

**Inspectie Ontwikkelingssamenwerking en Beleidsevaluatie
(IOB)**

**Evaluation of the Dutch foreign policy with respect to Latin
America**

Thematic study Sustainable Development

**Case Study: Dutch position in negotiations on EU
Association Agreements**

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Abbreviations and Acronyms:

AA	Association Agreements
AMLAT	EU working group on Latin America
APDEA	Andean Trade Promotion and Drug Eradication Act
CAN	Andean Community (Peru, Colombia, Ecuador and Bolivia)
CAP	EU Common Agriculture Policy (CAP)
CBD	Convention on Biological Diversity
CCAD	Central American Commission for Environment and Development
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
COLAT	EU working group on Latin America
CSR	Corporate Social Responsibility
DG	Directorate General for Trade
EC	European Commission
EFTA	European Free Trade Association
ECOSOC:	Economic and Social Council
EU	European Union
FLEGT	Forest Law Enforcement Governance and Trade
FTA	Free Trade Agreement
GoC	Government of Colombia
GSP	Generalised System of Preferences
IDH	Initiatief Duurzame Handel (The Sustainable Trade Initiative)
ILO	International Labor Organization
IUU	Illegal, unreported and unregulated
LAC	Latin American and Caribbean
MASP	Multi-Annual Strategic Plan
PSOM	Cooperation Emerging Markets
RED	Reduced Emission Deforestation
RNE	Royal Netherlands Embassy
SEAP	Sectoral Environmental Approach Programme
SER	Sociaal-Economische Raad (Social Economic Council)
SIA	Sustainability Impact Assessment
TRIPS	Trade Related aspects of Intellectual Property Rights Agreements
UNFCCC	United Nations Framework Convention on Climate Change
VPI	Voluntary Principles Initiative on security and Human Rights

List of people interviewed

In the Netherlands

Mrs. Eva Oskam	LE&I – responsible for the FTA with Colombia
Mr. John Bogaerts	NL representative in EU – responsible for political aspects
Mr. Mark Verschuur	MoFA- COLAT and AMLAT
Mr. Gilles Goedhart	MoFA - EU Integratie

In Colombia

Sergio Diaz Granados	Current Minister of Commerce, Industry and Tourism
Luis Guillermo Plata	Minister of Commerce Industry and Tourism during the FTA negotiation
Carlos Costa Posada	Minister of Environment, Housing and Territorial Development during FTA negotiation
Giannina Santiago	Lead Negotiator for subjects of sustainable development and intellectual property during FTA negotiations
Alejandra Torres	Current Director of the International affairs Office. Ministry of Environment
Xiomara Sanclemente	Ecosystems Director. Ministry of Environment
Johny Ariza	Cooperation Office. European Union Delegation
Harman Idema	Head of Cooperation & Economic Affairs, Royal Netherlands Embassy
Maurice van Beers	Senior policy officer. Economic Affairs Topsector Water & Climate Change, Royal Netherlands Embassy
Rafael Mejía	President of the Association of the Agricultural Sector in Colombia (Sociedad de Agricultores de Colombia SAC)
Fabio Arjona	Director. Conservation International Colombia
Elsa Matilde Escobar	Director. Fundación Natura Colombia.

Executive Summary

This case study looks at Free Trade Agreements (FTA) and Association Agreements (AA) with a free trade component, and the potential influence on sustainable economic development by including principles, criteria or conditions. This case study looks at the influence and contribution of the Netherlands on the outcome of FTA negotiations between the EU and Colombia. It looks most specifically at the inclusion of a sustainable development paragraph with relevant conditions, and on the expected outcome in terms of trade and its effects on sustainable development. The FTA between the EU and Colombia was finalized in 2011 following negotiations in preceding years. This study is also relevant in view of the ongoing negotiations between the EU and the Mercosur.

For Colombia, the EU is in 2011 ranked as the second destination of Colombia exports. Trade imports in the EU from Colombia have grown between 2003 and 2010 by more than 10%, reaching between 2007 and 2010 a value of Euro 4-5 billion, with 45% increase between 2010 and 2011 to Euro 6.9 billion. The far majority of EU imports from Colombia are primary products, mainly agricultural products (declining in value from 40% to 25% between 2007 and 2011) and fuels and mining products (increasing in value from 42% to 67% between 2007 and 2011). The strong increase in value over this period is entirely due to the increase in fuel and mining products. For the Netherlands the FTA with Colombia was not a priority, given the limited trade relations with Colombia. In terms of value, trade from Colombia to the Netherlands is strongly dominated by coal, followed by flowers and coffee.

Since 1971, the EU adopted the Generalised System of Preferences" (GSP), with rules ensuring that exporters from developing countries pay lower duties on some exports, especially agricultural commodities, to the EU. This gives them access to EU markets contributing to the growth of their economies. Colombia is among the LAC countries that make use of the GSP+ system whereby they get extra preferences if they comply with the requirements of 27 treaties in the areas of human rights, environmental protection and good governance. In 1997, Mexico was the first LAC country to sign a partnership agreement with the EU. Since then Chile and Central America have followed. In 2006, it was decided to open up negotiations for an Association Agreement between the EU and the Andean Community (Peru, Colombia, Ecuador and Bolivia). However, Bolivia and Ecuador withdrew due to disagreements over the negotiating objectives. Since the agreement with the Andes community as a whole collapsed, the current agreements between the EU and Colombia and Peru must be referred to as Free Trade Agreements (FTA). Once fully implemented, it is estimated that the trade deal will relieve EU exporters of €270 million in duties annually.

For the Netherlands, policy priorities in the negotiations were those of human rights, non-proliferation and sustainable development. The Netherlands' LAC policy document (2004) mentions the policy objective to enhance coherence of environmental legislation and reduce tensions between environmental and socio-economic interests in LAC countries. To do so, one policy objective is to internalise social and environmental costs and benefits in economic decision making. This will be done at EU level and be part of the processes to develop FTAs at national level. In the 2009 update of the Dutch LAC policy, it is indicated that the Netherlands strives for coherence between trade- and investment policies of the EU on the one hand and objectives of poverty reduction, human rights and environment on the other hand.

In this FTA there is no political component and therefore a general paragraph on human rights has been included in Article 1 of the FTA and the aspect of non-proliferation is elaborated in Article 2, which is normally not done. The human rights provisions in this FTA match the highest standards set in other EU FTAs and are binding. The chapter on Trade and Sustainable Development is made up of 20 articles (267-286). It includes specific articles on corporate social responsibility (CSR), the most environmental sensitive products (forestry and fisheries) as well as biodiversity and climate change, with reference to international conventions, standards and legal frameworks to be respected. Articles 278 to 286 are on the a monitoring mechanism of sustainable development, including the use of scientific information, the review of sustainability impacts, effective

cooperation, transparency, participation and consultation with national stakeholders, dialogue with civil society, government consultations and the use of expert panels.

For Colombia, the approach on trade and sustainable development, with emphasis on monitoring mechanisms (monitoring, civil society participation and expert panels), fits well into a strategy of a cooperative approach. The FTA is seen as an opportunity and incentive for the improvement of the State's and private sector's capacity to address sustainability concerns in productive sectors, by means of knowledge and experience exchange, on the basis of their own priorities.

There are no specific sustainability criteria for any commodities, such as biofuels, palmoil, sugarcane, mining products or others, to respond to sustainability concerns for these commodities as a result of the expected increase in production and trade of these commodities. Sustainability concerns related to these commodities are expected to be raised, discussed and agreed upon by making use of the sustainable development monitoring mechanisms. Thus, within the FTA cases of non-compliance with the sustainable development provisions are subject to an enforcement mechanism based on 'dialogue and effective communication'. These sustainable development monitoring mechanisms are innovative, especially in terms of their effective implementation. It remains to be seen how these mechanisms will be effectively implemented. Similar mechanisms in the FTA's of Mexico and Chili have not yet been effectively implemented.

The Dutch policy priorities have been systematically raised by the Netherlands during the period of the FTA negotiations (2007 to 2010). All three issues are now addressed in the FTA. It can be concluded that in terms of the intentions and proposed processes expressed in the FTA text, the outputs are in line with the Dutch policy objectives. The Netherlands at EU level (through its involvement in working groups) has contributed to realize the above outputs in terms of the issues of human rights, non-proliferation and sustainable development being adequately covered in the FTA. It is not possible to conclude how important the Dutch contribution has been as the Netherlands has not been the only country highlighting these priorities.

However, it is too early to conclude whether the agreed intentions and proposed processes in the FTA will lead to outcomes in terms of politics, policies and products that meet sustainable development objectives, as this will depend upon how the FTA will be implemented, especially the sustainable development monitoring mechanisms and institutional framework. A good start has been made by the development by the Colombia government of a roadmap with action plan, with 100 concrete actions and progress indicators, including several in the area of human rights, labour rights and environmental issues. There are high expectations within Colombia of the FTA stimulating a shift towards more diversified and services-oriented production and trade, moving away from sensitive production sectors such as mining and hydrocarbons. However, so far the available trade data and evidence do not support these expectations. There are also expectations and opportunities to stimulate CSR, more sustainable production methods and more sustainable mining.

It is recognized in Colombia that the Netherlands has contributed in indirect ways to the above outputs, i.e. the satisfactory results of the negotiations on above issues, through its bilateral relations, by strengthening the environmental sector institutions in Colombia, by promoting a CSR policy framework and by building up experiences and capacities on sustainability in specific value chains (e.g. flowers, coffee, coal). The RNE in Colombia has during last years been on the forefront of promoting attention for CSR. For example, in 2010 the RNE brought together stakeholders from government, private sector and NGOs to discuss ways to promote sustainable development in Colombia, in the areas of sustainable trade, bio based economy and climate change.

Colombia looks upon the Netherlands as one important partner to be involved in this process, given its historical role in supporting the environmental sector. There are good potentials of the Netherlands contributing to effective implementation of the FTA, through fostering dialogue, building up CSR best practices, experiences in sustainable value chains and support to a dialogue on sustainability in the mining sector. Thus, the Netherlands can be an important partner for

Colombia in implementing the FTA and making the monitoring mechanisms work. This requires an active role of the RNE in Colombia.

1 Introduction

1.1 Background

This case study looks at Free Trade Agreements (FTA) and Association Agreements (AA) with a free trade component, between the European Union and Colombia. These agreements can have considerable influence on sustainable economic development in countries in the LAC region by including principles, criteria or conditions that stimulate sustainable development issues. Several FTAs and AA-FTAs have by now been established between the EU and countries in the LAC region. These agreements to some extent also include paragraphs about sustainable development issues. Effects on sustainable development can be direct, e.g. on labour conditions and human rights, or indirect, e.g. through stimulating export of agro-commodities undesirable land-use changes including uncontrolled deforestation may be stimulated.

1.2 The case study

This case study looks at the influence and contribution of the Netherlands on the outcome of FTA negotiations between the EU and Colombia. It looks most specifically at the inclusion of a sustainable development paragraph with relevant conditions, and on the expected outcome in terms of trade and its effects on sustainable development. The case study will look at different modalities and pathways that can and have been used to influence the FTA negotiations, and the Netherlands contribution to these. Within this theme the subject of coherence is particularly important. Relevant subjects are the coherence between FTA agreements and EU and Dutch objectives of human rights, sustainable trade, climate change and sustainable forest management.

The main country of interest in this case study is Colombia, with which the final agreement on an FTA has been finalized in 2011 following negotiations in the preceding years. The text of the trade agreement was signed in June 2012.¹ The Dutch interest in the trade agreements with Colombia is coal (see case study 1d), as well as a range of commodities such as flowers and coffee, in which there have been quite some private sector investments as well. Through its delegated office the European Commission supports implementation of EU policies. For the LAC region as a whole, based on available literature an overview will be made of the experiences in terms of stimulating sustainable development through FTAs. Mercosur is not relevant since the process of coming to an agreement has been terminated.

The following research questions have been formulated with respect to this case study:

- How do Netherlands policy objectives compare between on the one hand promotion of free trade with Latin America, and on the other hand policy objectives of sustainable development and climate change mitigation? To what extent are these policy objectives integrated and coherent in practice?
- What are the potential risks and opportunities of free trade for sustainable development, through the expected increase in trade of soy, meat, biofuels etc.? How are these risks mitigated?
- What has been the Dutch influence on the outcomes of the negotiations on free-trade agreements?

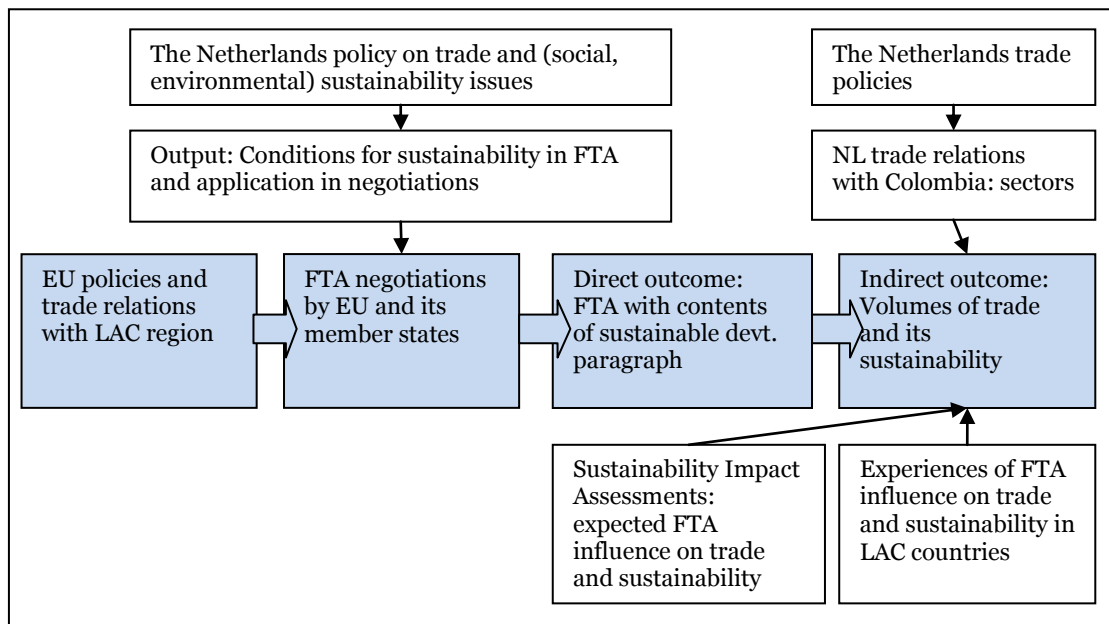
The case studies generally follow a similar evaluation framework (see annex 1). Interpreting this framework, the following are the main specific themes and related interventions and results for this case study.

A: Enabling Politics and Policies:

¹ <http://ec.europa.eu/trade/creating-opportunities/bilateral-relations/regions/andean/>

1. Strengthening of institutions and processes in Colombia responsible for sustainable development (government level, national and decentralised, as well as NGOs);
 2. Strengthening of specific trade sectors to enhance sustainable development policies;
- B: Sustainable Production and Trade:*
3. Production and trade of products that meet sustainability standards;
 4. Reduced incidence of unsustainable or illegal production systems or practices for trade, e.g. trade of commodities produced at the expense of deforestation.

It will not be easy to answer the question of attribution or contribution by the Netherlands policies to the above outcomes of the negotiations on the FTA between the EU and Colombia, because of the long and complex cause-effect chain involved. The following scheme summarises the main elements that are included in this chain.



2 Status trade relations

2.1 Trade relations LAC region and the European Union

The EU is the second trade partner for the LAC region as a whole, with bilateral trade amounting to a total of €160 billion in 2007. In 2007 the EU represented about 14% of the total export from the LAC region. For the Caribbean region, the EU is even more important, with 19% of export destined to the EU.

Since 2002, the EU has recorded a deficit in trade in goods with the 17 main trade countries composing Latin America. In 2010, the deficit was EUR 5.9 billion, by far its lowest level since 2002. The main products imported from Latin America were metalliferous ores (essentially from Brazil). On the export side, the main products were road vehicles and general industrial machinery and equipment (essentially to Brazil). For trade in services, there was a 12% decrease between 2008 and 2009, following a 20% rise a year earlier. The EU continued to run large surpluses with Brazil, Mexico and Venezuela. EU-27 foreign direct investment flows with the Latin American economies fell by 24% between 2008 and 2009. While there were increases for Mexico and Argentina, this was offset by a decline in Brazil. FDI stocks saw continued growth in 2009 (Eurostat, 2011).

Table 1: EU-27: top ten products exported to and imported from Latin America, 2010 (EUR million)

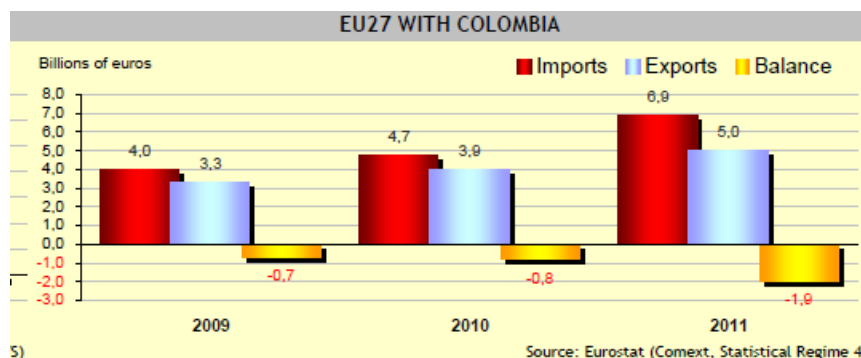
Rank	EU-27 exports to Latin America		EU-27 imports from Latin America	
	Product	Value	Product	Value
1	Road vehicles (78)	8 557	Metalliferous ores and metal scrap (28)	11 350
2	General industrial machinery & equipment (74)	7 321	Petroleum, petroleum products & related mat. (33)	7 815
3	Medicinal and pharmaceutical products (54)	6 304	Vegetables and fruit (05)	6 974
4	Machinery specialized for particular industr.(72)	6 267	Feeding stuff for animals (08)	6 631
5	Electrical machinery, apparatus & appliances (77)	4 810	Non-ferrous metals (68)	5 681
6	Power-generating machinery & equipment (71)	4 469	Office machines and automatic data-processing machines (75)	4 569
7	Other transport equipment (79)	4 322	Coffee, tea, cocoa, spices (07)	4 254
8	Petroleum products & related materials (33)	4 126	Oil-seeds and oleaginous fruits (22)	3 236
9	Organic chemicals (51)	3 183	Road vehicles (78)	2 832
10	Iron & steel (67)	2 744	Pulp and waste paper (25)	2 792

Note: The numbers in brackets refer to the relevant 2-digit SITC code.

Source: Eurostat (COMEXT)

2.2 Trade relations Colombia and the European Union

The trade relations between Colombia and the EU trade over the period 2007 to 2011 show that trade relations have remained more or less stable over the period 2007 to 2010, with an increase in 2011.² The following scheme shows the main changes in the last 3 years.



Trade imports in the EU from Colombia have grown between 2003 and 2010 by more than 10%, reaching between 2007 and 2010 a value of Euro 4-5 billion, with 45% increase between 2010 and

² http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113367.pdf.

2011 to Euro 6.9 billion. Trade exports from the EU to Colombia have grown between 2003 and 2010 by almost 10%, reaching between 2007 and 2010 a value of E 3-4 billion, and showed a 26% increase between 2010 and 2011 to E 5.0 billion. The far majority of EU imports from Colombia are primary products, mainly agricultural products (declining in value from 40% to 25% between 2007 and 2011) and fuels and mining products (increasing in value from 42% to 67% between 2007 and 2011). The strong increase in value over this period is entirely due to the increase in fuel and mining products. Together with Venezuela, the EU imports from Colombia are most heavily skewed towards fuel and mining products.

European Union, Imports from... Colombia

SITC Rev.3 (UN, WTO/ITS) & AMA/NAMA** (WTO) Product Groups	2007		2009		2011		Share of Partner in EU Imports (2011)
	Millions euro	%	Millions euro	%	Millions euro	%	
0000 - Total	4 095,7	100,0%	4 000,5	100,0%	6 897,5	100,0%	0,4%
1000 - Primary products	3 373,7	82,4%	3 576,7	89,4%	6 325,8	91,7%	0,9%
1100 - Agricultural products (Food (incl. Fish) & Raw Materials)	1 646,1	40,2%	1 506,7	37,7%	1 733,5	25,1%	1,3%
1200 - Fuels and mining products	1 727,6	42,2%	2 070,1	51,7%	4 592,3	66,6%	0,8%
2000 - Manufactures	711,5	17,4%	395,8	9,9%	480,9	7,0%	0,1%
2100 - Iron and steel	489,6	12,0%	178,6	4,5%	222,0	3,2%	0,7%
2200 - Chemicals	59,2	1,4%	70,0	1,7%	61,4	0,9%	0,0%
2300 - Other semi-manufactures	68,9	1,7%	57,2	1,4%	87,0	1,3%	0,1%
2400 - Machinery and transport equipment	24,4	0,6%	30,3	0,8%	39,8	0,6%	0,0%
2410 - Office and telecommunication equipment	6,4	0,2%	11,7	0,3%	9,8	0,1%	0,0%
2420 - Transport equipment	3,7	0,1%	3,2	0,1%	7,5	0,1%	0,0%
2430 - Other machinery	14,4	0,4%	15,5	0,4%	22,5	0,3%	0,0%
2500 - Textiles	10,8	0,3%	10,7	0,3%	16,5	0,2%	0,1%
2600 - Clothing	25,1	0,6%	24,6	0,6%	28,9	0,4%	0,0%
2700 - Other manufactures	33,5	0,8%	24,4	0,6%	25,3	0,4%	0,0%
3000 - Other products	7,9	0,2%	14,8	0,4%	84,6	1,2%	0,3%
Agricultural Products (AMA)	1 525,6	37,2%	1 403,7	35,1%	1 642,8	23,8%	1,7%
Non-Agricultural Products (NAMA)	2 562,0	62,6%	2 574,2	64,3%	5 239,2	76,0%	0,3%
Other Products	8,2	0,2%	22,6	0,6%	15,5	0,2%	0,1%

For Colombia, the EU is one of the important trading partners. In 2011, it ranked second as a destination of Colombia exports, with 15.6% of the total, after only the USA. In 2011, overall trade between Colombia and the EU was at USD 16.3 billion, which was an increase of 54.4% over the previous year. This was due to higher export growth (76.7 %) and to a lesser extent, an increase in imports (33.2%). The balance of trade in 2011 was positive for Colombia, at USD 1.4 billion. As compared to 2010, this was due to increased sales of coal (49.2%), oil and derivatives (20.2%). This balance has been level since 2004, compared to the late nineties and early years of this century. This is the result of a strong export policy that has been pursued by the national government.

2.3 Trade relations LAC region and the Netherlands

<see economic diplomacy report>

2.4 Trade relations Colombia and the Netherlands

<see economic diplomacy report>

3 EU and Netherlands policy developments 2004-2011

3.1 Trade policies in the European Union

We will now briefly introduce the main trade policies and agreements between the EU and (countries within) the LAC region. First, the Generalised System of Preferences (GSP) is explained. The GSP falls under the Everything-but-Arms Agreement. This system gives developing countries access to the European market. The EU wants to replace this system with trade agreements. This will ensure future access of LAC countries to the EU market but will also open up their market to EU goods and services. Subsequently an overview is provided of the Free Trade Agreements that the EU has negotiated with different countries from the LAC region.

Generalised System of Preferences

Since 1971, the EU has had rules ensuring that exporters from developing countries pay lower duties on some exports, especially agricultural commodities, to the EU. This gives them access to EU markets contributing to the growth of their economies. This scheme is known as the "Generalised System of Preferences" (GSP). A number of LAC countries make use of the GSP+ system whereby they get extra preferences if they comply with the requirements of 27 treaties in the areas of human rights, environmental protection and good governance. The current GSP+ beneficiaries are: Bolivia, Colombia, Costa Rica, Ecuador, Georgia, Guatemala, Honduras, Sri Lanka, Moldova, Mongolia, Nicaragua, Panama, Peru, El Salvador, Venezuela.

The Commission has now put forward a comprehensive GSP package. This includes: a proposal for the continuation of the existing system ("rollover") until the end of 2013, to avoid the lapse of the scheme (as it happened in the United States, pending the approval of Congress) and allow eligible countries to submit applications for GSP+; and the proposal for a revised scheme ("review"), to come into force on 1st January 2014. Its objectives are to focus help on those truly in need; to strengthen GSP+ as an incentive to good governance and sustainable development; and to make the system more transparent, stable and predictable.

The three main variants of the scheme (the overall GSP scheme, the "GSP+" incentive scheme for the respect of labour, human, environmental and good governance rights and rules, and the GSP scheme for least developed countries) are reinforced, by re-adjusting the preferences and ensuring they have a higher impact.³

Mexico

In terms of trade value, Mexico ranks 21st among EU trade partners and 18th amongst its export partners. The EU is Mexico's second biggest export market after the USA, and the third largest source of imports after US and China. In 1997, Mexico was the first LAC country to sign a partnership agreement with the EU. The Agreement, called the EU-Mexico Economic Partnership, Political Coordination and Cooperation Agreement, entered into force in 2000 and has considerably strengthened bilateral relations between the EU and Mexico. The Agreement has established a Free Trade Area (FTA) between the EU and Mexico that has enshrined their bilateral trade relations in a preferential framework and has helped to enhance their bilateral economic ties.

The EU-Mexico FTA is broad and comprehensive and covers trade in goods and services and has specific chapters on access to public procurement markets, competition, intellectual property rights and investment.

The agreement is overseen by a Joint Committee and Special Committees that meet once a year, and by a Joint Council that meets biannually at higher political level. The closeness of the EU-Mexico trade partnership is reflected at the multilateral level, where the EU and Mexico have

³ <http://ec.europa.eu/trade/wider-agenda/development/generalised-system-of-preferences/everything-but-arms>

cooperated in WTO Doha Round negotiations. The EU-Mexico Free Trade Agreement foresees that both parties will review and further liberalise trade in agricultural goods, services and investment. Discussions on the review are ongoing and may be concluded soon.⁴

Chile

The EU is Chile's second largest source of imports after the USA and its second largest biggest export market, after the recent rise of China. Negotiations on the EU-Chile Association Agreement were concluded in 2002. The trade provisions of the agreement entered into force on an interim basis on 1 February 2003. The Agreement entered fully into force on 1 March 2005, after ratification by all signatory parties.

The EU-Chile FTA is broad and comprehensive and covers all the areas of EU-Chile trade relations, going well beyond WTO commitments. The agreement eliminates barriers to trade and establishes clear, stable and transparent rules for exporters, importers and investors. It creates a free trade area in goods, services and government procurement, liberalises investment and capital flows and strengthens the protection of intellectual property rights. The agreement created an Association Committee and Special Committees that meet once a year to deal with bilateral trade irritants and to assess further possibilities for widening bilateral trade and investment.

The EU-Chile Free Trade Agreement foresees that both parties will further liberalise trade in agricultural goods and services in the future. Both parties are interested in improving market access for their products and services. Discussions on the protection of Geographical Indications will also be important part of the further deepening of the FTA.⁵

Central America regional Association Agreement

All the countries of the Central American region benefit from the GSP+ system as part of the EU's system of preferences.⁶ For the last decade the EU's share in Central American trade has remained largely stable at around 10% (8.5% in 2009). Historically the bulk of most Central America countries trade is with the USA and Latin America, and it is only recently that the region has actively sought to increase its trade with Europe. EU imports from Central America are dominated by office and telecommunication equipment (53.9%) and agricultural products (34.8% in 2010). The most important exports from the EU to Central America are machinery and transport equipment (48.2%) and chemicals (12.3%).

In 2006, a decision was taken at the Vienna EU-Latin America and Caribbean Summit to open negotiations for an Association Agreement between the EU and Central America. The EU and Central America have concluded the negotiations for an Association Agreement in May 2010. After its legal review, the text was initialed in Brussels in March 2011. This Association Agreement includes a trade pillar which is expected to enter into force during the first half of 2012. The economic part of the accord gives EU car makers free access to the Central American market, allows Central America to export rice and beef to the EU for the first time, and cuts import tariffs on Central American bananas.

The EU's central economic policy objective for Central America is to strengthen the process of regional integration between the region's countries. In practical terms this means the creation of a customs union and economic integration in Central America and the EU has fostered this process through its trade-related technical assistance in the region. Like the existing Political Dialogue and Cooperation Agreement, this new agreement would aim at reinforcing the political and economic stability of the Central American countries, fostering sustainable development and deepening their process of regional integration. This closer economic integration between the countries of the

⁴ http://ec.europa.eu/trade/creating-opportunities/bilateral-relations/countries/mexico/index_en.htm

⁵ http://ec.europa.eu/trade/creating-opportunities/bilateral-relations/countries/chile/index_en.htm

⁶ http://ec.europa.eu/trade/wider-agenda/development/generalised-system-of-preferences/index_en.htm

Central American region is important for attracting investment to the region and helping local businesses develop the strength in their regional market to compete internationally.⁷

Andean Community regional Association Agreement

The EU is the second largest trading partner of the Andean region after the US. In 2010, the Andean Community of Nations represented 0.7% of the EU's world trade, whereas the EU totaled 14% of CAN's trade (2009). In 2010, EU imports from Andean countries are predominantly primary products: agricultural products (41.1%); fuels and mining products (44.7%). EU exports consist mostly of manufactured goods (81.5%), notably machinery and transport equipment (46.5%) and chemical products (13.8%). The EU grants the Andean countries preferential access to its market under the EU's generalized system of preferences (see above).

In 2006, at the Vienna EU-Latin America and Caribbean Summit it was decided to open up negotiations for an Association Agreement between the EU and the Andean Community. In 2007 the Tarija Declaration of the Andean Community (CAN) (Peru, Colombia, Ecuador and Bolivia) cleared the way for region-to-region negotiations with the EU. Negotiations were started in 2007, but suspended in 2008 due to differences within the Andean Community. Bolivia withdrew due to disagreements over the negotiating objectives. Negotiations were restarted in January 2009 and completed after ten rounds in March 2010. Ecuador suspended its formal participation in the negotiations in July 2009. The final agreement was therefore only signed between the EU and Colombia and Peru. Since the agreement with the Andes community as a whole collapsed, the current agreements between the EU and Colombia and Peru must be referred to as Free Trade Agreements (FTA).

Once fully implemented the Commission estimates that the trade deal will relieve EU exporters of €270 million in duties annually; it will further open up markets on both sides as well as increase the stability and predictability of the trading environment. This Agreement is estimated to be worth half a billion Euros in duties saved alone and is expected to boost Colombia and Peru's economies by close to 1% of GDP.

The Agreement includes an accession clause (Art 329) that allows other members of the CAN to join. Although Ecuador and Bolivia decided to suspend their participation in the negotiations, the agreement preserves its region-to-region approach allowing other Andean Community countries to negotiate their accession to the agreement. Discussions are ongoing with the Ecuadorian authorities to look into ways of resuming negotiations. Contacts are also maintained with Bolivia.⁸

The main country of interest in this case study is Colombia, with which the final agreement on an FTA has been finalized in 2011 following negotiations in the preceding years. The text of the trade agreement was signed in June 2012.⁹ The text of the Trade Agreement will now follow the process of translation, signature and adoption according to each Party's domestic procedures. More details in the agreement with Colombia are given in Chapter 2.

Mercosur

Mercosur was established in 1991 and encompasses Argentina, Brazil, Paraguay and Uruguay. Venezuela was accepted as a member in 2006 and is currently in the process of integrating into Mercosur.

In 2009, EU-Mercosur trade represents nearly as much as EU trade with the rest of Latin America taken together. In 2008, the EU was Mercosur's first largest trading partner, representing 20.7% of total Mercosur trade, and it is the largest investor in Mercosur. Mercosur ranks 8th among EU trading partners, accounting for 2.7% of total EU trade in 2009. The EU is Mercosur's first market for its agricultural exports, accounting for 19.8% of total EU agricultural imports in 2009. EU

⁷ http://ec.europa.eu/trade/creating-opportunities/bilateral-relations/regions/central-america/index_en.htm

⁸ <http://ec.europa.eu/trade/creating-opportunities/bilateral-relations/regions/andean/>

⁹ <http://ec.europa.eu/trade/creating-opportunities/bilateral-relations/regions/andean/>

exports to Mercosur focus largely on industrial products including machinery, transport equipment and chemicals.

During the May 2010 EU – LAC summit in Madrid, with the main theme 'Towards a new stage in the bi-regional partnership: Innovation and Technology for sustainable development and social inclusion', it was decided to re-launch negotiations for an EU-Mercosur Free Trade Agreement. These negotiations with Mercosur were officially relaunched at the EU-Mercosur summit in Madrid on 17 May 2010. The objective is to negotiate a comprehensive trade agreement, covering not only trade in industrial and agricultural goods but also services, improvement of rules on government procurement, intellectual property, customs and trade facilitation, technical barriers to trade. Nine negotiation rounds (the last one from 22 to 26 October 2012) have taken place since then. Until now, rounds have focused on the part of the agreement related to rules and the two regions are still working on the preparation of their market access offers. No date has been set yet for the exchange of market access offers.

Sustainability impact assessments

It is EU policy to carry out Sustainability Impact Assessments of FTAs. The general objective of conducting SIA studies is to better integrate sustainability considerations into European trade policy:

- by analysing the issues arising in a trade negotiation with respect to sustainable development;
- by informing decision-makers and negotiators of the possible social, environmental, and economic consequences of a trade agreement as a basis for defining negotiating objectives;
- by providing guidelines to help in the design of possible preventative, mitigation and enhancement measures, the sphere of activity of which can exceed the commercial field (internal policy, capacity building, international regulation), and which make it possible to maximise the positive impact and mitigate potential negative impacts of the trade agreement.

The final Trade SIA report is available publicly and the process leading up to it has included consultations both in the EU and in the partner region. The report is publicly available on the internet and could thus serve as an orientation tool for negotiators, as well as a useful secondary source of information for stakeholders and civil society in both regions.

Thus, SIAs have been carried out for the AA negotiations with Central America,¹⁰ with the Andes community¹¹ and with the Mercosur.¹² References above are given for the summaries and the Commissions position on the results of the SIAs. Sustainability Assessments as a measure to enhance sustainability of trade relations will be further discussed in Chapter 3.

3.2 Relevant Dutch policies

Human rights policy

The human rights policy of 2011 (MinBUZA, 2011) strengthens the Dutch policy on this subject from 2007. It states that the Netherlands will support respect of human rights and labour rights worldwide. With respect to labour rights, fundamental are the abolition of child labour, forced labour, non-discrimination and freedom of unions. These rights must be consequently applied, e.g. in the APS trade agreements. As a consequence, the Netherlands wants to consequently adopt a human rights clause and sustainable development paragraphs in international (trade) agreements and wants to be able to unilaterally discontinue the agreements in case of non respect. The Netherlands will also actively support the Ruggie-report in the Human rights council. It also refers to the support for expanding the CSR policy to all embassies that play a role in stimulating trade, especially in countries with which the Netherlands has a strong relation in the energy sector. A portal will be developed to exchange experiences in the field of CSR.

¹⁰ http://trade.ec.europa.eu/doclib/docs/2010/june/tradoc_146262.pdf

¹¹ http://trade.ec.europa.eu/doclib/docs/2010/april/tradoc_146014.pdf

¹² http://trade.ec.europa.eu/doclib/docs/2010/july/tradoc_146386.pdf

In comparison to 2007, the 2011 policy is more elaborated. In 2007, the emphasis was on human rights and abolition of child labour. No specific linkages were made to ILO principles (other than child labour) and no relation was made with trade agreements.

CSR policy

With respect to international CSR, the Dutch policy positions have been elaborated in the 2009 reaction by the Government to the SER advice on globalizing sustainably (see below) (Tweede Kamer, 2009). The government first of all emphasises the need to respect international conventions, such as most explicitly the ILO conventions, and thus to support international programmes such as Decent Work programmes. With respect to criteria for imports and production processes in international value chains, the government states that there are certain limits. The government policy on non-trade concerns underlines the importance of careful decision making. The government prefers to address sustainability issues through the multi-lateral and EU channels. In unilateral context, there is need for attention on alternatives, conformity with international conventions and effects for developing countries.

The SER advice 'Globalising Sustainably' ('duurzame globalisering') aims to enable more countries and people to benefit from globalization processes. Relevant for the LAC region is to increase access of products from the LAC region to the EU. The SER notes that in practice access of products from developing countries with preferential access to EU markets remains too limited. It supports changes in the EU Agricultural policy to take away trade barriers, especially export subsidies and support to EU agriculture (amongst others by reducing tariff escalation for agricultural products as these are more processed).

Sustainable development

The Netherlands aims to bring forward the sustainable development objectives in trade negotiations. For instance, this has been done during the annual EU-LAC summit, such as the one in Lima (2008), whereby the Netherlands called for more bioregional cooperation in the area of sustainable development, more attention for sustainability of the exploitation of natural resources and international value chains including biofuels.

Through the Dutch Commission EIA the Netherlands has been involved since 2010 at capacity building of the Central American Commission for Environment and Development (CCAD) and has undertaken in 2007 a strategic EIA of the Association Agreement between the EU and Central America.¹³

Regional policy LAC region

In the Netherlands' LAC policy document (2004) it is stated that the Netherlands aims to enhance coherence of environmental legislation and reduce tensions between environmental and socio-economic interests in LAC countries. To do so, one policy objective is to internalise social and environmental costs and benefits in economic decision making. This will be done at EU level and be part of the processes to develop FTAs at national level. In the 2009 update of the Dutch LAC policy, it is indicated that the Netherlands strives for coherence between trade- and investment policies of the EU on the one hand and objectives of poverty reduction, human rights and environment on the other hand. It is stated that the Netherlands has made efforts to realise this coherence in the strategic partnerships between the EU and Brazil (2007) and with Mexico.

Bilateral policy Colombia

The subject of the free trade agreement between the EU and Colombia is only indirectly mentioned in the 2010 annual plan of the Dutch embassy. The indirect relation is that with the subject of human rights and the involvement of the Dutch embassy in the initiative of Voluntary Principles. It is stated that "we will increment our participation in the dialogue on human rights, and by doing

¹³ Zie: http://docs1.eia.nl/mer/diversen/views_experiences_2009_p33-37.pdf

that, anticipate on the expected discussion in 2010 regarding this topic during the ratification process of the free trade agreement between the EU and Colombia.”

More in general, the Dutch embassy in Bogotá puts much effort in supporting sustainable development in Colombia, not only by supporting the Voluntary Principles. For instance, it also stimulates dialogue on the subject of sustainable development. In the course of 2010 the RNE started a new initiative within the context of the MASP and brought several organisations (government, private sector, NGOs) together to discuss ways to promote sustainable development in Colombia, in the areas of sustainable trade, bio based economy and climate change. The initiative basically consists of bringing initiatives and organisations around the table. The aim is to identify opportunities to work together for a variety of businesses, NGOs and government institutions from Colombia and the Netherlands. It fits well into the priorities of the new Netherlands government (i.e. with regard to the Initiative Sustainable Trade – IDH).

Conclusions

From the Dutch policy point of view, we can conclude that the following policy objectives are priority and will form the reference for assessment of effectiveness:

- human rights, with an emphasis on labour rights, abolition of child labour, forced labour, non-discrimination and freedom of unions;
- implementation of CSR, with an emphasis on above subjects and respect of ILO conventions;
- sustainability of the exploitation of natural resources and international value chains;
- coherence between trade- and investment policies of the EU on the one hand and objectives of poverty reduction, human rights and environment on the other hand.

As far as we know, concrete targets have not been expressed on these policy objectives.

4 Main characteristics of the FTA with Colombia

In this chapter we will provide an overview of the main articles of the FTA between the EU and Colombia, as far as relevant for the subject of sustainable development.

4.1 General objectives of the FTA with Colombia

First it must be stated that this is not an Association Agreement as this set-up failed because Bolivia and Ecuador have drawn back from the AA negotiations. This is a FTA with individual countries. Opportunities for renewed attention for regional integration with the Andean community are referred to in Article 10. Normally, any AA has a political component which includes a paragraph on human rights and non-proliferation. In that case the trade component makes the link with the human rights aspects through Article 1 of the trade component. In this FTA there is no political component and therefore a general paragraph on human rights has been included in Article 1 of the FTA and the aspect of non-proliferation is elaborated in Article 2, which is normally not done.

Sustainable development is referred to in general terms as one of the objectives of the FTA. General commitment to the WTO Agreement, facilitation of economic integration, sustainable development and continuous integration into the global economy are mentioned as general objectives in Article 107. In Article 324, under the subject of technical assistance and trade capacity building, reference is made to the main objective of boosting sustainable economic development that enables to achieve greater levels of social cohesion and, in particular, to reduce poverty.

4.2 Specific sustainable development and trade aspects

Article 201 refers to the protection of biodiversity and traditional knowledge. The objective is to share in a fair and equitable way the benefits arising from the utilization of genetic resources. This may include benefit-sharing obligations in relation to intellectual property rights arising from the use of genetic resources and associated traditional knowledge.

The Chapter on Trade and Sustainable Development is made up of 20 articles (267-286) that cover the following:

- Context and objectives (267) provides for the multilateral referents on sustainable development aspects, including the Millennium Development Goals, the Rio Declaration on Environment and Development, the Johannesburg Declaration on Sustainable Development and de ECOSOC Declaration on Full Employment and Decent Work.
- An article on the right to regulate and levels of protection (268) which reaffirms sovereign rights to regulate both environmental and labour matters in accordance with international commitments referred to in Articles 269 and 270 so as to uphold high levels of protection.
- Articles on both environmental and labour agreements (269 – 270) reaffirm the Parties commitments, which in general meet those within GSP and GSP+ Arrangements. This includes the Conventions of the International Labour Organization – ILO, and Multilateral Environmental Agreements such as the Basel Convention, the Montreal Protocol, Stockholm Convention, CITES, CBD, UNFCCC, Kyoto Protocol and Rotterdam Conventions.
- An article (271) that states the fundamental commitment of Parties to Trade that contributes to sustainable development, including best practices on corporate social responsibility (CSR), coherence between trade and sustainable development, and investments in environmental goods and services.
- An article on Biodiversity (272) that covers issues such as conservation and sustainable use, protected areas, importance and respect of traditional knowledge, innovations and practices, and access to genetic resources and benefit sharing.

- An article on Trade of Forest Products (273) which call for sustainable forest management and trade of legal forest products by means of adequate law enforcement, implementation of relevant international agreements such as CITES.
- An article on Trade of Fisheries Products (274) which calls for sustainable management and use of fisheries resources and the cooperation with Regional Fisheries Management Organisations for this purpose and so as to combat illegal, unreported and unregulated fishing (IUU Fishing).
- An article on Climate Change (275) which takes on the framework of the UNFCCC and the Kyoto Protocol and reiterates the commitment of Parties to contribute in accordance with said framework to the global fight against climate change, by means of, amongst others, a transition towards Low Carbon Economies, and specific actions such as the eliminations of technical barriers to access clean technologies and enable actions that contribute to energy efficiency.
- An article on migrant workers (276), which addresses the importance of working towards equal treatment between national and foreign workers so as to deter discriminatory practices.
- An article on the up holding of levels of protection (277) by means of which environmental standards are not used as a veiled or unjustified barrier to trade, and at the same time, that the promotion of trade and investment is not done in detriment of compliance with the environmental legislation.
- An article on scientific information (278) that calls for the bearing in mind of available scientific information in the preparation and implementation of measures to protect health and safety at work or environment affecting trade between the Parties, and to apply Principle 15 of the Rio Declaration.
- An article on the review of the sustainability impacts (279) on labour and environment in accordance to national processes.
- An article on the Institutional and Monitoring Mechanism (280) that sets up the work of the Subcommittee on Trade and Sustainable Development, to be based on dialogue, effective cooperation, the promotion of commitments and initiatives and finding mutually satisfactory solutions, aimed at monitoring, identification of actions to achieve sustainable development objectives, promoting transparency and public participation in its work.
- An article on the participation and consultation with national stakeholders on labour and environmental issues in accordance of National Mechanisms (Article 281).
- An Article on the Dialogue with Civil Society (282).
- An Article on Government Consultations (283) which can be required by any of the parties on account of the issues addressed under the Trade and Sustainable Development Chapter.
- Articles on the calling and recommendations of Experts (284 – 285) that can be called on by the Parties that require consultations. The way that expert groups are constituted and they operate are covered under this Article.
- An article on Cooperation on Trade and Sustainable Development (286) that recognize the importance of cooperation for the effective implementation of the Chapter, and calls for cooperation on issues such as environmental and labour impacts, compliance with ILO commitments, environmental and labour protection standards, conservation and sustainable use of biodiversity, legal forest product certifications, sustainable forest management, trade of fisheries products, promotion of adequate CSR practices, and the decent work agenda under the ILO.

5 Enabling politics, policies and structures in Colombia

5.1 Policy developments in Colombia

In 1990, Colombia adopted a unilateral free trade, opening measures that reduced import duties from an average of 42% to 12%. At the time, the relationship between sustainable development and trade was not a strong issue in Colombia and these measures were taken only with the expectation that trade would grow and make the country more competitive. In 1991, a new Constitution was adopted, with references to sustainable development, environmental protection and recognition of indigenous and afro-Colombian communities' rights. Since 1993, when the Ministry of Environment was created, Colombia has adopted strong national and international stands regarding some environmental issues, some of which relate to trade. Colombia for example presided the meeting leading to the adoption of the Cartagena Protocol on Biosafety and was a key player during the negotiations. Colombia is also a strong advocate for the defence of the intellectual property rights of local communities nations in the framework of the UN Biodiversity Convention.

In July 2005, a new GSP regime, "GSP+", entered into force for a period of 10 years in Colombia. Few agricultural commodities covered by the EU Common Agriculture Policy (CAP) enter into competition with Colombian products. A notable exception is bananas and the Commission's policy for this product has caused significant friction with Colombian banana producers. The CAP has also influenced meat and sugar markets (European Commission, 2007)

For Colombia, the negotiation of environmental and sustainable development issues related to trade in the context of its FTA's is part of its own vision. It is acknowledged that the increased trade flows resulting from a growth in trade, investment and tourism as derived from these trade instruments, account for a negative impact in the country's natural and social resources. However, Colombia does not have a policy document regarding trade and sustainable development. The Colombia position has rather been constructed as part of the negotiation of each of the FTAs that has been negotiated, evolving from a more basic stance in earlier FTA towards a sustainable development approach under the FTA between Colombia and the European Union. To date, Colombia has integrated environmental specific provisions in the FTAs negotiated with the USA, Canada (country with which it negotiated specific and separate environmental and labour cooperation agreements in parallel to the FTA), Chile, the European Free Trade Association (EFTA), the European Union, Panama and Korea. The FTA with the USA was approved by the USA in October, 2011 and entered into force in May, 2012. Opposition within the USA delayed the adoption of the agreement originally signed in November 2006. This was followed by a modification in 2007, mainly addressing labour, environmental and intellectual property rights issues.

The core elements of Colombia's policy approach to trade and sustainable development can be summarized as follows:

1. *Obligations regarding compliance and up keeping of standards.* Both Parties recognize their sovereignty over their natural resources and autonomy to define their own policy priorities and levels of protection with regards to the environment. FTA's offer the opportunity for the country to improve its environmental performance. The promotion of trade and investment should not be at the detriment of compliance with the environmental legislation.
2. *Special Mechanisms for Environmental Cooperation.* In Colombia's view, it is necessary to generate instruments and mechanisms through which the capacities of trade partners with regards to environmental management are enhanced. This includes actions in both technical and financial cooperation. This approach is evident in Article 286 of the FTA between Colombia and the EU, and follows on similar texts under the FTA between Colombia and the US (Art. 18.9) and the Environmental Cooperation Agreement with Canada.

3. *Biodiversity Protection.* Colombia has been a pioneer in the inclusion of provisions regarding the conservation and sustainable use of biodiversity and the respect of traditional knowledge associated to biodiversity. The FTA's should promote the conservation and sustainable use of biological diversity, including traditional knowledge. On this basis, elements are added with regards to the consultation with civil society, actions that contribute to the commitment expressed by the Parties, and elements to fight against biopiracy, which are much more comprehensively addressed under the Intellectual Property Chapters.
4. *Intellectual Property.* Colombia does not negotiate within FTA's any agreement with regards to issues that are currently under negotiation in the framework of the World Trade Organization (WTO) and the Trade Related aspects of Intellectual Property Rights Agreements (TRIPS), nor on the exceptions of patentability applicable for living matter. As long as this issue is not resolved in the multilateral context, Colombia refers to the agreements as advanced on the multilateral level as a basis for the bilateral discussion.

5.2 Sustainable development issues in Colombia

Human rights

The conflict in Colombia has had a negative effect on the human rights situation for almost every Colombian, particularly visible is the impact in groups like indigenas, afrocolombianos, children, women, human rights defenders and labour unions. This situation has established a bad record on human rights and is now affecting other areas. For instance, some Free Trade Agreements have been delayed because of this (USA, Canada) (Dutch Embassy Bogota, 2010).

Sustainable development

With respect to sustainable development concerns, probably best known are the environmental and social impacts associated with the mining sector in Colombia. For instance in the Netherlands, a coal dialogue has started based on a documentary showing the negative effects of some coal production mines in Colombia. The impacts are on local communities, land rights, water pollution and ecosystem degradation.

6 Modalities and pathways

In this chapter we will focus upon the contribution by the Netherlands on policy modalities, pathways and interventions that have taken place in the period 2004-2011 and that have influenced the integration of sustainable development conditions and criteria in the AA- FTA agreements with Colombia.

The following mechanisms and potential Dutch contributions have been identified:

1. The main mechanism is the influence of the Dutch government on the EU negotiations with Colombia, the position taken by the Netherlands in the AA – FTA negotiations, and the role of Dutch negotiators in the final agreement and sustainable development paragraph. We will look at it from the Dutch viewpoint and from the Colombian viewpoint. Lastly, it includes the follow-up activities by the EU in order to support implementation of the FTA (e.g. through monitoring activities).
2. Secondly, relevant are the bilateral activities undertaken by the RNE in Colombia, possibly influencing the policy dialogue, e.g. activities to support the environmental sector, which may have indirectly influenced the negotiations
3. Thirdly, we will summarise the outcomes of the Sustainability Impact Assessments and the recommendations given to enhance sustainability, and see to what extent this overlaps with the Dutch position during the negotiations.

6.1 EU FTA – Colombia negotiations process

The Dutch policy with respect to the LAC region is increasingly being developed and implemented in an EU context. There is intensive dialogue with other EU member states to define and harmonise common positions, and within working groups such as COLAT and AMLAT.

From the onset the FTA with Colombia was not a priority for the Netherlands (a non-preferential agreement), because there is not much trade with Colombia. The Netherlands has never requested this FTA; it was requested by Spain and Portugal and the Netherlands participated in the EU context. As a consequence, the Netherlands did not put much effort in the process but rather focused on a few subjects that are of critical importance for Dutch policies, being human rights and sustainable development.

In terms of human rights, if the agreement would have been an AA, the agreement would have a political component which includes a paragraph on human rights and non-proliferation. In that case the trade component would make the link with these aspects through Article 1 of the trade component. In this case, as with any FTA, there is no political component but a general paragraph on human rights has been included in par. 1 of the FTA. This is normally not done. The Netherlands has been strongly in favour of such a construction in order to assure that human rights and non-proliferation are strongly rooted in the agreement.

In terms of sustainable development, in general the Netherlands has subscribed the need to comply with various international conventions, for instance ILO, CITES etc. This is in follow-up to the APS+ agreement. However, there have not been any further specific requirements (for instance, as compared to the current FTA being negotiated with Malaysia where specific requirements on sustainability of palm oil are being included).

According to Dutch informants, experiences with previous agreements (with other countries) has shown that general reference to international conventions is not sufficient, because in practice it remains to be seen whether these are being respected and implemented, and there are no means to stimulate or enforce this. This is one reason why articles 279 to 286, which refer to the process of monitoring, consultation and stakeholder engagement are considered very important.

An analysis of the various communications in the period of 2007 to 2011 between Dutch policy departments about the AA / FTA negotiations with the Andean community and later Colombia and Peru show that the following subjects have regularly been mentioned (in general terms) and can therefore be considered as priorities of Dutch positions in the negotiations:

- the need to associate civil society in the negotiation process
- standard clauses on human rights and non-proliferation
- a sustainable development paragraph focused on the relation with trade.

From 2009 onwards, emphasis was given to human rights as a hard condition, meaning that the agreement will be immediately suspended if there is indication of human rights violation. With respect to sustainable development, important issues appeared to be explicit reference to ILO norms and standards, the establishment of a monitoring mechanism of sustainable development with civil society involvement, and the relation with intellectual property rights (TRIPS). These are also subjects which are considered priorities by NGOs. Reference is made to the fact that these subjects have been subject of considerable negotiation and were not easily developed with and accepted by Colombia (and Peru).

According to several informants, the main priority of NL has been on human rights. NL has insisted on the clause of immediate suspension in case of violation of human rights. It is stated that the Netherlands has had an added value on this subject as compared to the other member states.

The minister of Foreign Affairs reported in December 2012¹⁴ that upon signing of the FTA on October 26 2012, Colombia also submitted a so-called 'Roadmap' including an Action plan with measurable indicators. This was a condition for the EC to sign the FTA, which happened in November 2012. The Roadmap includes an Annex with an action plan containing 56 objectives and 100 measures to be taken, as well as indicators. The objectives are in the fields of prevention of human rights violations, rehabilitation of victims, sustainable management of forests and fisheries and water resources, verification labour rights. For instance, it was indicated that Colombia will increase the number of labour inspectors per 100,000 labourers from 3.07 in 2012 to 4.27 in 2014. Colombia will inform the FTA sub-committee on trade and sustainable development on the progress of the action plan and its indicators. Also, the National Consultation Mechanism will be established with participation of various stakeholders including NGOs and indigenous communities.

The minister of Foreign Affairs stated that the Netherlands will assure that the above plans will be implemented and underlines the relationship with respect of human rights and the importance of the subject of CSR for the transition that is to be realized (MinBuza, 2012).

6.2 Colombia viewpoint on the negotiation process

For Colombia, the trade negotiation approach is one of a *cooperative approach*, meaning that FTAs are a window of opportunity for the improvement of the State's and private sector's capacity to develop productive processes in a sustainable manner, by means of knowledge and experience exchange, on the basis of their own priorities. This is in contrast to a *sanctions-based approach*, which is focused on the correction of possible trade imbalances derived from the lack of compliance with environmental legislations.

While issues related to environmental issues are easily accepted, on other elements of sustainable development such as human and labour rights, Colombia did not easily accept commitments. The international image about Colombia regarding these issues is strong and Colombia has made an effort to present data in the interest of showing progress. However, this has not always been favourably received. Consequently, adopting a chapter on sustainable development that tries to

¹⁴ For the Action plan, see <http://www.colombia-eu.org/uploads/Modules/Mediaroom/carta-y-plan-deaccion.pdf>

balance all the issues and goes deeper than previous FTAs of Colombia is considered as one of the achievements of the recent FTA with the EU.

For Colombia, preparations for the negotiation of the FTA with the EU were built upon the results of previously negotiated FTAs with the USA and Canada which had to face concerns in the USA Congress and civil society regarding human rights standards in particular. Thus, during the EU FTA negotiations similar concerns should be avoided. One lesson from these preparations is the understanding between the EU and Colombia that the provisions under the Trade and Sustainable Development Chapter of the FTA were not to be covered by the Institutional Arrangements and Dispute Settlement Mechanism of the General Trade Agreement. Instead, they will be entirely covered within the chapter on Trade and Sustainable Development, including their own disagreement settlement mechanism.

Following the *cooperative approach*, the provisions under the chapter of trade and sustainable development and any related case of presumed non-compliance will not have trade effects, at least under the agreement. This disagreement settlement mechanism was at the core of the EU interests, as they reflected the concerns of civil society in EU countries regarding Colombia's compliance with internationally accepted environmental and human right standards. The result was the mechanism as envisaged under Articles 280 to 285 under the Title on Trade and Sustainable Development that was negotiated between the Parties, which reflected both sides' concerns. Disagreements are first addressed through Governmental Consultations (Art. 283). If a consulting Party deems that the matter needs further discussion that Party may request the Sub-committee on Trade and Sustainable Development (Art. 280, 281) to be convened to consider the matter. If further analysis is required, any Party can request for the establishment of a Group of Experts (Art. 284, 285). The Group of Experts shall determine whether a Party has not fulfilled its obligations, in which case the relevant Party will produce and implement an action plan monitored by the Sub-committee on Trade and Development.

Colombia's approach in the negotiations between the EU and the Andean Community proved to be controversial in the context of the more traditional Andean counterparts – Ecuador and Bolivia. This was particularly true for issues relating to articles on Biodiversity and access to genetic resources and benefit sharing derived from their utilisation, an issue over which Andean countries share community legislation: Andean Decision 391. This discussion found no common ground in particular in the Intellectual Property Chapter and negotiations were halted in 2008. Discussions were then reinstated under the framework of a "Multiparty Trade Agreement" since January 2009. The negotiations included new issues placed in the context of the Chapter on Trade and Sustainable Development, such as fisheries and forestry, climate change and biodiversity.

In Colombia, civil society organizations participated at the beginning of the FTA negotiations but later they do not recall strong participation. There are also Colombian organizations that actively oppose FTAs¹⁵

According to the Colombian negotiators, the core elements of the environmental chapters of the FTA with the EU are relatively constant. Previous FTAs also have articles on monitoring environmental and social implementation of the agreements and space for civil society participation. However, the monitoring clauses in the FTA between Colombia and the EU are quite comprehensive and it requests for a yearly session with civil society organizations, which is new and can be considered innovative. This is enhanced when considering that for the first time all issues of sustainable development are given the same treatment in an FTA. Usually, environmental issues are dealt with in more detail in the agreements.

For Colombia, it was important to make sure the FTA was easily implementable, was not going further from the negotiated issues and follows the *cooperative approach*. For Colombian

¹⁵ see www.recalca.org.co

negotiators, the monitoring clauses are part of the general approach of all FTAs in terms of compliance.

6.3 Bilateral: Netherlands indirect influence through bilateral aid

For Colombia, it has not been possible to identify any specific position by the Netherlands in the negotiations since the negotiations were developed under an EU position as presented by DG Trade and national positions within the EU countries where not particularly evident. However, the role of the Dutch cooperation to environmental institutions in Colombia is highly recognized as the only international cooperation in environment that has remained stable. Reference is made to the Sectoral Environmental Approach Programme (SEAP) 2007-2010 and the partnership between Colombia and the Netherlands in the Climate Change International negotiations. These two elements contributed to strengthen the environmental sector in Colombia previous and during the FTA negotiations, providing a stronger stand of the Environmental Ministry within the Government and with the Foreign Affairs Ministry.

6.4 Sustainability Impact Assessments

The SIA report gives a number of FTA-related recommendations to address possible economic effects and to enhance sustainable growth. The EU Commission services has provided an elaborate response. A summary is given in Annex 1.

Comparing the recommendations emerging from the SIA, the responses from the European Commission and the actual FTA texts, the following observations can be made:

- there are no specific conditions or criteria on any commodities, such as biofuels, palmoil, sugarcane or others, to respond to specific sustainability concerns raised by the SIA;
- there are articles on the most environmental sensitive products (forestry and fisheries) as well as biodiversity and climate change, with some specification of expected results; there is no reference to the FLEGT framework for forestry;
- there are articles on the monitoring of the environmental commitments as well as articles on the transparency and better governance;
- there is reference to capacity building but not specifically oriented at sustainable development issues (apart from biodiversity);
- there is an agreement to promote best practices on CSR, investments in environmental goods and services and improved coherence between trade and sustainable development policies;
- the monitoring framework, consultation with civil society organizations and the expert judgment facility are the main instruments to realize progress on other specific environmental subjects.

Thus, it can be concluded that specific sustainability objectives and standards are referred to in relation to all relevant international and in relation to the themes of forestry, fisheries, biodiversity and climate change. For other sustainability concerns, the FTA does not include specific objectives or standards but rather relies on the mechanisms of the monitoring framework, consultation with civil society organizations and expert judgment facility to agree upon and achieve progress.

We also observe that, according to the interviewed persons, for the Dutch position in the negotiations the recommendations coming from the SIA have not played an important role.

7 Outcome indicators 2004-2011

In this chapter we will be dealing mainly with expected outcomes rather than realized outcomes, as the FTA has only recently become operational and it would be too early to expect real changes in trade relations. In the following we subsequently discuss: the coverage of sustainability clauses in the FTA according to a study commissioned by the EU, the expected changes in trade relations according to the Colombia government; the main Colombian economic and sustainability concerns and expectations; the expected outcomes in trade and sustainability according to the SIA; and the available evidence of changes in trade relations and sustainability.

7.1 Sustainability clauses of the FTA with Colombia

A study has been carried out commissioned by the EU on the FTA's between the EU and Colombia and Peru (EU, 2012). It includes a section on the consequences of the FTA for human rights, democratic principles and sustainable development.

The FTA must be seen in the context of the GSP+ scheme operated by the EU which already provided Colombia and Peru with tariff free access for almost all product lines, so that the FTA mainly provides a legal guarantee for the continuation of such preferences. The GSP+ scheme being an autonomous EU measure can be changed at any time and the EU is indeed reviewing the GSP scheme with a view to focusing preferential access on least developed and lower middle income countries. This could mean Colombia and Peru would cease to benefit from duty free access to the EU unless the Agreement is ratified.

In relation to biofuels such as bioethanol, palm oil and cut flowers the GSP+ already offers duty-free treatment for these products and the Agreement does not change this *status quo*. All biofuels exporters to the EU market have to comply with rigorous sustainability criteria. For other products, there are provisions of the sustainable development chapter that provide for monitoring of the sustainability of any increased output that might for example occur due to increased investment being attracted by the legal security of zero or lower tariffs on exports to the EU. The Agreement does provide for better access, in the form of lower tariffs, to the EU market for a few important products, including bananas (but mainly relevant for Peru and less so for Colombia).

Apart from tariff reductions in these sectors, the FTA offers Colombia and Peru access to a range of EU markets such as in services and government procurement. Perhaps more important given the structure of Colombian and Peruvian exports, is that the Agreement offers various means for addressing other barriers to market access, notably in the field of sanitary and phytosanitary measures that promise improvements on the existing provisions under the WTO agreement. For EU exporters the FTA is more favourable than the GSP+ as it provides for the phased removal of tariffs in Colombia and Peru that was not available under the GSP+ scheme.

The GSP+ offers preferential access to the EU market for exports on the condition that the beneficiaries ratify and effectively implement 27 international conventions relating to sustainable development and basic human rights (including agreements on political and economic and social rights, torture, discrimination on grounds of race and gender, women's and children's rights, labour standards and certain conventions relating to environmental protection (e.g. conventions designed to combat trafficking in endangered species and to protect the ozone layer), as well as the various conventions relating to the fight against illegal drugs production and trafficking). The beneficiaries of the GSP+ must provide comprehensive information on the legislation and other measures taken to effect implementation. Failure to comply can result in GSP+ concessions being suspended, as has happened with Sri Lanka.

The chapter on Trade and Sustainable Development contains provisions aimed at 'strengthening the relationship on trade and labour and environmental policies and practices', strengthening

compliance with commitments deriving from ‘international conventions and agreements’ in order ‘to enhance the contribution of trade to sustainable development’, promoting ‘the conservation and sustainable use of biological diversity and of natural resources,’ and strengthening ‘the commitment to labour principles and rights’, as an important element to enhance the contribution of trade to sustainable development’ (Art 267). The scope of this chapter is narrower than the GSP+ and it is not subject to the dispute settlement provisions of the FTA in Art 298. Under the FTA cases of non-compliance with the sustainable development provisions are subject to an enforcement mechanism based on ‘dialogue and effective communication.’ Overall monitoring and compliance is covered by a Sub-Committee on Sustainable Development, with the possibility of establishing a Group of Experts to consider the case. The parties addressed in cases of non-compliance would then be obliged to produce an action plan. In cases of non-compliance with the human rights clause a party may take ‘any appropriate action’, which appears to include the withdrawal of benefits under the Agreement.

The table below lists the 12 conventions with which compliance is required under the GSP+ that are not explicitly listed the FTA. However, the general human rights clause in Art 1 of the Agreement could be interpreted as covering core human rights and labour rights and thus the Conventions 1-7 listed below, so that only 5 remain that are not covered by the FTA.

Table 3.1: GSP+ Conventions not mentioned in the FTA Title IX

Core human and labour rights UN/ILO Conventions	
1.	Convention on the Prevention and Punishment of the Crime of Genocide (1948)
2.	International Convention on the Elimination of All Forms of Racial Discrimination (1965)
3.	International Covenant on Civil and Political Rights (1966)
4.	International Covenant on Economic Social and Cultural Rights (1966)
5.	Convention on the Elimination of All Forms of Discrimination Against Women (1979)
6.	Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
7.	Convention on the Rights of the Child (1989)
Conventions related to the environment and to governance principles	
20.	The United Nations Framework Convention on Climate Change (1992)*
24.	United Nations Single Convention on Narcotic Drugs (1961)
25.	United Nations Convention on Psychotropic Substances (1971)
26.	United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988)
27.	United Nations Convention against Corruption (2004)

*The Kyoto Protocol of the UN Climate Change Convention is however covered by the Agreement

7.2 Trade outcome indicators

According to the Colombian Ministry of Trade, the FTA with the EU will open opportunities for the Colombian economy. According to the National Planning Department, the FTA will cause an increase in GDP of 0.46%. Imports will increase by 1.73%, leading to a 0.25% increase in the remuneration of skilled labour and a 0.53% increase for unskilled labour. According to other independent experts, the agreement could boost Colombian GDP by 1.3% (and Peruvian GDP by 0.7%), while lower production costs will allow industries to better compete in the global economy and move up the value-added chain, leading to more jobs.¹⁶

More specifically, according to the Colombian Ministry of Trade, the expected outcomes for the agricultural sector includes the following influence on specific commodities:

- **Sugar:** Colombia will have a duty-free quota for 62,000 tons with a growth of 3% annually. For the sugar sector, this is valuable since the chances of entry into that market are minimal due to the high tariffs that are currently in place. Additionally, a rule of origin was agreed in which the sugar must be made from the extraction of sugar cane grown and harvested in the country.
- **Products with sugar:** Colombia will have a duty-free quota of 20,000 tons, with a 3% annual growth. This will generate significant opportunities for high value-added products.
- **Ethanol and Biodiesel:** These will have duty-free, immediate access.
- **Flowers:** This product will have immediate and permanent duty-free access. One advance is that the rules of origin allow the import of genetic material from third countries, which may then be exported to the EU as finished products that will enjoy preferential treatment.
- **Coffee:** Duty-free access was achieved for roasted coffee and coffee preparations. A general source rule of origin was established whereby all roasted coffee beans will be considered as originating if they have been grown and harvested in the countries that are parties to the Agreement. The EU will have a reduced quota of 100 tons of roasted arabica coffee, with a flexible standard.
- **Palm oil:** There will be duty-free access to raw oil for refining. In the oilseeds sector, a rule of origin was established which awards tariff preference to those vegetable and animal oils and refined of raw oils that are originating.
- **Fruit and vegetables:** These will benefit from immediate, duty-free access for the most part, and in some cases, there will be favorable conditions for market access to third parties. As to the rules of origin, fruit and vegetables must be fully obtained, and their preparations must be 50% originating.
- **Tobacco:** This sector will have duty-free access. The industry expects to export over USD 100 million over the next seven years. Meanwhile, competitors will have to pay € 56 per 100 kg net. For tobacco and cigarettes, a rule of origin was established that requires 70% in originating materials.
- **Dairy:** This sector will receive a relief period that addresses the particularities of its production. For example, there will be relief of up to 15 years, with free access quotas representing reduced amounts, compared to domestic production.
- **Beef:** For thin cuts, Colombia negotiated a quota of 5,600 tons, which will grow 10% annually. This will amount to 8,000 tons in less than five years. This benefit will result in increased opportunities to export to the EU, with the help of good outcomes in the area of sanitary and phytosanitary measures. It is estimated that this will have a value close to € 20 million, which would generate a tariff savings of € 23 million in the first year of the Agreement.
- **In industrial goods, including fishing, 99.9% of exports from Colombia will have duty-free access to the EU. Regarding the rules of origin for industry, Colombia managed to relax many of them for products that had a restrictive rule under the GSP+. This will enable the country to take advantage of preferential tariffs with the EU in a better way. For example:**
 - **Petrochemicals and plastics:** It was possible to incorporate a more flexible rule than that which currently exists under the GSP for all products in the chain.

¹⁶ www.theparliament.com/latest-news/article/newsarticle/eu-peru-colombia-fta-jean-luc-demarty/

- Textiles: The approach for textiles includes a rule which allows the import of fibers from third countries, but the yarn product must be developed in the countries member to the Agreement.
- Apparel: The rule allows for the import of yarn from third countries, but the fabric must be made in the countries member to the Agreement.

All Colombian exports to the EU, under Chapters 50 to 63, which currently have tariffs, will have immediate duty-free access.

7.3 Colombian economic and sustainability concerns

For Colombia, three major economic concerns have been raised:

1. The FTA does not lead to more competitive sectors. All previous efforts to promote trade, including the unilateral measures of Colombia in 1990 and the ATPA (Andean Trade Preference Act, with the USA) and APDEA (Andean Trade Promotion and Drug Eradication Act, with the USA) have not been able to change the main exports of Colombia that continue being oil, coal, mining, flowers, coffee, textiles and leather products. It is however argued that these two Acts are discretionary preferences that could be lifted any time (as it happened a few times) generating uncertainty in new sectors.
2. The focus in foreign trade will weaken internal trade. There is a tendency to focus public and private investment at infrastructure associated to the FTAs, such as factories moving towards the maritime ports while most population of Colombia lives in the Andean mountains.
3. The Colombia dairy sector will suffer. Subsidies in Europe and the technological gap made this the sector most reactive to the FTA. The FTA includes measures to counter these risks such as the elimination of tariffs over 15 years only.

In terms of environmental issues, Colombia's main concerns include the environmental impact of increased mining intensity. The strong emphasis in the mining sector will lead to unwanted environmental impact with little redistribution of benefits. More than 70% of the foreign investment of the last years comes from the mining sector. This is a sector intensive in capital but low labour intensive. In addition, gold and coal mining has led to opposition from some sectors of the civil society. It is anticipated that having included compliance of the environmental regulation in the FTA will strengthen the enforcement of the regulation and will bring additional monitoring and international visibility to the Colombian mining industry. The Colombian position is that the compliance of ILO and other multilateral requirements will improve attention for sustainability concerns in the mining sector. However, improved legislation is also required. The application of the principle "first in time, first in law" in the mining sector gave any one the possibility to request a mining right over land without a previous given right. Most of the country has allocated mining rights that need to be recovered in order to put in place an efficient strategy such as the concessions strategy adopted by the oil public sector. Recent changes are oriented towards ensuring that these concerns are adequately addressed.

For Colombia, it is expected that the obligations embedded in the FTA's will serve as an incentive for environmental considerations to be taken into account in the execution of activities in the productive sector. EU consumption preferences will form an additional incentive since EU citizens are expected to prefer companies that are socially responsible.

With respect to monitoring on sustainable development, the main concern for Colombia is that the FTA mechanisms will allow for the consideration of legitimate concerns regarding sustainable development issues, but should not to open a window for Colombia to be questioned on any matters that do not necessarily relate to impacts in the context of the bilateral relationships. National sovereignty is another baseline. This concern has been addressed in the relevant FTA articles.

7.4 Expected sustainability outcomes based on SIA

In general, the SIA expects an important increase in production and export to the EU of primary products, especially minerals and agro-commodities such as biofuels, sugarcane and palm oil. On the contrary, it is expected that value-added and services sectors are not much stimulated, if not will be depressed. The SIA on the EU-Andean negotiations is built on two different scenarios:

- Modest liberalisation, with the following assumptions: 90% liberalisation of tariffs, 50% liberalisation of services, 1% of the value of trade in cost reductions through trade facilitation;
- Ambitious liberalisation, with the following assumptions: 97% reduction of tariffs, 75% liberalisation of services, 3% of the value of trade in cost reductions through trade facilitation.

These two scenarios are run on the basis of baseline modeling assumptions that take account of the possible effects of a WTO multilateral liberalisation agreement and which fully integrate the significant preferences currently granted by the EU to Andean countries, via the GSP+ system.

The overall economic impact measured by GDP of an EU-Andean FTA is expected to be positive, with output/income gains for all economies in both scenarios: dynamic long term effects under a scenario of ambitious liberalisation could amount to up to € 4bn in the EU (less than 0.1% GDP) and € 2.7bn in Colombia (1.3% GDP). Trade flows are expected to expand following the entry into force of the agreement. The effect would be marginal in the EU (maximum +0.1% in imports and exports to/from the Andean region) but would be much more significant for the Andean countries. The value of the exports from these countries could grow by up to 9.9% (Colombia) while imports from the EU would follow a similar trend. A sector specific analysis also shows that the impact in terms of output for the agricultural sector would be minimal in the EU and generally positive in Colombia. The biggest impacts for Andean sectoral output would be felt in the fruits sector, with banana production being the most important element explaining the expected increase in output. For this specific product, the Commission services note that due account should be taken of both the reduction in tariff that has been agreed to by the EU at the multilateral level, and of the further tariff reduction negotiated in the context of the EU Andean Trade Agreement. Forestry and fisheries would display mixed results depending on the country.

The industrial sectors are not expected to benefit much, however most likely to benefit are mining, textile, wearing apparels, leather products, wood products, machinery and equipment and metal production.

In terms of social effects, the study concludes that effects on average national wages both for skilled and unskilled workers are expected to be minor. In the EU, the effect on average wages of an EU-Andean Trade Agreement would be negligible whereas, in the Andean countries, the effects for unskilled workers would be positive (up to 1.1% in Colombia). Conversely, national employment effects would be positive in all scenarios. The impact on employment in the EU would be negligible whereas the impact on employment in Andean countries could reach +2 to +3% in Colombia over the long term. There could be some inter-sectoral shifts in employment and therefore some adjustments in labour markets.

Agro-commodities

With regard to the sectoral impact of liberalisation, the sectors in Andean countries that may benefit most from a FTA would be sugar and fruits in addition to a possible further expansion of mining and hydrocarbons. With respect to biofuels (ethanol and palm oil), the study notes that specific areas in the Andean region might see their production rise due to increased demand from the EU. The Commission services point out that while it is true that the Agreement will put trade relations between the Parties on a more permanent basis, access *per se* will not be greater as the EU already allows duty free imports from Andean countries of both products under GSP+. In the biofuels and palm oil sectors, the SIA suggests that the increase of production could have a potentially negative social impact in Andean countries given the risk of displacement.

Mining

Some effects are identified by the SIA as bearing possible negative social impacts, e.g. in view of past opposition of some local populations to the extension of mining operations or hydrocarbons production sites. The SIA also mentions the possibility that, in the large scale mining sector, restrictions on workers' rights could limit increases in real wages and hamper substantial improvements working conditions.

Environment

Concerning its impact on the environment, the SIA report reaches four main conclusions. First, as regards climate change, no significant increase in greenhouse gas emissions is expected. Second, the predicted growth in the agriculture sector in Andean countries could add pressure on both land and water resources. Third is the risk of generating important sources of pollution as a consequence of an increase of mining activities, large-scale agricultural production, or in case of unregulated expansion of some sectors such as textiles, chemicals, rubber and plastics.

Forestry

The study suggests that the FTA might have significant impacts in terms of deforestation and reduced biodiversity, as a result of the predicted expansion of agriculture and timber industries. As regards illegal logging and deforestation due to exploitation of forestry resources, the Commission considers that EU-Andean trade in forestry products is not likely to become a main source of environmental pressure, as tariff levels for forestry products were already low, so the impact of the Agreement on export flows from the region to the EU is likely to be limited. Thus, the USA and China are likely to remain the major international markets though it is possible that in the case of China some wood from the Andean region may be processed and reach the EU in the form of finished products.

7.5 Actual EU trade relations

The main outcome indicators for this study are related to the question of how (volumes of) trade has been and/or will be influenced by free trade agreements, and how this is expected to affect sustainable development indicators. For Colombia these indicators will be difficult to assess, because the FTA has only been concluded in 2010 with all formalities finalized in 2012.

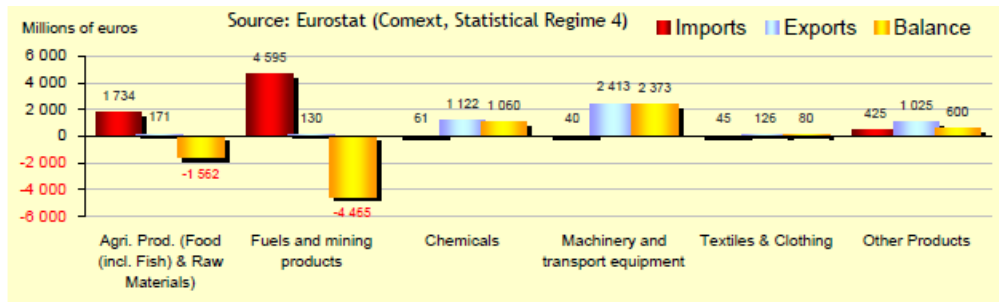
Between 2009 and 2011 the trade balance between the EU and Colombia became more negative for the EU (see chapter 2.2). The far majority of EU imports from Colombia are primary products, mainly agricultural products (declining in value from 40% to 25% between 2007 and 2011) and fuels and mining products (increasing in value from 42% to 67% between 2007 and 2011). The strong increase in value over this period is entirely due to the increase in fuel and mining products. Together with Venezuela, the EU imports from Colombia are most heavily skewed towards fuel and mining products. Thus, these developments so far would seem to strengthen the risks mentioned above, of Colombia remaining highly (or even becoming more) dependent on export of mining products.

The relation between Colombia and the Netherlands is very much in line with the above trend for the relation between the EU and Colombia, as coal imports from Colombia heavily dominate the trade relations between these two countries. It is expected that the Netherlands will become more dependent on coal imports from Colombia in the coming years.

We can also look at the impacts of earlier free trade agreements with LAC countries, notably in Mexico (FTA in 1997) and Chile (FTA in 2003) as one basis to predict changes in trade for the FTA in Colombia. Trade with Mexico has substantially increased after the FTA had been signed. Between 2000 (when the FTA came into force) and 2008 exports from Mexico to the EU have increased by 250%, while imports by Mexico from the EU have increased by 160%.¹⁷ There are,

¹⁷ http://assets.opencrs.com/rpts/R40784_20090827.pdf

however, no conclusive studies about the impacts of these changes on environmental and social sustainability. Such studies would be notoriously difficult as one can never know what would have been the situation without the FTA.



8 Analysis of the effects of policy actions on sustainability

8.1 Contribution to enabling politics and policies

Two main themes will be addressed hereunder:

- Strengthening of institutions and processes in Colombia responsible for sustainable development (government level, national and decentralised, as well as NGOs);
- Strengthening of specific trade sectors to enhance sustainable development policies.

It is important to know that for the Netherlands the FTA with Colombia was not a priority, given the limited trade relations with Colombia. For the Netherlands, policy priorities were those of human rights, non-proliferation and sustainable development. These have been systematically raised and addressed by the Netherlands during the period of the FTA negotiations (2007 to 2010). All three issues are now adequately covered in the FTA, so that it can be concluded that at least in terms of the FTA text the expected outputs have been achieved. It is too early to conclude whether the FTA will contribute to outcomes in terms of enabling politics and policies, as this will depend upon how the FTA will be implemented, especially the sustainable development monitoring mechanisms and institutional framework.

Questions raised in Dutch Parliament about the involvement of the Netherlands in the negotiations and its outcomes have been answered in a satisfactory way. Questions about violation of human rights were also asked in the European Parliament: since during the implementation of the GSP+ Colombia faced grave human rights violations carried out by the Colombian authorities, why has the GSP+ not been suspended and how is the European Commission (EC) planning to ensure that, with the FTA, Colombia will improve its human rights standards, since the FTA includes less multilateral standards than the GSP+ and no binding mechanisms to guarantee the effective implementation of these standards? The answer was that the EC actively monitors compliance with Colombia's obligations and a number of positive developments have been. Regarding FTAs, binding commitments such as the ones contained in the FTA with Colombia are pivotal in ensuring socially cohesive economic development and the strengthening of democratic institutions, individual freedoms and the rule of law. Besides the overall impact that such agreements may have on accountability, the human rights provisions in this FTA match the highest standards set in other EU FTAs and are binding. Insofar as fundamental labour rights are part of the Universal Declaration of Human Rights, the preferences afforded under the FTA can be suspended on the basis of the Essential Elements clause. The latter is designed to be wide-ranging in scope, should circumstances require.¹⁸

The experience with earlier FTAs has been to limit the section on trade and sustainable development to the need to comply with environmental and social sustainability conventions and agreements. This is in line with the approach to sustainability in the GSP+. However, in the Netherlands there is a perception that in Colombia implementation of these agreements is not always strong, especially with respect to social sustainability aspects, and the new approach which emphasizes mechanisms of monitoring, civil society participation and expert panels will be more effective. According to Colombian authorities, implementation of conventions has not been poor and these mechanisms under the FTA are not significant nor innovative. They claim that although these mechanisms are valuable they are part of the general approach of all FTAs in terms of compliance. However, several environmentalists and trade unionists are of the opinion that these mechanisms in the FTA with the EU are more comprehensive and clear than previous FTAs. Regarding labour issues and human rights, elements about information and public participation are considered stronger in the EU FTA. However, there are also some doubts about the effectiveness of these mechanisms. According to a group of international NGOs the functioning of

¹⁸ <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2012-002961&language=EN>

the mechanisms for civil society participation in other EU trade agreements such as that of Mexico and Chile have been problematic: after eight years of entry into force of the agreement the mechanism for civil society participation has still not been established. Therefore, before proposing such models for the FTA with Colombia, there would be need for an assessment of the previous models in order to guarantee effective participation and monitoring of civil society organisations in the FTA (APRODEV, 2011).

The FTA is less strict on the effective implementation of 27 core Conventions on human and labour rights, environmental standards and governance principles than the GSP+ agreement. The analysis shows that (i) in the FTA less conventions are covered (at least 5, at most 12 are not covered in the FTA which are covered in the GSP+), and (ii) while the GSP+ approach is one of binding mechanisms to guarantee the effective implementation of these standards, within the FTA cases of non-compliance with the sustainable development provisions are subject to an enforcement mechanism based on 'dialogue and effective communication'. Thus under the FTA it seems to be less obvious for the EU to suspend tariff preferences or apply sanctions, on the basis of non fulfillment of sustainable development standards, including environmental or labour laws by the Parties.

The FTA contains specific articles on the most environmental sensitive products (forestry and fisheries) as well as biodiversity and climate change, with reference to international conventions, standards and legal frameworks to be respected. However, there are no specific sustainability criteria for any commodities, such as biofuels, palmoil, sugarcane, mining products or others, to respond to sustainability concerns for these commodities (as raised by several organizations as a result of the expected increase in production and trade of these commodities). Sustainability concerns related to these commodities are expected to be raised, discussed and agreed upon by making use of the above monitoring mechanisms. In Colombia there is agreement with this approach, although some personalities consider that the FTA should have focused on compliance of sustainability standards for the most traded commodities.

Technical assistance and capacity building have been mentioned as an important component of the FTA, but mainly in relation to promoting competitiveness and innovation potential. There is hardly a connection made between capacity building and sustainability concerns.

For Colombia, the approach taken on trade and sustainable development, being that of the emphasis on monitoring mechanisms (monitoring, civil society participation and expert panels), fits well into a strategy of a cooperative approach, meaning that FTAs are an opportunity for the improvement of the State's and private sector's capacity to address sustainability concerns, by means of knowledge and experience exchange, on the basis of their own priorities. This is in contrast to a sanctions-based approach, which is focused on the correction of possible trade imbalances derived from the lack of compliance with environmental legislations. Colombia clearly sees the FTA as an opportunity to strengthen its compliance with environmental and social sustainability agreements. For instance, there are concerns with respect to sustainability aspects in the mining sector. It is anticipated that having included compliance of the environmental regulation in the FTA will strengthen the enforcement of the regulations and will bring additional monitoring and international visibility to the Colombian mining industry. The Colombian position is that compliance of ILO and other multilateral requirements will improve sustainability in the mining sector. For Colombia, it is expected that the obligations embedded in the FTA's will serve as an incentive for environmental considerations to be taken into account in the execution of activities in the productive sectors. EU consumption preferences will form an additional incentive since EU citizens are expected to prefer companies that are socially responsible, and there are also EU investments in the mining sector in Colombia.

Thus, for Colombia the FTA is a starting point for a partnership that promises to result in positive changes with respect to sustainability concerns, without pinpointing the expected improvements for specific sectors that are involved. This means that much time and efforts will need to be put in the process of monitoring, negotiating and agreeing upon desirable sustainability improvements.

This will be a challenging process. For the implementation of the FTA a roadmap with action plan has been developed, with 100 concrete actions and progress indicators, including several in the area of human rights, labour rights and environmental issues.

Colombia looks upon the Netherlands as one important partner to be involved in this process, given its historical role in supporting the environmental sector. The Dutch sector support programme during recent years has been important in strengthening the environmental institutions in Colombia. Other themes and sectors relevant for the FTA and in which the Netherlands has built up expertise in Colombia are CSR, sustainable value chains (especially flowers, coffee and bananas) and support to a dialogue on sustainability in the mining sector. Thus, the Netherlands can be an important partner for Colombia in implementing the FTA and making the monitoring mechanisms work, particularly being the Netherlands a mayor consumer of Colombian coal.

8.2 Contribution to production and trade

Two main themes will be addressed hereunder:

- Production and trade of products that meet sustainability standards;
- Reduced incidence of unsustainable or illegal production systems or practices for trade, e.g. trade of commodities produced at the expense of deforestation.

It is too early to say something about concrete changes in trade between Colombia and the EU or the Netherlands as a result of the FTA. However, there has been much debate about the expected changes in production, trade and its effects on land-use and environmental and social sustainability. For Colombia, one major expectation of the FTA is to increase competitiveness in other sectors than those traditionally covered, being mainly extractive and natural resources-based sectors. Secondly, Colombia expects that production and trade will not be too much export oriented but also oriented at internal (domestic and regional) trade. So far, trade figures are not in line with this expectation, being that of an increasing dependency of Colombian exports to the EU on fuels and mining products (increasing in EU trade value from 42% to 67% between 2007 and 2011). For the Netherlands the trade relation with Colombia is heavily dominated by the import of coal, which has recently only become more intense.

The SIA also shows that the FTA is likely to increase dependency on Colombian exports of raw materials, intensifying the pressure on land and water. The SIA predicts a concentration of production in agricultural sectors of sugar, fruits (particularly bananas), biofuels (e.g. palm oil), vegetables and nuts, as well as mining and hydrocarbons, while there will be a reduction in value added economic sectors such as transport, manufacturing and insurance due to competitive pressure from EU firms. Therefore, the Colombian economy is expected to further rely on primary product exports, a strategy that has proven not conducive to sustainable development. Economic literature highlights the fact that poverty remains high in countries that depend on primary commodity exports. It seems that instead of a reactive approach, there is need for the FTA to take a proactive approach in stimulating sectors and services other than above primary sectors.

The predicted growth in the agricultural and the mining sector could bring about important changes in land use patterns and increase pressure on land and water resources. The predicted expansion of agriculture and timber industries could lead to faster deforestation and reduction of biodiversity. Ethanol and palm oil exports from Colombia to the EU could increase, as the Agreement provides a more secure legal market access framework than the GSP+.

According to the SIA, a reduction in real wages is expected in most LAC countries involved as land and food prices are expected to increase more than the nominal wages. Imports are expected to rise more than exports, which will negatively affect the balance of trade, leading to a decrease of reserves and probably an increase of the external debt.

With respect to illegal exploitation, only for the forestry sector there is reference to certification and legality standards.

It can be concluded that there are high expectations within Colombia of the FTA stimulating a shift towards more diversified and services-oriented production and trade, moving away from sensitive production sectors such as mining and hydrocarbons, but so far the available trade data and evidence do not support these expectations. There are also expectations and opportunities to stimulate CSR, more sustainable production methods and more sustainable mining.

8.3 Effectiveness of modalities and pathways

The Netherlands has been effective in bringing to the foreground its policy priorities of human rights, non-proliferation and sustainable development. The Netherlands in particular has insisted on stimulating implementation by including paragraphs 280-285 on monitoring, civil society involvement and expert committees. The Netherlands has not been the only country advocating for these priorities. According to Colombia these are by now accepted mechanisms.

The RNE has not contributed in a direct way to the FTA negotiations, but mainly through its involvement at EU level within working groups. In addition, indirectly, bilateral relations have played an important role. Firstly, this is through the sector support programme over the last years, strengthening environmental institutions and building up capacities. The effectiveness of this support has been highlighted by Colombian authorities, and has played a role in the FTA negotiations. Secondly, support has been given through involvement in advancing themes of CSR and its application to the mining sector. Thirdly, support is given to sustainable production chains, through private sector support, specific subsidies (e.g. PSOM subsidies) and the IDH programme, which is important in raising awareness on sustainability issues of value chains and thus feeding the dialogue that will take place in the context of implementing the FTA.

The Sustainability Impact Assessment (SIA) that was conducted of the proposed FTA for the Andean community has played a role in highlighting the key sustainability issues and concerns in relation to implementation of the FTA. The issues raised have been widely debated and a response by the Commission services has been made available. The Netherlands did not contribute to this SIA. However, in a similar case (the FTA for Central America) the Netherlands supported the implementation of a Strategic Environmental Assessment. It can be concluded that these are useful instruments that may be supported.

In terms of effectiveness the challenge is the implementation of the FTA, especially the various sustainable development monitoring mechanisms. This must be placed in the context of the fact that such mechanisms, planned for the FTA's in Mexico and Chile some 8 years ago, have so far remained ineffective (according to leading NGOs).

8.4 Coherence of policy actions to address sustainability issues

Coherence can be looked upon in three ways. One is coherence between policies within the EU (and the Netherlands), second is that of EU and Colombia Andean countries' sustainable development policies, third is policy coherence at the national and supranational level.

With respect to policy coherence within the Netherlands, there would seem to be opportunities of strengthening policy coherence oriented at implementation of the FTA. First of all there are important linkages between human rights and sustainability of certain value chains, for instance in the mining sector. The Netherlands is involved in the coal dialogue that aims to improve sustainability in this sector, including human rights issues. Secondly, there are important linkages between CSR initiatives and best practices, that should feed into the FTA implementation process.

With respect to the second and third perspective, the creation of mechanisms to monitor the effective implementation of sustainable development provisions should play a significant role. A start has been made by the Colombian FTA roadmap with action plan, with 100 concrete actions and progress indicators, including several in the area of human rights, labour rights and environmental issues. It includes participation of representatives from different national bodies and policy backgrounds, spurring a comprehensive and multi-faceted assessment of cross-cutting issues, as well as an enhanced exchange of information and best practices in sustainable development initiatives in both parties, thus contributing to the coherence between policies.

9 Conclusions

1. For the Netherlands the FTA with Colombia was not a priority, given the limited trade relations with Colombia. For the Netherlands, policy priorities were those of human rights, non-proliferation and sustainable development. The Netherlands' LAC policy document (2004) mentions the policy objective to enhance coherence of environmental legislation and reduce tensions between environmental and socio-economic interests in LAC countries. To do so, one policy objective is to internalise social and environmental costs and benefits in economic decision making. This will be done at EU level and be part of the processes to develop FTAs at national level. In the 2009 update of the Dutch LAC policy, it is stated that the Netherlands strives for coherence between trade- and investment policies of the EU on the one hand and objectives of poverty reduction, human rights and environment on the other hand.
2. These policy priorities have been systematically raised by the Netherlands during the period of the FTA negotiations (2007 to 2010). It can be concluded that in terms of the intentions and proposed processes expressed in the FTA text, the outputs are in line with the Dutch policy objectives.
3. The Netherlands at EU level (through its involvement in working groups) has contributed to realize the above outputs in terms of the issues of human rights, non-proliferation and sustainable development being adequately covered in the FTA. It is not possible to conclude how important the Dutch contribution has been as the Netherlands has not been the only country highlighting these priorities.
4. It is recognized in Colombia that the Netherlands has contributed in indirect ways to the above outputs, i.e. the satisfactory results of the negotiations on above issues, through its bilateral relations, by strengthening the environmental sector institutions in Colombia, by promoting a CSR policy framework and by building up experiences and capacities on sustainability in specific value chains (e.g. flowers, coffee, coal). The RNE in Colombia has during the last years consistently been on the forefront of promoting attention for CSR. For example, in 2010 the RNE brought together stakeholders from government, private sector and NGOs to discuss ways to promote sustainable development in Colombia, in the areas of sustainable trade, bio based economy and climate change.
5. The clauses on monitoring sustainable development are comprehensive and request for a yearly session with civil society organizations, which can be considered as innovative. This is enhanced when considering that for the first time all issues of sustainable development are given the same treatment in an FTA. For Colombia, it was important to make sure the FTA was easily implementable, was not going further from the negotiated issues and follows the *cooperative approach*. For Colombian negotiators, the monitoring clauses are part of the general approach of all FTAs in terms of compliance.
6. The human rights provisions in this FTA match the highest standards set in other EU FTAs and are binding.
7. Within the FTA cases of non-compliance with the sustainable development provisions are subject to an enforcement mechanism based on 'dialogue and effective communication'. These sustainable development monitoring mechanisms are innovative, especially in terms of their effective implementation. Thus, it remains a challenge for these mechanisms to be effectively implemented. Similar mechanisms in the FTA's of Mexico and Chili have not yet been effectively implemented.
8. The FTA contains specific articles on the most environmental sensitive products (forestry and fisheries) as well as biodiversity and climate change, with reference to international conventions, standards and legal frameworks to be respected. There are no specific sustainability criteria for any commodities, such as biofuels, palmoil, sugarcane, mining products or others, to respond to sustainability concerns for these commodities as a result of the expected increase in production and trade of these commodities. Sustainability concerns related to these commodities are expected to be raised, discussed and agreed upon by making use of the sustainable development monitoring mechanisms.
9. For Colombia, the approach taken on trade and sustainable development, being that of the emphasis on monitoring mechanisms (monitoring, civil society participation and expert

panels), fits well into a strategy of a cooperative approach. The FTA is seen as an opportunity and incentive for the improvement of the State's and private sector's capacity to address sustainability concerns in productive sectors, by means of knowledge and experience exchange, on the basis of their own priorities.

10. It is too early to conclude whether the FTA will contribute to outcomes in terms of enabling politics and policies, as this will depend upon how the FTA will be implemented, especially the sustainable development monitoring mechanisms and institutional framework.
11. There are high expectations within Colombia of the FTA stimulating a shift towards more diversified and services-oriented production and trade, moving away from sensitive production sectors such as mining and hydrocarbons. However, so far the available trade data and evidence do not support these expectations. There are also expectations and opportunities to stimulate CSR, more sustainable production methods and more sustainable mining.
12. For the implementation of the FTA, Colombia has developed a roadmap with action plan, with 100 concrete actions and progress indicators, including several in the area of human rights, labour rights and environmental issues.
13. Colombia looks upon the Netherlands as one important partner to be involved in this process, given its historical role in supporting the environmental sector. There are good potentials of the Netherlands contributing to effective implementation of the FTA, through fostering dialogue, building up CSR best practices, experiences in sustainable value chains and support to a dialogue on sustainability in the mining sector. Thus, the Netherlands can be an important partner for Colombia in implementing the FTA and making the monitoring mechanisms work. This requires an active role of the RNE in Colombia.

Annex 1: Recommendations to enhance sustainability in FTA

Summary of responses by European Commission on recommendations of the Sustainability Impact Assessment (SIA)

General trade and sustainable development concerns lead to the following SIA recommendations:

- 1) Establish a timetable for phased reductions in tariffs and Non Tariff Measures to allow for an adjustment period in sectors expected to experience adjustment costs; and to enable the introduction of a set of sustainability criteria for environmentally sensitive goods;*
- 2) Include a Trade and Sustainable Development Chapter in the Trade pillar of the Agreement;*
- 3) Establish an institutional framework for the monitoring of the social and environmental outcomes of the trade agreement;*
- 4) Establish binding measures on transparency of tax and non-tax incentives to attract FDI in the extractive industries and services sector.*

Regarding the first recommendation, the Commission services note that the standard procedure for negotiating tariff liberalisation is for both partners to prepare tariff offers in accordance with agreed modalities. These modalities set the general framework for the discussion, ensuring the WTO compliance of the future agreement and streamlining further discussion on the sequence of market access liberalisation of traded goods. During the negotiations, both partners agreed on some sensitive products for which a more extended market protection would apply. The exact extent of this market protection (products concerned, length of transition periods) was one of the key elements of the discussions in the negotiating process.

The Commission services agree on the need to address the potential impact of trade in environmentally sensitive goods. In some areas, appropriate policy frameworks are being put in place. For biofuels, for example, the EU Renewable Energy Directive (RED) 2009/28/EC lays down comprehensive sustainability criteria for the production of bioliquids and can therefore play an important risk mitigating role. It will be important to discuss with Andean countries how to best accompany possible changes in production and consumption patterns with measures aiming at tackling environmental externalities and promoting environmentally friendly production processes. Consideration of these issues by government authorities as well as by civil society groups will be possible, among other things, in the context of the Trade & Sustainable Development title included in the Agreement. The policy space to adopt appropriate environmental protection measures, including on the basis of precautionary considerations, needs to be recognised and safeguarded. With respect to the specific comments of the report concerning biofuels, the Commission services note that this trade agreement will consolidate the current trading conditions that apply to imports of ethanol and palm oil from Andean countries under GSP+ and is thereby likely to create more permanent, long-term export perspectives for these commodities. However, the pre-existence of GSP+ arrangements - by which the EU is already giving duty free access to ethanol and palm oil from Andean countries - implies that such concerns over the impact of a yet unsubstantiated potential increase in biofuels trade should be put into perspective. [in other words, the expected additional effect of the FTA is not expected to be large since bio-ethanol and palmoil can already be imported in a cheap way, USA is the main market]

With regard to social concerns, it is important to ensure that the policy space to implement measures aiming at promoting better social conditions or at facilitating adjustments during a transitional period is safeguarded. On this aspect, the Commission services would note that there are only limited potential risks associated with the reduced autonomy in domestic policies resulting from a trade agreement which could theoretically lead to a limitation of the EU or Andean countries' capacity to deliver on social objectives.

In line with recommendations 2 and 3, the Trade Agreement will include a comprehensive Trade and Sustainable Development title. This title will include commitments to effectively implement a number of key multilateral labour and environmental agreements to which both partners are party,

in addition to commitments on the effective implementation and enforcement of the domestic regulatory frameworks on labour and environmental issues. The title will also provide a basis to address sustainability considerations with respect to the production of trade in environmentally sensitive products (e.g.: forestry and fisheries), as well as general biodiversity issues.

The Agreement will also establish an institutional framework to monitor the effective implementation of these commitments and provide for regular consultation with civil society. Monitoring should inter alia rely on the ground work of the EU delegations in the region, on the basis of their contacts with business, social and environmental stakeholders. Regular meetings of the institutions to be set up by the Agreement should include opportunities for direct engagement with civil society organisations. Recourse to impartial and independent experts to assess compliance with legal commitments will be possible as a means to address divergences between the Parties, with public reports to serve as a basis to consider what remedial action may be implemented.

Regarding the recommendation on transparency of tax and non tax-incentives to attract FDI in the extractive industries and services sector, the Commission services' general position is that initiatives to promote enhanced transparency and better governance are to be encouraged. It is foreseen that the Trade Agreement will include both a chapter on transparency and clauses prohibiting the lowering of labour and environmental standards for the purpose of attracting FDI.

In order to address economic, social and environmental aspects, the SIA recommends a number of measures in the cooperation sector:

- 5) *Support for regulatory capacity building, particularly in environmental regulation, public utility regulation and financial sector regulation;*
- 6) *Provision of technical assistance in education and training on sustainable forestry practices;*
- 7) *Industrial cooperation to support and promote industrial policy measures;*
- 8) *Reporting on EU companies' compliance with initiatives for promoting social corporate responsibility in the mining, oil and gas sectors;*
- 9) *Cooperation on agriculture and rural sectors;*
- 10) *Cooperation on territorial planning.*

The Commission services agree that promoting regulatory capacity building, particularly in environmental regulation, public utility regulation and financial regulation would have very positive effects in the Andean countries.

In the framework of the Mid-term review of the Country Strategy Papers, specific indicative amounts have been allocated to support the implementation of the agreement, notably through the strengthening of institutional capacities, the adaptation of the regulatory framework, including in the environmental sector (€8.6 million in Colombia). Possible activities under this chapter could include: technical assistance in view of the adaptation of the legal and regulatory frameworks of Andean countries to their international commitments; supporting business development for enterprises active in renewable energy and environmentally friendly technologies; supporting the design and implementation of biodiversity conservation strategies; strengthening institutions responsible for environmental protection, management of natural resources etc.

The Commission services agree with the need to continue providing technical assistance in education and training on forestry practices. Under the thematic programme for environment and sustainable management of natural resources including energy, several forest-related projects were financed in Andean countries in the last few years while others are currently being implemented or planned. These projects aim notably at promoting the conservation and sustainable management of forests (principally in the Amazon region) and the participation of indigenous communities in this process. Also, as part of its Action Plan for Forest Law Enforcement Governance and Trade (FLEGT) a number of forest management-related capacity-building projects are financed in the region. Commission services also highlight the efforts undertaken by the EU as part of its "Regional Biodiversity Strategy".

Regarding the promotion of the rights of indigenous people, the EU is willing to further support the process of inclusion of this issue within national agendas. Currently, the Commission is supporting the governments' efforts to fight against poverty and to develop the poorest regions (principally inhabited by native communities). In Colombia the Commission is also financing projects implemented by NGOs and non-state actors, in fields such as forestal management by indigenous communities or aiming to reinforce indigenous organisations, promote their rights and their political participation.

On industrial cooperation, the EU is financing various programmes, both at national and Andean level, supporting export diversification and product development, strengthening technical regulations in line with international standards, and simplifying administrative procedures. The Commission services also note that upon request from the Andean countries they are ready to consider the creation of bilateral mechanisms to share expertise and exchange best practices.

With regard to the implementation by EU companies of initiatives promoting corporate social responsibility notably in the mining, oil and gas sectors, the Commission services would agree to consider appropriate means, in accordance with international guidelines, to promote the adoption of corporate social responsibility criteria by EU companies including when investing abroad. In the meantime, a renewed European policy on corporate social responsibility, to be finalised in 2011, is expected to have a stronger focus on business and human rights and in particular on the implementation of the United Nations business and human rights framework. The EC has recently launched two studies, respectively on the legal framework for human rights and the environment applicable to European companies when they operate outside the EU and on illustrations of supply chain practices by European companies, especially in the area of protection of human rights. This issue is to remain a priority for the future.

On cooperation with the agriculture and rural sector, the Commission services consider that initiatives to facilitate the integration of small farmers into the international markets are to be supported. It is therefore willing to continue, and if necessary reinforce, existing dialogues, exchanges of information and best practices as well as technical assistance programmes on agriculture, sanitary and phytosanitary measures, R&D on biodiversity-based agro industry to improve the competitiveness of the sector as well as the quality and safety of Andean products for European consumers. It can also examine the possibility to further develop cooperation on territorial planning and to share knowledge and expertise on these issues with interested Andean countries.

The following domestic measures are recommended by the SIA report in order to enhance the positive effects of an EU-Andean Agreement on sustainable development.

- 11) Continued efforts to increase coherence between EU trade and sustainable development policies and those of Andean countries*
- 12) Continued effort to cooperate with the corporate sector to improve corporate social responsibility measures*
- 13) Continued effort to cooperate with civil society organizations.*

The Commission services agree with the importance of further increasing coherence between EU and Andean countries' sustainable development policies, as well as policy coherence at the national and supranational level. In this regard, the creation of an institutional framework to monitor the effective implementation of sustainable development provisions (see recommendation 3) should play a significant role. Such a framework could allow for the participation of representatives from different national bodies and policy backgrounds, spurring a comprehensive and multi-faceted assessment of cross-cutting issues, as well as an enhanced exchange of information and best practices in sustainable development initiatives in both parties, thus contributing to the coherence between policies.

The Commission services also agree that initiatives aiming at promoting corporate social responsibility measures should be encouraged. Results of these initiatives could for example be disseminated and discussed in the institutional framework set up to address sustainable development issues.

The important role to be played by civil society organisations is also to be underlined. On this point, the Commission services recall the central role that is to be played by civil society organisations in the foreseen commitments of all parties in the future trade and sustainable development title of the Agreement and note the important contribution brought by the consultation with civil society in the process of drafting the trade SIA report.

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