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EU trade agreement with Colombia and Peru

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

The European Parliament,

- having regard to the end of the negotiations on a Trade Agreement between the EU, Colombia and Peru on 1 March 2010 and the announcement of the conclusion of trade negotiations on 19 May 2010,
 - having regard to the initialling of the Trade Agreement between the EU, Colombia and Peru on 23 March 2011,
 - having regard to the official endorsement of the Trade Agreement by the three parties on 13 April 2011,
 - having regard to the Commission’s proposal for a Council decision on the signing, on behalf of the European Union, of the Trade Agreement between the European Union and Colombia and Peru (COM(2011)0570),
 - having regard to its resolutions of 5 May 2010 on the EU strategy for relations with Latin America¹ and of 21 October 2010 on the European Union’s trade relations with Latin-America²,
 - having regard to the resolutions of the Euro-Latin American Parliamentary Assembly, and in particular that of 19 May 2011 on the prospects for trade relations between the European Union and Latin America,
 - having regard to the question of 26 April 2012 to the Commission on the Trade Agreement between the EU of the one part and Colombia and Peru of the other part (O-000107/2012 – B7-0114/2012),
 - having regard to Rules 115(5) and 110(2) of its Rules of Procedure,
- A. whereas, given the importance of the historical and cultural links, the Trade Agreement between the European Union and Colombia and Peru aims to open markets for, inter alia, goods, services, government procurement and investment and to promote economic integration between the parties and comprehensive economic development with the objective of reducing poverty, creating new employment opportunities, improving working conditions and raising living standards by liberalising and expanding trade and investment between their territories, as well as encouraging a commitment to implement the Trade Agreement in accordance with the objective of sustainable development, including the

¹ OJ C 81 E, 15.3.2011, p. 54.

² OJ C 79 E, 8.3.2012, p. 79.

promotion of economic progress, respect for labour rights and protection of the environment, in accordance with the international commitments adopted by the parties;

- B. whereas the European Union is the second biggest trading partner of Colombia and Peru, and whereas the planned Trade Agreement provides for total liberalisation of trade in industrial products and fisheries, which could increase the Colombian GDP up to 1,3 % and Peruvian GDP by 0,7 % in the long term, but might also have a considerable negative impact at the environmental and social levels, according to an independent sustainability impact assessment study;
- C. whereas with the entry into force of the Trade Agreement, Colombia and Peru would leave the EU's Generalised System of Preferences special incentive arrangement (GSP+) scheme, which is currently being revised;
- D. whereas under the current GSP+ scheme both Colombia and Peru receive trade preferences in return for ensuring the effective implementation of 27 fundamental human-rights and environmental conventions, including the ILO's four Core Labour Standards;
- E. whereas, according to the Treaty on European Union, the EU's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law; whereas the Union shall seek to develop relations and build partnerships with third countries and international, regional or global organisations which share the principles referred to above;
- F. whereas the first article of the Trade Agreement includes extensive and binding provisions guaranteeing the protection of human rights, stating that 'respect for democratic principles and fundamental human rights, as laid down in the Universal Declaration of Human Rights, and for the principle of the rule of law, underpins the internal and international policies of the parties. Respect for these principles constitutes an essential element of the Agreement'; whereas the failure to respect human rights and democratic principles would constitute a 'material breach' of the Trade Agreement which, under public international law, would give rise to the adoption of appropriate measures, including the possibility of terminating or suspending the Agreement partially or totally; whereas proper monitoring of the respect of human rights by all signatory parties must be ensured and the practical enforceability of the Human Rights Clause must be guaranteed;
- G. whereas the Trade Agreement offers guarantees to ensure that the new architecture of the EU's trade and investment relations works in favour of far-reaching social and environmental protection and sustainable development by promoting and preserving a high level of labour and environmental protection standards on all sides, as it contains a chapter on Trade and Sustainable Development;
- H. whereas both Colombia and Peru have made enormous efforts in recent years to improve the general condition of their citizens' lives, including human and labour rights;
- I. whereas, despite these enormous efforts, in order fully to achieve the high standards set out and demanded by individual citizens, civil society organisations, the opposition parties and the government, there is still substantial work to be done both in Colombia and Peru,

especially regarding the effective implementation of the new legislative framework, which is intended to solve old problems that have not been completely resolved, relating to longstanding problems of poverty, violence and corruption, internal armed conflict (going back more than 50 years in the case of Colombia), illegal armed groups, drug trafficking, impunity and land dispossession;

- J. whereas, despite these huge efforts, Colombia remains the country with the highest rate of trade unionist murder in the world, and whereas, despite the latest fundamental improvements in law enforcement, more than 90 % of these crimes still remain unpunished; whereas nearly 4 million people are internally displaced; whereas the UN Special Rapporteur on the Rights of Indigenous Peoples, though acknowledging the State of Colombia's recognition of indigenous peoples' rights, has urged Colombia to invite the United Nations Special Adviser on the Prevention of Genocide to monitor the situation of indigenous communities that find themselves threatened with cultural or physical extermination owing to the longstanding internal armed conflict in the country;
1. Regrets that, although the chapter on trade and sustainable development includes legally binding provisions, there is no binding dispute settlement mechanism for this chapter in the Trade Agreement, and that the use of the measures and sanctions foreseen in the Trade Agreement's binding general dispute settlement mechanism is excluded in the case of violations of the standards set forth in the chapter on trade and sustainable development, constituting a weakening of the current binding conditions under the EU's GSP+ scheme;
 2. Strongly welcomes the commitment expressed by all the parties involved to the promotion of human rights, democratic principles and the rule of law, as confirmed by the inclusion in the first article of the Trade Agreement of extensive and binding provisions on these fundamental principles;
 3. Underlines the importance of maintaining constructive dialogue with our partner countries on the effective implementation of higher standards on human rights; strongly welcomes the Reciprocal Dialogue Mechanism on human rights (EU-Colombia Human Rights Dialogue), which was established voluntarily in 2009 between Colombia and the European Union and has been held twice a year since then and which is clear proof that the Colombian Government is open to dialogue on human rights with the EU and with other international partners; regrets, however, that the European Parliament is neither briefed nor debriefed regularly and comprehensively on its agenda and outcome;
 4. Strongly supports the inclusion in the Trade Agreement of a chapter on trade and sustainable development and the creation of domestic mechanisms and dialogue with civil society which will involve citizens, whether individually or in an organised collective manner;
 5. Calls on civil society organisations in the Andean Countries and in the European Union to participate in the monitoring mechanisms established in the Trade Agreement under the title of Trade and Sustainable Development; calls on the governments involved to set up, as soon as possible, the legal framework for the domestic mechanisms and dialogue with civil society if these do not exist, including a substantial information and advertising campaign to maximise participation of the interested groups or persons in the monitoring framework of the Civil Society Mechanism; suggests that these procedures be set up within six months of

the entry into force of the Agreement, instead of one year as set out in the Trade Agreement¹;

6. Recalls the importance of establishing representative domestic advisory mechanisms, as set out in Article 281 of the Trade Agreement, with the participation of trade unions, employer representatives or other relevant stakeholders such as NGOs, which will play a mandatory part in observing the implementation of the Trade Agreement, especially in the areas of labour and sustainable development, with the right to be regularly consulted and to bring forward complaints within a mandatory and institutionalised complaint mechanism, as well as recommendations and suggestions, including a proposal to have an independent exchange of views with their EU equivalents;
7. In order to fully accomplish the high standards of human rights set out in the Trade Agreement, to which both the Andean governments and the European Union are committed, suggests that the parties involved swiftly establish a dedicated domestic advisory group (DAG) on human rights and democratic principles, which should accompany and monitor the implementation of this or other Trade Agreements and work as an effective internal consultation body to the domestic offices that participate in the Committee on Trade of the Trade Agreement, using as a model for its operation the legal framework envisaged in the Trade Agreement for the participation of civil society in the Subcommittee on Trade and Sustainable Development; calls on the parties to the Trade Agreement to guarantee these DAGs the same level of binding involvement for civil society as in the Free Trade Agreement with South Korea, including a formalised and institutionalised complaint mechanism; calls on the parties, furthermore, to ensure the full independence of the DAGs, including as regards their own choice of members of the DAGs;
8. Endorses all the legislative and non-legislative measures taken by both Andean countries to fight poverty, all forms of violence, impunity, corruption and drug trafficking, to safeguard children's and women rights, especially with regard to child labour, to follow the path of sustainable development as the only viable future for our planet, to promote indigenous peoples rights, broader dialogue and citizen's participation in the legislative process, and to restore justice;
9. Strongly condemns the assassination of trade unionists, human rights defenders, civilians, indigenous people, all victims of the internal armed conflict, police officers and military personnel, occurring especially in Colombia; nevertheless notes that there has been a decline in the trade unionist murder cases reported over the last two years;
10. Supports the Colombian Government's efforts to fight impunity and the murder of trade unionists and human rights defenders, which is translated, for example, in an increase in the number of investigators in the General Prosecutor's Office (FGN) from 100 in 2010 to 243 in 2011 specifically for the investigation of crimes committed against trade unionists; also, according to the ILO, between 2010 and June 2011 there were 355 arrests, and 88 sentences were passed and 483 people sentenced for crimes against trade unionists; in this connection, underlines the importance of the Special Protection Programme (SPP), which is currently giving state protection to more than 8 500 people, including trade unionists (13 %), municipal councillors (30 %) and human rights defenders (15 %); notes that the budget for this programme increased from EUR 10.5 million in 2002 to more than EUR 120 million in 2011;

¹ Article 282(1).

11. Welcomes the references to the importance of the concepts of 'trade for sustainable development' and 'the promotion of fair and equitable trade' in Articles 271 and 324 respectively of the Trade Agreement; calls on the parties to facilitate trade in goods that contribute to sustainable development, including goods that are the subject of schemes such as fair and ethical trade and those involving corporate social responsibility and accountability, such as the 'fair trade', 'rainforest alliance', 'UTZ Certified', 'BSCI' or other similar schemes;
12. Calls on the parties involved to provide sufficient technical and financial capacity to guarantee full compliance with the sustainability standards under the Trade Agreement and to provide for a full review, monitoring and assessment of the implementation of the chapter on trade and sustainable development at the latest three years after the entry into force of the FTA;
13. Underlines, in particular, the importance of promoting corporate social responsibility (CSR) and welcomes its inclusion in the Trade Agreement; calls on all the parties to promote best business practices related to CSR in line with the UN Guiding Principles on Business and Human Rights, the OECD Guidelines on CSR and the recent Commission Communication of 25 October 2011 on 'a renewed EU strategy 2011-14 for Corporate Social Responsibility' COM(2011)0681; strongly believes that higher living standards can only be achieved through active partnerships between entrepreneurs, workers, NGOs and the state, either at central, regional or community level; reaffirms, therefore, the importance of the involvement of all the parties that are involved, especially the governments, which must play an essential role in the effective implementation of CSR in their countries; calls on the EU and the Andean countries to work towards the global implementation of binding UN Guiding Principles on CSR;
14. Welcomes the robust environmental laws which have been added to the statute book by the Colombian authorities but underlines the need for full and proper enforcement of these laws; highlights potential environmental problems, including increased deforestation and industrial, agricultural and mining pollution, which could give rise to negative effects on safe water supplies and the protection of biodiversity;
15. Calls on the Andean countries to ensure the establishment of a transparent and binding road map on human, environmental and labour rights, which should be aimed essentially at safeguarding human rights, enhancing and improving trade unionists' rights and protecting the environment; suggests that they take into account the Action Plan related to Labour Rights between Colombia and the US, with particular reference to the following:
 - enforcing and implementing legislation and policy measures which guarantee freedom of association and the right to bargain collectively, without loopholes, in particular for workers in the informal sector, and especially through the elimination of the use of cooperatives, collective pacts or other measures that have the purpose or effect of denying workers their trade union rights or the benefits of a direct employment relationship;
 - conducting strict labour inspections which lead to penalties in the case of discrimination, non-justified dismissals, intimidation and threats against workers;
 - clear and verifiable steps to strengthen social dialogue at regional and local level as well as on the part of enterprises;

- introducing measures to guarantee the effective enforcement of legislation to protect the environment and biodiversity, particularly from the negative effects of deforestation and the extraction of raw materials;
 - taking the necessary steps to end impunity and investigating, prosecuting and punishing in civil courts those most responsible, both intellectually and materially, for the crimes committed in Colombia;
 - achieving clear, time-bound and result-based targets in each of the above areas;
 - calling on the European Commission to immediately begin assisting Colombia and Peru in the establishment and implementation of the above process, and urging it to produce a regular report to be presented and assessed by the European Parliament;
 - underlining the fact that some of the targets of this road map should preferably come into effect before the entry into force of the FTA;
16. Calls on the Commission to assist these measures through cooperation programmes in education, training and regulatory cooperation, in particular by enhancing the capacity of the Andean authorities to effectively propose, enforce and assess environmental legislation; in this connection, urges the Commission to make full use of the Development Cooperation Instrument (DCI) and the European Instrument for Democracy and Human Rights (EIDHR);
17. Strongly welcomes the new Victims and Land Restitution Law (also known as ‘Ley 1448’) which came into effect in Colombia on 1 January 2012, guaranteeing financial compensation and restitution of land for the almost 4 million victims of the country’s armed conflict and violence over the past 50 years; emphasises the massive financial effort of the Colombian Government, which is estimated at more than USD 25 billion for the next ten years, representing about EUR 160 million per month; underlines the need for thorough monitoring and evaluation of the implementation of this law in close consultation with civil society, in particular regarding the protection of returnees;
18. Welcomes the dissolution of the highly controversial intelligence agency (DAS) and the sentencing of its former director to 25 years in prison as an important sign of the change of attitude and openness of the Colombian Administration and the independence of the judiciary;
19. Stresses that the right to property is also one of the fundamental human rights and must be safeguarded by all parties to the Trade Agreement; therefore warns all parties to the Trade Agreement against taking unilateral action that would endanger investment protection; highlights in this regard the need effectively to enforce proper dispute settlement;
20. Welcomes the fact that Colombia and Peru have ratified all eight fundamental ILO conventions plus three of the four governance conventions, as stated by the ILO representative at the public hearing held by the Committee on International Trade on the Trade Agreement at the European Parliament in Brussels on 29 February 2012; insists on the importance of swift ratification and effective implementation of all such ILO conventions, especially C122 in the case of Colombia and C129 in the case of Peru; underlines to all parties the importance of ratifying ILO Convention 135 on workers’

representatives; notes in this context that 24 EU Member States have still not ratified ILO C169, the Indigenous and Tribal Peoples Convention;

21. Emphasises the importance of the principles of fair, just and transparent administrative and legal procedures, in order to implement national labour laws, including strict labour inspections, as well as international human rights standards, in accordance with international obligations; believes that fair, just and transparent administrative and legal procedures are also needed to ensure that no undue restrictions are put on communication or freedom of speech, which are very important in empowering citizens to organise themselves;
22. Believes that new European Parliament powers regarding international agreements that are enshrined in the Lisbon Treaty bring new responsibilities; therefore proposes to hold public hearings both in the European Parliament and in one of the Andean capitals in the last quarter of 2013; following the hearings, calls for a written report to be submitted to its Committee on International Trade and Subcommittee on Human Rights on the results of the application of the Trade Agreement to date;
23. Instructs its President to forward this resolution to the Council, the Commission and the Governments of Colombia and Peru.