



CIVIL SOCIETY DIALOGUE

**MEETING ON THE EX-POST EVALUATION OF THE
IMPLEMENTATION OF THE
EU-COLOMBIA/ECUADOR/PERU TRADE AGREEMENT:
DRAFT FINAL REPORT**

Date: 15 November 2021

Time: 10:00-12:00

Location: Webex

Lead speakers

- Head of Unit - Latin America Unit, Directorate-General for Trade, European Commission
- Head of Unit - Bilateral relations in Trade and Sustainable Development, Generalised Scheme of Preferences Unit, Directorate-General for Trade, European Commission
- Team Leader for the study, BKP Economic Advisors, accompanied by study team members

Moderator

Civil Society Coordination - Transparency, Civil society and Communication Unit, Directorate-General for Trade, European Commission

1. Introduction

In the introductory remarks, DG TRADE noted that the draft final evaluation report consists of a synthesis report, the main report with annexes, and 10 case studies. The draft report will be the basis for the final report, and the final version will be translated into Spanish.

The evaluation has been carried out by an independent consultant hired by the Commission to ensure the transparency and independence of the evaluation. Therefore, the views expressed in the report are those of the consultant, and do not represent an official view of the European Commission.

The analysis covers the whole implementation period of the Agreement based on the data available at the start of the evaluation, spanning from the start of its provisional application (2013 for the EU, Colombia and Peru, 2017 for Ecuador) to May 2020; it therefore does not, by and large, cover any developments related to the covid-19 pandemic.

Background on the Agreement

DG TRADE reminded participants that the Agreement is one of the first “new generation” trade agreements of the EU, characterised by its comprehensive scope that covers, in addition to liberalisation of trade in goods and services, investment, public procurement, competition, intellectual property rights, as well as trade and sustainable development issues.

The Trade Committee and the eight specialised Sub-committees oversee the implementation of the Agreement and meet annually. The 2021 meetings will be held from 17 November to 3 December.

The Commission pays particular attention to social and environmental issues, and to do so counts on the contribution of the civil society. In this regard, the Agreement includes provisions for regular consultations between the governments with the respective domestic consultative mechanisms. Furthermore, the Agreement provides for a joint forum for exchanges between the officials responsible for the specialised committee, and the civil society organisations. Such meetings are commonly held side to side to the specialized government committee. The next dialogue with civil society is scheduled on 30 November 2021.

Comments and evaluation finalisation

The evaluation analyses the economic, social, environmental, and human rights (including labour rights) effects of the Agreement in the EU and in the three trading partners. The final report is planned to be published during the 1st quarter of 2022. Comments on the current draft report, which has been published with all annexes on the evaluation and DG TRADE web pages,¹ should be provided by 3 January 2022 directly to the evaluation team.²

Evaluation summary

Overall, the impact of the Agreement on trade flows and GDP of all Parties has been positive, but the magnitude of this impact is limited. Across sectors, impacts are more varied; generally, sectors where a Party has a comparative advantage benefit more from the Agreement through increased exports. This is the case for machinery, equipment and vehicles in the EU, and fruit and vegetables as well as food products in the Andean partner countries. Thus, for all three Andean countries, the sector that has experienced higher growth is the agri-food sector.

A tangible impact of the implementation of the Trade and Sustainable Development (TSD) Title can be identified in areas where assistance projects have been implemented or where the EU was able to take own actions.

Among the social impacts, sectoral employment shifts follow the economic changes. In the EU, effects are negligible; in the Andean partner countries, the strongest positive effects are in the vegetable, fruits and nuts sector, as well as other agri-food sectors.

The environmental impact of the Agreement overall is found to be small, following from the economic impacts, and mixed.

The impact of the Agreement on the human rights situation in the Andean partner countries likewise has been limited, and no impact could be determined in the EU. An initial screening of human rights effects indicated that only the right to freedom of assembly and association, incl. the right to join and form trade unions, children’s rights (including impacts on child labour), and the right to water could potentially be affected palpably by the Agreement.

¹ <https://ec.europa.eu/trade/policy/policy-making/analysis/policy-evaluation/ex-post-evaluations/#eval-21> or <http://www.fta-evaluation.eu/en/resources-2/study-outputs>

² fta-evaluation@bkp-advisors.com

The reasons for the relatively limited non-trade effects are being studied and discussed by the Commission, including as part of the ongoing TSD review. The evaluation of the Agreement as well as other ex-post evaluations inform this process.

2. Presentation of the Draft Final Report

The study team presented the draft final report focussing on the synthesis report, which provides responses to the evaluation questions. Overall, the assessment of the Agreement is positive, with effectiveness and efficiency performing best, and impact, coherence with EU policies, and relevance also being assessed net positive. More details on the presentation are provided in the corresponding slides, which are available on the evaluation webpage.³

3. Discussion / Questions and Replies

A representative of the **Federation of Dutch Trade Unions (FNV)** asked whether the evaluation had looked into the reasons why no formal disputes had been initiated under the Agreement's TSD Title. He also requested how, with respect to formalisation of informal labour, the evaluation considered the role of factors other than the Agreement, notably Colombia's FTA with the United States and the associated labour action plans, as well as any potential reinforcement between the EU and US FTAs. The evaluation team responded that the EU's approach to the TSD Title was based on dialogue and cooperation and from this angle, the EU has also approached the matters raised by civil society complaints regarding Peru and Ecuador. The Commission has engaged in a dialogue with both countries, as a first step to address and resolve the identified problems. As we could see in the case of the EU-Korea FTA, the Commission was engaging with the Korean counterparts for several years, before concluding that all available measures had been exhausted without bringing about expected results and therefore, there was a need to trigger the dispute settlement mechanism under the TSD chapter. Based on this experience, one can conclude that measures related to engagement have not been exhausted yet in relations with the Andean countries and therefore, the EU has not launched the dispute settlement mechanism yet. DG TRADE noted that the dispute in the EU-Korea FTA showed indeed that the commitments in the FTAs are robust, and that disputes can deliver results. However, a case-by-case assessment was always needed to determine the most appropriate approach. In this context it was noted that the evaluation report found that projects implemented in the context of the EU-Andean Agreement had had the more tangible results. However, also other research confirmed that it is genuinely difficult to identify and attribute what has brought about change.

On the second question, the evaluation team observed that the results of the US labour action plan in relations with Colombia had brought about indeed concrete results, with more respect for trade unions' rights and improved working conditions, e.g., in the sugarcane sector. That plan preceded the EU Agreement with the Andean countries (therefore, there was a long time for it to be implemented) and included concrete actions with a timeline for implementation therefore, there was a framework for concrete results to materialise. On the other hand, there was also support provided from Europe, e.g., European trade unions supported social dialogue and capacity building of the Colombian counterparts in sectors, such as mining and palm oil. Moreover, as the informality in some sectors in the Andean countries was related to the lack of implementation and enforcement of the existing legislation (e.g., the non-payment of social security contributions), the EU has been implementing in Colombia and Ecuador assistance projects to strengthen labour inspection in rural areas and in agriculture to address this problem. DG TRADE added that addressing

³ <http://www.fta-evaluation.eu/en/resources-2/study-outputs>

informality had been an issue that had been addressed under the Agreement since the negotiations and then also throughout the implementation, notably in cooperation with the ILO.

A representative of **LIA/BETTER FINANCE** commented that the EU had separate mechanisms for human rights dialogue with the partner countries, and that trade policy and human rights should not be mixed; FTAs, by helping businesses, would automatically have a positive effect on human rights. She also suggested that exhibitions and meetings of the Parties' business communities might be more effective than annual meeting of the Parties and could enhance the effectiveness of trade agreements. The evaluation team responded that the Agreement as negotiated constituted the basis for the evaluation. As this comprises human rights in the essential elements clause as well as selected human rights in the TSD Title, the impact on human rights were part of the evaluation.

With regard to the second comment, the evaluation team clarified that the organisation of business-to-business meetings was also part of the Agreement's implementation practice and complemented the annual meetings. DG TRADE provide one example of a recent meeting, i.e. the 3-day Expo-Europa 2021 Virtual Fair organised by the EU Delegation in Ecuador. The expo had 160 exhibitors, 6 participating embassies, 80 conferences, and 20,609 visitors (of which 43% were managers or CEOs) connected by webinar.

A representative of the **International Federation for Human Rights** noted that it was established practice for trade policy to incorporate human rights issues, adding that for example Article 21 of the Treaty on European Union made clear that human rights are part of the EU's trade policy. She also suggested that the evaluation study could take up in its recommendations the EP Resolution to monitor the human rights effects of all EU FTAs. The evaluation team responded that such a recommendation would go beyond the scope of the evaluation, which is strictly focused on the evaluation of the Agreement between the EU and the three Andean partner countries. DG TRADE added that broader human rights issues covered under the essential elements clause of the Agreement were discussed not under the Agreement and its TSD chapter, but as part of the foreign policy engagement with the Andean countries.

A representative of the **European Economic and Social Committee (EESC)** posed a question related to the potential impact of the Paris Agreement, the European Green Deal and the EU Fit For 55 package on the Agreement. In addition, he suggested that, in response to the situation particularly in Colombia regarding the freedom of association and the killings of trade union representatives, the evaluation report could propose an EU-Andean countries co-financed project on social and civic dialogue. The evaluation team responded that the nexus between the Paris Agreement and EU policies designed after the negotiation of the Trade Agreement were considered as part of the coherence analysis, and took note of the suggestion made. DG TRADE added that the Agreement already offers a platform to engage on the topics of the new policies that were mentioned, and that it also provided a framework to discuss the implications of new EU policies and strategies, such as e.g. the carbon border adjustment mechanism, or the supply chain due diligence legislation, on bilateral trade.

The **FNV** representative asked if the Agreement would not increase existing asymmetries between the EU and the Andean partner countries, by confining the latter to the export of resource-based commodity exports with limited added value. The evaluation team responded that the Agreement indeed strengthened existing comparative advantages. However, the positive impact on the agri-food sector in the Andean countries would not necessarily mean exports of raw produce. Rather, as a result of the Agreement also exports and output of processed foods had increased, and this by partly replacing the export of other unprocessed commodities, such as

coal. In addition, some industrial sectors, such as chemicals in Colombia, also benefitted from the Agreement.

A representative of **Spirits Europe** commented that despite the Agreement, the Andean partner countries established new non-tariff barriers (NTBs), providing as examples the double GMP certification requirement introduced by Colombia, or the preferential excise tax rate for Pisco in Peru. The evaluation team responded that these indeed were examples of the existing irritants. However, the evaluation finding that NTBs did not constitute a substitute for the tariff cuts was based on the observations that the number of goods and value affected by such measures was limited, and that in most cases trade in goods affected by NTBs had increased under the Agreement, despite the NTBs. Specifically on the two examples mentioned, DG TRADE added that the Colombian practice was on the agenda for the upcoming annual meeting, and that there were no new developments regarding the Peruvian practice, which had been on the agenda for a long time.

4. Meeting conclusion

In the concluding words, DG TRADE highlighted the importance of exchanges with civil society for the implementation of the EU's trade policy.

Among the key takeaways from the evaluation and the discussion during the meeting, DG TRADE noted the high level of coherence between the Agreement and EU policies at the time of negotiation, but also the constant need to review and adapt the implementation of the Agreement in light of changing circumstances and policies. In this regard, many of comments provided referred to broader TSD issues going beyond the Agreement with Colombia, Ecuador and Peru, and which were also being addressed in the ongoing TSD review. DG TRADE also took note of the recommendation to use the existing Agreement as much as possible to incorporate new and arising issues prior to considering a modernisation of the Agreement itself; with the latter in any case requiring a political decision.