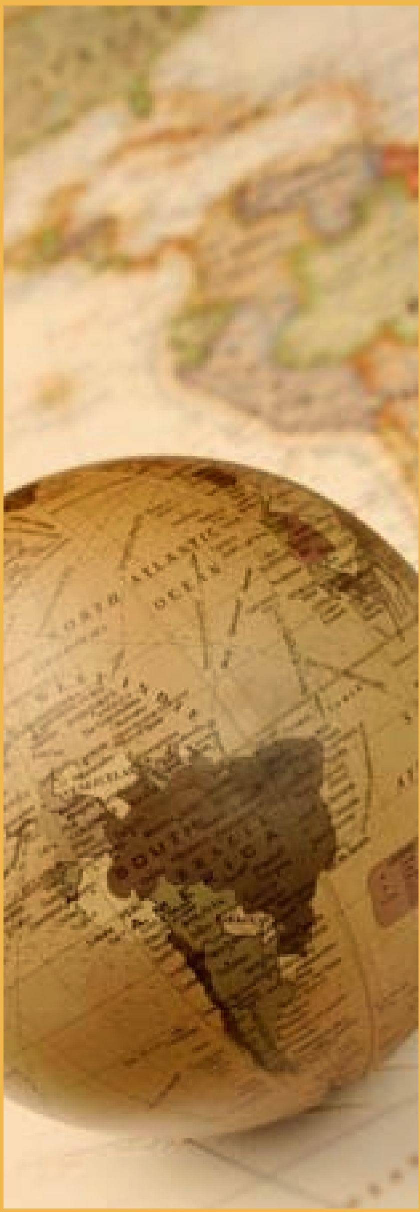
Introduction



The Trade Agreement between Colombia, Peru and the EU fundamentally changes the trade relationship between the EU and these Andean countries. It aims at opening markets for goods, services, government procurement and investment. Tariffs in industrial and fisheries products will be fully eliminated on both sides, while trade in agriculture products will be considerably enhanced by substantial tariff concessions. These new market access opportunities are negotiated and reciprocal rather than retractable and unilaterally-conceded by the EU, as is currently the case. The Agreement is not only about market access and tariff preferences. It also establishes a set of trade rules which, in many instances, go further than the commitments taken within the framework of the WTO.

The first and foremost benefit of the new regime is therefore the establishment of an improved, stable, predictable and enforceable set of trading conditions under which economic operators from the EU, Colombia and Peru will be able to take full advantage of the emerging complementarities between the Parties' respective economies.

The Agreement's benefits will reach far beyond the scope of the Parties' €16 billion trade relationship. It will provide a solid anchor for Colombia and Peru's development agendas. Moreover, the Agreement includes far-reaching provisions guaranteeing the protection of human rights as well as commitments on labour rights and environmental protection. It aims at fostering regional integration among Andeans and preserves the aspirations of all sides toward an association between regions by leaving the door open for other Andean Community countries to enter into this partnership.

Trade flows

The EU is the second largest trading partner of the Andean region after the US.

Bilateral trade in goods with Colombia and Peru together was €16 billion in 2010:
- EU goods exports: €6.2 billion (2.3 to Peru; 3.9 to Colombia)
- EU goods imports: €9.8 billion (5.1 from Peru; 4.7 from Colombia).

Chapter 1

Unlocking market opportunities for exporters

Substantially improved market access for EU goods

Over the course of its implementation, the Agreement will fully relieve EU exporters of industrial and fisheries products to Peru and Colombia from paying customs duties. This will create concrete gains for specific sectors that are already exporting to the region as well as new opportunities for those who are still outside of those markets.

According to Commission calculations, at the latest 10 years after the Agreement's entry into force, EU exporters of these products will be saving at least €225 million annually in tariffs otherwise due. After a gradual liberalisation over a slightly longer period (up to 17 years) an additional €25 million will be saved annually on exports of agricultural and processed agricultural products. This will bring the total benefit for the EU export sector up to more than €250 million a year at the end of the transition period.

Estimates of tariffs saved by EU exporters at the end of the transition period:

- Exporters in the motor vehicles and parts sector will save over €44 million in tariffs.
- EU chemicals, rubber and plastic producers that export to Peru and Colombia will save more than €68 million on duties each year.
- Pharmaceutical products will be relieved of the current €16 million in duties that are paid annually.
- The telecoms equipment industry alone will save €18 million annually, not to mention the basis it creates to support the development of an EU telecommunications services industry in the region.

New opportunities for development through trade in Colombia and Peru

In turn, Peru and Colombia will benefit from the predictability and legal stability entailed in their choice to move from an autonomously conceded system of preferences to a reciprocal set of benefits under the Trade Agreement. Moreover, if the current reform of the General System of Preferences' special incentive arrangement (GSP+) takes effect unchanged, Colombia and Peru will no longer benefit from GSP+ as of 2014. Overall, the EU is conceding 91% coverage of exports from Colombia and Peru under this Agreement.

Although the Agreement carefully preserves EU interests in sensitive sectors, Peru and Colombia will gain from substantial new access to the EU market – in particular for key agriculture exports such as bananas, sugar, rice and rum. The EU will grant 100% coverage for Andean industrial products and fisheries at entry into force, while coverage of exports of agricultural products will take place after a transition period.

The tariff savings for Colombian and Peruvian exporters will amount – in agriculture alone – to more than €225 million a year at the end of the transition periods. These savings are reduced costs to trade that will have a direct beneficial impact on growth, jobs and well-being in entire sectors of these countries' economies. With regard to non-agricultural products, Colombian and Peruvian exporters will benefit from a totally open EU market of some 500 million consumers. Tariffs saved as of day one can be estimated at €36 million per year. This will help exporters from these countries move up the value-added chain.

Estimates of tariffs saved by Colombian and Peruvian exporters at the end of the transition period:

- Colombian and Peruvian exports of agricultural and food products will benefit from significant annual savings of over €226 million.
- Minerals and energy exporters will be relieved of the current €2.7 million in duties that are paid annually.
- Colombian and Peruvian exporters of manufactured products will save €33 million annually.

Given the relative size of the Parties' respective economies, the economic and social impact of the Agreement in Colombia and Peru will by far outweigh – in relative terms – the benefits it will generate for the EU. Exports from these countries are likely to increase by 63% in the case of Colombia and by close to 50% in the case of Peru. This will have direct positive consequences: for local producers in the agriculture and the processed agricultural goods sectors; for manufacturers of light industrial goods such as textiles, clothing and leather goods; as well as in the heavy industrial goods sector and mining.

More flexible Rules of Origin to boost trade

Rules of Origin are criteria that define a product's country of origin, i.e. where the goods have been produced. They play an important role in determining to what extent a product can benefit from tariff concessions or quotas. The Trade Agreement establishes a flexible and straightforward Rules of Origin regime that will help improve trading conditions and facilitate market access for economic operators on all sides.

Colombia and Peru will continue to benefit from a process called 'cumulation' which will enable their exporters to carry on using materials and production parts originating from other Andean countries, Central America and Panama. At the same time, the door will be left open to discuss the future extension of this 'cumulation' to other Latin American countries with which the EU has or will conclude trade agreements.

Peru, in particular, will benefit from increased flexibility as regards the rules of origin for fishery products. In addition to standard vessel conditions that have been agreed with the EU, a series of exceptions for certain fishery products will promote and consolidate local and foreign investment which is of major importance to the short and long-term competiveness of the Peruvian fisheries sector.

Enhanced cooperation in the area of standards and technical regulations

Tariff elimination is meaningless if other technical or procedural obstacles to trade remain. The Agreement addresses these matters through systemic mechanisms but also in a very concrete and targeted way.

Systemically, the Parties will cooperate on market surveillance and will improve transparency by enhancing communication and cooperation in the area of technical regulations, standards and conformity assessment. Concretely, this means extended deadlines for Parties to give comments on each other's draft technical regulations as well as an obligation to make publicly available (through official websites) both the comments received and the final regulations adopted. Recourse to generally agreed international or regional standards is encouraged, as is the mutual acceptance of results in certain conformity assessment procedures.

These systemic improvements will facilitate the free movement of EU, Colombian and Peruvian goods and will have a positive impact on pharmaceutical exports but also on the sale of medical devices, optical instruments, automotive and other types of machinery.

Simplifying labels

The Agreement provides for innovative disciplines in labelling and marking that will limit the amount of information that can be required on a permanent label. This will prevent overly burdensome and unnecessary labels that are not of strict relevance to consumers.

The prior approval of registration of labels will no longer be required, unless they are necessary to protect human, animal or plant health. Furthermore, Parties have agreed to allow the use of international pictograms and nomenclature for product labels. In textiles and footwear, there is a commitment to limit the information which producers have to provide on permanent labels. Non-permanent labels will be used to display any additional information, if necessary.

The Agreement goes beyond WTO Sanitary and Phytosanitary (SPS) requirements in key areas such as the regionalisation of animal diseases and pests, and the transparency of SPS import requirements and procedures. It includes other useful trade facilitation tools such as the listing of establishments that exports can come from. Further improvements, e.g. in the field of cooperation on animal welfare, have been agreed. These will help strengthen capacity-building in Colombia and Peru and hence facilitate their market access. Furthermore, should Colombia or Peru have serious concerns over an SPS measure notified by the EU they can request to discuss – in line with the Special and Differential Treatment provisions in the WTO SPS agreement – the possibility to apply transition periods and/or technical assistance.

Online tools: Helping companies do business in Colombia, Peru and the EU

The Market Access Database is a free, web-based service that provides European companies with information on export conditions in more than 100 countries, including Colombia and Peru. For instance, European exporters have access to information on applied tariffs, internal taxes, customs procedures, labelling requirements, technical regulations and standards. More information can be found online: madb.europa.eu.

The European Commission's Export Helpdesk (EH) informs business in developing countries on how to export to the EU. This online service is free and available in many languages, including Spanish. In addition to a detailed explanation of the Agreement, exporters from Colombia and Peru will have access to up-to-date information on applied tariffs, SPS requirements, labelling provisions, rules of origin, technical regulations and standards. More information can be found on the EH's website: exporthelp.europa.eu.

Improved market access in government procurement and services

Colombia and Peru have committed to grant full access to the procurement of local municipalities in addition to that of central authorities above the pre-determined financial thresholds. Thereby, these countries have opened their government procurement market beyond what they have done so far with any given third country. This will leave ample room for EU bidders to participate in any significant market. EU operators will in addition benefit from improved conditions in Colombia regarding service concessions and airports as well as the purchase of engineering and printing services. In turn, Colombian and Peruvian bidders will have access to the procurement of EU central and sub-central authorities, to railway and gas operators and will also be granted access to EU works concessions.

As regards services and establishment commitments, the Agreement will open markets for EU firms establishing themselves in Colombia and Peru in a broad range of areas including manufacturing industries, services industries and energy production. It will consolidate and provide market access for cross-border services and for establishment in areas of key interest to the EU, such as financial services, professional services, maritime transport or telecommunication services. The Agreement does not relate to public services supplied by governments and includes some horizontal reservations relating to the protection of minorities. The deal reached between the EU and Colombia and Peru relating to the temporary presence of natural persons is a reasonable one. Commitments made by the EU will open EU markets to certain Colombian and Peruvian contractual services suppliers and independent professionals, such as midwives services and architects.

The benefits of reducing barriers to trade in services go beyond the services sector itself. In the long run, enhanced access to services on all sides – coupled with improved investment conditions – will allow Colombia and Peru to benefit from a series of economy-wide welfare and efficiency gains. For instance, businesses that rely heavily on using services as inputs to their production process are likely to see a reduction in their production costs. This – together with facilitated access to credit and investment – will enhance their ability to compete in the global economy. Furthermore, consumers will benefit from improvements to infrastructure and access to a wider choice of high-quality services at lower prices.

Chapter 2

Common rules to level the playing field

Protecting intellectual property rights, including Geographical Indications

Through this Agreement the Parties will ensure an effective level of protection of intellectual, industrial and commercial property rights – including in an area of key interest to many small and medium-sized EU producers. More than 100 regional specialities, so-called 'Geographical Indications' (GIs), will be protected on the Colombian and Peruvian markets. Andean GIs, such as Cholupa del Huila, Maíz Blanco, Pallar de Ica and Pisco, will likewise benefit from protection on the EU market.

Examples of European GIs to be protected

- Champagne, Grappa, Irish and Scotch whisk(e)y, Ouzo
- Bayerisches Bier
- Prosciutto di Parma, Jambon de Bayonne
- Roquefort, Parmiggiano Reggiano, Feta
- Vinho Verde and Tokaj wines as well as wines from the Bordeaux, Rioja and many other regions

The Agreement also contains elaborate provisions on enforcement of Intellectual Property Rights (IPRs) to ensure an effective implementation of these rights to the benefit of right holders from all sides. Right holders will have the necessary tools to defend these rights for example via civil and administrative procedures as well as border enforcement measures. The latter are stronger than the ones already covered at the multilateral level and will cover copyrights, trademarks and – in a subsequent phase – also GIs.

The Agreement aims to ensure that its IPR provisions strike a balance between (a) guaranteeing adequate incentives for investment in research and innovation and (b) respecting wider social objectives as well as public welfare concerns. The Agreement emphasises the importance of promoting the access to affordable, generic medicines and the need to ensure that the rights and obligations under this Agreement are consistent with the Doha Declaration on the TRIPS agreement and Public Health.

Furthermore, the Agreement includes provisions to promote the protection of traditional knowledge and the Andean countries' rich biological diversity. It recognises Parties' right and responsibility to develop policies that protect the traditional lifestyles of indigenous and local communities and respect their role in preserving biogenetic resources. It also includes commitments for Parties to cooperate on protecting Andean and Amazon plant varieties.

More competition and enhanced transparency on subsidies

At entry into force of the Agreement, European, Colombian and Peruvian economic operators will be able to do business within an open, fair and reliable competition environment. Parties will be required to ban through their national and regional legislation the most harmful anticompetitive practices such as restrictive agreements, cartels and abuse of dominance. Mergers which significantly impede competition are also prohibited. Independent competition authorities will be required to enforce the above rules in a transparent, timely and non-discriminatory manner, respecting the principles of procedural fairness and rights of defence. This will contribute to enhancing good governance and transparency in Colombia and Peru.

In addition to the commitments made on transparency in many other areas of the Agreement, more transparency on subsidies is imposed on central governments. They will be required to disclose through regular reports: the legal basis, form, amount or budget and where possible, the recipient of the subsidy granted by the government of one of the Parties or any of its public bodies. At the same time, the right of each Party to grant subsidies to its operators under certain circumstances is preserved.

Creating a structure for dialogue and cooperation

The Agreement establishes a Trade Committee and a number of sectoral sub-committees. This institutional framework foresees regular meetings that will allow each Party to address trade barriers, coordinate positions on technical matters, and adapt the Agreement to changing realities. It will also help the Parties solve any dispute at an early stage before it escalates.

Specialised Sub-Committees

- ☐ Market Access
- ☐ Agriculture
- ☐ Technical Obstacles to Trade
- ☐ Customs, Trade Facilitation, Rules of Origin
- ☐ Government Procurement
- ☐ Trade and Sustainable Development
- ☐ Sanitary and Phytosanitary Measures
- ☐ Intellectual Property

A transparent way to settle disputes

The Agreement between the EU, Colombia and Peru includes a dedicated dispute settlement system in accordance with basic principles such as transparency (open hearings and amicus curiae briefs) and sequencing (no right to impose retaliation until such time as non-compliance is verified). This system, which may ultimately allow for the suspension of trade benefits, is intended as a last resort if Parties fail to resolve disagreements relating to the interpretation and implementation of the Agreement by other means.
Once a case has been filed, it proceeds along a fixed set of procedures and time-frames. Should Parties fail to reach an agreement through formal consultations, they can request the establishment of an arbitration panel, made up of independent legal experts. The panel then issues its binding recommendations, which are to be made public, no later than 120 days – or in urgent cases 60 days – after its establishment.

In addition, the Agreement includes a mediation mechanism for non-tariff barriers to trade in goods allowing for more conciliatory and expeditious solutions to emerge. Impartial mediators with expertise in the issues at hand will assist Parties in their efforts to reach a mutually agreed solution to their differences.

Chapter 3

An Agreement for Sustainable Development

Protecting Human Rights

One basic premise underlying the EU's relations with its partners is the objective of consolidating and supporting democracy, the rule of law, human rights and the principles of international law.

The Agreement incorporates these objectives as follows. Respect for democratic principles, the rule of law and Human Rights, as laid down in the Universal Declaration on Human Rights, is an "essential element" of the Agreement. This means that in case of violation of these fundamental principles and rights by one Party, the other Party may immediately adopt proportionate, unilateral and robust measures – including the termination of the Agreement, or its partial or total suspension.

The Human Rights clause needs to be seen in the context of the broader relations between the EU, Colombia and Peru. Human Rights issues are regularly raised through the existing mechanisms for political dialogue, such as the Human Rights dialogue with Colombia established in 2009.

Promoting the pursuit of social and environmental protection policies

The robust Human Rights clause will be complemented by a section on Trade and Sustainable Development that offers adequate guarantees to ensure that it contributes to sustainable development by promoting and preserving a high level of labour and environmental protection on all sides.

The Agreement incorporates a confirmation of the Parties' right to develop and improve labour and environmental policies, while aiming at a high level of protection and respecting their international commitments in those areas. The Agreement includes firm commitments to effectively implement core labour standards, as contained in the ILO Fundamental Conventions and eight key environmental international conventions. It furthermore includes commitments to refrain from waiving or derogating from protection standards to encourage trade or investment, and to effectively implement domestic legislation and standards.

The Agreement seeks to provide a framework to address any issues that may arise regarding the interaction between trade, social and environmental objectives. Particular attention is given to issues such as biodiversity, sustainable forest management, illegal fishing, cooperation on climate change issues, non-discrimination in working conditions, including those of legally employed migrant workers, or the adoption of precautionary protection measures.

In order to ensure the effective implementation of these provisions, the Agreement establishes two mechanisms consisting of a transparent arbitration system and an engagement process with civil society. This affords an adequate degree of public accountability to initiatives of the Parties' authorities that could carry consequences for labour and the environment.

Arbitration and Monitoring Mechanisms

- Arbitration system: An independent group of experts can be requested by one Party to examine and assess the Parties' fulfilment of their obligations. These impartial experts will issue public reports, allowing for remedial action to be decided.

- Involvement of civil society in monitoring the sustainable development provisions: The Agreement establishes an obligation of transparency coupled with obligatory mechanisms of consultation of and engagement with civil society organisations on matters related to its implementation - both at the domestic level and as part of regular inter-governmental meetings with civil society stakeholders.

Cooperating to strengthen trade capacity

The Trade Agreement also provides for technical assistance and capacity-building initiatives aimed at promoting – in the framework of the EU's traditional cooperation channels – the competitiveness and innovation potential of Peru and Colombia. Notably, this will be achieved by modernising production processes, facilitating trade and allowing for adequate transfer of technology between the Parties. This will take place in areas of common interest and in particular on technical barriers to trade and IPR.

Trade-Related Technical Assistance to Colombia and Peru

At present, the EU runs a series of trade-related technical assistance (TRA) projects aimed at strengthening Colombia's and Peru's trade capacity in order to allow them to take full advantage of international trade as a mechanism for poverty reduction. These cooperation projects are separate from the Agreement, but complement its provisions.

A current EU-Colombian TRA cooperation project aims to improve the administrative capacities that exporters, especially Small and Medium Enterprises (SMEs), depend upon. 81% of its budget consists of a non-reimbursable EU contribution (€4 400 400). To date, the project has successfully strengthened Colombia's competition authority and its quality control system. It has also supported public and private sector bodies on matters relating to SPS, IPR and the international recognition of Colombia's accreditation body.

In 2006-11, Peru and Colombia were beneficiaries of various projects set up under the framework of FAT (Facilidad de Cooperación UE-CAN para la Asistencia Técnica al Comercio): a TRA cooperation project between the EU and the Andean Community (CAN). 70% of FAT's budget is made up of non-reimbursable EU contributions. FAT aims to promote regional economic integration amongst Andean countries and facilitate inter-regional trade with the EU; for instance, promoting the reduction of non-tariff barriers in areas such as labelling and SPS by strengthening relevant public and private sector bodies.

AL-INVEST, a regional economic cooperation programme, is currently in its fourth phase (2009-12). The programme is a European Commission initiative that aims to promote the internationalisation of SMEs in Latin America, including Colombia and Peru.

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