

# THE FREE TRADE AGREEMENTS BETWEEN THE EUROPEAN UNION AND LATIN AMERICA. THE PERUVIAN AND MEXICAN CASE

Antonio Manrique de LUNA BARRIOS\*

## Abstract

*The European Union has signed a number of free trade agreements with different countries in Latin America because it is aware of the great importance that this region has gained as a destination for its exports and investments. Furthermore, the European Union wishes to reaffirm its ties with countries in the region because it hopes to consolidate its political and economic position as an international player with its presence in those markets.*

*In this paper we will discuss the free trade agreements that the EU has signed with Mexico and later with Peru, because they are two examples where Latin American countries have achieved significant economic growth and where the trade has generated significant benefits. Additionally they are two major trading partners of the European Union and they have allowed the EU to continue to expand its zone of influence in Latin America.*

**Keywords:** *Free trade agreement, European Union, America Latina, investments, Peru, Mexico.*

## Introduction

In the international scenario states can live in economic independence and they do not have to interact with the other members of the international community. In this context the European Union has taken the decision to sign free trade agreements with different countries of Latin America and with this it has the objective to enter into new markets and to obtain a better position. The premise from which we start with the present investigation is the relationship between states that negotiate agreements to interchange goods and services in a liberal way.

Due to globalization a number of changes have taken place with regard to the economic relationships of nations and the liberalization of global trade. Certain expectations have been created with regard to the benefits of the free trade agreements that have been signed by nations, but the process of commercial opening has not always resulted in direct benefits, especially with regard to the poor parts of population. The expectative of economic growth however was one of the major arguments that convinced Mexico in the beginning and later Peru to sign a free trade agreement with the European Union, including political, economic and social aspects. Regardless of the general interest of Latin America and the European Union in the commercial opening of Latin America for trade and investments the changes come along with the free trade agreements constitute a powerful instrument that contributes to the development of the people in Latin America as long as their interest are respected.

The hypothesis that will be followed with this work considers that the signing of the free trade agreements between Latin America and the European

Union provides an excellent opportunity to deepen the economic and commercial relationships between both regions. However, it is considered that modifications will have to be discussed and added, especially in Mexico where the free trade agreement has been implemented a longer time ago.

This investigation also wants to: 1) Contribute to the way in which the free trade agreements are adapted to the real needs of the different countries in Latin America and to their adequate implementation. 2) Promote the use of free trade agreements as a mean that allows the population to reach a better level of economic well-being. 3) Rise consciousness about the importance of free commercial interchange between states.

This present investigation uses due to its nature, a multidisciplinary approach which is reflected in the variety of sources used. Also different bibliographical sources have been used.

In the first part of the present investigation the commercial interests of the European Union in Latin America will be discussed.

## 1. THE COMMERCIAL STRATEGY OF THE EUROPEAN UNION IN LATIN AMERICA

At the moment the interest of the European Union in Latin America has risen because it considers this region a priority partner and for this reason we are going to analyze the economic relations between the EU and Peru and the economic relations between the EU and Mexico (Piñon, 2005: 17).<sup>1</sup> This new focus of the European trade policy has happened because the EU wanted to find new global partners and strengthen its international position for example in comparison with the United States of America or China. Another

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\* Professor, PhD, MA, Deusto University, Bilbao, Spain (e-mail: [a.mdel@deusto.es](mailto:a.mdel@deusto.es)).

<sup>1</sup> During the Eighties the European Union did not give a lot of importance to Latin America because its main focus was centered on the disintegration of the Socialist block and its policy of neighborhood.

influence was the constant subscription of new free trade agreements of Latin American countries with other countries and the fear of the EU to loose importance and influence in this region. Some authors say that with this new strategy the European Union has started giving more privileges to individual countries and to consider prefer these particular agreements to joint agreements of more than one country or block to block (Ruano, 2013: 619 -644). However, we do not share this vision although the European Union did not reach a block to block agreement with the Andean Community of Nations<sup>2</sup>. It should not be forgotten that this block to block agreement was not concretized because Bolivia and Ecuador decided not to participate regardless of the European efforts to maintain a block negotiation. Another example of the will of the European Union to carry out negotiations from block to block is the Association Agreement that was signed with the Central American Common Market. Taking into account these specific cases we cannot generally say that the European Union does not want to realize wider negotiations with Latin America and that it rushes into specific agreements with particular countries.

Like mentioned above there are several reasons for the EU to negotiate with the Latin American block in general and certain Latin American countries like Peru and Mexico in particular. Among the principle reasons for negotiating we can find: the economic growth of this region, the commercial policy of opening, the claim for entering and getting installed in the international scenario, etc. (Sanahua, 2013: 1-32). Right from the beginning, when there were still block to block negotiations, it was the strategy of the European Union to try to stimulate its relations with Latin America by establishing and presenting itself as an important actor of the international community and this way of acting continued in the individual negotiations with particular countries. However, the economic crisis that affected the EU and the problems that the Eurozone was confronted with have changed the general approach of the EU towards Latin America (Guillén, 2013: 23-41). Instead of merely focusing on a complete region the EU began to accept negotiations with individual countries.

Now we are going to analyze how the EU has conducted its negotiations and how it has reached to sign the free trade agreements with Peru and Mexico.

## **2. THE NEGOTIATIONS AND SIGNING OF THE FREE AGREEMENT BETWEEN LATINA AMERICA AND THE EU. THE CASES OF PERU AND MEXICO**

Now we are going to analyze the antecedents of the free trade agreements between the EU and Peru and the EU and Mexico in order to show two examples of the implementation of free trade agreements in Latin America that have resulted in economic growth.

### **2.1. The negotiation and signing of the free trade agreement between the EU and Peru**

The beginnings of this free trade agreement can be found in the negotiations that took place between the European Union and the Andean Community of Nations (ACN)<sup>3</sup>. With these negotiations an agreement in the following three subjects should be reached: the establishment of a flowing political dialogue, the creation of an area of free trade, investments, etc. It was also tried to reach an intense cooperation between the countries of the Andean Community.

From the commercial point of view this agreement brought many new chances for the countries of the Andean Community simply for the fact of being associated with the European Union and its large market. From the political point of view and in regard to the cooperation between both regions the relations between both regions had been established and improved for a long time. For the European Union this agreement was a great opportunity due to the fact that the European Union wanted to present itself as a major player in the international society and to the fact that the Latin American market presented new challenges and opportunities. But, the special situation of Bolivia and Ecuador had to be considered, a situation that made it necessary to establish a special treaty and to differentiate with respect to these two countries that finally did not participate in the agreement, as we will see later.

<sup>2</sup> The negotiations between the Andean Community of Nations and the European Union were established with the Decision 598 of the Andean Council of Foreign Ministers in an open meeting with the Commission of the Andean Community, that established that the Country Members could negotiate commercial agreements with third countries in a joint way or in block and exceptionally in an individual way. This way it was tried to obtain a major capacity to negotiate in regard to third countries or blocks of countries and to use these agreements as instruments to continue deepening the integration and the levels of economic development between the members of the Andean Community of Nations. Also we must indicate that these negotiations between blocks were affected by the participation of Ecuador and Bolivia in the ALBA-TPC given the fact that this negotiation did not want to develop the cooperation and the political dialogue and that even more it wanted to give more importance to the commercial side and was an excuse to promote a simple free trade agreement. Later, within the framework of the European Union it was established the possibility to establish negotiations only with Peru and Colombia given the fact that within the framework of the Andean Community of Nations no consensus had been reached in topics such as trade, sustainable development and intellectual property.

<sup>3</sup> The Andean Community was founded with the Protocol of Trujillo on the 10 of March 1996 as a substitute of the Andean Pact. The members of the Andean Community at the moment are Bolivia, Colombia, Ecuador and Peru. On the 22 of April 2011, Venezuela left the Andean Community of Nations (ACN) in 2006 but it had to wait five years to leave behind all its obligations and rights linked had the time limit of five years expired which it had to leave behind its obligations and rights linked to of the regional Andean group. In 2006 it also decided to enter into the Common Market of the South (MERCOSUR).

In this context it has to be mentioned that the commercial relations between the EU and the member states of the Andean Community of Nations (among which is Peru) go back to 1990 when the EU established a Generalized System of Preferences called (GSP) – Drugs - with the objective to fight against the production and the traffic of drugs<sup>4</sup> and that was trying to show a compromise of the developed countries in sharing responsibility with the countries in process of development. To approach this transnational problem which does not know frontiers the EU was looking for a method of showing a politics of shared responsibility to confront this problem which is affecting the whole international community.

In 2005 the Generalized System of Preferences Plus (GSPP)<sup>5</sup> was added which was wanted to promote a sustainable development and which had the objective to introduce a new regulatory policy. In regard to this we must say that the custom duty preferences that were given to products coming from member states of the Andean Community of Nations did not include all products and made it necessary that the GSPP was renewed in the year 2009.

Although the GSP and GSPP were criticized due to the temporary character of these customs duty preferences for products from the member states of the Andean Community of Nations it has to be said that the results from this experience were positive. It had become possible that external investments could reach these countries that were trying to benefit from the preferences to introduce their products in the market of the EU.

We have to indicate that the European Parliament and the Council of the European Union approved with the Regulation (EU) No 978/2012 the application of a new generalized system of custom duty preferences. With this regulation generalized custom duty preferences are applied and the Council Regulation (EC) No N° 732/2008 of the Council is abrogated.<sup>6</sup>

The negotiations of the Andean Community of Nations were based on the Decision 598 which declares that the member states could establish commercial agreements with third countries in a common way or as a block. But it was also possible that the member states could negotiate agreements on their own. This way it was tried to obtain a better position for negotiations regarding third countries and blocks of countries and to use these agreements as instruments to continue to deepen the integration and the level of economic development between the

members of the Andean Community of Nations. According to the Decision 667 of the Andean Community of Nations (ACN) a general framework was established for negotiations between the trade blocks EU and ACN of the agreement of association between the EU and the ACN<sup>7</sup>.

Thanks to the Decision 667 and especially to what is declared in Article 2 of this norm Peru could continue with bilateral negotiations with the EU. This would be helpful in the case that any difficulties should occur in the regular negotiations from trade block to trade block because Peru could continue negotiating individually in the case that for example one of the other ACN members (such as for example Ecuador or Bolivia) would decide to leave the trade block negotiations.

Coming back to the agreement of association that was mentioned before it can be said that the commercial relations resulting from the signing of this agreement brought important changes for Latin America that started to enter into a phase of more economic development and social integration. For the European Union the changes that this agreement brought about for this Latin America block made it more interesting to establish economic relations because the changes showed certain progress in terms of economic, legal and social aspects. It seems that after the signing of agreements with Mexico and Chile had come the moment to give an interesting position to the Nations of Latin America and to face new challenges.

During 2006 a number of meetings took place between the representatives of the Andean Community of Nations and the European Union that led to the fact that on the 14<sup>th</sup> of July of 2007 the beginning of negotiations about the agreement of association between the European Union and its state member states and the Andean Community of Nations and its member states members started.

However, the negotiation between blocks did not come to an end and did not reach to create a common Andean market. The fact that certain facility had been given to the member states of the ACN so that they could assume their compromise with different time frames, means, and different velocities and depending on their own situation made it complicating and difficult for the blocks to negotiate. Also the Duty Customs Union of the ACN could not consolidate itself within the framework of the ACN since the state members of this organization did not find a common point of agreement in their politics. It also has to be

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<sup>4</sup> The European Community was the first one to establish the Generalized System of Preferences in 1971 with the objective to concede unilaterally custom duty preferences for the products of countries which mostly need them.

<sup>5</sup> The GSP Plus was established with the Regulation of the Council of the European Union (EC) No. 980/2005 from the 7 of June 2005.

<sup>6</sup> The new scheme approved by Regulation 978/2012 entered in vigor on the 20th of November 2012 and the custom duty preferences granted with this new order were applicable from the 1st of January 2014. In regard to the actual scheme GSP Plus would only be applicable from the 31st of December 2013, according to the Regulation N° 512/2011.

<sup>7</sup> The decision 667 called general frame for negotiations of the Agreement of Association between the Andean Community and the European Union was adopted on the 8th of June 2007. Later, since a negotiation by blocks was not possible it was allowed that Member States of the ACN could carry out bilateral negotiations with third countries and for this it was necessary to abrogate the Decision 667 with the Decision 738 from the 1st of July 2010.

mentioned that the negotiation between blocks was probably affected by the participation of Ecuador and Bolivia in the Bolivarian Alliance for the Peoples of our America – Peoples' Trade Treaty (ALBA-TPC)<sup>8</sup>. The ALBA-TPC put more priority on trade topics and less on questions of cooperation and political aspects and could be considered a simple free trade agreement. Finally, in June 2008 the negotiation between blocks failed.

Since it was not possible to reach a common agreement within the block that existed during the negotiations of the Agreement of Association between the EU and the ACN it became necessary to redesign the initial negotiations that had taken place with regard to subjects such as trade sustainable development and intellectual property. These new negotiations took place between the EU and Peru, Colombia and Ecuador. Ecuador later left these negotiations in July 2009.

These new negotiations tried to stay within the regulations of the Article XXIV of GATT and the Article V of GATS that had been established within the framework of the World Trade Organization. This way the negotiations were reestablished in areas such as the rule of origin, the technical barriers of trade, trade and sustainable development, etc. Later, after a new series of negotiations (where the last one had taken place in February 2010 in Brussels) it was officially announced the end of the negotiations in April 2011 and it was established that the agreement would be controlled by the legal procedures of each one of the participating parties.

The Council of the European Union approved the provisional signature and application of the Trade Agreement between Peru and the EU on the 31 of May 2012. Later, on the 26 of June 2012 the agreement was signed and was submitted to the European Parliament and to the Congress of Peru for approval according to the European and Peruvian regulations. Later it was also necessary to get the approval of the national parliaments of the state members of the EU because the individual European states could be affected by the agreement and its regulations in terms of questions regarding the intellectual property, etc.

The European Parliament accepted the trade agreement with majority on the 11th of December 2012 and the Congress of Peru approved it the following day with unanimity.

With regard to the content of the Treaty it can be mentioned that one chapter was designated to sustainable development. Other aspects also were considered such as international regulations in subjects concerning labor conditions and environment. Social

aspects have also been considered and a human rights clause has been added with which the treaty can immediately be suspended in case human rights are affected. However, a certain power has been given to diplomatic means and mechanisms that can be established between the parties to solve any upcoming controversy<sup>9</sup>.

Now we are going to see some aspects concerning the trade agreement between the EU and Peru. The free trade agreement between the EU and Peru is structured in the following way: Preamble, fourteen titles, fourteen annexes and conjoint declarations. The fourteen titles have the following contents: In the first two titles a number of initial and institutional regulations have been established. In the third title the trade of goods has been regulated, the trade of services, establishments and electronic trade is regarded in the fourth title; you can find subjects such as payments and movement of capital in the fifth title, public contracting in the sixth title and intellectual property in the seventh title. Competition is regulated in the eighth title, trade and sustainable development in the ninth title, the transparency and administrative procedures can be found in the tenth title and the general exceptions in the eleventh title. The solution of controversies is in the twelfth title, the technical assistance and the strengthening of commercial capacities in the thirteenth title and the final regulations can be found in the fourteenth title.

## 2.2. The negotiations and signing of the free trade agreement between the EU and Mexico

The antecedents of the Free Trade Agreement between the European Union and Mexico can be found in the first Frame Agreement, with economic and trade character that was signed by this country with the European Economic Community (now EU) in 1975. With this agreement, the in those days called European Economic Community, granted to Mexico which at that time was not a member of GATT, the treatment of a most favored nation and this way contributed to the fact that Mexican exports towards Europe were stimulated and created a more favorable environment for the bilateral economic relations. We also have to say that another factor that contributed to the consolidation of this commercial relationship was the second Framework of Agreement of Cooperation which was signed on the 26th of April 1991 and the Joint Solemn Declaration of the 10th of April of 1995 that proposed to widen the relations between both parts with a vision of long-term time limit and that was aiming at reactivating the economic and trade relations that had been affected in the Eighties (González, 2003:139-178)<sup>10</sup>. However, the preliminary

<sup>8</sup> The Bolivian Alliance for the People of our America – Peoples' Trade Agreement (ALBA-TCP) was established on the 14th of December 2004.

<sup>9</sup> The aspects with regard to a democratic clause, the respect for the human rights and the respect for the state of law that were established in the Agreement of Political Dialogue and Cooperation which was signed in 2003 between the EU and the ACN have been incorporated into the Free Trade Agreement between Peru and the EU.

<sup>10</sup> The diplomatic relations between Mexico and the European Union were established in 1960. However, it was in 1975 when the first Frame Agreement with economic and commercial character was signed between them.

negotiations had to overcome a number of inconveniences that came up from the Mexican authorities since the European institutions planted the need to incorporate a “democratic clause” in the new commercial agreement. The incorporation of this disposition generated a strong initial rejection since it was considered an intervention into internal Mexican affairs and this impasse could only be solved thanks to making the above mentioned clause more flexible and by changing it by eliminating every reference to the expression “internal politics”.<sup>11</sup>

Later more negotiations took place and two agreements were signed that had a great impact on the relations between the European Union and Mexico. The Agreement of the Economic Association, Political Consultation and Cooperation<sup>12</sup> and the Internal Agreement about Trade and Questions related with Trade between the Mexico on one side and the European Community and its state members on the other side.<sup>13</sup> The agreements should lead to an integral association that would be developed with emphasis on the following three subjects: political dialogue between Mexico and the European Union, the creation of a free trade zone and the establishing of an intense cooperation.

Before the global agreement mentioned before was signed an “interim agreement” was negotiated that previously helped to establish certain customs duty liberties. Then with the finalizing of the general global agreement on the 1st of July 2000, the interim agreement was abrogated.

This agreement was a great opportunity for Mexico. From the commercial point of view it opened the market of the European Union for Mexico and provided it with many advantages that are implied with being associated with the European Union considering the size and importance of this market. From the political point of view it brought new perspectives and in terms of cooperation new challenges and chances (Gómez: 2005, 67-75). The European Union on the other hand wanted to get established as an important player in the international community and saw a great change of entering into the Latin American region by negotiating with Mexico. It had always considered Mexico as a valid interlocutor in the Latin American region which would allow the European Union to enter into this region more easily just as it is happening right now. However, the geographical situation of Mexico should not be forgotten. Without any doubt Mexico has always been closely linked to the United States of North America. This connection has even been

deepened with the signing of the North American Free Trade Agreement in 1994.

For this reason the European Union tried to enter with the free trade agreement with Mexico into the Mexican market with a similar tariff reduction as foreseen in the North American Free Trade Agreement. On one hand it wanted to have certain “parity with the North American Free Trade Agreement” and it also wanted to protect its own investments. The trade agreement with the European Union represented for Mexico the possibility and the opportunity to diversify its commercial relations with other international players and to change a situation that reflected a high concentration of its commercial relations on the United States of North America. It also meant the increase of influence of Mexico in the world (Green: 2000, 4-5).

With the signing of the free trade agreement there surged a certain concern of Mexico that it would only be used as a platform for the EU to enter into the market of NAFTA. However, there existed some strict norms in this treaty and these norms limited the worries to some extent. In order to benefit from the advantages of the NAFTA agreement the products involved needed a great number of primary resources originally coming from North America. For this reason Europe had to realize that in order to enter into the U.S. market it would have to invest and establish industries in Mexico that would use input from the region of North America and Mexico (World Trade Organization, 2013: 38-52). Although it was hoped that Mexico would become more independent of the commercial relations with the United States of North America after the signing of the free trade agreement with the EU it cannot be negated that the US will continue being the most important trade partner of Mexico at the moment.

With regard to the general content of the free trade agreement between the EU and Mexico (FTA EU-M) we can say that the FTA EU-MX addresses in eleven chapters the following topics: market access, rules of origin, technical norms, sanitary and phytosanitary standards (SPS standards), safeguards, investments and related payments, trade in services, sales in the public sector, competences, intellectual property and the solving of controversies.

<sup>11</sup> The incorporation of the democratic clause in the commercial agreements that are underwritten between the European Union and third countries. The text that almost hindered the commercial negotiations originally was as follows: “The respect for the democratic principles and the fundamental rights, as declared in the Universal Declaration of the Human Rights, inspires the internal and international politics of the parties and constitutes an essential element of the present agreement.”

<sup>12</sup> The Agreement of Economic, Political Consultation and Cooperation Association was approved by the Council of Ministers of the European Union on the 14th of February 2000 and by the European Parliament on the 16th of March 2000.

<sup>13</sup> The interim agreement about trade and questions related to trade between the European Union and the United States of Mexico was approved by the Senate of Mexico on the 23rd of April 1998 and by the European Parliament on the 13th of May 1998. The interim agreement referred to entered into effect on the 1st of September 1998.

### 3. Effects of the free trade agreement between the EU and Latin America

#### 3.1. Effects of the free trade agreement between the EU and Peru

The trade agreement between Peru and the EU has brought a lot of changes and generated the opportunity to participate in a consolidated market such as the European market and not to lose competitiveness in regard to other countries with which the EU has signed a free trade agreement. However, the signing of the trade agreement has a lot of effects and these will be analyzed now:

With the signing of the trade agreement between Peru and the EU it will be easier for Peruvian products to enter into the European market which contains more than 500 million of people. With independence of the other 16 free trade agreements that Peru has signed with other countries so far, the number of potential consumers has the greatest economic impact for Peru so far. However, we should not forget that during the negotiations of the European Commission and Peru the two towers of the Agreement of Association were left aside that made reference to a political dialogue and to a cooperation that should be concreted in a free trade agreement which would permit the liberalization of services, public tenders and investments, etc.

The Treaty gives permanent, reliable and predictable preference access to Peruvian products to the common European market and allows it to introduce into this market a number of goods and services. The new agreement offers Peruvian products more advantages than GSP<sup>14</sup>. Additionally it will permit a progressive liberalization of the commerce of services.

When the agreement came into vigor (February 2013) it came to a tariff reduction of 99,3,3% which meant a reduction of 100% for the not agricultural products and 75,9% for the agricultural products given the importance and sensibility of this topic in this sector within the European Union.

On the other hand, the EU has the opportunity to export manufactured goods and products to the Peruvian market and to invest capital which allows the European providers to continue selling their products and compensate the decreasing of their sales in the European market during the economic crisis by which Europe has been affected.<sup>15</sup> Considering the situation

at the moment the EU has been able to take benefits from the free trade agreement since its investors had the possibility to invest in an interesting destination with great potential and chances. For example, the banking system with origin in Europe (especially Spanish) has established itself in Latin America and especially in Peru and has completed a successful year with great results and in a certain way this has helped to compensate the lacking dynamics of the European market.

With regard to the regulations of the agreement it can be mentioned that the exports have increased and more products are offered now. The products that are offered have become more diversified. The majority of exports from Peru into the EU market are agricultural products<sup>16</sup>. This has contributed to the fact that the conditions of life for thousands of Peruvian families have improved and they have seen that this new export destination can improve their conditions and will result in the fact that extreme states of poverty will be left behind that this country had been confronted with in the past. However, the export of gas and oil has risen as well on a constant level since 2010.

The commercial agreement between the EU and Peru will contribute to improve the level of life of the Peruvian citizens since they will be able to sell their products in the European Union more easily. This way, for example we can say that between 2008 and 2012 the trade balance between the European Union and Peru have been favorable for the last country mentioned before and it can be suspected that in the future due to the liberalization of custom duties that this treaty presents it will continue increasing.

To assure a continuing growth it might be important to establish a system that promotes the creation of cooperatives and mechanisms that facilitate the access to credits and financing for the Peruvian people so that they can obtain a better capacity to respond to the demand for products that come from the market in Europe and that they can develop their skills and capacity in management and business administration. For example, in Peru there are cooperatives for savings and credits. They are businesses of joint property and are managed in an autonomous way and it is their objective to attend the

<sup>14</sup> The agricultural products have a progressive and partial liberalization between 85 and 90 % of the products as well in Peru as in the EU. On the other hand the industrial products and Peruvian fish are free and can enter into the European market since the getting into vigor of the treaty.

<sup>15</sup> We should consider that the President of the United States wants to increase the exports of small and medium sized companies from the U.S. to the Latin American market because these exports mean about four millions of employments for citizens of the United States. Also, he is trying to conquest the market of services. It might be that the European Union has become aware of this new politics of the U.S.A. towards this region and that due to the constant progress has decided to follow the model of the U.S. that has proven to be successful. Before the free trade agreement was signed between the EU and Peru, the second one implemented a free trade agreement with the United States on the 1st of February 2009. Vid. Presidential Proclamation 8341 – To Implement The United States-Peru Trade Promotion Agreement and for other Purposes.

<sup>16</sup> The EU has kept its subventions for the agricultural producers due to their great importance in the EU, but obviously this practices generates an unfair competence. Also in the area of lacteal products there is a certain advantage given to the milk in powder coming from the EU in comparison with the fresh milk which cannot compete with this range of prices.

needs of their members and partners<sup>17</sup>. We think that the cooperatives are a powerful instrument that can help the Peruvian producers to organize and finance themselves and their activities and to have this way an alternative to the traditional financial system.

It has to be considered that the Micro and Small Businesses (MSB)<sup>18</sup> might also be affected by the free trade agreement between the EU and Peru since the Peruvian industries see themselves replaced by the European companies. This way, for example the Peruvian paper and leather industry that offer a great quality and are of great importance for the Peruvian market could be affected and it could take place a substitution of Peruvian products for European products<sup>19</sup>.

Peru needs to improve its business connections and has to strengthen its production circles internally to gain productivity and competitiveness and this way a better distribution of the riches can be achieved that enter into the country. At the same time Peru should strengthen its relations with Bolivia and Ecuador (both members of the Andean Community of Nations which did not come to finalize the negotiations with the European Union and for which reason the negotiations of the Agreement of Association between blocks stopped) because after this process a number of tensions affected in a certain way the process of integration of the Andean region. The process of integration, however, is a process that Peru should not leave aside because of the commercial contacts that it implies and the better position in terms of negotiations that its cooperation would mean in the international scenario (General Secretary of the Andean Community, 2013: 1- 41).

There is a great advantage of the trade agreement. It can count on clear norms, especially with regard to the trade with goods, services and investments. By avoiding insecurity concerns can be abolished that can hinder investments in Peru<sup>20</sup>. The fact that the necessary mechanisms have been established to solve any commercial controversy that can arise with the application of the agreements also is also a great incentive for investments in the country. However, some doubts have risen with respect to the importance that has been given to a political solution between the parties or the recommendation that a group of experts could give when the labor laws are not respected.

Regarding the direct foreign investments in Peru, it can be said that 51,6 % come from the European Union and the United Kingdom. The main sectors are the following: trade, communication, energy, finance, industry, mining, petroleum, services, transport, agriculture, construction, fishing, etc. The sector of communication is the most dynamic one at the moment and capital has been canalized there from Spain, U.K. and Holland.

With improving the grade of industrialization and modernization of the Peruvian companies it will be easier for these companies to be able to enter into the European market. At the same time the European companies should be able to gain experience in a new market with great potential. By getting to know the different tastes and preferences of the Latin American consumers the European companies could use Peru as a platform for future investments in the region. In addition there exists a great opportunity to establish

<sup>17</sup> More information about the cooperatives in Peru can be found in "Texto Único Ordenado de la Ley General de Cooperativas" which was approved by the "Decreto Supremo No. 074-90-TR" from the 14 of December 1990.

<sup>18</sup> According to the recommendation of the European Commission from the 6th of May 2003, based on the Charter of the Small Company emitted from the Council of Europe from Santa Maria da Feira in June 2000, which has gone into vigor on the 1st of January 2005, a small company is an economic union with juridical or physical personality which has less than 10 employees and which annual volume of business or general annual balance does not go further than 2 million of euros, a charging of less than exactly two millions of euros and a balance of 2 million or less euros. Vid. European Commission Recommendation 2003/361/CE, 6 of March 2003 about the definition of micro businesses, small and medium-sized businesses. Within the European Union it was also adopted a "Small Business Act" which is a non-binding instrument for the Member States of the EU to commit themselves to take actions to help and support small businesses. The SBA suggests the following strategy of action: education and formation to promote spirit of entrepreneurship, agilization and reduction of costs for the creation of businesses. Another objective is to facilitate legislation, give adequate training adapted to the needs of small companies and to improve the relationship between administration and businesses by using new technologies. Also the opportunities of the internal market shall be improved, tax and financing, promotion for the new technologies of small companies, support for the globalization of small companies in the new economy. Also the potential and effectivity effectiveness of the representation of the interests of the small company on a national level and on the level of the European Union shall be improved. Vid. Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions. Com (2008)394 final "Small Business Act" of 26 June 2008. On the other hand the micro company has been regulated in Peru with the "Texto Único Ordenado" of the "Ley de Promoción de la Competitividad, Formalización y Desarrollo de la Micro y Pequeña Empresa" and the "Acceso al Empleo Decente, Ley MYPE (Decreto Supremo No.007-2008-TR)". In this regulation it is defined that a MASC is an economic union constituted by a natural or juridical, founded with any type of organization or management structure and considered in the vigent legislation. It has to have as an object the development of activities of extraction, transformation, production, commercialization of goods or the providing of services and it should combine two characteristics: the number of employees should not be more than 10 and the amount of maximum sales per year should be till 150 UIT (Tax Unit).

<sup>19</sup> European Commission (2009) Evaluation about the impact about the sustainability of the trade between the EU and the Andean countries. In: [http://trade.ec.europa.eu/doclib/docs/2010/april/tradoc\\_146016.pdf](http://trade.ec.europa.eu/doclib/docs/2010/april/tradoc_146016.pdf)

<sup>20</sup> However, considering the initial fear about investing in this country, it has to be mentioned that Peru has developed a normative framework to protect investments from abroad and has shown a great interest with regard to the international legal order. So, for example, in the Constitution it has to be pointed out the article 70 (that guarantees the invulnerability of the private property). The article 58 (that regulates the private initiative within the framework of a market of social economy). The article 59 (that guarantees the liberty of the companies by the State). The article 62 (that guarantees the liberty of contracting). And other regulations. We should also mention the following norms as a guarantee for the investments: The "Ley Marco" for the growth of the private investment. The Constitutive Agreement of the Multilateral Investment Guarantee Agency (MIGA) of the World Bank. The ICSID Convention of the International Centre for Settlement of Investment Disputes (ICSID), among other dispositions.

certain cooperation between Peruvian and European companies.

There exists a certain risk for the Peruvian companies in case that they are not capable of getting modernized fast enough or that they do not adapt to the new circumstances as required. But the Peruvian companies are also characterized by a great creativity. Also, in Peru the salaries are very low which can be a factor to attract European companies that are trying to get established in this country. However, it is always important that the labor laws are respected, as well as the environmental laws and that the civil society is consulted and not left aside (especially with respect to the Native people) because a situation of social exclusion could affect important sectors of society (people that live in extreme poverty, Native people, women, etc.)

### **3.1. Effects of the free trade agreement between the EU and Mexico**

One of the main effects of the signing of the FTA EU-MX has been the increase of exports of Mexican products to the European market. Among the most important clients of Mexico in the EU can be mentioned countries such as Spain, Germany, the United Kingdom Holland and France and as a total the EU market is made up of 28 countries at the moment and offers access to a number of about 500 million potential consumers which is a great chance and challenge for producers from outside the EU.

European investments have been made in Mexico and they have contributed to the economic growth of the country. The main sectors that the European investments went into were: services (professional, real estate, banking, tourism, hotels, etc.), trade, construction, transport and communications, agriculture, mining, etc. There also entered a great number of direct foreign investments into Mexico, especially from countries such as Belgium (37.7%), Holland (7.6%), Japan (4.4%), Germany (3.6%), United Kingdom (3.3%) and the rest (11.4%).

The FTA EU-MX should be considered as an instrument that permits Mexico to diversify its markets and to reduce the commercial dependence of the United States of North America that has been increased with the NAFTA. As mentioned above the NAFTA is the most important trade agreement that Mexico has signed but with the FTA EU MX it is tried to improve the cooperation and collaboration between Mexican and European. The European Union on the other hand is trying to enter into the Mexican market with its open access that it offers to the United States of North America and Canada.

With the dispositions of the FTA EU-MX, it was regulated that Mexico should enjoy a one hundred per cent tax relief on its industrial products when they entered into the market of the European Union and as the final date was put 2003. Beginning from 2007, the industrial products coming from the European Union

and entering into Mexico do the same. But, many of these products come from Mexican branches of European companies. So for example, the exports of Mexican automotive products (that represent more than 17 % of the exports) have assumed an important role within the Mexican exports to market of the European Union. This makes us think that the Mexican industrial exports strengthen the European industry that is being repowered with the industrial products that enter from its Mexican branches into the market of the EU.

It should be mentioned that with the FTA EU-MX certain advantages were granted to the European Union that had not been granted to any other partner with a free trade agreement signed by Mexico at the moment. So, for example it was established that within 10 years starting from the point when the FTA comes into effect a total liberalization of the trade in services would take place.

Considering the situation of Mexico before the FTA EU-MX came into effect in 1999 the exports from Mexico to the European Union had an amount of 4949 million of euros, while the imports of Mexico from the European Union ascended to an amount of 10585. Later after the signing of the free trade agreement the Mexican imports from the EU had risen and reached for example in 2013 an amount of 28000 million of euros and the exports to the market of the European Union had an amount of 19000 million of euros.

However, some of the reasons for this number could be the good performance of the European economy for many years (before the crisis), the stability of Germany (as a motor of the European economy) and the incorporation of the new state members of the European Union. All these factors could have influenced this increase and the increase of the commercial activity does not necessary mean that the Mexican companies have improved their competitiveness or that the Mexican companies have grown.

The fact that many Mexican imports are semi-elaborated could mean that Mexico is used as a fabric of transformation that uses products to later export them again. On the other hand the products that have been imported tend to be products where no transformation has taken place and they include machines and material of transport, chemical products and basic manufactured goods.

With regard to direct investments the FTA EU-MX had the following effects. In order to approve an investment or to grant an incentive for the investment no special requirements were made. State interventions were limited in general and free flow of capital was established. It was also possible to claim the state in case of indirect expropriation. It was the objective to attract capital and technology and thus to strengthen the Mexican industrial sector. But the FTA-EU-MX also established the possibility to take means that prevent the flow of capital when there existed certain risks (for example exchange, monetary or

balance of payments risks.) In case that a risks surged the partner of the agreement would have to be informed and a plan for elimination developed. In general we have to indicate that these dispositions are common in all free trade agreements.

In the following part of the investigation we will analyze the need to introduce changes to the free trade agreements.

#### **4. Possible modifications of the free trade agreements**

The free trade agreement between the EU and Peru recently came into vigor in 2013 so the effects of the free trade agreement are currently being observed and it is too early to start thinking of modifications of the free trade agreement. Once the treaty has been well implemented there will come a moment to revise and to reconsider the benefits, effects, problems and other aspects of the agreement between Peru and the EU.

The free trade agreement between Mexico and the EU however has been in vigor since 2000 and for this reason and the fact that circumstances in economy, politics and finance have changed it is reasonable that modifications of this free trade agreement are considered and made according to the wishes and suggestions of Mexico and the EU.

In fact the representatives of the European Union and of Mexico already have had meetings to discuss possible modifications that would permit modernizing the agreement. The European Union would like to modernize the FTA because it wants to achieve that the European companies have better possibilities to benefit from the constitutional reforms that have happened in Mexico in the service, telecommunication and energy sector. Mexico on the other hand would have an interest in obtaining the complete liberalization of the agricultural and fishing products.

After analyzing the situation and considering different approaches and possible solutions the European Commission will elaborate a report and possible modifications or a reform proposal will be suggested. With this report a final decision will be prepared and taken. The European Union will address the chapter of financial services and will realize certain changes. It will also include a chapter which is concerning sustainable development and which will establish clear and binding commitments. The authorities of Mexico on the other hand would like to start the negotiations in 2015 to update the FTA EU-MX that was signed in 2000. They consider that Mexico has not benefited enough from the free trade agreement. They think that foreign direct investments have not created new jobs for Mexican people and that it was merely used to buy companies rather than to build new ones and to create new jobs. They would also want to improve the development of small and medium-sized Mexican companies.

By carrying out this revision the FTA EU-MX is also looking for the adaption of the transatlantic

negotiation that is taking place between the European Union and the three states parts of the NAFTA. At this time the European Union and Canada have signed the Comprehensive Economic and Trade Agreement (CETA) that tries to improve access of European services (finance, telecommunication and transport) to the Canadian market. And the European Union and the United States of North America are negotiating the Transatlantic Trade and Investment Partnership (TTIP).

The negotiations of these three state members of NAFTA (Mexico, United States of North America and Canada) all have the objective to strengthen their commercial relations with the European Union and to improve the conditions for trade. At the same time they have to consider and to respect their own markets and their partners and the commitments assumed by them in the NAFTA agreement. So considering these changes and tendencies it might be the perfect moment to revise the FTA EU-MX. With the experiences obtained in the last years it could be an excellent opportunity now to modernize it and to adapt it in a better way to the requirements of Mexico and the European Union. Also new areas of interest of both parties might be found and new synergies could arise.

#### **Conclusion**

The free trade agreement between the European Union and Mexico or Peru does not automatically generate a greater flow of trade or commercial activities. It just provides new opportunities and at the same time new challenges for the Latin American companies, especially the small and medium-sized ones.

In order to benefit from the advantages of the free trade agreements it is necessary for Latin America to develop strategies that will strengthen its competitiveness with regard to the competence from Europe and third countries. Latin America will have to gain more experience and invest in innovation, education, infrastructure and development to be able to obtain a stronger position against products coming from outside of the region and to promote its own products going abroad. The new industrial sector has to be strengthened and Mexican and Peruvian entrepreneurs have to receive more support in order to compete with the producers of other countries. It is also necessary that the small and medium-sized companies from Peru and Mexico participate more in the productive chains of foreign companies that have invested in the region and that they are taken into account for production cycles. This way a greater number of people will be able to benefit. But especially in the beginning the states will have to give access to resources and means so that Mexican and Peruvian companies can become more competitive.

It is important that Mexico and the European Union adapt and modify the free trade agreement according to the real needs of the Mexican community

and that more benefits for Latin America and its economy can be generated. In this dialogue it is fundamental to give attention to the interests and concerns of the civil community and that the free trade agreement leads to the creation and development of new poles of development for Mexico and Latin America so that its people can benefit more from these agreements.

Peru and Mexico should not lose the opportunity to interact in such an important market. However, they should not concentrate on only being an exporter of primary material (mainly combustibles and mining products). They should try to invest and to improve the sectors that need to be more developed. Obviously the success of the products of a country does not only depend on the product but also on the market it is entering into and the institution and companies of these countries. For this reason subjects such as competence have to be considered by the parties of the free trade

agreement just as well as the industrial and technological development of the country where the products are coming from.

On the other hand the European Union has found two strong partners in the Latin American region that continue to grow constantly and that have taken the opportunity to establish a cooperation between them and the European Union. The EU, Mexico and Peru should benefit from this ties and all parties should continue to promote trade, innovation, transfer of technology, etc.

Additionally this agreement presents an excellent opportunity to promote European values such as the protection of the fundamental rights, sustainable growth, respect for the environment, etc. These subjects are important aspects of the European Community and should be promoted and be made an important part of the free trade agreements.

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