

ASSOCIATION / FREE TRADE AGREEMENT – BI-REGIONAL PARTNERSHIP BETWEEN EUROPEAN UNION AND ANDEAN COMMUNITY

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* Este artículo es resultado del proyecto de investigación *Políticas Públicas del Desarrollo Sostenible en Colombia*, de la Facultad de Ciencias Jurídicas, Pontificia Universidad Javeriana.

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REVISTA DE DERECHO

N.º 32, Barranquilla, 2009

ISSN: 0121-8697

Abstract

This article discusses current European Union foreign policy developments and their application in Latin America including the possibility of negotiating a bi-regional partnership agreement between the European Union and the Andean Community. The way from an Association Agreement to a Free Trade Agreement is also analysed presenting the different viewpoints of the negotiating parties and possible ideological differences. The Eurolatinamerican interregional space theory and its application in the bi-regional integration process are also presented. In the conclusions concerns are expressed regarding the future of bi-regional partnership negotiations especially between integrations with asymmetries.

Keywords: European Union foreign policy, Andean Community, bi-regional partnership agreement, Eurolatinamerican interregional space, asymmetries.

Resumen

En este artículo se discuten los desarrollos actuales en las políticas exteriores de la Unión Europea y sus aplicaciones en Latinoamérica, incluyendo las posibilidades de negociar una asociación estratégica birregional entre la Unión Europea y la Comunidad Andina de Naciones. Se analiza el camino desde un Acuerdo Asociativo hacia un Tratado de Libre Comercio y se presentan los diferentes puntos de vista de las partes negociadoras y las posibles diferencias ideológicas. Se presenta la teoría de espacio interregional Eurolatinoamericano y su aplicación en las integraciones birregionales. Como parte de las conclusiones se expresan las preocupaciones sobre el futuro de las negociaciones de asociaciones birregionales, especialmente entre integraciones con asimetrías.

Palabras clave: Políticas Exteriores de la Unión Europea, Comunidad Andina de Naciones, asociación estratégica birregional, espacio interregional Eurolatinoamericano, asimetrías.

Fecha de recepción: 18 de agosto de 2009

Fecha de aceptación: 28 de septiembre de 2009

INTRODUCCIÓN

It is appropriate to state that at the current stage of the negotiations between the European Union and the Andean Community, an Association Agreement is postponed in the agendas.¹

The agreement to develop a bi-regional strategic partnership between the European Union and Latin America and Caribbean dates back to the first EU / LAC Summit held in June 1999 in Rio de Janeiro. The latest EU / LAC Summit was held in Lima 16 May, 2008. The negotiating parties as their first priority in the Summit declaration stated: "We will actively pursue the negotiations of Association Agreements as common strategic objectives of very high political priority" (Lima Declaration, 2008, p.1). Furthermore emphasized the importance of the European Union – Andean Community negotiations of an Association Agreement "which contributes to the further development of the Andean integration process" (Lima Declaration, 2008, p.1) On the other hand, it was only weeks after the Lima Declaration that the fourth round of negotiations for the Association Agreement of the European Union and the Andean Community, which should have taken place 7-11 July 2008 was cancelled.

The negotiations continued between the parties only in February 2009 in Bogota, as a result of the European Union accepting the proposal of Colombia and Peru to re-establish the conditions and start separate negotiations with Colombia and Peru of a Free Trade Agreement. According to Semana International the decision of the European Commission was "basically based on the insistent demand from Colombia and Peru, who wanted to have a separate negotiation, and because there was not a coincidence of will between the four countries of the Andean Community of Nations" (Green light for Colombia to discuss FTA with the EU, Semana.com International, 2 February 2009). Although Ecuador has been participating in the separate negotiation, it is probable that this country finally

¹ This article was closed for publication 31 July, 2009.

would not sign any agreement with the European Union or at least not a Free Trade Agreement (Ecuador president nixes EU free trade deal, *EUBusiness*, 24 May 2009).

The purpose of this article is to discuss current European Union foreign policy developments and their application in Latin America to analyze the possibility of negotiating a bi-regional partnership agreement between the European Union and the Andean Community. I also aim to discuss current negotiations between the European Union and the participating member states of the Andean Community. I describe the different agendas of the parties to present the conflicting viewpoints and possible agreements in the bi-regional negotiation process. This methodology is based on a political analysis including an attempt to detect underlying ideologies and internal political situations of the negotiating parties and their possible influence on the outcome of the negotiations. These bi-regional negotiations are also analysed as part of broader foreign policy considerations and current developments in world politics. The research process included literature revision as well as directed interviews with actors involved in foreign policy decision making and foreign policy analysis in Colombia.

In the first chapter of this article I discuss general tendencies in foreign policies of the European Union. I also present the Eurolatinamerican interregional space theory as part of an understanding of the inter-regional integration. I include an outline of the main foreign policy considerations of the European Union towards Latin America based on a historical analysis of the developments from first to fourth generation cooperation agreements between the two regions. In the second chapter I analyse the historic development of bi-regional relations between the European Union and the Andean Community in areas of cooperation, political dialog and commercial relations including the EU / LAC summits since 1999. I also stress out the differences between the two regional integrations to argue the importance to recognize existing asymmetries in any negotiation process. I describe the latest negotiation process of an As-

sociation Agreement between the European Union and the Andean Community (2007-2009) including a discussion of the transforming agendas towards a Free Trade Agreement, with special interest in the different viewpoints of the negotiating parties. Finally, I conclude this article expressing a moderated view on the future of bi-regional partnerships in contemporary world politics especially in case of asymmetries between the parties involved. Throughout the present article I stress out the importance of “European identity” in international relations and its elements of “civilian power Europe” and “superpower Europe” (Jørgensen, 2004, p.24); to discuss the possible influence of the European Union in Latin America’s political development.

1. ELEMENTS OF EUROPEAN UNION FOREIGN POLICY TOWARDS LATIN AMERICA

In the first chapter of this article I discuss general foreign policy issues of the European Union and their application to the Latin American region. There have been political relations between the European Union (European Communities) and Latin America and the Caribbean² since the 1960s and 1970s. With the end of the cold war these relations have deepened, which can be analyzed as a result of parallel events: the European Union positioning itself as a global actor opening up to new member states and developing its institutions to become the most advanced integration in the world; on the other hand Latin American countries also became important actors of the world economy as a result of a general democratization process in the region (Quevedo Flores, 2008 p.197).

It can also be understood as part of the “new” regionalism, a possible way to reorganize current world order based on the principles of multilateralism (regional multilateralism or multi-regionalism) (Hettne, 2005), a project principally represented by the European

² In this article when I use the expression Latin America, it includes Latin America and the Caribbean.

Union. Is there a possibility to match differing issues into a comprehensive policy structure; such as free trade in commercial relations, political dialog and democracy building, cooperation and humanitarian aid? This is the key question of not only the Eurolatinamerican interregional space but the future of European Union foreign policies as an alternative choice in world politics.

1.1. Latest developments in the institutional structure of EU foreign policy making

European Union foreign policy is more than the Common Foreign and Security Policy (CFSP). It includes the totality of the EU's external relations (Tonra & Christiansen, 2004). Since the mid 1990s there has been a rapid expansion in the policy scope and institutional capacity of EU foreign policy. The Yugoslavian war is mentioned frequently as the relevant push towards these developments³.

Notwithstanding, EU foreign policy cannot be considered as an integrated common policy, although it is neither the aggregation of national foreign policies of the EU member states (Justaert & Nasra, 2008). There are major debates regarding the legal nature of EU foreign policy issues: CFSP is currently part of the second pillar of the EU institutional structure meaning that decision making is based on the principle of unanimity, and national autonomy is reserved for the member states⁴; on the other hand trade, enlargement, economic assistance and humanitarian aid is part of the first (community) pillar with great input from part of the European Commission. CFSP was introduced by the Treaty on European Union in 1993 (Article 11). Although the European Commission has become a key actor in foreign policy implementation and there has been an extended use of the majority voting⁵, the actual "communitarization" of CFSP

³ To read more on the historic development of EU foreign policy from the Pleven Plan through the Davignon Inform, please see (Quevedo Flores, 2008) and (Smith, 2001).

⁴ In the EU's second pillar foreign policy is also developed through the European Security and Defence Policy (ESDP).

⁵ Examples of the majority voting are: common strategies, common positions and joint actions.

decision making has not occurred yet (Tonra & Christiansen, 2004 p. 18). Therefore, EU foreign policy has a multi-pillar, multi-level and multi-location character with a lack of coordination between the various pillars, institutions and EU and national actors, weakening the possibility to develop active operational foreign policy. EU foreign policy is heavily criticized for its nature of declaratory diplomacy based on political dialogue and traditional contractual relations (Justaert & Nasra, 2008).

The above problems have been detected by EU officials as well as member state representatives since the implementation of CFSP. On the other hand, foreign policy has been considered as a matter of sovereignty of the member states thus similar to the institutional democracy debate⁶, it was postponed for further negotiations. Major changes have been proposed in the unsuccessful European Constitution but finally a moderate version of these reforms entered into the Treaty of Lisbon (ToL), which is currently under ratification by the member states⁷.

From one hand, the ToL grants the EU with legal personality (Article 47 ToL), but the most important development regarding EU foreign policy is the creation of the office of the High Representative of the Union for Foreign Affairs and Security (HR). The HR will be the Vice-President of the Commission and permanent chair of the Foreign Affairs Council as well, becoming the key actor in coordinating EU foreign policy. From the side of the European Council and the Council, the HR will carry out the development of the CFSP and Common Security and Defence Policy (CSDP) and will represent the Union in these matters (Articles 18 and 27 ToL). At the same time

⁶ Considering the future of the European Union integration process, the key question is towards which direction develops this unique multilateral structure. In the political field the next step could be a declared confederation. Notwithstanding, there is a lack of general political will to introduce changes of this nature.

⁷ The European Constitution was signed in October 2004. Following its rejection by France and the Netherlands a mandate for a new Intergovernmental Conference was established in order to draw up a Reform Treaty. The Treaty of Lisbon was signed on 13 December 2007 by the Heads of State and Government of the 27 Member States. The Lisbon Treaty has been ratified by 23 member states.

the HR will be responsible for the external **relations** of the Commission, among others trade and development. The newly established European External Action Service will provide support to the HR. The permanent President of the European Council is a new post foreseen in the Lisbon Treaty. As for foreign policy issues he/she should assume the external representation of the EU concerning common foreign and security policy (Article 15 ToL). Finally, the President of the Commission will coordinate the external matters of the Commission. In this sense, an informal Troika is to be created: the three Mr / Ms Europe: the HR and the Presidents of the Commission and the European Council (Justaert & Nasra, 2008).

These institutional changes are expected to result in major cohesion in EU foreign policy making. At the same time, EU foreign policy issues remain divided between community (supranational), inter-governmental and national competences, with the member states maintaining their existing responsibilities and powers in foreign policy matters. Still cooperation is expected to deepen especially between the Commission and the European Council and the Council (especially because of the implementation of the office of the HP), which is to result in further strengthening of the supranational element of EU foreign policy making.

1.2. Changing theoretical basis of EU foreign policies

In the 1990s European world order or “Pax Europaea” was differentiated from imperialism as world order “Pax Americana” (Hettne, 2005). Recently, the border line between these two foreign policy directions has been gradually blurred by significant changes in international relations of the European Union and the United States. In European Union’s foreign policies there is a growing emphasis on bilateral relations and a certain withdrawal from inter-regionalism (del Arenal, 2009). In the United States with the democrats’ government of President Barack Obama a more balanced foreign policy is expected to be implemented (Malamud, 2009).

a. **European identity in international relations**

For the purposes of this article I chose European identity theories applied in international relations to demonstrate the changing nature of EU foreign policies. European identity theories have strong sociological and cultural elements and introduce an integral at the same time dynamic view on EU foreign policies. According to European identity theories identity, legitimacy and expression of interests are the three main aspects to distinguish a foreign policy system (Jørgensen, 2004). European foreign policy interests are traditionally expressed in form of world views based on a civilising mission, rights and responsibilities and the responsibility for peace (especially in regional EU politics). Hence, European identity is based on a civilian power Europe. The construction of this identity can be perceived through applying the theory of role conception (Aggestam, 2004). In role conception two action levels should be established: European and national. European identity is the result of a collective identity formation process based on socialization actions on both of these levels. There is a permanent interaction between the European (supranational and intergovernmental) and the national actors in foreign policies. Therefore, EU foreign policy identity is a reflection of common European identity in the international relations of the European Union. This common European identity is a cultural creation based on civilian values such as solidarity, democracy, social cohesion, peace and human (sustainable) development. These values are the cultural forces behind the European integration process itself. Therefore, in EU foreign policies they are transformed into a policy direction to promote the implementation of a European integration model in the different regions of the world.⁸ In the fourth generation cooperation agreements of the EU, it is reflected through a three-pillar-structure of political dialog, international cooperation and commercial relations. For this reason, European foreign policies are characterized traditionally as

⁸ The European model is promoted in Latin America through the EU foreign policy priority to support regional integration and economic cooperation in Latin America (The strategic partnership between the European Union, Latin America and the Caribbean: a joint commitment, 2008).

“Pax Europaea” in the “new” regionalism, based on multilateral dialog and regional, inter-regional cooperation (Hettne, 2005).

On the other hand, European foreign policy identity includes the emerging element of “super-power” Europe (Jørgensen, 2004, p. 17). “Super-power” Europe expresses that the European Union has a world power position between the United States and the Asian power centres (China, India, Japan).⁹ The changing reality of world politics requires the European Union to express an active, coherent and solid foreign policy direction, especially in areas such as international commercial and security relations. The European Union through its own foreign policies can result a stronger player in world politics. The proposed EU foreign policy institutional reforms in the European Union are a clear example of these tendencies. Notwithstanding, the scope of the political will to move towards a supra-national foreign policy structure is still unclear in the European Union. The European foreign policy identity is based on these two dimensions of civilian power Europe and super-power Europe. In EU foreign policy issues there is a lot at stake. The European Union, apart from having the third biggest population after China and India and producing more than 25% of the world’s GDP, the European Union provides more than 50% of the Official Development Aid and a 40% of the United Nation’s budget with a web of 127 delegations of the European Commission worldwide.

Contemporary foreign politics are based on a web of inter-connected and inter-dependent relations: for example between the member states and the European Union; the two world-power centres (United States of America and Asia) and the European Union; the developing countries and the European Union (also between the developing countries and the power centres in general); and relations between the developing countries especially in regional set-ups. It is also analyzed as Globalisation and Complex Interdepen-

⁹ The super-power element according to more radical analysts (Knottnerus, 2006), is a significant tendency in EU foreign policies and it is based on a hidden European neo-liberalism.

dence (Keohane & Nye, 2000). Therefore, the future development of EU foreign policies will have major influence in world politics. Whereas European Union – Latin American relations should also be understood in this complexity of different interests and priorities in a continuously changing international scene.

b. The “new” regionalism in contemporary foreign politics (Eurolatinamerican interregional space)

The Laeken Declaration clearly expresses the changing role and responsibility of the European Union in the world. It is a program document from 2002 and includes a common vision on the future of the European Union. The below cited paragraph describes the central challenges of EU foreign policies. *“What is Europe’s role in this changed world? Does Europe not, now that is finally unified, have a leading role to play in a new world order, that of a power able both to play a stabilising role worldwide and to point the way ahead for many countries and peoples?(...) Now that the Cold War is over and we are living in a globalised, yet also highly fragmented world, Europe needs to shoulder its responsibilities in the governance of globalisation.(...) In short, a power wanting to change the course of world affairs in such a way as to benefit not just the rich countries but also the poorest. A power seeking to set globalisation within a moral framework, in other words to anchor it in solidarity and sustainable development.”* (Laeken Declaration, 2002).

The above text represents a balanced proposal of the civilian and super-power European identity: Europe as a world leader in a “globalised yet fragmented world” with its “responsibilities” of promoting “changes” towards “solidarity and sustainable development”. The question is how to implement these variables in real world politics. According to the theory of Globalisation and Complex Interdependence (Keohane & Nye, 2000), contemporary globalism is different from previous interrelations as it is based on a density of networks resulting in a “thick” globalism or increasing density of interdependence. Systems and their units change rapidly, which is expressed in an increasing institutional velocity and interconnec-

tion of networks. This transnational participation is to bring closer the world to the ideal of complex interdependence, a hypothetical world with multiple channels between societies, actors and issues without any clear hierarchy resulting in the irrelevance of the threat or use of force.

“New” or “open” regionalism is the result of the ongoing globalisation and internationalisation of the world economy based on market-driven regional integrations (Hettne, 2005). EU foreign policies are described as “Pax Europaea” as it is based on solving conflicts through dialogue and multilateralism in an inter-regional system where regions are the preferred counterparts in international relations. This regional thinking of the EU encompasses apart from trade and foreign investment issues such as political dialogue and cultural relations in its foreign policies. The Eurolatinamerican inter-regional space is considered as an application of the inter-regionalism theory in EU foreign policies towards Latin America (Quevedo Flores, 2008). Inter-regionalism in foreign politics means the strengthening of relations between two regional blocks. It emerged as a strategy in international political economy in the middle of the 1990s. In the era of “new” regionalism globalised economies face increasing interdependence on each other’s economic, political and social performance, which require regional coordination in the short run and multiregional coordination in the long run. Inter-regionalism is based on international commercial realities, which is a clear example of the Eurolatinamerican inter-regional relations in the 1990s.

The European Community developed limited commercial agreements with Latin America since the 1970s through its first generation agreements. In the 1980s relations became more intense in the political field: with the European Community involving in the peace processes of Central America. The second generation agreements of the time included broader institutional frameworks. Latin American countries opened up their economies progressively since the 1990s and provided increasing possibilities of foreign invest-

ment (through privatizations and economic incentives), and foreign trade (through market liberalisations). The majority of Latin American countries also became developing democracies. The 1990s was the era of deepening regional integrations in Latin America, especially with the development of the Southern Common Market (MERCOSUR) and the Andean Community of Nations (CAN). The North American Free Trade Agreement = NAFTA came into force in 1994, which is a regional agreement between the governments of Canada, Mexico and the United States of America to implement a free trade area. The negotiations of a Free Trade Agreement of Americas = FTAA (ALCA), virtually including all countries of the Americas, was also initiated in 1994. According to certain analysts, the above developments are linked to the influence of the Washington Consensus¹⁰ and the US foreign policy in Latin America promoting free trade and market liberalisation (Quevedo Flores, 2008). Since the 1990s the European Union has expressed its growing commercial interest in Latin America. The third generation agreements of the 1990s established political dialog and cooperation with a clear orientation towards economic and commercial relations. Clauses on democracy, human rights and development were also important elements of these agreements. The new strategy of the European Union towards Latin America has been launched in 1995. It is based on clear inter-regionalism, establishing bi-regional associations. The proposed new fourth generation agreements or association agreements include political dialogue, “advanced” economic cooperation and compromises to initiate negotiations of free trade agreements.

Certain authors raised the question, whether the European Union has a genuinely structured foreign policy towards Latin America or

¹⁰ The Washington Consensus refers to the economic policies of the World Bank and the Inter-American Development Bank implemented in the 1990s to tackle the debt crisis of the time. It was based on fiscal discipline, tax reforms, competitive exchange rates, open commercial policy, foreign investment and privatisation. The US foreign policy approach for Latin America was expressed in 1990 by George W. Bush President of the United States of America as follows: “The prosperity of our hemisphere depends on trade, not aid”. The Washington Consensus is considered as the baseline of neoliberal economic policies, especially promoted by the US (Knottnerus, 2006).

it is a reaction of the European countries not to remain behind in the competition for access to the newly opened Latin American markets (Sanahuja, 2003). This question is part of a broader debate on the existence, legitimacy as well as identity of EU foreign policies¹¹. Throughout this article, I argue the existence of a European Union foreign policy. I have also demonstrated that the EU including its foreign policy is the result of a regional integration process. This integration process is still on-going and lacks clear supranational quality in the area of foreign relations. I recognize the existence of a European Union foreign policy project towards Latin America. Since the 1990s a "new world order" has been developing. As it is recognized by the EU it is a "globalised yet fragmented world" with actors of different power situations the "rich and poor countries". The EU has a special "responsibility" in this world "governance" to promote "moral frameworks". The EU foreign policy towards Latin America is based on values of "Pax Europaea" implemented in an inter-regional structure of the Eurolatinamerican space, where in a future the complex interdependence might apply. Notwithstanding, foreign policies are never static, they are constantly adapting to changing social and political realities. The 21st century brought changes in world politics: the failures of the Doha World Trade Organization (WTO) negotiations, international security problems, the political changes in Latin America towards its regional des-integration, all influence EU foreign policies towards Latin America (del Arenal, 2009). The EU has also taken a general foreign policy position of promoting sustainable development through increasing European competitiveness requiring free trade and market liberalization, which position is expected to be strengthened as a result of the latest economic crisis. How about the civilian Europe identity promoting "solidarity and sustainable development" in its foreign relations? A new and clear approach is needed in European Union foreign politics to match trade with development. As of Latin

¹¹ The author, official of the European Parliament at the time of publishing his article, describes EU foreign policies (in general and not only as related to Latin American issues) as lacking genuine proposals and dependent on the actions and / or reactions of US foreign policies (Fernández Fernández, 2008).

America the additional question is whether the EU chooses the way of bilateralism or there is a possibility to return to the inter-regional negotiations. These and more are expected to be treated at the Madrid *EU / LAC* Summit in 2010 with the theme "Towards a new stage in the bi-regional partnership: Innovation and Technology for sustainable development and social inclusion", which seems to be a turning point in the bi-regional relations.

2. 21ST CENTURY RELATIONS BETWEEN THE EUROPEAN UNION AND THE ANDEAN COMMUNITY

For the European Union Latin America has never been a region of priority. Until the early 1980s there were very few relations between the two regions. This asymmetry of interests has remained one of the main obstacles of bi-regional relations ever since. (Freres, 2006). As analysed before economic interests became important in the formulation of EU foreign policies towards Latin America since the 1990s. The EU in its regional strategy established two categories of countries: a) potential economic partners such as Mexico, Chile, Brazil and MERCOSUR; and b) nations that need political and economic support but with which economic partnership is not likely to be developed. In this second category entered the Andean Community and the Central American countries. The most recent available statistics reflect this reality¹². Latin America was responsible for 5.9% of the total value of goods exported outside the European Union in 2008. The most important trading partners were Brazil (2.0%) and Mexico (1.7%). The Andean Community countries accounted as follows: Colombia 0.27%, Ecuador 0.08%, Peru 0.17% and Bolivia 0.02%. EU exports to Peru registered the highest relative increase between 2007 and 2008 (+35%). Important growth was also noted for Bolivia. In 2008, Latin American countries accounted for just over 6% of the value of all goods that the EU imported from

¹² I used the following sources of information to recreate statistical data: EU-27 trade and investment with selected Latin American countries. General and regional statistics (Xenelis, 2009); Comunidad Andina Documento de Estrategia Regional 2007-2013 (2007); The strategic partnership between the European Union, Latin America and the Caribbean: a joint commitment (2008).

outside the EU. The highest stakes were taken by Brazil (2.3%) and Mexico (0.9%) again. As for the Andean Community countries Bolivia increased exports to the EU by 56% compared to 2007 but still accounted for only 0.02%, Colombia 0.30%, Ecuador 0.13% and Peru 0.25%. Among EU imports from Latin America 25.8 billion registered for 'Food and live animals', corresponds to the highest share (27%) which for Ecuador corresponds to 87%. Within the 'Food and live animals' category 'Fruit and vegetables' dominated imports in case of all Andean Community countries. In 2007, EUR 25.3 billion were invested in Latin American countries, corresponding to 5.2% of the total extra-EU outflows. Brazil attracted EUR 15.3 billion (60% of the total volume invested in Latin America), followed by Mexico (EUR 6.0 billion, 24%). Aggregated data on European Union - Andean Community trade relations were available only for year 2005. Imports from the Andean Community outlaid exports from the European Union (7.2 to 4.5 billion EUR) resulting in a trade surplus for the Andean Community countries. Primary products accounted for 89.1% (that of agricultural products 53.1%) on the EU import side and manufactured products 84.4% (that of machinery 38.5%) on the EU export side. Overall, the European Union is the second trading partner of the Andean Community countries after the US, still it accounts only for 0.61% share of total EU imports and 0.44% of total EU exports. In case of Andean Community countries it is equal to 13.71% share of total imports and 16.32% of total exports with a moderate average annual growth rate of 5.30% and 6.26% respectively. Finally, the European Union is the largest provider of development aid to the Andean Community amounting to EUR 0.7 billion for the period 2007-2013.

2.1. Historic background of bi-regional dialog

The Andean Community was established in 1969. The model of this integration was the European Economic Community although the Andean Community was developed in the form of an "open integration" based on a web of bilateral and multilateral agreements. Relations between the European Community and the Andean Com-

munity have been vitalized with a second generation cooperation agreement signed in 1983 focusing promoting economic relations and including articles on development cooperation. This agreement introduced the pro-integration approach to EU Andean Community relations. The specialized dialog on illicit drugs was also initiated in the early 1990s. Cooperation in this matter between the EU and the Andean Community is based on the principle of “shared responsibilities”. This cooperation was formalized through bilateral agreements and a regional Agreement on Cooperation and Technical Assistance for the Fight against Drug Trafficking in the Andean Region in 1998, which resulted among others in 50 projects of law harmonization in the area of illicit drugs. (Quevedo Flores, 2008). As a result of Colombia initiating a campaign to achieve greater access for licit exports in the European Community, the “GSP-Drugs”¹³ special regime was established for the Andean Community countries since 1991. This provided duty free access to the European market for 90% of Andean exports. It is a unilateral measure by the European Community and it is revised every 4 years. Since 2005 it has been transformed into “GSP-Plus” and extended to developing countries in general to comply with WTO. The increased number of beneficial countries together with the newly signed association and free trade agreements of the European Union with Chile and Mexico lessened the importance of this measure for the Andean countries. In 1993 a Frame Cooperation Agreement was signed between the EU and the Andean Community. As a third generation cooperation agreement, it included commercial issues and clauses on advanced cooperation in the fields of economic, commercial, investment and scientific cooperation. It also included a “human rights” clause (Quevedo Flores, 2008). Political Dialog between the two regions both at the presidential (troika) and ministerial levels was established with the Rome Declaration in 1996. The first bi-regional summit was held in Rio de Janeiro in 1999 launching a new era in the relations between the European Union and Latin America. Discussions started on a

¹³ The EEC established the Generalized System of Preferences (GSP) in 1971 which the Andean countries benefited since then. It was redesigned and extended in form of GSP-Drugs in 1991.

possible association agreement with Mexico and MERCOSUR. The Andean Community has also expressed its interest in an association agreement since 1999. Notwithstanding, it became obvious that the Andean Community was not of substantial European commercial interests, therefore neither an interest to negotiate an association agreement. The EU closed association agreement deals with Mexico and Chile by 2002. The Andean Community as a result of a Ministerial Dialog in 2000-2002 managed to push through the Madrid EU / LAC Summit in 2002 a declaration of intention by the European Union to initiate negotiations towards an association and free trade agreement with the Andean Community. The compromise was first to negotiate a new political and cooperation agreement and later a free trade agreement depending on the then applicable WTO rules. A new Agreement on Political Dialog and Cooperation between the European Union and the Andean Community was signed in 2003¹⁴. This fourth generation agreement was to create the bases of an association agreement, which would include free trade clauses between the two regions. During the negotiations of the above mentioned cooperation agreement the European party made it clear that the principal objective of cooperation was to promote regional integration in order to maintain political stability in the region and to protect democracy and human rights. In economic terms as a result of regional integration the European party expected increased economic performance in the Andean countries to establish a stable free trade zone, which would beneficiate European companies. At the Guadalajara EU / LAC Summit in 2004 the decision was made to launch a joint assessment exercise on the current state of the Andean integration process, to be followed by the negotiation of a Free Trade Agreement between the parties as part of an association agreement. At the Vienna EU / LAC Summit in 2006 it was finally decided to

¹⁴ Agreement on Political Dialog and Cooperation between the European Union and the Andean Community has not been ratified by all parties yet. The first Regional Strategy Paper (RSP) for the Andean Community on Cooperation, complemented by Country Strategy Papers for each member state was established for the 2002-2006 period. The two main policy objectives were to support Andean integration, and to stimulate the Andean zone of peace. The second RSP for 2007-2013 established the following priorities: regional economic integration, social and economic cohesion, fight against illicit drugs.

initiate the negotiations of an association agreement between the European Union and the Andean Community in 2006. In July 2006 the joint assessment exercise was finished with success. Recommendations were made in the following main areas: Andean common tariff system, market liberalization for services, intellectual property rights, competition policies, sanitary / phytosanitary measures, technical obstacles of commerce, public procurement. The negotiations of the Association Agreement between the European Union and the Andean Community were official launched at the Andean Presidential Summit on 14 June 2007 in Tarija.

2.2. The way from an Association Agreement to Free Trade Agreements (2007-2009)

The Andean Council of Ministers of Foreign Affairs in its Decision No 667 of 2007 on the negotiations of an association agreement with the European Union established that the agreement supposed to be the expression of solidarity between the two regions considering in an appropriate form the differences in the levels of economic development and economic visions of the member states of the Andean Community as well as the asymmetries between the European Union and the Andean Community. These asymmetries were to be reflected in the differences between the obligations to be assumed by the parties such as a special and differentiated treatment for Bolivia and Ecuador¹⁵. The first round of the negotiations took place in Bogota on 17 September 2007. During this round first contacts were made between the delegations, and the agenda was set for the negotiations. Three chapters were established on political dialog, cooperation and commerce. At the second round in Brussels 14 December 2007, proposals of the parties on the Chapters of Political Dialog and Cooperation were discussed and all the negotiating tables

¹⁵ The purpose of this sub-chapter is to describe the negotiation process of the association agreement / free trade agreements between the European Union and the Andean Community which took place between September 2007 and July 2009. The reconstruction of the negotiation process was based on official declarations and working papers of the negotiating parties, information from news agencies such as EFE, regional newspapers and interviews with persons involved in the negotiations.

on commerce were set up. The third round was organised in Quito 25 April 2008, with offers of both sides on market access of goods and services. In June 2008 a mini round was to take place on intellectual property rights and sustainable development, and a fourth round of negotiations in Brussels in July, but both events were suspended as the Andean Community did not manage to present a common position on these topics. As a result of the early crisis of the association agreement, at the fifth EU / LAC Summit in Lima 17 May 2008 the principle of flexibility was established to facilitate the negotiation process recognising the asymmetries within the Andean Community and the European Union and the Andean Community as well as the special necessities of the Andean Community member states. The strengthening of integration in the Andean region was stated as main goal of the association agreement. For this reason, various concessions were made considering the form of negotiations in blocks, between integrations¹⁶. Each member state of the Andean Community was allowed to enter into any of the three chapters of the association agreement according to possibilities, intensity and speed¹⁷. On the other hand, at the Guayaquil Summit of the Andean Community in October 2008 there were signs of an ever deepening distance between the member states impeding to establish a common ground in commercial issues. Simultaneously, Colombia and Peru requested to initiate the negotiations of bilateral commercial agreements. Ecuador presented a separate but similar petition to the European Union; while, Bolivia was still insisting on the negotiations between blocks¹⁸. As a result of the above, the European Union redirected the Commission's mandate: a) to continue ne-

¹⁶ The original position of the European Union was to negotiate only between blocks based on common positions of the participating integrations not allowing differentiated treatment for the member states of the Andean Community. This apparently inflexible position of the European Union is based on the main goal of the association agreement to negotiate inter-integration relations, which as its nature is to be based on common standpoints of each integration.

¹⁷ These concessions resulted to be a "double-edge" weapon: they were implemented as a last effort to maintain negotiations of the association agreement, but they also opened the way to bilateralism.

¹⁸ The position of Bolivia was controversial: rejecting the commercial chapter especially as related to intellectual property rights, services market liberalization and biodiversity clauses, notwithstanding insisting on negotiations in blocks towards an association agreement.

gotiations with the Andean Community to update the 2003 Agreement on Political Dialog and Cooperation (as part of the political dialog and cooperation chapters of a future association agreement); b) to negotiate in a multiparty structure the commercial chapter between the European Union and interested member states of the Andean Community with the possibility of any member state joining negotiations at any time or joining the negotiated treaty in a future moment.

The multiparty commercial negotiations started in Bogota in February 2009 with the participation of Colombia, Peru and Ecuador. The second round took place in Lima in March, the third round in Quito in April, the fourth round in Bogota in June, finally (till date the last) fifth round in Lima 20-24 July. The sixth round is scheduled to September 2009 in Brussels, where negotiations are supposed to be finalised. Ecuador left the negotiating table before the fifth round; its participation in Brussels in September 2009 is still undecided.

In 2009 negotiations have developed only in the commercial multiparty field. Therefore, the agreement currently under negotiation is a Commercial Agreement between the European Union with Colombia, Peru and possibly Ecuador¹⁹. As of July 2009, there are still significant differences in the negotiating positions between the participating member states of the Andean Community; and between the European Union and the participating Andean countries as well. Ecuador left the negotiating table before the fifth round and requested time to analyse the implications of the Commercial Agreement as related to its new constitution. Notwithstanding, the absence of Ecuador had two additional reasons. First, according to Ecuador, the European Union has not complied with various WTO decisions in favour of Ecuador to decrease import duties on bananas, which is the single most sensitive product in its commercial relations with the European Union. The European Union's offer was a 20% import duty decrease, which was still not acceptable for Ecuador. On the

¹⁹ The original objective of the commercial chapter of the association agreement was to negotiate a free trade area. The bilateral commercial negotiations do not change this objective. Therefore, these bilateral commercial agreements can be considered free trade agreements.

other hand, Ecuador expressed lately, that its absence is also due to its position to insist on a Commercial Agreement for Development. The most important issues for the Colombia delegation are European market access of products such as banana, sugar and tobacco²⁰. From a Colombian point of view, there are still important sub-chapters open for negotiation such as agricultural and non-agricultural products. The European Union also requested Colombia to decrease import duties on alcoholic beverages and vehicles, as well as to reconsider internal regulations on minimum alcohol content of gasoline and the registering system of imported vehicles.

Actually, most commercial questions have been already closed with Peru. Notwithstanding, there are substantial conflict areas still open with differing positions between the participating Andean countries from one side and the European Union on the other side. Biodiversity, sanitary measures and intellectual property rights are among these issues. Recently, the European position showed flexibility in intellectual property rights accepting the terms of 5 and 20 years for data tests and patents as established in the free trade agreements of Peru and Colombia with the United States of America. The European Union has its own interests in the negotiations of the Commercial Agreement. Their main purpose is to secure a stable investment climate for European companies. For this reason the European Union puts emphasis on the Singapore issues (investment, competition, government procurement and trade facilitation) including liberalisation of the services sector, national treatment in competition and government procurement, protection of intellectual property rights²¹ and tariff reduction on high quality agricultural products (especially alcoholic beverages), chemicals and pharmaceuticals as well as textiles and vehicles. According to the

²⁰ Currently, as a result of the GSP-Drug (since 2005 GSP-Plus) more than 7200 products may enter into the European market in the 0 tariff bracket. 35% of Colombian export to the European market is coal, which falls into this category, together with flowers and coffee.

²¹ The most critical point of the European Union's new bilateral trade agreements with developing countries is the Singapore issues. Critiques state as the European Union failed to achieve the liberalisation of these new trade areas through the Doha WTO round, it introduces them in its bilateral commercial agreements (de Arenal, 2009).

opinion of an anonymous source of the Colombian official delegation, the European Union has showed a rather rigid position during the negotiations. The EU offered to convert the GSP-Plus into a bilateral measure but without including substantially new articles into the 0 tariff list. On the other hand, no specific mechanisms to mitigate trade and economic asymmetries between the two regions were implemented in the Commercial Agreement. The topic was partially treated in the cooperation sub-group in form of cooperation in technology. This sub-chapter has been already closed at the fifth round in Lima in July 2009.

Although Bolivia does not participate formally in the negotiations of the Commercial Agreement with the European Union, it represents conflicting opinion on these issues. Bolivian President Evo Morales called these negotiations “death politics”. In its communication to the European Commission in January 2009 Bolivia rejected the bilateral negotiations of free trade agreements between the European Union and the Andean countries. According to Morales these negotiations divided the Andean Community into countries accepting free trade agreements and “those, who we want commercial agreements with real differentiated, asymmetric treatment, and that they should not limit our right to define our national policies.” There is a tense political environment in the Andean region. Two conflicting political blocks are under development in the Andean Community: on one side Colombia and Peru, on the other side Bolivia and Ecuador. There are all kinds of differences between these two blocks including questions such as security and defense, economy and commerce, and especially ideology and politics. The gap between the two blocks is the result of current political tendencies in Latin America especially in the Andean region. The 21st century brought into power a broad variety of central left, leftist, alternative socialist and also populist governments in Latin America. With the leadership of Venezuela and Cuba the Bolivar Alliance for Our Americas – Commercial Treaty of the Nations (ALBA-TCP) political movement has growing influence in the Andean region. Both Bolivia and Ecuador are members of this alternative political alli-

ance²². ALBA-TCP promotes “fair commerce” based on the principle of complementarities and barter mechanisms to mitigate the existing asymmetries between Latin American countries²³. The Union of South American Nations (UNASUR)²⁴ is a recently created alternative proposal of the South American regional integration. Its objective is to promote more equal and integral development in South America. Upon its ratification UNASUR would result in a new regional integration in Latin America including virtually all South American countries. Currently, Latin America has a changing and rather instable political map. Therefore, the future of the association agreement between the European Union and the Andean Community cannot be understood without considering these broader political influences. In the short run, the most probable is that bilateral Commercial Agreements will be signed between the European Union and Colombia and Peru by the end of 2009. Upon ratification these commercial agreements will result in a free trade zone between the signing parties. Ecuador and Bolivia will most probably not join these commercial agreements in the near future. These agreements are the commercial chapter of the association agreement between the European Union and the Andean Community. On the other hand, it is still an undecided issue whether the negotiations of the political dialog and cooperation chapters of this association agreement have any future at all. There is another question open whether it is still appropriate to consider these bilateral commercial agreements as part of a bi-regional association agreement or they can be considered as new fifth generation bilateral European Union agreements of the second decade of 21st century EU foreign policies.

²² The ALBA-TCP members are: Antigua and Barbuda, Bolivia, Cuba, Dominica, Ecuador, Honduras, Nicaragua, San Vicente and Grenadines and Venezuela.

²³ The Commercial Treaty of the Nations (TCP) was proposed by Bolivian President Evo Morales in 2006 as a contra position of the free trade agreements negotiated by the US in Latin America. It was signed between Bolivia, Cuba and Venezuela in 2006. The ALBA-TCP movement is against free trade agreements.

²⁴ The UNASUR member states are: Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Guyana, Paraguay, Peru, Suriname, Uruguay and Venezuela. The UNASUR treaty was signed on 23 May 2008.

CONCLUSIONS

As I argued before, European Union foreign policies are in a cross-road. The recent developments of EU Latin American relations are an example of changing world politics and its influence on EU foreign policies. Traditionally, in foreign politics dominant powers establish the conditions of international relations. The 21st century globalisation results in deepening interdependence of nations and regions. Foreign policies are moving towards relations of cooperation rather than power struggles. Notwithstanding, economic world competition is an integral element of globalisation. Therefore, competition is an elemental building block of cooperation in international relations. Cooperation based on competition seems to be a contradiction, which might result in a new power struggle in the commercial field. Des-integration is another element of contemporary world politics, as opposite of the integration era of the “new” regionalism. The political crisis in the Andean Community is an example of des-integration. EU foreign policies towards Latin America have been based on bi-regional partnership building towards a Eurolatinamerican inter-regional space. It is a dialog between integrations or integrated regions. Since 1999, there have been major developments in the bi-regional relations especially in the fields of political dialog and cooperation. On the other hand, advances in commercial relations have been achieved on bi-lateral bases. The recent world economic crisis influences (des)-integration processes. Reactions to the crisis can move world politics towards protectionism or the other way around towards increased cooperation. I suspect the possibility of a third way increased regulatory state intervention in gradual market liberalisation. This third way would not necessarily result in des-integrations but it requires integrations with clear legal and solid institutional structures. There is a possibility of cooperation in the commercial field, if asymmetries between the negotiating parties are treated in an appropriate way such as gradual market liberalisation (Valerdi Rodríguez, 2009). It requires a system of checks and balances of protective and liberalising measures supposing a proactive role of public administrations.

This way, assymetries would be treated through trade, carefully backed up by cooperation measures. Political dialog would serve to keep this system functioning. When EU foreign policies manage to implement this integrated trade system of checks and balances, European foreign policy identity achieves a new level of development.

References

- Aggestam, L. (2004). Role identity and the Europeanisation of foreign policy: a political, - cultural approach. In Tonra, B., & Christiansen, T. (Eds.). *Rethinking European Union Foreign Policy*. Manchester: Manchester University Press.
- Del Arenal, C. (2009). *Las relaciones entre UE y América Latina: ¿abandono del regionalismo y apuesta por una nueva estrategia de carácter bilateralista?* Working Paper Real Instituto Elcano.
- Comunidad Andina Documento de Estrategia Regional 2007-2013. (2007). European Commission.
- Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union (2008/C 115/01)*. (2008).
- Fernández Fernández, J.J. (2008). La Unión Europea: desafíos para su política exterior. In Fundación Cultura de Paz-CEIPAZ (Eds.). *Escenarios de crisis: fracturas y pugnas en el sistema internacional. Anuario 2008-2009*. Barcelona: Icaria.
- Freres, Ch. (2006). *Enhancing Relations between the European Union and the Andean Community*. Directorate-General for External Policies of the Union Directorate B - Policy Department - European Parliament EP/ ExPo/B/2005/20.
- Hettne, B. (2005) Beyond the 'new' regionalism. *New Political Economy*, 10:4, 543-571.
- Jørgensen, K.E. (2004). Theorising the European Union's foreign policy. In Tonra, B., & Christiansen, T. (Eds.). *Rethinking European Union Foreign Policy*. Manchester: Manchester University Press.
- Justaert, A., & Nasra, S. (2008). *EU Foreign Policy: Exploring the integrative potential of the Lisbon Treaty*. IIEB Working Paper 32. At: <http://soc.kuleuven.be/iieb/docs/wp/IIEBWP032.pdf>

- Keohane, R. & Nye, R. (2000). Globalization: What's new? What's not? (And so what?). *Foreign Policy Magazine*, 118, 104-119
- Knottnerus, R. (2006). *Del Consenso de Washington al Consenso de Viena? La agenda de libre comercio de la UE para América Latina y el Caribe*. Working Paper Transnational Institute Corporate Europe Observatory.
At: <http://www.tni.org/docs/200612071617076826.pdf>
- Laeken Declaration on the Future of the European Union 1 January 2002.*
Lima Declaration V Latin America and Caribbean-European Union Summit Lima, 16 May 2008.
- Malamud, C. (2009). *Estados Unidos y América Latina: nueva etapa de una relación complicada*. Working Paper Real Instituto Elcano.
- Quevedo Flores, J. A. (2008). *El espacio eurolatinoamericano 1992-2007: una estrategia efectiva de política exterior común hacia América Latina*. Doctoral Thesis. Universidad Complutense de Madrid. At: <http://eprints.ucm.es/7743/>
- Rojas Penso, J.F. (2009). *Algunas consideraciones en torno al tratamiento de las asimetrías*. Sistema Económico Latinoamericano y del Caribe. At: <http://www.sela.org/sela/publicaciones.asp>
- Sanahuja, J.A. (2000). Asimetrías económicas y concertación política en las relaciones Unión Europea-América Latina: un examen de los problemas comerciales. *Revista Electrónica de Estudios Internacionales*, 1. At: <http://www.reei.org>
- Sanahuja, J.A. (2003). *De Río a Madrid: límites y posibilidades de las relaciones Unión Europea-América Latina*. The Jean Monnet/Robert Schuman Paper Series. Jean Monnet Chair of the University of Miami. At: <http://aei.pitt.edu/8102/01/sanahujafinal.pdf>
- Smith, M.E. (2001). The Quest for Coherence: Institutional Dilemmas of External Action from Maastricht to Amsterdam. In Stone Sweet, A., Sandholtz, W., & Fligstein, N. (Eds.). *The Institutionalization of Europe*. New York: Oxford University Press.
- The strategic partnership between the European Union, Latin America and the Caribbean: a joint commitment*. (2008). European Commission.
- Tonra, B., & Christiansen, T. (2004). The study of EU foreign policy between international relations and european studies. In Tonra, B., & Christiansen, T. (Eds.). *Rethinking European Union Foreign Policy*. Manchester: Manchester University Press.

- Valerdi Rodríguez, E. (2009). *The European Union Free Trade Agreements: Implications for Developing Countries*. Working Paper Real Instituto Elcano.
- Xenellis, G. (2009). *EU-27 trade and investment with selected Latin American countries. General and regional statistics*. Eurostat. Statistics in Focus 51/2009.

Webpage Andean Community of Nations:

http://www.comunidadandina.org/exterior/can_ue.htm

Webpage EFE: <http://www.efe.com/>

Webpage European Commission: http://ec.europa.eu/external_relations/la/index_en.htm