

The European Union: promoter of regional integration in Latin America?

Rhetoric and Reality

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GLOSSARY

- AAs** *Association Agreements*
- ALBA** *Bolivarian Alternative for Latin America and the Caribbean*
- APPRI** *Agreements for the Promotion and Reciprocal Protection of Investment*
- BIT** *Bilateral Investment Treaty*
- CA** *Central America*
- CAN** *Andean Community of Nations*
- EC** *European Commission*
- ECLAC** *Economic Commission for Latin America and the Caribbean*
- EIB** *European Investment Bank*
- EU** *European Union*
- FDI** *Foreign Direct Investment*
- FTA** *Free Trade Agreement*
- FTTA** *Free Trade Area of the Americas*
- GAERC** *General Affairs and External Relations Council*
- GSP** *Generalised System of Preferences*
- HSA** *Hemispheric Social Alliance*
- ICSID** *International Center for Settlement of Investment Disputes*
- IPR** *Intellectual Property Rights*
- LA** *Latin America*
- LAC** *Latin America and the Caribbean*
- MERCOSUR** *Common Market of the South*
- NAFTA** *North American Free Trade Agreement*
- NIB** *Nordic Investment Bank*
- TCP** *Trade Treaty of the People*
- TRIPS** *Agreement on Trade Related Aspects of Intellectual Property Rights*
- UNASUR** *Union of South American Nations*
- WTO** *World Trade Organisation*

1 Introduction

The European Union (EU) presents itself to public opinion in Latin America (LA) as a partner, rather than as a competitor in a liberalised market.

The EU appears, in its rhetoric, to place the focus of its relations with less developed countries on cooperation and support for sustainable development and the elimination of unacceptable levels of poverty. Additionally, trade agreements with different regions include a democratic clause that gives priority to the respect for and promotion of human rights.

In recent times, the EU has been stressing that, at heart, its interests in relations with the countries of Latin America, with which it is negotiating Association Agreements (AAs), is to cooperate in the integration of different regions. These ideas are expressed, as we will see, in many of its documents.

The EU presents itself to the world as a successful example of integration with positive social effects for its peoples: a democratic and socially meaningful integration.

The aim of this report is to interrogate this rhetoric and the principles expressed in EU policy documents with the current reality of its relations with Latin America, particularly with the regions with which the EU is seeking to sign AAs: Central America (CA), the countries of the Andean Community of Nations (CAN) and, although negotiations are currently paralysed, also the Common Market of the South (MERCOSUR). The focus of this analysis will be the EU's discourse on its aims for supporting regional integration in Latin America through cooperation and the signing of Association Agreements. The following questions will be explored: What

interests does the EU have in regional integration in LA? What kind of integration does the EU promote in LA? How is support for regional integration made compatible with the search for Association Agreements (AAs) that pursue a broad liberalisation of trade and investment and do not allow for preferential treatment between members of the block? What impacts have the AA negotiations had on the different regional integration processes? What are the potential impacts of AAs on the proposals for alternative regional integration coming from social movements and some progressive governments in the region?

To do this, we will analyse (among other documents) the founding documents of the European Community, the key policy documents on cooperation strategies for each region, the document outlining the current EU global strategy for international relations and the EU's proposals at the AA negotiating table in each of the regions of the Latin American continent.

The EU states time and time again that its priority is to support integration. However, what kind of integration is being promoted? . In reality, as will be demonstrated, the integration envisaged is embodied in the AAs. It is therefore essential to analyse the proposals made in the negotiations for each agreement. This is quite difficult as the documents of negotiation are kept confidential and the negotiations conducted in secret. This confidentiality is, in itself, in blatant contradiction with EU discourse and the mandate for negotiations, which includes encouraging the participation of civil society throughout the process. How can public participation and debate be encouraged if negotiations take place in secret?

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It should be noted that in Latin America an intense search for sub-regional integration is currently under way. There are a number of different integration processes promoted by governments and also by the peoples of the continent. It is true that there is no single integration project coming from the Latin American governments, however, the question should be: does the integration promoted by the EU favour agreement and consensus, or on the contrary, does it intensify divisions? Even more importantly, we must ask ourselves if integration via AAs goes in the same direction as that sought by the Latin American peoples.

Our analysis leads us to the conclusion that there is massive incongruence between EU discourse and the reality of their actions.

This report argues that the EU discourse on cooperation geared towards support for regional integration is nothing more than rhetoric, and that in reality the EU's interests lie in preparing the terrain in order to later negotiate with blocks, and thus gain access to larger goods and services markets. It also argues that the integration promoted by the EU in the AAs do not promote inclusive and environmentally sustainable development. We will also demonstrate that if the countries of LA sign FTAs with Europe (which result in the liberalisation of their markets and services, the handing over of their intellectual property rights, provide for disproportionate protection for investments, and allow European transnational corporations to pillage natural resources), not only will they be unable to implement alternative integration projects in the future, but there are also serious risks that divisions in existing projects

will be heightened, as we have seen in the case of the CAN. Finally, we will show that the integration promoted by the EU not only fails to converge with proposals by broad sectors of Latin American social movements, it even fails to converge with proposals being made by many of the governments of the continent, and even presents obstacles for such proposals. If the EU succeeds in achieving AAs at the negotiating tables, these would become a ball and chain that that will frustrate the peoples' efforts and struggles to achieve a different kind of integration.

We will conclude by briefly analysing the perspectives for concluding the current AA negotiations. We will demonstrate that this is by no means clear. The EU does not seem to have taken on board the full depth of the intense political changes taking place on the American Continent.



What kind of integration is the EU promoting in Latin America?

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a) Context of the new EU priorities for cooperation in Latin America

Relations between the European Union (EU) and Latin America and the Caribbean (LAC) have a long history and have gone through many phases with ups and downs. However, there is consensus among analysts that we can begin to talk of a new phase starting in the mid-1990s, which has intensified during the early years of this century. These changes are the fruit of a long process, the final result of which is expressed in the new strategy “Global Europe: competing in the world” (European Commission, 2006) and in the 2007-2013 regional strategy documents (European Commission, 2007a, b, d and e).

This change starting in the mid-1990s has responded to a number of different factors, but it is fundamentally a reaction to the EU’s main global competitor, the United States (US). The US government has always considered LA to be its back yard and area of influence, but this attitude intensified considerably at the start of the 1990s when they launched an offensive to strengthen their economic hegemony south of the Río Bravo, with the signing of the North American Free Trade Agreement (NAFTA) in 1994. In that same year, the 1st summit of heads of State of the Americas took place in Miami, launching what was then called the Initiative for the Americas and later took its definitive name Free Trade Area of the Americas (FTAA). Faced with the paralysis of FTAA negotiations and their later collapse in November 2005, the US changed tack and began bilateral negotiations with those countries most susceptible to accepting Free Trade Agreements (FTAs). This strategy was successful with Central America and the Dominican Republic. In the Andean zone they only signed

with Peru and Colombia (yet to be ratified by the US Congress) and in MERCOSUR they did not even manage to get them seated at the table. In reality, the US offensive only achieved results in some geographical areas and it can be said that the start of the current decade witnessed the beginning of a gradual loss of US influence in LA. In this context the EU began to look to compete for this space, rich in strategic natural resources.

Another fundamental factor motivating the EU to seek AAs with LA regions was the exclusion of the so-called Singapore issues: investments, competition policy, and government procurement from the World Trade Organisation (WTO) Ministerial Conference in Cancun in September 2003. This was due to social pressure and the forming of a coalition of countries from the South. These issues, which are of special interest to the big powers, are a central part of the trade chapter of AAs, giving them a clear WTOplus character.

These difficulties at the multilateral trade level, together with US advances in the signing of FTAs in the region, led the EU to develop a more aggressive strategy in order to increase trade and investment in our region. The dates are almost parallel to the US initiatives. In 1995 conversations were started with Mexico and a cooperation framework agreement was signed with Mercosur that remains the legal framework until now for a possible Association Agreement. Association Agreements were signed with Mexico in 2000 and with Chile in 2003. Formal talks were also started with Mercosur in 1995, although no integral agreement has been reached between the two regions. In 2007, negotiations formally started with the Andean Community (CAN) and with Central America. . This meant that from the late-1990s on, and above all in the new millennium, relations between Europe and LA ceased to be a matter for the different economic actors and national governments of Europe and were instead replaced by an EU strategy of negotiating block by block with LA and the Caribbean. This relationship became a strategic part of the EU's stated aims of competing successfully at a global level (European Commission, 2006).

Nevertheless, all has not gone well for the new EU strategy and it is possible that it will face similar successes and failures as the US. At the start of the new millennium deep political changes have taken place on the American Continent. These changes began in Venezuela with the rise to power of Hugo Chávez in 1999, followed by Lula in Brazil and Kirchner in Argentina in 2003, Tabaré Vázquez in Uruguay in 2005, Michelle Bachelet in Chile in 2006, Evo Morales in Bolivia in 2006, Rafael Correa in Ecuador in 2007 and Fernando Lugo in Paraguay in 2008. These changes have begun to extend to Central America with the victory of centrist parties in Guatemala and Honduras and of parties originating on the Left in Nicaragua and El Salvador.

Evidently, these new governments do not have homogeneous political positions, but they do have three things in common: a strong popular social base, different levels of distancing themselves from US hegemony and from neoliberalism and a new enthusiasm for integration. These political changes on the American continent led the EU to present itself with a new discourse, to push their concern for human rights (known as the "Democratic Clause"), and cooperation, emphasising the fight against poverty and the integration of sub-regions.

It is important to emphasise the importance of Brazil in this dispute between the European Union (EU) and the United States (US). This country is not only the largest economy in Latin America, but also a key global actor. It is therefore particularly frustrating for the European block that the MERCOSUR negotiations are frozen. This has led to efforts to try to get closer to Brazil. In 2007 the EU signed a Strategic Association Agreement (Council of the European Union, 2007), which is nothing less than a framework for a bilateral agreement. This agreement is also motivated by specific economic interests such as bio-fuels, in which Brazil is a global leader.

This new phase is very much marked by integrated strategic planning and a new discourse. Integrated strategic planning in the sense that all the components of external relations are interlinked: financial cooperation, political dialogue and economic and financial negotiations. The European Union's publicity emphasises the fact that cooperation is geared towards the integration of each of the Latin American sub-regions and that the Association Agreements (AAs) can only strengthen the mutual benefit of relations between each of the blocks and the European Union. In the official documents, it is nevertheless clear that the principal interest and aim is the signing of the AAs. The content of the European specific proposals for the AAs is not available in the public domain and not publicly discussed. As we will see later in this study, these proposals in reality hamper the kind of integration sought by the peoples of Latin America, and are even contrary to the integration processes promoted by some governments in the region.

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b) Cooperation in aid of the signing of Association Agreements

The European Union tries to present itself as different from the US in the relations it seeks with Latin America and one of its favourite arguments for this is the inclusion of "cooperation for integration".

All of the EU regional strategy documents for cooperation in Latin America covering the period 2007-2013 refer to "cooperating" in regional integration as the first priority and the majority of funds in the cooperation budget are destined to achieving this goal. However, at the same time it is always explicitly stated that this is in aid of facilitating the signing of the AAs.

Central America:

"5.1. Cooperation objectives and grounds for the choice of sectors

The 2007-2013 Regional Strategy for Central America will centre on **one main objective: to support the process of political, economic and social integration in the context of preparation of the future Association Agreement** between the EU and Central America. The EC support for regional integration is intended to strengthen political and economic relations between the EU and Central America and thereby facilitate negotiation and implementation of the future Association Agreement based on the mutual interest of both regions. To support regional integration three groups of potential measures can be considered:

- The first group will entail **strengthening the institutional system for the process of Central American integration;**

- The second group will focus on **reinforcement of the regional economic integration process**;
- The third group will cover aspects of **strengthening regional security**" (European Commission, 2007b: 19).

This translates into 75 million Euros in development cooperation for 2007-2013, all geared towards promoting regional integration: 27% to strengthen the institutional system for integration, 63% for the consolidation of the customs union and 11% to reinforce good government and regional security (European Commission 2007 b: 33-34)

Andean Community of Nations:

"6.1.1. General objective

To enhance the degree of regional economic integration, i.e. to establish a fully functioning Andean Common Market and to facilitate EU-CAN negotiations for an Association Agreement, including a free trade agreement" (European Commission, 2007d:25).

This general objective is divided in three specific areas: Regional economic integration with 40% Social and economic cohesion with 40% The fight against illicit drugs with 20% (European Commission, 2007d:30).

Mercosur

Only 50 million Euros have been allocated, of which 10 million (20%) are to finance pending items from the previous budget, such as education and information society. The remaining 40 million are destined for three priorities:

"Institutional support, Support for the deepening of Mercosur and implementation of the future EU-Mercosur Association Agreement and Efforts to strengthen and enhance civil society participation, knowledge of the regional integration process, mutual understanding and mutual visibility. It is proposed to concentrate assistance on the priority at the core of our Mercosur cooperation, which provides its rationale and justification as well as the greatest added value for the EC, namely: «Support for the deepening of Mercosur and implementation of the future EU-Mercosur Association Agreement". This priority will receive up to 70% of assistance under this RSP" (European Commission, 2007e:28).

It is not possible here to enter into a detailed analysis of the break down and explanation of the priorities in each sub-region, however, it is clear that the EU has made the integration of sub-regions the central objective of cooperation in LA. Nonetheless, the integration being pushed by the EU is geared towards ensuring that Latin America achieves a customs union and, some time in the future, a common market in the region, and firm Association Agreements. The EU is also pushing the regions to maintain and develop their export model and better integrate into the global market, when the tendency amongst the progressive governments in Latin America

is to favour production for the internal market and a focus on food sovereignty. Of course, in all cases there are transversal themes to these aims which always include social cohesion and overcoming poverty. Nevertheless, we will see that it is not clear how there can be coherence between the kind of integration promoted by the EU, the type of agreements they are negotiating, and these social aims.

c) Why is the EU interested in the integration of Latin America?

Given the asymmetries between the EU and any of the regions of Latin America, this customs union will mostly benefit large and globalised European companies. We should remember that the AAs include the principle of “Most Favoured Nation” which means that all members of the agreement should be treated the same as the most privileged member in each part. That is to say, if the countries of the Latin American subregions constituted a customs union or a common market they would have to offer the Europeans the same treatment that they give each other. For the EU it is strategic that the regions achieve a customs union and unify customs procedures and effective regional institutions to ensure the free circulation of their merchandise. The capacity of production needed to export and/or produce through foreign investment in any of our countries demands markets that are at least regionalised, as the internal market in any one country is too small.

14 Accessing regionalised markets is a key interest, which is why the EU has centred its mandate on negotiating AAs region by region and not bilaterally with each country. This fact strengthens their image as collaborator in the interests of each of the LA subregions, however, in reality they also seek to intervene in creating the kind of integration they could take advantage of. As we will see later in the document (particularly in the Andean case, but also latent in the case of Central America and given the freezing of negotiations also a possibility in Mercosur), this block-to-block mandate was violated when some countries resisted the proposals for the kind of integration promoted by the EU, which put the AAs at risk. The EU has demonstrated that whilst it is true that they prefer subregional AAs, they are also prepared to go forward with “whoever has the will” if negotiating with the entire region risks being unable able to sign anything.

The fact that these Association Agreements include cooperation and that this is geared to aiding the integration of the subregions gives the EU a different positive image. However, the documents are explicit: cooperation is an instrument to support the negotiation of AAs that seek, above all, a broad liberalisation of trade and investments. In the case of Mexico (the first of these agreements to come into force) the conditioning of cooperation and political dialogue on the opening up of trade is made explicit. Article 60 (brought into force) of the EU-Mexico Global Agreement makes cooperation and political dialogue conditional on concessions in terms of liberalisation. In the EU-Mexico Agreement, the application of titles II (Political Dialogue) and VI (Cooperation) do not come into force until the decisions anticipated in articles 5 (trade of goods); 6 (trade of services); 9 (movement of capital and payments); 11 (competition); and 12 (intellectual property) are implemented (Secretary of Foreign Affairs, 1997). This was confirmed when, in the Andean Community, Bolivia and Ecuador stated that they did not want an FTA and proposed the separation of negotiations around each of the three pillars – a proposal refused

by the EU.

d) What is the integration proposed by the EU?

Once it is clear that the discourse of cooperation with the integration of the regions of Latin America is in reality linked to facilitating the signing of AAs, and that those agreements regularly include the creation of free trade zones, we see what kind of integration is being proposed.

Europe speaks of integration in terms of “open regionalism”. The Economic Commission for Latin America and the Caribbean (ECLAC) coined this term in the early-1990s. The overall concept suggests that integration policies can be compatible with trade liberalisation and with policies that tend to increase international competition, and the insertion of regional markets into the global market. However, the term “open regionalism” can be interpreted in many ways. In fact, all regionalism is open. No region is completely self-sufficient, and there will therefore always be a need to import goods or services, which cannot be internally produced. Furthermore, all regions, however integrated they are, have some excess produce, beyond what is needed within the region and will therefore be looking to export.

In the current context it is not possible to imagine a closed regionalism, isolated from the rest of the world. Nevertheless, this openness to foreign exchange can and should be regulated and guided by strategic planning based on a national and regional proposal for genuine development, not left to the free play of supply and demand.

Europe, for its part, promotes a regionalism, which is left as far as possible to the mercy of market forces. Given the asymmetries between the EU and the countries/regions in LA, it is clear the principal beneficiaries of this will be European businesses.

One novelty in the EU documents on cooperation strategy 2007-2013 compared to those from previous periods, is that they explicitly link cooperation with facilitating integration, but integration is explicitly intended as a road to signing the AAs. It is therefore in the content of the AAs that we will find what kind of integration the EU is promoting for LA. It is therefore worth analysing the extent to which the EU is prepared to deepen divisions in fragile regional relations in order to get signatures for the AAs. It is appropriate to stress that the negative impact of the trade agreements being pushed by the EU on integration processes is not limited to Latin America. Africa in particular has experienced first hand the devastating effects that the negotiation of Economic Partnership Agreements has had on their region¹.

1 For further information on the impacts of Economic Partnership Agreements (EPAs) on regional integration in Africa see for example: Keet, Dot (2007) Economic Partnership Agreements (EPAs). Responses to the EU Offensive against ACP Developmental Regions, Transnational Institute. Available at: http://www.tni.org/detail_pub.phtml?know_id=176

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Europe is trying to impose an FTA that heightens divisions: Where does that leave support for regional integration?

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The case of EU negotiations with the Andean Community of Nations (CAN) is a clear example of the EU's hypocrisy in their discourse on support for regional integration. This case is paradigmatic in marking out the real interests of the EU and the length to which they are prepared to go to gain the signing of an FTA.

In the communications media and in the political debate surrounding the opening of negotiations with the CAN, given the refusal by Bolivia and Ecuador to sign any FTA, the EU insisted, by means of considerable ambiguity, that the AAs are not Free Trade Agreements. It is true that the AAs include other elements, but the EU tried to convince Bolivia and Ecuador to enter the negotiations, distracting attention from the fact that the AAs do include a chapter on trade that has all the elements of an FTA. This same discourse was also geared to undermining social pressure against the agreement.

From the beginning of the CAN-EU negotiations, there have been differences between Bolivia, and to a lesser extent Ecuador, and Colombia and Peru. The first two states have been clear in asserting that they will not sign any agreement that limits the capacity of nation states to define their own policies and development plans and that poses difficulties for genuine regional integration².

After arduous negotiations, in July 2007 a negotiations modality was agreed that allowed these differences to be managed using the principle that "the existing asymmetries between the CAN and the EU and internal to the CAN, and the

2 See: Government of Bolivia, 2006; Morales, 2007; Terra Noticias, 2009.

sensitivities that may exist around certain issues will be recognised and reflected, as deemed appropriate, in the level of commitment assumed by the Parties, thus ensuring a special and differentiated treaty for the CAN member countries, especially Bolivia and Ecuador” (CAN-UE, 2007: 1). This is coherent with the European Parliament’s recommendation for the negotiating mandate which states that it should “include in the negotiating guidelines clear signals of support to the CAN members in their efforts to deepen all aspects of regional integration, fostering an agreement between regional blocs which would certainly not exclude the differentiated treatment which the development of the integration process within the CAN requires” (European Parliament, 2007: recommendation c).

Internal differences in the CAN will clearly continue with a long and drawn out tug of war and periodic crises in the negotiations, however, it is important to highlight the role that the European Union has played, and continues to play in that. To be coherent in their discourse on cooperating with regional integration and following the guidelines agreed and recommended by the European Parliament, the EU should have sought to facilitate internal agreement within the CAN. Instead, the EU pressured to accelerate negotiations, not allowing time for negotiation and deeper discussion within the CAN. Even more seriously, the EU proved to be inflexible and rejected an agreement reached between the CAN members.

During the Tarija Summit of Presidents in June 2007, all the Andean countries reached an agreement on the negotiations modality with the EU. The governments of Colombia, Bolivia, Ecuador and Peru all committed, through Decision 667 of the Andean Community³, to an Andean integration that took into account the various visions and economic focuses in the region. They also made a specific request that the EU be more flexible. They repeatedly called on the EU to allow each country to go at its own rhythm, and to accept the sovereign will of each country and not to negotiate on issues when they do not consider themselves ready to open negotiations. This decision and the requests for flexibility were repeated, following the meeting of the Andean Council of Presidents in Guayaquil on the 14th October 2008, when they unanimously resolved to go forward as a block in the Negotiations Agreement, with flexibility for Bolivia and Ecuador, principally in the parts relating to trade.

The governments of Ecuador, Colombia, Bolivia and Peru repeatedly expressed their desire to go forward as a block in negotiations with the EU, but within a framework of flexibility that adjusted itself to the needs and sovereign decisions of each country.

The European Commission not only rejected the decisions taken within the CAN and the repeated requests from the Andean governments that the EU provide the necessary flexibility and endeavour not to worsen the already existing frictions between the members of the block; they also continued to push for the signing of an Agreement whose main objective was, in essence, the highest possible level of trade liberalisation, including considerable liberalisation of services and investment.

3 <http://www.comunidadandina.org/normativa/dec/D667.htm>.

There were two main factors that led the EU to accelerate negotiations, act with absolute inflexibility and, in this way, created problems for the internal process in CAN. The first is that the EU wanted to finish negotiations before the change of EC Directorates due in June 2009. The second is that the EU anticipates that in time, the pressure from social movements in Colombia and Peru and even in Ecuador, given the complexity of its government composition will make it far more difficult to gain concessions from the governments. This flies in the face of the declared aim of promoting the participation of civil society. In the overall goals of the EU's regional cooperation strategies, the participation of civil society is favoured (European Commission, 2007d: 28). Even more explicitly, the recommendations of the European Parliament for the negotiating mandate say: "promote structured participation by social organisations and civil society in the association agreement and its negotiation process..." (European Parliament, 2007: recommendation g).

In reality however, the EU strategy is to "divide and rule". That is why the European Commission decided to suspend the 4th Round of negotiations, leading Peru and Colombia to react calling for bilateral negotiations.

The EU's acceptance of bilateral negotiations of the trade pillar of the AAs (Duraó Barroso, 2009) was totally at odds with earlier agreements and the mandates with which the EU opened negotiations, as well as with all the EU's public discourse on the matter. Furthermore, the EU also refuses dialogue with civil society. Both in Europe and Latin America, civil society is calling for negotiations to continue on a block-to-block basis. There are countless examples of this position of civil society. We will only mention here a declaration speaking out against the division of the CAN, signed by 199 organisations/networks from 31 countries on both continents, as well as 10 parliamentarians (Enlazando Alternativas, 2008).

The depth of hypocrisy in the EU's double discourse can be seen by the fact that the EU itself recognised in its analysis of the Andean Community of Nations (CAN) process that the most serious crisis occurred when Peru and Colombia signed free trade agreements with the United States (European Commission, 2007d: 5). How can we believe the claims to interest in the integration of the Andean Region, when it is recognised that the signing of the FTA with the US provoked the biggest crisis in that process, even leading to one of the members (Venezuela) pulling out. Yet at the same time the EU seeks to sign another FTA with the region? When Bolivia confirmed that it will not negotiate under the paradigm of the FTAs and decided to abandon the negotiating table, the EU violated their own negotiating mandate, which called for block-to-block negotiations, and agreed to negotiate bi-laterally with those countries that want to continue negotiation. The FTA with the United States already forced one member to leave the CAN; now Europe is seeking a new FTA that threatens to marginalise another of the members, Bolivia, from that process. Although Ecuador has remained in the negotiations, its president has also stated that he will not sign an FTA and is considering leaving the table. It is clear that the negotiations with the EU and their insistence that an FTA be included is heightening the crisis in the CAN.

In reality this policy of dividing the CAN is not an isolated case, although it is the most serious one to date. Tensions were also provoked in MERCOSUR when faced

with the freezing of negotiations between the two blocks, the EU decided to negotiate bi-laterally only with Brazil and signed a Strategic Association Agreement with it in July 2007.

Another aspect to consider is the role played by European investments in the “integration” of the MERCOSUR countries, for example, the installation of cellulose paste production plants in the region. The European Investment Bank (EIB) and the Nordic Investment Bank (NIB) have supported the installation of the Finnish company Botnia, and the Spanish company ENCE, dedicated to the exploitation of Eucalyptus monoculture in Uruguay. The cellulose plants have been established in all the countries of the region, however, in the case of the plant being set up in Uruguay it has provoked a conflict that is extremely significant for the region, and which is currently at the International Court in The Hague having left a trail of disputes between the countries involved. Today relations between these countries are at their lowest level to date. The European presence, it can be said without euphemism, has not collaborated in integration. On the contrary, it is been the cause of a regional dispute, in its efforts to increase the export of raw materials and natural resources, with devastating environmental consequences and the cause of conflict between the peoples of the region.

The EU is also creating division in Central America around the Nicaraguan request for an aid fund to compensate for asymmetries. Rather than agreeing to negotiate, the EU replied with a categorical “No” that caused a crisis in Central America, causing Nicaragua to leave the negotiating table, and increasing the pressure on them from the other countries.

In all three regions it is clear that the priority for Europe is its own economic interests and not regional integration.

4 More examples of incoherence between the principles and the EU's practice in negotiations with Latin America

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a) European rhetoric on sustainable development and the eradication of poverty

Sustainable development and the eradication of poverty are not only transversal elements of the 2007-2013 Cooperation programme, but also a mandate from the Constitutive Treaty of the European Community:

“Article 177

1. Community policy in the sphere of development cooperation, which shall be complementary to the policies pursued by the Member States, shall foster:
 - the sustainable economic and social development of the developing countries, and more particularly the most disadvantaged among them,
 - the smooth and gradual integration of the developing countries into the world economy,
 - the campaign against poverty in the developing countries.
2. Community policy in this area shall contribute to the general objective of developing and consolidating democracy and the rule of law, and to that of respecting human rights and fundamental freedoms.
3. The Community and the Member States shall comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent international organisations.

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Article 178

The Community shall take account of the objectives referred to in Article 177 in the policies that it implements which are likely to affect developing countries” (European Community, 2006: 125-126).

Even if the regional cooperation programmes expresses this mandate as applicable to all their programmes, this is not made a priority in terms of cooperation budgets. For example, in Central America from 1996-2006 47,809,177 Euros was destined for regional integration and only 1,945,177 to social development (European Commission, 2007c). The EU works on the assumption that the liberalisation of trade and investments in itself creates development and social equality. After 25 years of neoliberal policies, it can be established that this assumption is clearly mistaken.

In the best of scenarios, the free market can produce economic efficiency, but not redistribution of wealth or sustainability. On the contrary, the concentration of wealth in the hands of the most powerful turns essential services and the natural world into commodities. Thus they cease to be rights and become merchandise and a source of profits⁴. In general, the European Commission’s own diagnoses, particularly in Central America and the Andean Community, recognises that their cooperation has not helped to achieve these aims. Nevertheless, the new cooperation strategy continues to favour integration, left to market forces and expressed through AAs (European Commission, 2007b: 4-8; European Commission, 2007c; and European Commission, 2007d). Making issues like the reduction of poverty, human rights, democracy, good governance, gender, care of vulnerable groups, education and health transversal themes devalues them and makes them incompatible with the general objectives of cooperation. There is nothing to indicate how the principal positions established in the Regional Strategy will help resolve the structural problems facing the Central American or Andean regions, or contribute to meeting the Millennium Development Goals (MDGs).

In fact, the massive contingents of migrants from Central America (mainly to the United States) and from the Andean region (a significant number of whom migrate to Europe) are irrefutable proof of the failure of development and cooperation policies. The biggest incongruence in the EU’s response to this migratory phenomena, created in part by it’s own policies in Latin America, is the criminalisation of migrants as seen in the Return Directive (European Union, 2008).

The current international crisis adds yet more proof that the theory of free trade which claims that social dynamics should be left as far as possible to market forces, to the free exercise of supply and demand; that the state should limit itself to ensuring competition; and that this will bring development, has failed. It has been established that it is the free market that created the crises we are currently experiencing. So much

⁴ Empirical evidence for the cases of México and Chile, only agreements into effect, can be found in Aguirre, Arroyo and Pérez Rocha (2008) and Silva (2008).

so, that even the elites are now arguing for the need of regulation and the intervention of the state, which they had previously demonised. When Alan Greenspan went before the US Senate committee on Government Oversight and Reform, he confessed his surprise at discovering that the free market is not the panacea of self-regulation that he had venerated throughout his entire life ⁵. However, the stronger argument is there in the fact that more than half the population of the world lives in poverty, or that climate change, provoked by an unregulated market-led economy, is on the verge of making life on this planet unsustainable.

That the EU continues to promote trade agreements with countries and regions in the Global South based on this paradigm, is not only incoherent with the principles they claim to promote, but also ahistorical and can only be explained by the drive for profit, and by the power and political pressure of European transnational corporations; ; in other words the search for global competitiveness at any cost.

b) Inconsistency in the democratic clause and the defence of Human Rights

Another important element of the incongruence of the EU's discourse is in the supposed foreign policy commitment to human rights, which is expressed in the Constitutive Treaty of the European Community.

The protection of human rights, the promotion of pluralist democracy and effective guarantees of the State of Law, as well as the fight against poverty, make up some of the fundamental objectives of the European Union (European Union, 2002 art.6). "To develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms" is stipulated as one of the objectives of the Common Foreign and Security Policy. It is indicated that respect for human rights and basic freedoms, will be an aim of development cooperation with countries outside the Community (European Union, 2002 art. 11).

The Council of the European Union, in the meeting with the General Affairs and External Relations Council (GAERC) in 2001, restated that "the European Union's commitment to the principles of liberty, democracy, respect for universal and unalienable human rights and the rule of law as stated in Articles 6 and 11 of the Treaty of the European Union and Article 177(2) of the Treaty of the European Community. The declaration of the Charter of Fundamental Rights on 10th December 2000 reflects the importance of human rights in all European Union policies and activities" (Council of the European Union, 2001).

Based on this, the EU went on to include the so-called democracy clause in the agreements. For example, in the case of Mexico it is stated:

Article 1 - Basis of the Agreement

Respect for democratic principles and fundamental human rights, proclaimed by the Universal Declaration of Human Rights, underpins the domestic and external policies of both Parties and constitutes an essential element of this

⁵ See video of the Hearing at http://casinocrash.org/?page_id=335

Agreement" (EU-Mexico, 2000) ⁶.

Nevertheless, in the Association Agreements currently in force (Mexico and Chile) this clause is a dead letter as it is not legally applicable (Arroyo and Peñaloza, 2000a; Meyer, 2005; CIFCA, 2007). When, within the spaces for dialogue opened between governments and civil society, Mexican and European civil society formally proposed making this clause legally binding, the authorities did not even deign to respond to the proposal (Esteva and Pérez, 2002: 65; Meyer, 2005).

It is hypocritical to suggest that human rights form the basis for these agreements, when their content violates the most basic economic and social rights. If essential services such as water, which are recognised as human rights are privatised, they cease to be rights. They are instead dependent on having the money necessary to access them ⁷. Similarly the extension of patents on medications put profits over the right to health.

How can the EU then claim that these kinds of treaties are only signed with countries whose internal and foreign policies are inspired by human rights, and at then same time, in the Andean region, be favouring the relationship with Colombia that is notorious worldwide for its lack of respect for even the most basic political and human rights. The United Nations Human Rights Council (2009) published an extensive report detailing the human rights abuses in Colombia. We should recall that the change from negotiating block-to-block to bilateral negotiations took place at the behest of Colombia and Peru.

If there were even the most basic coherence in what the EU expresses in the so-called democratic clause, then they should exclude Colombia from the Andean Community agreement, as was proposed by the Green Euro-deputies after their visit to the Andean Community in March 2009. In their press releases they stated, among other things, that in 2008 alone 49 trades unionists had been assassinated and that trade union and collective bargaining agreements with European multinationals such as Renault and Telefónica had been eliminated. They concluded that it was inconceivable that the European Commission has broken block-to-block negotiations to negotiate bilaterally with Colombia without placing respect for human rights at the centre of the negotiations (El Espectador de Colombia, 2009).

The conclusion to all this is that these Association Agreements are, in reality, incompatible with genuine respect for and promotion of human rights. The central ax of the economic theory of free trade is to leave every economic dynamic to "market forces alone." This theory does not exactly promote human rights, particularly economic, labour, social, cultural and indigenous people's rights. What this theory argues is that the confrontation of individual interests and competition will bring about balance and serve the common good. But what free trade in practice has makes clear is that "free", unregulated competition promotes only the survival of the fittest. With it, the State renounces what, according to international law, is its primary

6 In the case of México, the Global Agreement was signed in 1997 but the specifics of the content was determined later, and the Association Agreement as such came into force in 2000.

7 The extended fundamentation of this thesis is developed in Arroyo, 2004 a and b.

obligation: the guarantee of the full exercise of the rights of its citizens.

In other words, rights become conditional on having the political power to make them count. In addition, as free trade agreements tend to turn everything into a commodity, they prevent some goods from being constituted as essential rights.

This logic goes directly against the regional integration proposed by the peoples, as it does not allow the principle of solidarity to be placed above competition; it undermines the principles of complementarity, and it definitively obstructs the possibility of building a regional integration that seeks a more economically and socially equal and just society.

5

Global Europe: in search of global competitiveness

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From the start of negotiations with Central America and the CAN regions, the EU has continued to argue that their interest in the negotiation of AAs with Central America and the CAN “is not, and never has been, an economic one” (Zorzan, 2007) given that these regions are not economically strategic for the EU. On the contrary, the EU argues that its interests lie in cooperating to support sustainable development to overcome poverty and increase social cohesion, and to promote regional integration: “Economics is merely the catalyst to enhance the integration process and create a snowball effect” (Zorzan, 2007). Nevertheless, this declaration of intent is belied by the strategy that guides the negotiations (Global Europe: Competing in the World) and by the mandate for negotiations in both regions⁸. In these documents, the European Commission makes it explicit that their central aim is to improve the competitiveness of European corporations in the world. This is their fundamental interest in relations with all regions of the world, including Latin America.

a) The strategy for global competition

In “Global Europe”, the European Commission’s communication in 2006 to the European Council, Parliament, the Economic and Social Committee, and the Committee of the Regions, the new strategy for competing in the world is laid out. In this document, the EU outlines the external aspects of European competitiveness, and with it they present a far more aggressive foreign trade policy, revealed both

⁸ Even when the negotiation mandates are confidential, a preliminary version that differs slightly from the final one was leaked and is available at: http://www.bilaterals.org/article.php3?id_article=8336&var_recherche=draft+mandate (EU-CA) and http://www.bilaterals.org/article.php3?id_article=8334&var_recherche=draft+eu-can (UE-CAN).

in the language used and in the aims described ⁹. This strategy proposes Free Trade Agreements as the main instrument for achieving the aims presented, and specifies that these should be concentrated in countries and regions considered to be emerging, and with markets showing the potential for penetration by, and better results for, European corporations. Although they do not completely abandon the multilateral negotiations within the framework of the WTO; with this strategy document the EU makes it clear it has decided to opt for the bilateral route in order to achieve its aims of increased liberalisation. It was based on this strategy that, in 2007, the EU launched negotiations with countries and regions in Asia (Korea, India, the Association of South-East Asian Nations-ASEAN), Latin America and Africa, as well as adjusting negotiations for the signing of Economic Partnership Agreements (EPAs) to bring them in line with this new negotiating strategy.

Let's examine the main foreign trade policy elements of this strategy (European Commission, 2006: 5-7):

* **Bring down Non-tariff barriers** in third countries: "Reducing tariffs remains important to opening markets to Europe's industrial and agricultural exports. But as tariffs fall, non-tariff barriers, such as unnecessarily trade-restricting regulations and procedures become the main obstacles".

* **Access to resources:** "More than ever, Europe needs to import to export. Tackling restrictions on access to resources such as energy, metals and scrap, primary raw materials including certain agricultural materials, hides and skins must be a high priority. Measures taken by some of our biggest trading partners to restrict access to their supplies of these inputs are causing some EU industries major problems".

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"**Energy** will be particularly important. As global demand increases and Europe becomes more dependent on external energy sources, the EU needs to go further in developing a coherent policy for competitive, secure and sustainable energy".

"**New areas of growth:** We will require a sharper focus on market opening and stronger rules in new trade areas of economic importance to us, notably **intellectual property (IPR), services, investment, public procurement and competition**".

"**Services** are the cornerstone of the EU economy. They represent 77% of GDP and employment, an area of European comparative advantage with the greatest potential for growth in EU exports... The EU will need to negotiate to liberalise trade in services with key trading partners, especially where market access is poor or our partners have made few WTO commitments".

"Improving **investment** conditions in third countries for services and other sectors can make an important contribution to growth, both in the EU and in the receiving countries. As supply chains are globalised, the ability to invest freely in third markets becomes more important".

⁹ The 4th October official Communication presents a water-down version of the draft elaborated by the Directorate General for Trade of the European Commission (DG Trade). This draft presents in a more direct way the interests of the EU and is available at: www.s2bnetwork.org/download/globaleurope_draft.

“Public procurement is an area of significant untapped potential for EU exporters. EU companies are world leaders in areas such as transport equipment, public works and utilities. But they face discriminatory practices in almost all our trading partners, which effectively close off exporting opportunities. This is probably the biggest trade sector remaining sheltered from multilateral disciplines”.

“The EU has a strategic interest in developing international rules and cooperation on competition policies to ensure European firms do not suffer in third countries from unreasonable subsidisation of local companies or anti-competitive practices”.

We will look later at how the priorities explained in the Global Europe strategy are exactly the same as the inflexible lines taken by the EU in the AA negotiations, and they are also the same strategies that impede the subregional integration sought by the peoples and some governments of Latin America. It is here that we actually encounter the core of what the EU is seeking, behind the façade of the language of cooperation with integration.

b) The interests of the EU in each region with which it is negotiating AAs

The European Union usually claims in public that its main interests in the AAs are neither economic nor commercial. They allege that, at least in the case of Central America and the CAN, the volume of trade is insignificant compared to their total world trade. This is true, and in reality the main interest of the EU is not in trade, which has in fact already been liberalised by the WTO. What they are interested in are services, investments, government spending, intellectual property and the imposition of competition policies. Many of these are the so-called Singapore issues which were previously excluded from WTO negotiations due to sustained opposition from civil society and South governments and which, as we will see, the EU wants to include at all costs in the AAs. The EU is also very interested in natural resources, biodiversity and energy resources. Besides, there is also the fact that the three Latin American regions, Central America, the CAN and MERCOSUR, currently have a trade surplus, which the EU hopes to reverse.

Central America is a region whose trade relations are highly concentrated with the United States. The entire region imported only \$43.8 million dollars of goods from the EU in 2006. This represents a significant trade surplus, as they exported \$2,283 million dollars of goods (SIECA, 2007: 1).

The Andean Community of Nations imported \$8,206 million dollars of goods from the EU in 2007 and also has a trade surplus as they exported \$11,506 million dollars of goods. Nevertheless, it is important to note that the volume of trade between the CAN and the EU is growing significantly. In 2007 it grew by 16%. For the CAN, the EU is the second biggest export market and the third biggest import market. (Secretaría General de la CAN, 2008).

MERCOSUR is different as it includes the largest economies in Latin America. Brazil, for example, imported \$10.2 thousand million dollars of goods from the EU

in 2008 (only 5.89% of its total imports) and exported 46.4 thousand million dollars (23.5% of its total exports) and it also maintains a significant trade surplus. More importantly, this surplus is increasing. Brazilian exports to Europe have increased by 440% over the past 10 years, while imports originating in the EU have increased by only 46%. This must worry the European Union (Brazilian Secretary of Foreign Trade, undated). The case of Argentina is similar. With respect to Mercosur, the EU clearly has a special commercial interest and it clearly remains a frustration that it was not able to get Mercosur seated at the negotiating table.

i) **Natural resources: biodiversity, minerals and energy**

A prime interest explicitly recognised by the EU are natural resources, such as energy, raw materials and metals (European Commission, 2006: point 2).

The three Latin American zones with which the EU is negotiating are particularly rich in biodiversity and the EU is interested in those resources and also in the issue of intellectual property rights over living matter. One of the issues that led to Bolivia to leave the negotiating table was precisely the possibility of these kinds of patents.

The European Union declares that Central America “constitutes a biological, cultural and economic bridge. The geography of the region is highly diverse, varying from high mountainous areas to plains, resulting in temperate climate in some areas and dry and wet tropical climate in others. There is great ecological diversity of worldwide interest. This 2% of the world’s territory holds nearly 12% of the world’s biological diversity. The region has the second largest barrier reef chain in the world - some 1,600 km along the south-eastern coasts of Mexico, Belize, Guatemala and Honduras. The region also has humid tropical forests, semi-arid woodlands, prairies and mountain forests. It possesses 8% of the world’s remaining mangroves”. At the same time it confirms that there is serious environmental deterioration as a result of bad internal policies, which EU cooperation is supporting efforts to overcome (European Commission, 2007b: 7). What it does not say is that large mining companies and companies in other sectors are playing a significant role in this deterioration. Nor do they mention that there are European companies involved in the privatisation of water management.

The Andean region (which shares part of the Amazon basin) is also extremely rich in biodiversity and natural resources, including water, minerals and hydrocarbons. There are companies using European capital operating in the oil, forestry, gas and water sectors.

Mercosur, particularly Brazil, is one of the most mega-diverse areas in the world and also currently contains the principal reserve of proven oil supplies.

ii) **Investments**

In general, one of the European Union’s principal interests in AAs is to create optimum conditions for European investments.

European investment in Latin America has increased dramatically in recent years. In 2007, of the 60 biggest transnationals with a presence in Latin America, 27 were European, already more than the 25 with origins in the USA (ECLAC, 2008: 83-84). In the case of Argentina and Brazil and the Andean Community of Nations as a whole, Europe is already the principal investor, surpassing the USA, which had traditionally occupied this position. In other countries it is the second most important investor. It is worth noting that within the European Union the principal investor in Latin America is Spain, whose corporations particularly benefited from the process of privatisation in both Europe and Latin America in the 80s and 90s (ECLAC, 2008: 81-82).

In the Central American region (ECLAC, 2008) the growth in European investments can clearly be seen in the following table:

Direct Foreign Investment by country
Millions of dollars

COUNTRY	IED	2005	2006	2007
Costa Rica	United States	532	695	1025
	Netherlands	0	26	247
	Germany	7	25	76
	Switzerland	-11	10	66
	Spain	14	11	57
El Salvador	United States	23	322	499
	Mexico	33	7	59
	Costa Rica	-1	3	54
	Spain	0	0	10
Honduras	United States	303	339	354
	United Kingdom	48	49	83
	Mexico	45	38	82
	Canada	17	108	40
	France	16	3	21

Source: ECLAC, Foreign Direct Investment in Latin America and the Caribbean, 2007

The Economic Commission for Latin America and the Caribbean (ECLAC) also reports that in Central America in the period 2005-2007 there was a significant increase in foreign direct investment (FDI) in the areas of Natural Resources (mining and hydrocarbons) and services (water, finance, health and telecommunications) displacing traditional investment sectors such as manufacturing, including the maquila plants. Because of this, Central American countries have undertaken modifications in their national legislation to allow and promote FDI in a variety of sectors, as is the case in El Salvador and Guatemala through the internal Services Laws for the promotion of foreign investment that grant benefits to investors such as exemption from fiscal duties (ECLAC, 2008).

In the Andean Community of Nations the European Union is already the principal

foreign investor, surpassing the United States. From 1997 to 2006, the US invested \$7,208 million dollars and the European Union \$9,526 million dollars.

Foreign Investment in the European Union in the Andean Community of Nations Millions of dollars

	'95	'96	'97	'98	'99	'00	'01	'02	'03	'04	'05	'06	Total
EUROPEAN UNION	587	1363	761	825	1,336	2,846	1,233	823	373	313	73	942	9,526
Spain	179	610	53	79	34	2,103	118	397	114	400	179	150	3,626
United Kingdom	148	303	240	288	774	190	305	170	155	-343	25	535	2,339
Italy	9	154	159	195	140	123	158	142	184	151	89	3	1,345
Netherlands	157	121	255	128	227	285	301	30	83	36	-363	112	1,094
France	48	42	17	37	124	87	250	4	-231	48	44	84	463
Germany	37	95	15	22	20	20	47	21	32	29	39	55	301
Belgium	0	9	25	46	0	16	13	38	24	3	7	2	174
Greece	0	0	0	0	0	0	0	0	0	0	0	0	0
Sweden	9	25	1	13	12	22	4	2	1	2	51	1	108
Portugal	0	2	0	11	5	0	20	0	2	0	0	0	37
Austria	-1	0	0	1	0	0	8	10	9	0	0	1	28
Luxembourg	-2	0	-3	6	0	0	9	10	0	-14	-1	-1	6
Denmark	-2	1	0	0	0	0	1	0	1	0	0	1	3
Finland	0	0	0	0	0	0	0	0	0	0	1	0	1

Source: Central Banks of the Countries. Produced by: Andean Community-Secretary General. Statistics Project

It was not possible to obtain a breakdown of European investment in the CAN by destination sector, but based on the breakdown of total foreign investment and the listings we have developed of companies with European investors in the region, we can say that the main destination is the mining and hydrocarbons sector, followed by services and then telecommunications.

Of the 25 largest transnationals with a presence in Latin America, 11 are present in one or a number of the CAN member countries (ECLAC, 2008: 83-84).

Large European transnationals present in the CAN

COMPANY	SECTOR	COUNTRY OF ORIGIN
Telefonica	Telecommunications	Spain
Repsol	Oil/Gas	Spain
ENDESA	Energy	Spain
Carrefour	Commerce	France
BHP Billiton	Mining	United Kingdom
Anglo American	Mining	United Kingdom
Italia Telecom	Telecommunications	Italy
British American Tobacco	Tobacco	United Kingdom
Iberdrola	Electricity	Spain
BG Group	Oil/Gas	United Kingdom
Renault	Automotive	France

In the particular case of Ecuador, of the 16 principal companies with European investment, 6 are in the hydrocarbons sector and 2 in the financial sector (Ruiz, forthcoming: 55). In total there are 274 companies with European investment and they are found in all sectors (see the complete list in Ruiz, forthcoming, appendix 9).

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In Mercosur, the European Union is the main investor, due to the extent of their investments in the two largest economies in the region, Brazil and Argentina (ECLAC, 2008: 81-82).

Direct investments from the European Union in Mercosur (in constant Euros) have increased by more than 5 times, going from 764 million Euros in 2003 to 4,164 in 2005. However, more interestingly, in 2005 investments coming out of Mercosur to the European Union were already greater than investments from the EU going into Mercosur (Delegación de la Comisión Europea en Uruguay y Paraguay, 2007: 6).

Of the 60 largest non-financial transnationals with a presence in Latin America, 27 are European and all are present in one or more of the MERCOSUR countries (ECLAC, 2007: 83-84) operating as leaders in sectors such as electricity, telecommunications, the distribution of potable water and petroleum. Needless to say, they also play a leading role in the financial sector.

A rapid analysis of the sectors in which European companies have expressed an interest in investing, shows a clear priority of accessing the abundant natural resources which are often very poorly protected by national legislation: water, mineral resources, fish stocks, the production of cellulose paste, the generation of electrical energy, etc. In addition to their presence in the telecommunications and banking sectors there are also air, rail and automotive transport companies, oil and

gas, fishing and environmental services and insurance, thereby covering a very wide range of interests in the region (Fritz, 2004).

The expansion of banking and insurance entities is particularly marked in Mercosur where some of the biggest transnationals in the sector are operating: European Investment Bank (EIB), Banco Santander, BBVA, and Deutsche Bank, among others. The presence of most of the European transnationals in the region has been supported by credits from the big European banks, both private and public. In fact, the Association Agreements have strengthened the role of the banks and European credit entities, which already have a dominant role in the region. Contrary to the assumptions of the EU, the operations of European companies abroad has not been similar to their operations in their countries of origin. There are abundant examples of violations of rights and norms contrary to the declarations and discourse of the European Union.

Substantive documentation of this is available in the list of cases and sentences of the Permanent People's Tribunal from their sessions in Vienna (May 2006), Lima (May 2008), Colombia (Hearings 2006-2008, sentencing 21-23 July 2008), Central America (9 October 2008); as well as the special cases heard on BBVA and Unión Fenosa in Nicaragua (Permanent People's Tribunal, 2006, 2006a, 2006-2008, 2008, 2008a, 2008b, 2009). At their session in Lima the Tribunal passed the sentence that "current European Union policy, uses bilateral negotiations with peripheral States to economically benefit European transnationals, and to defend them as belonging to the EU countries. It is also important to remember the role of the other international organisms such as the WTO, IMF, World Bank, OCDE, IDB, and the Andean Development Corporation (CAF) who collaborate with the European transnationals along the same lines and which have already been amply commented on during other sessions of the Tribunal" (Permanent Peoples Tribunal, 2008:9).

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It is also pertinent here to refer to the case of the conflict with Aguas del Tunari in Cochabamba, Bolivia, which was thrown out of the city in a popular uprising after the company raised water rates following privatisation. The company was a consortium established by International Water Limited (Great Britain), the utilities company Edison (Italy), Bechtel Enterprise Holdings (United States), the engineering and construction firm Abengoa (Spain) and two Bolivian companies, ICE y SOBOCE. This consortium is also present in Ecuador. Besides these, there are also, of course, other companies with European investors involved in the water business in Latin America.

These companies are not subject to the sovereignty or national legislation of the countries where they operate. There are currently at least 23 cases of European companies (it is not always easy to identify the source of major investments) with disputes in the International Center for Settlement of Investment Disputes (ICSID) against states from one or other of the three regions we are analysing. Ecuador is accused by Repsol, supported by Spanish capital and by Perezco Ecuador Limited a company based on French capital, over a conflict about oil exploration contracts. The Italian ETI Telecom brought a case against Bolivia to the ICSID even though Bolivia had already withdrawn its membership and denounced this secretive World

Bank tribunal. There are at least 20 cases of litigation by European companies against Argentina (Peredo and Valdomir, 2008: 137-151).

It is not possible to do a case-by-case analysis here, however it is notable that the accusations in ICSID are always from corporations from developed countries against the state of an under-developed country. There is only one exception, which is a case against Canada. A second significant element is that there is never a ruling against the corporations. The verdict is always against the state. What the cases all have in common is that the corporations have been affected by the policies of sovereign governments who try to use their vast resources for the priorities of genuine national development, or to safeguard social, economic or indigenous people's rights and/or make the corporations subject to national legislation and regulations for the public good.

It is because of this that the EU seeks to strengthen the extraordinary rights that these corporations have become accustomed to, and has made it a priority to include a chapter on investments in the AAs, which, as far as we know, is similar to that of the FTAs with the United States and the much criticised Bilateral Investment Treaties (BIT).

To summarise, the EU, despite its claims, does have economic interests in the Central American and Andean regions. In fact they have a broad range of interests. European direct foreign investments are seeking the possibility to exploit natural resources, privatise essential services, access local or regional markets and low cost production, as well as the knowledge, cutting edge technology and cheap skilled labour in developing countries. Moreover, and worryingly, the EU has been prepared to act extremely aggressively in the AA negotiation process to support its goals, attempting to open up strategic services such as energy, health, communications, water, pensions, finances, even if this means putting at risk access to these services by the most vulnerable populations.

6

EU Association Agreements: blocking people-centred regional integration

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Among the peoples of a great majority of Latin American countries there is an intense and creative debate about the type of new society and new economy they envisage. There is also growing consensus that regional integration plays an important role in the process of building this new society and a new model of development.

There is an awareness that building this new society means overcoming the dominant economic model (neoliberalism) and that this is not a simple question of proposing an alternative to the model, but also demands the achievement of a certain correlation of economic and political forces. Latin America has suffered from an historic dependency, which has intensified with globalisation and its insertion into the global economy, as subordinated to large corporations from developed countries. To find a different part to development, it is necessary to recover sovereignty. With the current correlation of global forces, and given the historic dependence of Latin America and the Caribbean, and the current difficulties faced, a new society will not be viable without increased economic strength, and that will not be possible without integration.

Since the beginning of the 21st century, above all in the Southern Cone of the continent, there have been very important political changes. Most of the resultant new governments are, to a greater or lesser extent, pushing diverse regional integration projects. These governments are also working together intensely for a different kind of integration.

There are a number of different, but not necessarily conflicting, integration processes. The Trade Treaty of the People (TCP) is emerging as an initiative from Bolivia.

The Bolivarian Alternative for Latin America and the Caribbean (ALBA) initiated by Venezuela has been expanding. The broadest, and therefore the most difficult process, and one still full of contradictions, is the Union of South American Nations (UNASUR), which includes all the independent South American countries (excluding only those countries that remain European colonies). It is not possible to analyse all of these integration initiatives here ¹⁰. However, it can be said that these initial processes have already born tangible results: an unprecedented rise in intra-regional trade, economic complementarity in different areas such as energy and food, and advanced financial and monetary integration process with the Bank of the South and the ALBA Bank, unequivocal social advances, such as overcoming illiteracy in the ALBA countries and an unprecedented expansion in healthcare.

The peoples of the Americas have also been working on and synthesised a people's proposal for integration. It has been a long sustained and fruitful discussion process with innumerable seminars, meetings, working groups, and Peoples' Summits. There is already an integrated draft that has been released for re-discussion and improvement, that brings together the proposals emerging from all the different social sectors as well as the contributions of a great many specialists. It is a proposal for integration that looks to construct a new society, not based on profit and competition, but on solidarity, complementarity, mutual aid, harmony with nature (la Pacha Mama, source of life, not of commodifiable resources). It puts forward a vision for a new paradigm - that is to say, not only a different economic model oriented towards living better - but also a new way of thinking, producing, and consuming: in a word, living in harmony (HSA, 2008 and 2009). This peoples' proposal has been and will continue to be in dialogue with government proposals. The only integration project that is totally at odds with these processes is that being advanced by the EU and its allies in the region: Central America, where contradictions are already emerging, and Peru and Colombia. Mexico and Chile must also be factored in, as they already have AAs in operation.

As Emir Sader (2007) explained with particular reference to South America, "The dividing line that splits the continent is not that between a supposed "good" and "bad" Left". The fundamental dividing line is that which separates the countries that have signed or are negotiating free trade agreements, such as Mexico, Chile, Colombia, Peru and Central America), that mortgage their future... to a radically unequal relationship with the biggest powers in the world, from the countries that prioritise regional integration. The limitations in sovereignty of those countries that have signed free trade agreements may help us to understand the existing political complexity in the region where free trade strategies have ended up diminishing the possibilities for sovereign regional integration. In fact, the integration of more evenly matched regional economies has been shown to be inversely related to the liberalisation of trade.

There are several factors to illustrate why the integration project promoted by EU through AAs contradicts the integration processes under way by progressive governments and the peoples in Latin America.

¹⁰ The principal advances and agreements can be seen on the official websites. ALBA: <http://www.alternativabolivariana.org>; UNASUR: <http://www.uniondenacionessuramericanas.com>

a. The Association Agreements undermine national and regional sovereignty

One of the common elements in the new integration initiatives in Latin America is taking clear and decisive steps to recover national and regional sovereignty. The AAs by definition limit this sovereignty, as they are international treaties that are placed above national legislation and they have supranational mechanisms to ensure that commitments are met. We cannot forget that all the currently existing FTAs (and it is clear that the AAs include an FTA) have led to constitutional changes. In the case of NAFTA these changes were made without explicitly recognising that they were due to the treaty (Arroyo and Calderón, 1993: 279). In the case of the CAFTA, already signed and ratified by the Congresses, the US made its implementation conditional on a list of legal changes including modifications to the constitution. The FTA with Peru requires presidential decrees that modify countless number of laws and which has provoked an unprecedented mobilisation of indigenous peoples. The FTA between the US, Colombia and Peru requires modifications to Andean legislation.

In countries such as Bolivia, Ecuador and Venezuela, the new Constitutions have been developed using a democratic process without precedent anywhere in the world. They were written by a Constituent Assembly elected for the task by direct vote. Their writing included an intense process of popular proposals on the most sensitive issues that were later ratified by referendum with overwhelming citizens' support. If these countries (excluding Venezuela which has not initiated negotiations) were to sign AAs with the EU, it would mean modifying or violating the principles of these constitutions.

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The forms of integration emerging from within the continent are searches for a distinct Latin American model of development. None of the initiatives currently under way in Latin America and the Caribbean propose isolationism from the rest of the world. The Andean Region, Central America and MERCOSUR are committed to relations with the rest of the world's economic blocks, but based on their own projects as regions. This is what the EU has refused to accept, creating tensions and obstacles in the negotiations.

The model of integration proposed by Europe has not only failed, but is precisely what the new governments of the southern part of the continent (with the exception of Peru and Colombia) are seeking to overcome, in more or less radical ways. This opposition to the neoliberal paradigm explains in part why the EU has had little success in negotiating AAs. They have made progress only with countries with neoliberal governments. They managed it with Chile in another era and with Mexico. Some advances have been made in the case of Central America (although the governments of Nicaragua and Honduras have offered resistance, and the position taken by the new government of El Salvador is yet to be seen). The EU has not succeeded in getting Mercosur seated at the negotiating table. In the Community of Andean Nations, Venezuela and Bolivia refuse to negotiate on those terms and although Ecuador is still at the table it has said it will not sign an FTA. The peoples of the entire continent are opposed to the direction of Free Trade Agreements and, since the beginning of the 21st century, have demonstrated their collective power as was seen in the defeat of the FTAA and the freezing of the World Trade Organization

Doha Round.

It is this opposition from the peoples and from many Latin American governments that has forced the EU to present itself with a new discourse, and hide its real neoliberal orientation, offering cooperation as bait, and presenting itself as the defender and promoter of human rights (democratic clause) social cohesion and overcoming poverty. It paints a pretty picture, but the true face of the EU has been clearly revealed at the negotiating table.

The final outcomes of the negotiations remain undecided, and they will certainly differ from region to region, as a result of the resistance of some governments and above all the strengthening of social mobilisations and resistance. Nevertheless, for the purposes of this report, what is important is to analyse, as far as possible, given the secrecy with which they are handled, how the European positions in the negotiations impact on the alternative regional projects and the proposals supported by social movements and some governments.

b. EU proposals at the negotiating tables and their impacts on regional alternatives¹¹

The principles of National Treatment and Most Favoured Nation

These are two principles applied to goods, services, investments, contracts and public procurements. They oblige that countries treat foreign goods, investments and investors the same as national ones, and that foreign companies are treated the same way as the most favoured domestic companies. They prevent any kind of “privileges” given to national or regional capital, goods, services or providers.

The Most Favoured Nation treatment is particularly serious for regional integration as European investors must be treated the same as strategic allies in the region. This presents serious problems for the CAN as Peru and Colombia, if social opposition does not succeed in preventing it, both have FTAs with the United States. Therefore, even if the AA with the region did not include this clause, and/or excluded the most negative elements of traditional investment chapters of the FTAs (which Ecuador is fighting for), the Europeans using this principle in existing Bilateral Investment Treaties, will be able to demand the same concessions given to the United States or the Andean region.

These principles demanded by the EU are also in direct conflict with the specific proposals coming from the social movements for **overcoming the asymmetries between countries and within countries in the region**. This is one of the priorities of the integration process. Making it impossible to give preferential treatment to national and regional goods, providers, services and investors, will prevent the creation of “integrated production systems as well as production, service and trade circuits in which everyone may become integrated. The fundamental objective

¹¹ The analysis of the specific content of EU proposals at the negotiating table is based on leaked documents. A detailed analysis of what has been agreed on these issues in the treaties with Mexico already in force can be found in Arroyo and Peñaloza, 2000b.

would be to use this process to generate dynamic development opportunities for regions and countries that are currently experiencing difficulties or suffering from stagnation” (HSA, 2009). In this way, the principles of national and most favoured nation treatment prevent Latin American countries and regions giving **priority to the small and medium-sized businesses of the region**, which “offer real potential in terms of job creation” (HSA, 2009).

Competitive disciplines and policies

These are presented as anti-monopoly measures, but in reality they are a straitjacket on the possibilities for nation states or regional jurisdictions to actively intervene in promoting development using a national or regional project. The EU seeks to submit public companies to the laws of competition and oblige states to stop any actions that affect trade between the two blocks or affect EU interests. At heart they are looking to force public companies to act only according to commercial criteria and nation states to guarantee the conditions in which competition prevails.

This strips the public company of its meaning. Although it is important to demand efficiency and transparency, the ultimate aim of a public company is to promote national development and/or guarantee social rights, not direct profits to a specific company. Without wishing to advocate statism, it is important to note that there are at least two kinds of public company for which it is completely illogical to apply policies of competition.

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Corporations using resources that are the property of the nation should be obliged to operate for the public benefit and not for the corporation itself and its actions should therefore not be led by the narrow commercial considerations of price and quality. There is nothing to justify opening up strategic resources that are constitutionally protected as national wealth to private investment, and make them the object of business and private profit. They are the wealth of the nation, a common treasury that should be managed for the benefit of the country and not as a source of private profit, subject to competition. These companies should be efficient, but their efficiency should be measured in terms of whether they act as a lever for national development and not according to the limited criteria of profits. The double discourse of free trade is incredible: public companies are usually attacked for being monopolies despite the fact that this monopolies is based on the national ownership of the resources (monopolies on natural resources, for example); yet European businesses are allowed to exercise monopolies based on patents or intellectual property.

The contradictions are even clearer in the case of corporations providing basic public services, or services associated with human rights. Clear examples of this are water, health and education. If these goods or services are commercialised, they cease to be rights and become conditional on having the money to acquire them. If accessing water becomes subject to competition, it will be acquired by whoever has the most money to pay for it – the mining industry, for example – and it will be impossible to fix priorities such as universal human consumption, agriculture, etc. If a water management company, for example, even if it remains public, is led by market

criteria (which is the intention of these treaties) it will sell the resource to the highest bidder, invest in infrastructure for its distribution in “profitable areas” and will never reach areas of low demographic density or urban poor areas because the investments will not be “profitable”. Where does this leave the state’s obligation to ensure the human rights of access to water, education or health?

In reality, the competitive regimes proposed by the EU go even further than in previous periods of neoliberalism, as they do not only aim to privatise public companies in the interests of making private profit from the enormous and strategic natural resources in the region, but also to submit the public company to commercial criteria, divesting it of its original meaning: to be a lever for national development, a pillar of sovereignty and strength in the global economy, as well as a guarantor of social rights.

Once the AAs are signed and ratified it will be very difficult to act on the call made by the peoples of Latin America for regional solidarity and complementarity with respect to energy, with a view to “guarantee access to energy for the South Americans and not increasing profits for the transnationals”, because “energy is a common treasury of the peoples and not a commodity, it is a human right in the broader definition of human rights” (HSA, 2006). To achieve this objective it is necessary to “strengthen state hydrocarbon companies, the nationalisation of these strategic resources, using the income they create for sustainable development, with policies of redistribution of wealth and using the surplus to finance new, renewable energy systems” (HSA, 2006). It is also necessary to create “a regional public entity that regulates and promotes an integrated energy system” (HSA, 2009). If the countries of Latin America concede on the prohibition of their state energy companies from holding a monopoly, these aims will become unattainable.

A similar situation emerges around the proposal to build “a South American Water Convention or a any other binding legal strategy” that has a “greater range than the rules, dispositions and norms of any of the free trade agreements, BITs or others established in the region” (HSA, 2006a). The convention would establish water as a human right and a right for all living creatures, forbidding its privatisation. Furthermore, in the social proposals and in some Andean constitutions criteria are also included which prioritise water use for human consumption and agriculture. This would be impossible in the case of privatisation, and even if the company remained public, based on commercial criteria it would have to sell to the highest bidder. Transnationals that require an intensive use of water want to compete for this resource and are prepared to pay more for it.

Achieving the aims of water access for all is therefore unthinkable if competition policies are applied to nationalised public service companies as the EU intends.

Public procurement and contracting

In the AA negotiations, the EU is trying to ensure that public procurement and contracting is subject to the principle of national treatment, a principle that applies

to the entire agreement. With this the State is prevented from deciding how to spend public resources (belonging to the citizens) in the best interests of national development, which will often mean privileging national companies. In general, awarding tenders based on purely commercial considerations (price and quality) limits the capacity to impose other criteria, such as the quantity of nationally produced inputs, the amount of employment generated in the country or in the region and better environmental practices.

Under the conditions imposed by the AAs, based on the philosophy of the free market, public contracts and public spending cease to play an important role in regional or national development.

The EU prides itself on asserting its respect for democratic decisions, but it is pressuring Ecuador, and previously Bolivia, to take directions that go against their constitutional precepts that were not only approved by a clear majority but also ratified by referendum. That is the case, for example, of article 288 of the Ecuadorian constitution that obliges the government to prioritise companies from the solidarity economy along with micro, small and medium-sized national companies. This has been reiterated in President Correa's public policy that gives priority to first national providers, followed by those from the region, before opening up to international tender.

Investments

For the European Commission the issue of investments and services are “two sides of the same coin” (Maes, 2007). In the negotiations, faced with opposition from some governments, the issues of protection of investments, expropriation and the resolution of investor-State disputes are not explicitly included; however, they are already incorporated in the Bilateral Investment Treaties (BITs). The European countries have already signed a large number of BITs with the main countries in Central America and the CAN. In Central America: Costa Rica has BITs with seven European countries, Guatemala with six, El Salvador with seven, Honduras with four and Nicaragua with nine. In the CAN: Bolivia has BITs with eleven European countries, Peru with thirteen Ecuador with seven and Colombia with only two countries (OAS undated). The AAs and BITs are complementary instruments. As not all LA countries have BITs with European countries, the EU has still tried to include them in its negotiations - explicitly when there is not too much opposition, or indirectly using the Most Favoured Nation principle.

The majority of the Bilateral Investment Treaties (BITs, also known as Agreements for the Promotion and Reciprocal Protection of Investment- APPRIs) not only include the core principles of National Treatment, Most Favoured Nation and competition they also include the following elements, which divest the states of the basic instruments for ensuring that foreign investors play a role in national and regional development:

a) They are forbidden from demanding **performance requirements**, and thereby renounce the possibility for nation states to design policies or regulations which ensure that investments play a defined role within a national development project;

- b) They agree to absolute **free movement of capital**, including speculative capital. This leaves nation states without the capacity to prevent massive capital flight nor the ability to avoid speculative attacks on the national currency;
- c) The Europeans not only seek to protect themselves from **expropriations**, but also coin the concept of indirect expropriation to refer to government measures that result in a decrease in projected profits;
- d) They include **supranational arbitration processes** to resolve conflicts over the rights of investor corporations according to the terms of treaties and independent of national legislation. These as we have seen generally resort to the International Centre for the Settlement of Investment Disputes (ICSID). The governments of Latin America have had very negative experiences with this institution, to the extent that Bolivia withdrew membership of ICSID. Furthermore, in Bolivia and Ecuador the new constitutions make BITs and the conflict resolution mechanisms as they are outlined in the current treaties impossible. As a result these countries are trying to renegotiate them or withdraw from the agreements.

It is important to bear in mind that experience has shown that investments subject to these rules may increase, but they do not function as a genuine lever for national development¹².

Services

The strategic importance of services to the European economy is firmly and explicitly situated at the core of its strategy for competing in the world. During the secretive negotiations, the European Union's demands have centred on the principle of National Treatment, which will effectively prevent nation states developing their own weak services sector in the face of the very powerful European service sector.

The EU is seeking a "WTO plus" agreement – in other words building on current commitments made on services within the WTO. Furthermore, Article 6 states that its Latin American counterparts will not be able to maintain pre-existing measures that are incompatible with the new AA commitments (Leaked versions of negotiating texts between EU and Andean Community). That is particularly serious as several of the Andean countries are trying to reduce their WTO commitments on the basis that these contradict their constitutions.

As far as we are aware, the text does not include the list of services that are affected. However the text looks unlikely to allow the exclusion from liberalisation of basic public services associated with internationally recognised human rights. And of course, it does include financial services.

Right in the middle of the international financial crisis, when there is broad consensus that one of the major causes of the crisis is rooted in the unlimited deregulation of financial services, the EU continues to push for extreme financial deregulation in the framework of the AAs. If this were to come into effect, it would prevent LA countries

¹² See the case of Mexico after 8 years of the agreement with Europe (Aguirre, Arroyo and Perez Rocha, 2008: 6-34).

achieving financial sovereignty. It would also obstruct advances in the “**development of a regional financial system**”, which would allow finances to be regulated at a regional level and protect the economies of the region from external shocks, create one or more mechanisms to encourage regional development and allow a process of dynamic exchange between the Latin American economies without using the strong currencies of developed countries, and thus protect themselves from currency speculation (ASC, 2009).

Rules of Origin

These are the way of determining the origin of a product and deciding whether it qualifies to cross borders under the duties and tariffs agreed in the treaties that create free trade zones. We have not been able to find information about the European position at the negotiating table on this issue; however, in both the agreements reached with Mexico and Chile rules of origin were agreed that don't require a certain percentage of consumables or components to originate in the exporting country. It is deemed sufficient for qualification that they contain a percentage of consumables or components accumulated from any of the countries creating the free trade zone.

In the case of Mexico, it is clear that these kinds of rule of origin (together with other elements agreed in the Europe-Mexico Free Trade Agreement) have led to the denationalisation of exports. Exports have increased, but less and less of their components and consumables are bought inside the country, which means that they do not have a significant effect on the overall growth of the economy. What is worse is that the indirect employment (by their providers) is created abroad and not in the country itself. These rules of origin, together with the impossibility of demanding, as a performance requirement, that investors buy a percentage of their consumables inside the country, has led to a disintegration of the national chains of production.

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The data from Mexico is damning. Manufactured goods make up most of its global exports. In the export of manufactured goods that are not made in maquiladoras (export-processing factories known for poor labour conditions and wages), Mexican material inputs have fallen from 90% in 1982 to around 30% in 2008. The maquilas, which account for 45% of exports, only buy 3% of their consumables in the country. The export sector has disconnected from the rest of the national economy and has not been, as was hoped, an important motor for accelerating the overall growth of the economy. The effects on employment were dramatic, even before the recession brought by the current crisis. In the manufacturing sector, at the end of 2008 there was 10% less employment than 15 years previously (Arroyo, forthcoming).

If this position is maintained in the current EU negotiations with LA, it will mean yet another element to obstruct regional integration. The Rules of Origin are specifically used by foreign investors and large powers to import consumables from their own countries, which prevent the regional articulation of production. The alternative integration proposed by the social movements revolves around the axis of a **strategy** which **seeks to structure the chains of production within the region** in order to generate economic dynamism, employment and wealth throughout the entire region.

For this it will be necessary to **regulate the operation of companies at a regional level**, taking into account social, cultural, environmental and other interests (ASC, 2009). Making advances in this direction will be difficult if, among other things, AAs incorporating regulations on the Rules of Origin are signed.

Intellectual property

This is a strategic issue for the EU and it could not be otherwise, given the enormous biodiversity in the three regions with which they are negotiating. There is enormous interest from the EU in achieving a high level of protection for intellectual property in areas such as pharmaceuticals among others¹³. The proposals on the table are extremely drastic. They go beyond what was agreed with the WTO, and they are even, according to various Latin American negotiators, more extreme than what Peru and Colombia conceded to the USA.

We can see some of their proposals in the “confidential” document presented on 30th January 2009 by the European negotiators to the Andean nations. We know that many points from this document were rejected, but the important thing is that this document is a reflection of the EU’s intentions (Negociadores Europeos en la CAN, 2009, Capitulo XI).

From the outset it is confirmed that the agreements will go further than the WTO Agreements on Trade Related Aspects of Intellectual Property Rights (TRIPS) (article 2 point 1). The Most Favoured Nation principle is included (Article 2). If this were accepted, what was agreed in the FTAs with the US would automatically be extended to the EU.

Despite attempts to confuse the issue by dividing the time that the patent is in force and its additional extension, in reality they are proposing 10 years of validity for patents (article 9.3 paragraphs 1 and 3). Furthermore, they are really aiming for more than 20 years, as the test data used to authorise the commercialisation of a product is protected for another 10 years. In this way, any new producer would have to redo all the tests in order to authorise the sale of the product to the public, which is extremely expensive, or wait 10 years to be able to commercialise their product. That means that the owner of the patent will have up to 20 years of protection (article 10). This includes medicines and other chemical products.

The EU demands also require that plants be patentable (article 11).

Faced with the opposition and firm rejection on the part of some of the Andean countries on the issue of the patentability of genetic resources and the protection of traditional knowledge, the EU made a new proposal in which they formally recognise that the protection of biodiversity and traditional knowledge is subject to national

13 In the case of Ecuador there is an excellent study in Ruiz, Patricio, forthcoming publication chapter II, in which solid details are given of European investments and exports in areas with considerable interest in the protection of Intellectual Property. It also discusses the issues of the international dilemmas on the issue and illustrates why the European Union, in its proposal, makes reference to certain conventions or international discussions and not to others.

legislation. Nevertheless, they continue to consider biodiversity a commodity which “with the agreement of those who hold such traditional knowledge... and equally sharing the benefits emerging from such uses can be more widely shared” (article 12 paragraph 1), that is to say, commercialised. Later it restates the obligatory bottom line for negotiations based on current agreements with the WTO (already criticised by many). It notes that if in the multilateral discussions in the spaces and conventions to which it refers (not all have been accepted by the Andean countries) agreements are reached that liberalise this sector, then the current EU proposal will be revised. Thus they demonstrate that the initial recognition of national law is only the acceptance of a temporary defeat. This is underlined with paragraph two of article 12 in which they seek to reach agreement on measures and remedies for avoiding the abuse of “unnecessary” limitations that will create “barriers to trade”. Articles 14 to 27 try to guarantee that, using preventative measures, sanctions and litigation procedures.

The EU’s divisive intentions in the Andean Community are made clear in article 32 where, talking about integration in the region they require the adaptation of measures to advance the convergence of national intellectual property laws and a move towards an obligatory Andean legislation. Knowing the discrepancies between the different CAN countries on this issue, this article is incitement to conflict between them.

This issue has been especially controversial in the Andean region. Ecuador cannot accept the European proposals because they go against the country’s constitution. Additionally and even more seriously, these proposals are not compatible with Andean legislation on the issue. If Europe maintains its proposals, Ecuador will almost certainly have to abandon the negotiations, and once again, the unity of the CAN will be put at risk. If Peru and Colombia go on to accept them, it may be the death toll of the CAN, as Andean legislation would have to be changed and this would be unacceptable for Bolivia and Ecuador. How then can the EU continue to claim to support regional integration when accepting the EU’s proposals would invalidate the institutionalisation and legal framework of the region?

Access to markets

Through the AAs, the EU is seeking the greatest possible access to markets for the trade of goods and services. Agriculture is, of course one of the issues up for negotiation. In these negotiations the EU is seeking to dismantle all import duties within ten years. They are also seeking to eliminate all remaining barriers, such as those relating to sanitary and phytosanitary measures. The irony of the situation is that the Central American countries and those of the Andean region already enjoy preferential access for their products in the European market, through the Generalised System of Preferences (GSP). Nevertheless, the negotiating mandate indicates that the countries of Central America and the CAN will be removed from the GSP after signing the AAs. This means that the governments of the region must make concessions in areas such as services and investments in order to maintain their existing advantages.

With the signing of the AAs, the Latin American governments are giving up the possibility of safeguarding the livelihoods of small farmers and local businesses, and of protecting their domestic markets from subsidised imports from the European Union. The opening up of the goods market, which will be exacerbated by the signing of these agreements, has increased the dependence of the peoples on the import of agricultural products (in many cases, products previously produced locally are now imported) and has strengthened the industrialisation of agriculture, forcing millions of peasant farmers to emigrate.

It almost goes without saying that the AAs will limit any possibility of achieving food sovereignty, which is the right of the peoples to produce their own food in an independent, diverse and healthy way. Latin American social movements promote “**regional food sovereignty and the stimulation of family farming and small and medium scale production**”. Food sovereignty would also be prevented by the free use of genetic modification, and with it, transnational control via patents and genetically modified seeds. If agriculture is left to the logic of free trade it will continue to be dominated by agro-industrial production for export and states will be prevented from using regulatory tools that could help build food sovereignty.

7 Conclusions and Perspectives

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Despite the strategy of the European Union to project a different image and differentiate itself from the United States and its FTAs, the EU's own policy documents acknowledge that the AAs include an FTA. Although other components are included in the Association Agreements framework currently being negotiated with Latin America, it is essentially the FTA, which provides the basis for the negotiations.

The European Union claims that human rights are the basis for all its negotiations, however, market forces, which are at the centre of the FTA, do not guarantee human rights. This has not only been born out by actual developments. Even the original theoretical conceptions of free trade do not pretend to guarantee human rights. Furthermore, in the framework of the AAs, basic rights such as access to water, health and education are turned into commodities, at which point they cease to be rights.

The European Union asserts that it supports fair and sustainable development, but the "Global Europe" strategy sets as one of its priorities access to natural and energy resources, indispensable for development, from its partners in the South.

As part of its negotiating strategy, the European Union emphasises that it wants to support the integration of different regions in Latin America. However it promotes a policy of integration that serves only its own corporate interests. It pushes an integration which is set within the paradigm of free trade and, which leave development to the dynamic of market forces. In the current AAs, this approach is reflected in the following way:

- The EU's conduct of the negotiations has contributed to and accentuated the divisions inside the regional blocks. This arises from the fact that the EU has not adhered to its own negotiating mandate of block-to-block negotiations, but also because specific proposals put forward at the negotiating table have intensified the divisions.

- Additionally, the EU proposals on the AA negotiating table not only fail to prepare the ground for regional integration, these have actually complicated the process and obstructed the realisation of the kind of integration being sought by the peoples and some of the governments of Latin America.
- The AAs proposed by the EU seek to consolidate a development model in the region based on the logic of free trade and agro-exports from LA to the EU. This model also opts for the privatisation of public companies, the deregulation of investments and free reign to transnational corporations, the development of mega-infrastructure projects to facilitate exports, and mono-crop agriculture. It is a model that the peoples and some LA governments reject today, because it undermines the possibility of building an alternative integration. The Latin American peoples are looking for a regional integration that breaks with the model that has plunged much of Latin America into under-development and poverty, has turned natural resources into commodities, degraded the land and destroyed indigenous and peasant farmer communities, and is leading down the road to eco-suicide as a result of climate change. The peoples seek an integration centred around the promotion of productive and social development that strengthens inter-regional trade; centred on building infrastructure that serves the needs of the people and is based on integrated development policies; that promotes regional food and energy sovereignty; that facilitates regional financial integration; that protects public companies and does not turn basic rights such as water, health and education into commodities. This is an alternative regional integration built with the participation of the peoples, with the aims of welfare for all and harmony with nature.

So, despite the discourse on the promotion of integration, human rights and sustainable development, what Europe seeks is to strengthen its global competitiveness against the other developed blocks, particularly the US but also against China and India who are having a greater role in the global economy. In reality, in negotiations with Latin America, the EU seeks profits for its global businesses and continues to hold on to a paradigm that has lost legitimacy and that has led to one of the worst ever economic crisis.

The future of these negotiations is uncertain. The EU is having increased difficulty imposing its position against growing opposition from many Latin American governments and large, organised social sectors in both Europe and Latin America. In particular, there is growing awareness by some governments that FTAs do not only mean the opening of borders, but also binding commitments that undermine their capacity to set development priorities and to run national and regional development projects geared towards the welfare of their peoples. In a moment of such unprecedented global crisis, the worst decision would be to restrict their political room for manoeuvre in responding to these crises by signing FTAs

If the EU were to give coherence to its own discourse and founding principles, it would have to radically change its position in the negotiations. It would have to abandon the paradigm of free trade, recognise asymmetries, and give the countries of LA special and differentiated treatment, exclude many of the issues currently being negotiated, especially the so-called Singapore issues, but also National Treatment

and Most Favoured Nation. If EU does not change its position, and Latin American governments stay at the negotiating table, they will be subjecting themselves to a straitjacket and be prevented from implementing the integration sought by Latin America's peoples.

However this is a moment of historic conjuncture, in which the European Union as well as the Latin American governments can choose a different development path. The European Union can collaborate in an alternative integration paradigm of the regions in the Latin American continent. But this cannot happen base on the current direction taken by the AA negotiations dictated by the interests of European corporations. Instead, the EU would need to propose and accept agreements that place complementarity, collaboration and cooperation at the centre of integration as articulated and sought by the peoples of Latin America.

This new orientation would be a radically different departure for Europe to establish a new position in the world, contributing to a new paradigm that can achieve integrated development avoiding ecocide and leading to equity and sustainability.

Opposition to European Union policies is not only apparent in the Americas. It can be seen more and more within Europe itself. Broad social movements and civil society organisations on both continents have converged around this new orientation and the challenge to construct a new paradigm. They oppose the neoliberal model, and the FTAs that legitimate and legalise it, and they have gone on to link their struggles together and promote a people centred regional integration.

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The European Union (EU) presents itself as a supportive partner of Latin America (LA), rather than as a competitor. In recent years, the EU has been stressing that its primary interest in negotiating Association Agreements (AAs) with the countries of LA is to provide support to the integration of different regions in LA.

In this report, the authors contrast the EU's professed aims for supporting regional integration in Latin America with the actual experiences of the different regions in LA with which the EU is seeking to sign AAs: Central America (CA), the countries of the Andean Community of Nations (CAN) and the Common Market of the South (MERCOSUR).

The authors explore the following questions: What interests does the EU have in regional integration in LA? What kind of integration does the EU promote in LA? How is support for regional integration made compatible with the search for Association Agreements (AAs) that pursue a broad liberalisation of trade and investment? What impact did the AA negotiations have on the different regional integration processes? What are the potential effects of AAs on the proposals for alternative regional integration that are coming from social movements and some progressive governments in the region?

This report raises questions about the EU's discourse on co-operative support for regional integration in LA. The report argues that in reality the EU's interests lie in preparing the terrain to later negotiate with regional blocks (rather than individual countries), and thus gain access to larger goods and services markets. Furthermore, it develops the argument that the trade negotiations promoted by the EU in LA entail serious risks that may result in heightening divisions in existing regional processes, as we have seen in the case of CAN. Furthermore, the signing of Association Agreements will become a ball and chain that will frustrate peoples' efforts and struggles to achieve a different kind of regional integration in LA.

Founded in 1974, the Transnational Institute (TNI) is an international network of activist-scholars committed to critical analyses of the global problems of today and tomorrow, with a view to providing intellectual support to those movements concerned to steer the world in a democratic, equitable and environmentally sustainable direction.

TNI's Alternative Regionalisms programme promotes socially just and environmentally sustainable regional alternatives to the current model of corporate-led globalisation. Working closely with social movements and coalitions of civil society organisations in the South and Europe, the programme combines network-building, research and policy advocacy.

The Mexican Action Network on Free Trade (RMALC) is a coalition composed of trade unions, small farmers' and indigenous organisations, environmental and women's networks, NGOs and researchers, which aims to analyse, question and influence economic and political development in Mexico. It has a particular focus on trade. RMALC was founded in 1991 during the negotiations for NAFTA. It participates in the Hemispheric Social Alliance and also continues to monitor and campaign on the EU-Mexico Global Accord.