REPERCUSSIONS IN **COLOMBIA** OF THE **FREE TRADE AGREEMENT** WITH THE **EUROPEAN UNION** AFTER **THREE** YEARS OF IMPLEMENTATION.

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Various points of interest emerged during the discussions around the negotiation and ratification of this Free Trade Agreement (FTA), and after three years of its provisional implementation, it is a good time to revisit these issues. In public statements and publicity material,[2] both the Colombian government and the European Commission asserted, for example, that the FTA was going to help to diversify the Colombian economy. They stated that the objective was to support sustainable development, that it was going to provide a legal basis on which to promote an improvement in the human rights situation, and that a road map would be agreed with the Colombian government for that purpose.[3] At the same time, warnings were sounded about risks such as tax evasion and money laundering.[4] This article looks at developments in some of these issues over the three years of provisional implementation of the agreement, and offers some suggestions for effective follow-up and monitoring.

1 THE ECONOMIC IMPACT OF THE FTA
HAS THE ECONOMY DIVERSIFIED?

Since the FTA between the European Union (EU) and Colombia and Peru took effect provisionally in August 2013, Colombia's commercial balance with the EU has progressively worsened, falling from a surplus of US$2.9 billion in 2012 to a deficit of US$1.96 billion in 2015.[5]

Although the EU-Colombia FTA has had a major impact on this shift, it is important to recognise that there are other factors also influencing the situation. These include the fall in the price of oil and its by-products, together with the decline in the price of coal: between 2012 and 2015, the value of Colombia's exports in these two sectors fell by nearly 50 per cent.[6]

The fact that the balance of trade is so dependent on oil exports demonstrates once again that an economy based on the export of natural resources, particularly coal, oil and their by-products, is an economy that is neither stable nor healthy, either in macroeconomic terms or with regard to the worsening social and environmental conflicts that the extraction of these resources brings in its wake. We need to ask whether it is worth polluting the environment, causing rivers and other water sources to dry up, forcing rural and indigenous communities off their land, creating or worsening food shortages in the name of development, placing the health of people and ecosystems and life itself at risk, all for the purpose of continuing to intensify economically and environmentally unequal terms of trade.

In a resolution on the trade in raw materials between the EU and Latin America adopted by the Euro-Latin American Parliamentary Assembly in Athens in 2014, the members of the assembly expressed the view that "*the FTA between the EU and Colombia and Peru and the EU-Central America Association Agreement will increase the trade flow in raw materials from Latin America to Europe and that* ***these agreements do not include binding mechanisms*** *to ensure compliance with environmental regulations, human rights and labour standards.*" They concluded that "*to overcome the risks involved in a purely extractive economy, it is essential to foster diversification in other areas of the economy*"[7] apart from the trade in natural resources.

Thus, the question that arises after three years of provisional implementation of the FTA is: HAS THE FTA PROMOTED THE DIVERSIFICATION OF THE ECONOMY OR HAS IT INTENSIFIED ITS SPECIALISATION AND DEPENDENCE ON RAW MATERIALS?

According to the European Commission in its second annual report on the implementation of the agreement,[8] the lack of up-to-date figures and the influence of various different factors on the changes in trade and investment flows make it difficult to arrive at a definitive assessment of the impacts of the provisional implementation of the FTA. However, it is possible to analyse certain representative sectors in which significant changes have taken place, in order to evaluate the possible impacts.

In general terms, according to figures from the Colombian Ministry of Trade, Industry and Tourism, primary commodities have continued to account for about 90 per cent of Colombia's total exports to the EU during the time the trade agreement has been in force.[9]

Coal is still the country's main export product, accounting for 35 per cent of the value of its exports in 2014 and 2015.[10] Maintaining coal exports to the EU at current levels implies constantly increasing the amount of land devoted to coal mining, particularly the coal deposits in La Guajira and Cesar. In the case of La Guajira, coal is mined at El Cerrejón, the largest open-cast coal mine in Latin America, owned by the multinational corporations Glencore, BHP Billiton and Anglo American. The expansion of these mining operations is having a serious impact on water sources, air quality and, by extension, food sovereignty, health and the right to a healthy environment and life itself, for the ancestral indigenous and black communities in the region.

Some manufacturing industry sectors, such as footwear, clothing and textiles, have seen a significant reduction in the value of their exports to the EU between 2012 and 2015, with falls of 50, 20 and 60 per cent respectively,[11] and this can be attributed to increased competition from Europe. These are sectors that accounted for about 16 per cent of industrial employment in Colombia en 2014.[12] On the other hand, the same report mentions an increase of 64 per cent in exports by the publishing industry, which accounted for 3 per cent of industrial employment in 2014.[13]

According to the EC report, 526 new companies have managed to export from Colombia to the EU.[14] However, we believe there is insufficient information to be able to analyse this figure properly. What changes have there been in the number of new companies exporting to the EU each year? How many companies have stopped exporting? Which sectors are these new companies operating in? How many jobs have they created and under what conditions?

ALTHOUGH DURING THE DISCUSSION PROCESS TO NEGOTIATE AND RATIFY THE AGREEMENT ASSURANCES WERE GIVEN THAT IT WOULD HELP TO DIVERSIFY THE ECONOMY, THIS PROMISE HAS BEEN BROKEN: THE FACT IS THAT THE STRUCTURE OF THE COUNTRY'S EXPORTS REMAINS THE SAME AND THE COLOMBIAN ECONOMY IS BECOMING EVR MORE DEPENDENT ON PRIMARY COMMODITIES.

2 THE SOCIO-ECONOMIC IMPACT OF THE FTA

THE TITLE ON SUSTAINABLE DEVELOPMENT

It is important to recall the emphasis that Title IX of the FTA, on "Trade and Sustainable Development", explicitly places on the need to *"promote international trade in such a way as to contribute to the objective of sustainable development and to work to integrate and reflect this objective in their trade relationship. In particular, the Parties underline the benefit of considering trade-related labour and environmental issues as part of a global approach to trade and sustainable development."*[15] In the first three years of its implementation, however, no significant progress has been made in fulfilling the statements made in the agreement or, more broadly, in terms of the scope of this so-called sustainable development.

FIGURES ON SOME SECTORS

We will now provide some figures on certain sectors that have experienced significant changes in the last few years and assess some of the impacts that these changes may have brought about:

- Exports of sugar from Colombia to the EU increased by 154 per cent between 2012 and 2015.[16] The sugar industry is one area of the agro industrial sector that had made most progress with workers' rights before the introduction of the FTA. This was due to hard campaigning and strikes by the sugar cane cutters, particularly in 2008 when the owners of the sugar mills were forced to negotiate contracting conditions in the industry. However, the increase in the quantity of sugar exported in the last few years has not led to an increase in the number of workers hired or any further improvements to working conditions. On the contrary, in order to compete with other countries, the industry has extensively mechanised its operations and thus reduced the number of workers it employs. Problems also persist with illegal worker representation practices, as a way to cut labour costs and reduce the trade union's influence in this sector.[17]

- Exports of flowers increased by 12 per cent in the same period.[18] According to the National Trade Union School, it is estimated that the Bogotá Savanna, the area where 73 per cent of national production is concentrated and most of the workers are women, has experienced the most changes and the spread of illegal worker representation practices. Levels of outsourcing have today reached 75 per cent, mainly through the illegal use of arrangements such as EST and SAS.[19]

Collective pacts take priority in the hiring process for groups of workers as a way of denying the right to collective bargaining to the few trade unions present in the flower-growing industry."[20]

- Imports of European footwear to Colombia have increased by 52 per cent and imports of coffee products have risen by 404 per cent, while exports of these products have fallen by 48 per cent and 2 per cent respectively.[21] Considering that these sectors are labour-intensive, what has been the impact on workers in these industries?

- In the farming sector, exports of "other farm products" have increased by 22 per cent while imports have risen by 102 per cent.[22] The crisis in the sector led small-scale farmers and rural organisations to call a national strike in May 2016, demanding policies including the review of the free trade agreements that have had such a negative impact on them in recent years.[23]

These examples provide evidence that the changes in trade and investment flows produced by the provisional implementation of the FTA are having a negative impact on Colombian workers and small-scale farmers and – as will be described later – on their territories.

In short, SOCIAL AND EMPLOYMENT INSTABILITY AND INSECURITY ARE INCREASING AS A RESULT OF THE CONSOLIDATION OF A PROCESS OF REFOCUSING THE ECONOMY ON THE PRODUCTION OF PRIMARY COMMODITIES, A PROCESS REINFORCED BY THE IMPLEMENTATION OF THIS TRADE AGREEMENT.

MONITORING THE TITLE ON SUSTAINABLE DEVELOPMENT

INSTITUTIONALITY AND COMPLIANCE WITH LABOUR AND ENVIRONMENTAL STANDARDS

WITH REGARD TO LABOUR STANDARDS, two key issues can be identified: the situation with collective bargaining agreements and what is going on with labour inspections.

Based on its analysis of official Colombian government figures, the National Trade Union School (Escuela Nacional Sindical - ENS) has sounded a warning about the decline in collective bargaining agreements and the growth in union service contracts that correspond to a form of labour outsourcing, such as the Associated Labour Cooperatives. More than 2,000 union service contracts were signed in 2014 and 1,975 in the first six months of 2015, while over the same periods 328 and 500 collective bargaining agreements were signed.[24] In its latest report,[25] the International Labour Organisation (ILO) recognises this as a serious problem which goes against the Road Map (Resolution 2628 of 2012)[26] proposed by the Colombian government to fulfil the commitments it made to the European Parliament with regard to human, social, labour and environmental rights.

In addition, the collective pacts that have been denounced as a strategy to weaken the trade unions are still being signed. Both the ILO[27] and the OECD[28] have called for this arrangement to be banned when a trade union already exists. Despite the numerous complaints filed by Colombian trade union federations and several union organisations, with technical support from the ENS, only three of them led to sanctions being imposed (against the Spanish bank BBVA and the beer company Bavaria, which belongs to the drinks multinational SAB Miller).[29] Even then, the fines levied were no more than symbolic and to this day these companies have not done away with the illegally signed pacts.

The situation with regard to labour inspections is complicated. Some progress has been made, for example with regard to the inspectors' salaries (as a measure to prevent corruption and safeguard the autonomy and independence of the labour inspectors). However, there is still a need to consolidate an inspection, oversight and control department whose officials are sufficiently trained and provide it with the resources required to ensure that the inspectors perform their duty of enforcing the labour laws in the thousands of workplaces around the country. Furthermore, the commitment made in the Obama-Santos Labour Action Plan (LAP), signed in 2011 as part of the US-Colombia FTA, to increase the number of inspectors to 904 has not been fully complied with. According to the Ministry of Labour,[30] in March 2016 the number of posts established for labour inspectors was 828,[31] 76 fewer than the number of inspectors the government agreed to hire in the LAP signed five years ago.

As far as environmental standards are concerned, the Juan Manuel Santos government's National Development Plan prioritises mining and energy activities as a development strategy.[32] This implies loosening the requirements for obtaining environmental licences, allowing mining to take place in *páramo* regions (high mountain ecosystems that are sources of fresh water and rich in biodiversity) or in nature or cultural reserves. The implementation of economic projects in the mining and energy sectors has thus been given priority over the rights of communities in their territories, the protection of water sources and biodiversity reserves, and the fulfilment of commitments such as land restitution. So far, there is no information about discussions of these issues in the meetings of the Trade and Sustainable Development Subcommittee, which is responsible for monitoring Title IX of the FTA.

At the start of 2016, Colombia's Constitutional Court issued a ruling declaring that several articles in the National Development Plan permitting mining in *páramo* areas were unconstitutional.[33] The court ruled that in order to be permitted to carry out mining or oil and gas exploration and production activities it is not enough to have an assessment and be awarded a licence by the National Environmental Licensing Authority (ANLA). The decision must also be submitted to territorial government bodies. The Colombian government has hitherto tried to prevent this, declaring that the subject of mining was entirely its responsibility and the territorial governments had no power to influence decisions, under the argument that mining and the extractive industries are in the public interest.

Both the road map[34] and the title on sustainable development in the FTA[35] declare that the right to consultation and free, prior and informed consent (ILO Convention 169) must be respected as a necessary condition for investing in the territories of indigenous and African-descent communities. According to complaints presented by communities in various regions, the government's failure to comply with this requirement, and in some cases the manipulation of the consultations, is something that happens systematically.[36] For example, the case of coal mining in La Guajira by the El Cerrejón company shows that although the prior consultation mechanism has not been violated, the Ministry of Home Affairs has avoided consulting the indigenous and African-descent communities directly affected by the project to divert the Bruno stream and expand the mine.[37]

As well as failing to comply with the objectives established in both the road map and the FTA's title on sustainable development,[38] the weakness of environmental institutions, coupled with the emphasis on the extractive industries – mining and energy – as the drivers of development, offers a particularly important example of the contradictions in this FTA: on the one hand, it promotes the deregulation and freeing up of trade and investment, and on the other it proposes that these can be the means to achieve sustainable development. This is especially important considering that mining and energy exports from Colombia to the EU accounted for 52.5 per cent of total exports and European investment in the mining sector amounted to US$357,471,000 in 2015.[39]

Civil Society Participation

In the FTA's Title on Sustainable Development, Articles 280-282 regulate sustainable development monitoring and follow-up and establish that "Each Party shall consult domestic labour and environment or sustainable development committees or groups, or create such committees or groups when they do not exist."

Although such a group was created in the case of the EU and has held meetings during the three years of provisional implementation of the FTA, the same has not occurred in the case of Colombia. There is no information available about who is involved in the Domestic Advisory Groups (DAG) in Colombia and the minutes of their meetings have not been made public. It is therefore impossible to know whether these groups are actually functioning or whether they meet the requirement of being independent of the government.

By consulting some trade union federations, it was possible to establish that in the case of the Domestic Advisory Group on labour issues the government decided to use the Labour and Trade Union Policy Conciliation Committee's Sub-Committee on International Affairs, whose members are representatives of the Ministry of Labour, the Ministry of Trade, Industry and Tourism, the Ministry of Agriculture and Rural Development, the National Planning Department, the Ministry of Finance and Public Credit, five representatives of business associations, the three trade union federations and the confederation of pensioners.[40] In other words, the Colombian government has not respected the requirement that this group should be comprised solely of civil society representatives. To date, Colombian civil society organisations who monitor compliance with labour laws have not been allowed to participate.

In June 2015, the DAGs from Colombia and the EU held a joint meeting, which resulted in a statement calling on the governments of Colombia and Peru to reconsider and reformulate the rules governing how these groups operate, in order to establish effective participation mechanisms.[41]

RESPONSIBLE INVESTMENT?

Bearing in mind that the EU is one of Colombia's main foreign investors, accounting for 31.4 per cent of total foreign direct investment (FDI) in the country in 2015,[42] the conditions in which this investment takes place and the impacts it causes need to be monitored closely. Such an analysis will make it possible to confirm whether EU investments in Colombia really are promoting sustainable development and strengthening sectors with high environmental, labour and trade union standards, as was promised while the FTA was being negotiated and partially ratified.[43]

It is important to highlight some emblematic sectors:

COAL. As mentioned earlier, coal is Colombia's main export to the EU and the country's major mining export companies (such as El Cerrejón and Drummond) have a large amount of European and North American investment capital.[44] The social and environmental conflicts caused by coal mining have been reported and documented repeatedly by civil society organisations in Colombia, who have denounced violations of the rights to water, health, a healthy environment and housing, the right of indigenous, rural and African-descent communities to remain in their territories and, in short, the right to life itself.[45] As mentioned earlier in this paper, there are disputes around the diversion of the Bruno stream, the main tributary of the Ranchería river and a source of water for local communities. This is taking place in a region regularly affected by drought caused by the development of mining, which has turned a water stressed area into a water scarce area as a result of the privatisation of all water sources. It is also important to mention a further intensification of these conflicts as a result of the violent eviction of the Roche community on 24 February 2016.[46]

OIL PALM.

Colombia is the main producer of oil palm in the Americas and the fourth largest in the world.[47] In 2015, Holland was the main destination for Colombia's palm oil exports, accounting for 24.3 per cent of the total exported.[48] The sector employs very few workers: on average there is only one worker per hectare on oil palm plantations (compared with five workers per hectare on banana plantations). The level of labour outsourcing is very high: it is estimated to range from 40 to 60 per cent, depending on the company and the region. In those cases where companies hire workers directly, their jobs are insecure.[49] A number of complaints have been lodged against the sector regarding threats, land seizures and forced displacement, among other allegations.[50]

One emblematic case is the company Poligrow, with Italian investment capital, as it presents itself as being the first company in Colombia to be certified as compliant by the Sustainable Agriculture Network/Rainforest Alliance (SAN/RA) and participated in Expo Milan as an example of sustainable foreign investment in Colombia.[51] This company has invested in Mapiripán, a territory that was expropriated following the forced displacement caused by the actions of paramilitaries, especially after a massacre that took place in 2007. The communities still living in the territory have reported an intensification of threats made against them in recent years, as well as environmental damage and pollution, particularly of water sources in their territory. According to the Inter-Church Justice and Peace Commission, one of the worst tragedies in this area of the country concerns the environmental damage affecting the few sources of water there: 13 springs have dried up because the 15,000 hectares of oil palm plantations have used up all the groundwater in the region, affecting more than 200 families. The oil palm companies in Mapiripán use more than 1,700,000 litres of water per day.[52]

PORT INFRASTRUCTURE AND TOURISM: BUENAVENTURA. This town has the misfortune to be famous for its levels of violence, despite being one of the most militarised in Colombia. Dismembered corpses are often dumped there in order to sow terror and establish control over territory.[53] European capital has been invested in the town, including by the Dutch group APM and the Barcelona-based Maritim TCB group,[54] which have invested in both port infrastructure and tourism facilities.

Once again, these cases confront us with another unfulfilled promise and question the role of the FTA in general and FDI in particular as a driver of development and a means to improve labour, social and environmental standards. In fact, what this situation reveals is the need to establish binding mechanisms that will enable companies that invest their capital in countries like Colombia to be punished and held accountable for human rights violations.

3 THE ILLEGAL ECONOMY: A RISK IDENTIFIED BUT NOT MONITORED

In 2012, a report by the organisation SOMO[55] warned of the risks of tax evasion and money laundering posed by the trade agreement. The report underlined the lack of a strong commitment to combat tax evasion in the FTA and suggested that certain articles in the agreement could in fact facilitate the practice. It also reached the conclusion that the trade agreement increases the risk of money laundering by deregulating financial markets.

In view of this, the measures taken to prevent such risks need to be reflected in the European Commission's report on the implementation of the trade agreement. The EU cannot just close its eyes and allow those who earn money from illegal activities like drug trafficking to benefit from the trade agreement.

As an example of this, the EU has remarked on numerous occasions on the increase in banana exports from Colombia to Europe: since 2012 these exports have increased by 10 per cent. At the same time, there have been increasing reports of cocaine being shipped in boxes of bananas. Recently, for example, three tonnes of cocaine were found in the port of Antwerp, hidden in boxes of bananas from the Urabá region in northern Colombia.[56] This is not the first time this has happened and we therefore need to ask, once again: "Which sectors of the economy are benefiting from the FTA?"

4 VERIFICATION MECHANISMS

During the three years of the agreement's provisional implementation it has been monitored by the European Commission, which has produced two annual reports presenting a general overview of the changes that have taken place in trade and investment flows. However, these reports lack a more detailed evaluation of the agreement's impacts on the structure of Colombia's economy and, leading on from that, its consequences for living conditions, workers' rights and the situation with regard to social and environmental conflicts that affect the population as a whole.

Likewise, bearing in mind that the statement on democracy in the preamble is an integral part of the agreement, it is essential to monitor and evaluate compliance with it, something that the reports presented in 2015 and 2016 failed to do.

Another significant absence in the European Commission's report is an analysis of the sectors invested in. The paragraph on FDI in the Commission's report only mentions an overall figure without providing a breakdown or taking into account the conditions in which the investment was made and the impacts it is having.

It is essential to consult civil society in Colombia about the impacts of the agreement's implementation and whether the title on sustainable development is effectively being fulfilled. Beyond demanding technical and scientific information and documentation regarding the complaints presented by civil society organisations, which they don't have technical capacity to produce, it is important for the EU to open up spaces for civil society to participate actively and thus help to complement and compare the information provided by the Colombian government.

The European Parliament plays an oversight role with regard to EU policies. In this case, it has a duty to oversee the implementation of the FTA and verify compliance with the commitments made, both in the agreement itself and especially in the Road Map (Resolution 2628 of 2012). However, it is difficult for the European Parliament to verify the impacts of this agreement, and fulfilment of the title on sustainable development in particular, if it only takes into account the reports submitted by the European Commission. The European Parliament should require the European Commission to present more comprehensive reports with a breakdown of the figures. In particular, it should demand reports evaluating the environmental and socio-economic impacts of the trade agreement, in order to be able to monitor the title on sustainable development properly.[57]

5 BY WAY OF A CONCLUSION

The trade agreement aggravates the economy's dependence on primary commodities and the export of natural resources and hampers the transition to a socially, environmentally and economically sustainable economy that is even more necessary and urgent now, when peace-building is being discussed.

The European Commission has failed in its duty to produce comprehensive reports on the implementation of the agreement and its impacts in Colombia. It should also be pointed out that its reports do not discuss the agreement's repercussions on social, labour and environmental standards in Europe either.

The European Parliament has likewise failed in its duty. During the debates to ratify the agreement, many members of the European Parliament promised publicly or in meetings that they would do everything possible to ensure that the trade agreement served as a means to encourage and demand improvements in human rights in Colombia. Once the agreement was ratified, however, whenever the critical human rights situation is brought up there are few decisive responses. So, if we mention today that 63 human rights defenders were murdered in Colombia in 2015; if we point out that in the first half of 2016 there were 314 attacks against human rights defenders and 35 were murdered;[58] if we allude to the criminalisation of the task of defending rights, what will the response be? They will tell us that none of this has anything to do with the agreement, despite the fact that the vast majority of these murders are related to land tenure and defence of the environment (essential to any economy that depends on the export of natural resources). We questioned the feasibility of their promises at the time; the reality three years later shows that we were right.

1 This paper builds on and expands the presentation given by Lyda Fernanda Forero from the Transnational Institute (TNI) and the International Office for Human Rights Action on Colombia (OIDHACO) at the European Parliament's International Trade Committee session on "Trade and economic relations with Latin America" on 15 March 2016. For more information about this event, see: http://www.europarl.europa.eu/committees/es/inta/events.html?id=20160315CHE00051 and http://www.europarl.europa.eu/ep-live/en/committees/video?event=20160315-1500-COMMITTEE-INTA. The paper refers mainly to Colombia and only touches on the case of Peru which is the third party to this trade agreement. We are grateful for the comments and contributions made by Vicente Vallies, Danilo Urrea, Daniel Hawkins and Cecilia Olivet.

2 See: Unión Europea, Ministerio de Comercio Industria y Turismo. Cartilla: Acuerdo Comercial Unión Europea – Colombia. May 2012; ABC del Acuerdo Comercial con la Unión Europea (http://www.mincit.gov.co/publicaciones.php?id=3406); EEAS press release: http://eeas.europa.eu/delegations/colombia/press_corner/all_news/news/2012/20120626_02_es.htm

3 http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0249+0+DOC+XML+V0//ES

4 http://www.guengl.eu/news/article/la-union-europea-podria-promover-el-trafico-ilegal-de-dinero-de-colombia-y- and Vander Stichele, Myriam, Free Trade Agreement EU – Colombia & Peru: Deregulation, illicit financial flows and money laundering. SOMO, December 2012

5 Source: Ministerio de Industria, Comercio y Turismo: https://www.nube-mcit.gov.co/public.php?service=files&t=0acc69ffd672a3359bb50bc2e657f5e3

6 Source: Ministerio de Industria, Comercio y Turismo: https://www.nube-mcit.gov.co/public.php?service=files&t=0acc69ffd672a3359bb50bc2e657f5e3

7 Euro-Latin American Parliamentary Assembly, Trade in raw materials between the EU and Latin America, Resolution on the basis of the report by the Committee on Economic, Financial and Commercial Affairs, approved at the seventh ordinary plenary session, 27-29 March 2014 in Athens, Greece, page 4, paragraph O. Available at: http://www.europarl.europa.eu/intcoop/eurolat/assembly/plenary_sessions/athens2014/adopted_docs/raw_materials/1025902en.pdf.

8 European Commission, Second Annual Report on the Implementation of the EU-Colombia/Peru Trade Agreement, COM/2016/058 final, 10 February 2016, page 13. Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016DC0058&qid=1462868861064&from=EN.

9 Source: Ministerio de Industria, Comercio y Turismo: https://www.nube-mcit.gov.co/public.php?service=files&t=0acc69ffd672a3359bb50bc2e657f5e3

10 Source: Ministerio de Industria, Comercio y Turismo: https://www.nube-mcit.gov.co/public.php?service=files&t=0acc69ffd672a3359bb50bc2e657f5e3

11 Ministerio de Industria, Comercio y Turismo mcit.gov.co/public.php?service=files&t=0acc69ffd672a3359bb50bc2e657f5e3

12 Departamento Administrativo Nacional de Estadística, DANE: http://dane.gov.co/

13 Departamento Administrativo Nacional de Estadística, DANE: http://dane.gov.co/

14 European Commission, Ibid, page 4

15 "Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part." Official Journal of the European Union. Page 321

16 Ministerio de Comercio, Industria y Turismo. https://www.nube-mcit.gov.co/public.php?service=files&t=0acc69ffd672a3359bb50bc2e657f5e3

17 Escuela Nacional Sindical, ¿Priorizados o nuevamente olvidados? Los cinco sectores estratégicos del Plan de acción Laboral

18 Ministerio de Comercio, Industria y Turismo

19 EST: Empresas de Servicios Temporales (temporary service companies), SAS: Sociedades por Acciones Simplificadas (simplified corporations)

20 Escuela Nacional Sindical, Ibid, page 1.

21 Ministerio de Comercio, Industria y Turismo

22 Ministerio de Comercio, Industria y Turismo

End

23 https://www.tni.org/en/article/peasants-mobilized-in-colombia-the-strike-is-finished-the-struggle-continues

24 Escuela Nacional Sindical, Sistema de Información laboral y sindical. Reporte a Junio de 2015.

25 http://www.ilo.org/wcmsp5/groups/public/---americas/---ro-lima/---sro-lima/documents/publication/wcms_444919.pdf

26 See Resolution 2628 of 2012, point 15.

27 http://www.eltiempo.com/economia/sectores/pactos-colectivos-y-sindicatos/14191235 and ILO, Comisión de Aplicación de Normas de la Conferencia, extractos de las actas. Geneva 2014.

28 OECD, Mintrabajo. OECD Reviews of Labour Market and Social Policy: Colombia 2016.

29 http://www.ens.org.co/index.shtml?apc=a---;-;20171401;-20171401;&x=20171401

30 Ministry of Labour response to a petition sent by the ENS dated 31 August 2015.

31 Information from the Ministry of Labour in response to a petition from the Escuela Nacional Sindical (ENS), 1 March 2016, p. 52.

32 Plan Nacional de Desarrollo 2014-2018, Todos por un Nuevo País. Articles 19-21, 52, 153.

33 Ruling C-035 - 2016

notes

34 Resolution 2628/2012, points 8 & 20

35 Text of the FTA, Title IX, Articles 269 & 272

36 http://www.onic.org.co/noticias/877-hoy-a-debate-consulta-previa-y-otros-mecanismos-de-participacion, http://www.onic.org.co/noticias/818-ponencia-organizacion-nacional-indigena-de-colombia-onic

37 http://extractivismoencolombia.org/tribunal-frena-desvio-arroyo-bruno-aprobado-la-anla/ http://censat.org/es/analisis/la-desviacion-del-arroyo-bruno-llamemos-las-cosas-por-su-nombre

38 For specific references, see: Resolution 2628 of 2012, point 15, and the text of the FTA, Title IX, Article 277

39 Perfil Unión Europea, Oficina de Estudios Económicos, Ministerio de Comercio, Industria y Turismo, May 2016.

40 http://www.mintrabajo.gov.co/comision-permanente.html

41 http://www.eesc.europa.eu/?i=portal.en.events-and-activities-eu-colombia-peru-01

42 Perfil Unión Europea, Oficina de Estudios Económicos, Ministerio de Comercio, Industria y Turismo, May 2016.

43 Unión Europea, Ministerio de Comercio Industria y Turismo. Cartilla: Acuerdo Comercial Unión Europea – Colombia. May 2012; ABC del Acuerdo Comercial con la Unión Europea (http://www.mincit.gov.co/publicaciones.php?id=3406); EEAS press release: http://eeas.europa.eu/delegations/colombia/press_corner/all_news/news/2012/20120626_02_es.htm

44 El Cerrejón is owned by the multinational corporations Anglo American, Glencore and BHP Billiton (http://www.cerrejon.com/site/nuestra-empresa.aspx). Drummond is owned by Garry Drummond and the Japanese group ITOCHU (http://www.drummondco.com/about/history/)

45 See http://extractivismoencolombia.org/ and https://www.tni.org/en/publication/anglo-americans-dirty-energy-lobby-and-its-false-climate-solutions.

46 Colectivo de Abogados José Alvear Restrepo, Desalojo violento de comunidad afro Roche, La Guajira, favorece intereses de Carbones de Cerrejón, 26 February 2016. Available at: http://www.colectivodeabogados.org/?Desalojo-violento-de-comunidad-afro-Roche-La-Guajira-para-favorecer-intereses.

47 Fedepalma (2015). "Producción nacional de aceite de palma alcanza cifra récord de un millón 200 mil toneladas." Published on the organisation's website, Bogotá, 22 September 2015. Available at: http://web.fedepalma.org/produccion-aceite-palma

48 Statistical information system on the oil palm sector – SISPA. Available at: http://sispaweb.fedepalma.org/SitePages/Comercio2.aspx

49 Escuela Nacional Sindical. ¿Priorizados o nuevamente olvidados? Los cinco sectores estratégicos del Plan de Acción Laboral

50 See: http://justiciaypazcolombia.com/los-lideres-indigenas-y-de-la-sociedad-civil-piden-que-se-ponga-fin-a-las , http://www.colectivodeabogados.org/?Eliminar-la-intermediacion-por-contrato-sindical-exige-trabajadores-en-huelga http://www.colectivodeabogados.org/?Guardias-de-seguridad-empresa

51 http://www.poligrow.com/colombia-en-expo-milan-poligrow-contribuye-al-exito-del-proyecto-pais/ and http://www.poligrow.com/poligrow-primera-sociedad-en-colombia-con-toda-la-plantacion-de-palma-certificada-rasra/

52 For more information, see Comisión Intereclesial de Justicia y Paz, Los claro oscuros del grupo palmicultor Poligrow en Colombia, August 2015. Available at: http://issuu.com/comisionjusticiaypaz/docs/los_claro_oscuros_del_grupo_palmicu?e=3231018/14738543.

53 Human Rights Watch, Colombia: Nuevos asesinatos y desapariciones en Buenaventura, 23 June 2015. Available at: https://www.hrw.org/es/video-photos/video/2015/06/23/colombia-nuevos-asesinatos-y-desapariciones-en-buenaventura.

54 http://www.portafolio.co/negocios/empresas/apm-terminals-contara-puerto-propio-buenaventura-34682 http://www.eldiario.es/desalambre/Victimas-desarrollo-olvidadas-Colombia_0_512349700.html

55 SOMO, Free Trade Agreement EU, Colombia and Peru. Deregulation, illicit financial flows and money laundering, December 2012. Available at: https://www.somo.nl/wp-content/uploads/2012/12/Free-Trade-Agreement-EU-Colombia-and-Peru.pdf

56 El Tiempo, Cae en Bélgica cargamento de cocaína del Clan Úsuga, 9 March 2016. Available at: http://www.eltiempo.com/politica/justicia/cae-en-belgica-cargamento-de-cocaina-del-clan-usuga/16531740.

57 With regard to this, it can be said that the report produced by the Parliament itself includes additional elements for evaluating trade relations between the EU and Colombia and Peru. See: Directorate General for European Policies, European Parliament, EU trade relations with Latin America: Results and challenges in implementing the EU-Colombia/Peru Trade Agreement, 2016. Available at: http://www.europarl.europa.eu/RegData/etudes/STUD/2016/534992/EXPO_STU(2016)534992_EN.pdf.

58 Programa Somos Defensores, ¿Este es el fin? Informe enero – junio 2016 del SIADDHH, Bogotá, August 2016, p. 48. Available at: http://somosdefensores.org/attachments/article/140/este-es-el-fin-informe-semestral-2016.pdf.

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