



EUROPEAN PARLIAMENT

2009 - 2014

Plenary sitting

26.4.2012

B7-0000/2012

MOTION FOR A RESOLUTION

further to Question for Oral Answer B7-0000/2012

pursuant to Rule 115(5) of the Rules of Procedure

on Trade Agreement between the EU of the one part and Colombia and Peru of the other part (2012/0000(RSP))
(2012/0000(RSP))

Mário David, Bernd Lange

on behalf of the Committee on International Trade

B7-0000/2012

**on Trade Agreement between the EU of the one part and Colombia and Peru of the other part (2012/0000(RSP))
(2012/0000(RSP))**

The European Parliament,

- having regard to the end of negotiations for a Trade Agreement (TA) between the EU, Colombia and Peru on 1 March 2010 and the announcement of the conclusion of trade talks on 19 May 2010,
 - having regard to the initialling of the TA between the EU, Colombia and Peru on 24 March 2011,
 - having regard to the official endorsement of the Trade Agreement by the three parties on 13 April 2011,
 - in view of 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) 570),
 - having regard to the question of 26 April 2012 to the Commission on Trade Agreement between the EU of the one part and Colombia and Peru of the other part (O-0000/2012 – B7-0000/2012),
 - having regard to Rules 115(5) and 110(2) of its Rules of Procedure,
- A. whereas the Trade Agreement (TA) between the European Union and Colombia and Peru aims at opening markets for inter alia goods, services, government procurement and investment;
- B. whereas the European Union is the second biggest trading partner of the Andean region and whereas the planned TA provides for total liberalisation of trade in industrial products and fisheries, which could increase both Colombian GDP up to 1.3% and Peruvian GDP by 0.7% in the long term, according to an independent Sustainability Impact Assessment study;
- C. whereas with the entry into force of the TA, Colombia and Peru would leave the EU's Generalised System of Preferences special incentive arrangement (GSP+) scheme, which is currently being revised by the Commission;
- 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 of the 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 (HRs) 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 organizations which share the principles referred previously;

- F. whereas the first article of the TA 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 HRs and democratic principles would constitute a "material breach" of the TA which, under public international law, could give rise to the adoption of appropriate measures, including the possibility to terminate or to suspend partially or totally the Agreement; whereas proper monitoring of the respect of HRs by all signatory parties has to be ensured and the practical enforceability of the Human Rights Clause has to be guaranteed;
- G. whereas the TA offers guarantees to ensure that the new architecture of the EU trade and investment relations works in favour of far-reaching social, 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 undertaken enormous efforts in recent years to improve the general condition of their citizens lives, including human and labour rights;
- I. whereas, despite these vast efforts, in order to achieve the full completion of the high standards set out and claimed by the individual citizens, the organisations of the civil society, the opposition parties and the government, there is still a substantial work to be done both in Colombia and Peru, especially regarding the effective implementation of the new legislative framework which intends to solve old problems yet not totally solved, related to long standing problems of poverty, violence and corruption, civil war (more than 50 years, in the case of Colombia), illegal armed groups, drug trafficking, unsolved murders, impunity, lack of labour and civil rights and land dispossession;
- J. whereas, despite these efforts, Colombia has been the country with the highest murder rate of trade unionists worldwide and whereas more than 90% of these crimes still remain unpunished; whereas nearly 4 million people are internally displaced;
- 1. regrets that there is no binding dispute settlement mechanism for the chapter on trade and sustainable development in the TA and that the use of the measures and sanctions foreseen in the TA's binding general dispute settlement mechanism in cases of violations of the standards set forth in the chapter on trade and sustainable development are excluded, thus constituting a weakening of the current binding conditions under the EU's

GSP+ scheme;

2. Strongly welcomes the commitment showed by all the parties involved in the promotion of Human Rights, democratic principles and the rule of law, as confirmed by the inclusion on the first article of the TA 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 HRs; strongly welcomes the Reciprocal Dialogue Mechanism on HRs (EU-Colombia Human Rights Dialogue) which was established voluntarily in 2009 between Colombia and the European Union and is held twice a year since then and which *"is a clear proof that the Colombian government is open to dialogue on Human Rights with the EU, as well as with other international partners, in a way that probably is unparalleled in the world"*¹;
4. Strongly supports the inclusion of a chapter on Trade and Sustainable Development in the TA, and the creation of domestic mechanisms and the dialogue with civil societies, which will involve all citizens interested, be it individually or in a collective organised manner;
5. Calls on the Civil society organisations, both in the Andean Countries and in the European Union to participate in the monitoring mechanisms established in the TA, under the title of Trade and Sustainable Development; demands the governments involved to set up as soon as possible the legal framework for the domestic mechanisms and the dialogue with civil societies, if they do not exist, including a substantial information and advertising campaign in order to maximise the participation of the interested groups or persons on the monitoring framework of the Civil Society Mechanism; suggests six months for the set up of these procedures after the entry into force of the Agreement, instead of one year as settled in the TA²;
6. Recalls the importance establishing the representative domestic advisory mechanisms, as fixed in article 281 of the TA, with the participation of trade unions, employer representatives or other relevant stakeholders, like NGOs, which shall play a mandatory part in the observation of the implementation of the TA, especially in the areas of labour and sustainable development, with the right to be regularly consulted, to be able to bring forward complaints within a mandatory and institutionalized complaint mechanism, as well as recommendations and suggestions, including a proposal to have independent exchange of views with their EU equivalents.
7. In order to fully accomplish the high standards in HRs advanced by the TA and to which both the Andean governments and the European Union are committed, suggests to the parties involved to swiftly establish dedicated Domestic Advisory Group (DAG) on HRs and Democratic Principles, which should accompany and monitor the implementation of this or other TAs, and work as an effective internal consultation body to the domestic offices that participate in the Committee on Trade of the TA, using as model for its

¹ European Commission Information Sheet on the HRs and SD aspects of the EU-Colombia and Peru TA, November 2011.

² Article 282(1).

functioning the legal framework envisaged in the TA for the participation of the civil society in the Subcommittee on Trade and Sustainable Development; calls upon the parties of the TA 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; furthermore calls upon the parties to ensure the full independence of the DAGs, also as regards their own choice of members of the DAG;

8. Endorses all the legislative and non legislative measures taken by both Andean countries to fight poverty, all forms of violence, impunity, corruption, drug trafficking, to ensure children's and women rights- specially child labour, to follow the path of sustainable development as the only viable future for our planet, indigenous peoples rights, to promote broader dialogue and citizen's participation in the law making process and to restore justice;
9. Deeply regrets the assassination of trade unionists, HRs defenders and police officers or militaries occurring especially in Colombia; notwithstanding, notes that in the last two years there has been a decline in trade unionists murder cases reported;
10. Supports the Colombian government efforts on fighting impunity and murders against trade unionists or HRs defenders, which is translated, for example, in an increase of the number of investigators at the General Prosecutors Office (FGN), that specifically in the case of the investigation of crimes directed against trade unionist grew from 100 investigators in 2010 to 243 investigators in 2011; also according to ILO¹, between 2010 and June 2011 there were 88 sentences, 483 citizens condemned with crimes against trade unionists and 355 arrests; in this respect, underlines the importance of the "Special Protection Program" (SPP) which gives, at the present, State protection to more than 11.000 citizens, including trade unionists (24%), Municipal Councillors (11%), HRs defenders (18%) and journalists (4%); this program went from a budget of 10.5 million euros in 2010 to more than 120 million euros in 2011²; notes that none of the citizens included in this SPP has been murdered;
11. Welcomes the references to the importance of the concepts of "trade for sustainable development" and to "the promotion of fair and equitable trade", as stated respectively in articles 271 and 324 of the TA; requests from 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. Urges the parties to provide sufficient technical and financial capacities in order to guarantee the full compliance with the sustainability standards under the TA and to provide for the full review, monitoring and assessment of the implementation of the chapter for trade and sustainable development;

¹ Numbers given by the ILO representative in INTA's Public Hearing on the TA at the European Parliament in Brussels last 29th February.

² Written Communication from the Colombian Embassy to the European Parliament.

13. Underlines, in particular, the importance of promoting Corporate Social Responsibility (CSR) and welcomes its inclusion on the TA; asks all the parties to promote the best business practices related to CSR in line with the UN Guiding Principles on Business and Human Rights, with the Guidelines on CSR of the OECD or with the recent Communication of the Commission COM(2011) 681 from 25/10, on "a renewed EU strategy 2011-14 for Corporate Social Responsibility"; strongly believes that higher levels for citizens' living standards can only be achieved through active partnerships between entrepreneurs, labour, NGOs and the State, either at central, regional or at the communities level; therefore, reaffirms the importance of the involvement of all the parties involved, especially from the Governments, which must have an essential role in the effective implementation of CSR in their countries; calls on the EU and the Andean Countries to work towards the implementation of binding UN Guiding Principles on CSR to be applied globally;
14. Requests the European Commission and the Andean Countries to ensure the establishment of a transparent and binding Action Plan on Labour Rights aimed essentially at preventing all types of violence against employees, especially trade unionists; suggests it to take into account the Action Plan related to Labour Rights between Colombia and the US and comprising the following:
- the enacting of new 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 eliminating 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;
 - 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 on the regional and local level as well as on the side of enterprises;
 - To assess progress in implementing this Action Plan, the parties should produce an annual report, to be presented and assessed by the European Parliament.
15. Strongly welcomes the new "Victims and Land Restitution Law" (also known as "Ley 1448") which came into effect in Colombia on 1st of January 2012, guaranteeing financial compensation and restitution of land for the almost 4 million of 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 in more than 25 billion US dollars for the next ten years, representing about 160 million Euros/month on the next 10 years; underlines the need for thorough monitoring and evaluation of the implementation of this law, in close consultation with civil society;
16. Welcomes the fact that Colombia and Peru have ratified all the 8 Fundamental ILO-conventions plus 3 of the 4 Governance Conventions, as stated by the ILO representative in INTA's Public Hearing on the TA at the European Parliament in Brussels on 29th February 2012; insists on the importance of a swift ratification and effective implementing of all the ILO Fundamental and Governance Conventions, especially C122

in the case of Colombia and C129 in the case of Peru; underlines to all parties the importance of ratifying the ILO Convention 135 on workers' representatives; recalls in this context that 24 EU Member States still haven't ratified the ILO C169- Indigenous and Tribal Peoples Convention;

17. 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;
18. Believes that new European Parliament powers regarding international agreements that are enshrined in the Lisbon Treaty bring new responsibilities; therefore proposes to organise a public hearing both in the European Parliament and in one of the Andean capitals in the last trimester of 2013; following the hearings, there should be a written report which should be submitted to the INTA Committee and DROI Subcommittee on the results of the application of this TA until date;
19. Instructs its President to forward this resolution to the Council, the Commission and the governments of Colombia and Peru.