

European Union Trade Agreement Negotiations with Latin American States:

Next Steps in the Climate, Sustainable Development and Trade Agenda

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1. Introduction

This note reviews the present state of play of European Union (EU) trade agreement negotiations with Latin American States for achieving and adopting further sustainable development and climate commitments. The focus is placed on two dimensions: i) the status of the negotiations processes for trade arrangements under negotiation, and ii) based on their Nationally Declared Commitments (NDCs) under Article 4 Paris Agreement notified in 2021, which trade-related environmental issues are shared between the EU and Latin American States.

2. Key EU Trade-Related NDCs

A wide range of trade-related commitments are listed in the EU NDC submitted in 2016. According to the original 2016 NDC report, EU greenhouse gas emissions reduction is set to cover the broad areas of energy, industrial processes and product use, agriculture, waste, and land use, land-use change and forestry (as set out in Decision 529/2013/EU).

The updated 2020 EU NDC is seen by the EU as “a significant progression beyond both its current undertaking of a 20% emissions reduction commitment by 2020 compared to 1990, and its NDC submitted at the time of ratifying the Paris Agreement. Both the initial NDC and this update require significantly higher emissions reductions than were projected as business as usual at the time of their adoption.” While it focusses on the Energy sector is contains an economy-wide objective and thus includes several trade relevant sectors such as agriculture, chemicals and wider manufacturing.

3. EU-MERCOSUR Association Agreement Negotiations

The EU negotiations with the Southern Common Market (MERCOSUR) – comprising Argentina, Brazil, Paraguay, and Uruguay, with Bolivia currently acceding – reached an agreement in principle on 28 June 2019, following which a process of finalising the legal text of the draft Association Agreement commenced. The eventual ratification of the agreement is uncertain after Austria, France, and Ireland have criticised the insufficiency of the proposed environmental and labour commitments (Reuters 2021). On 24 March 2021, the European Commission issued a Position Paper summarising the results of an independent sustainable impact assessment of the draft agreement: while ‘positive’ to ‘neutral’ welfare effects may be expected for the treaty parties, the assessment ‘highlight[ed] concerns in relation to the agreement’s potential impact on environment, in particular on deforestation’ (Commission 2021a, 21). Given the experience with the Canada-EU Agreement CETA, it is expected that significant changes could still be integrated in the ‘legal scrubbing’ process. Another expectation is that both the French and Brazilian elections will have to take place before

ratification can progress. The CISDL paper of May 2021 outlines several potential changes which legal experts from both sides of the Atlantic agreed would be beneficial (CISDL, 2021).

Based on the 2020 NDCs made by the EU and MERCOSUR States Parties, respectively, several trade-related environmental issue overlaps exist. The Brazilian NDC (2020), which is set to be updated per a 2021 letter by the Brazilian Foreign Minister to the effect, emphasises efforts in increasing reliance on renewable energy sources including through technological solutions, adopting low-carbon agricultural and animal husbandry policies, and improving forestry management. The Argentinian NDC (2021) adopts a cross-sectoral approach covering its entire economy approach, although it does not specify any exact trade-related environmental issues it would tackle. The Paraguayan NDC (2021) outlines 25 environmental objectives, including by promoting alternative energy resource use, adapting sustainable agriculture, farming and forestry management practices, promoting sustainable tourism, and constructing more resilient urban infrastructure. Uruguay has not submitted a new NDC since 2017.

4. EU-Mexico Global Agreement Renegotiations

While the EU and Mexico already trade under preferential terms based on the EU-Mexico Global Agreement, which entered into force in 2000, on 21 April 2018 both sides reached an agreement in principle following negotiations on reaching a renewed trade agreement. Since then, the final details of the text were concluded on 28 April 2020, with most recently published schedules being released in May 2020 (Commission 2020a). At present, the legal text of the agreement is being revised for the purposes of ratification. It is expected that important legal changes could still be included, particularly given the enhanced understanding of trade and climate change issues.

The updated 2020 Mexican NDC targets eight key economic sectors and identifies seven cross-sector actions and approaches. These actions include promoting clean and alternative transportation solutions, adapting to alternative energy sources and consumption practices, redesigning agricultural practices ‘considering environmental and climatic variables’, and adopting ecological restoration and net-zero deforestation programmes (Mexican NDC 2020, 23–27).

5. EU-Chile Association Agreement Renegotiations

The EU began negotiations with Chile on modernising the trade component of the EU-Chile Association Agreement in 2017, with the most progress report being issued following the 10th round of negotiations held between 19 April and 7 May 2021 (Commission 2021b). While the negotiations are progressing, there are reports that the conclusion of the agreement has been postponed following pressure from France owing to ‘agricultural sensitivities’ around the expected increase in Chilean poultry imports to the EU (Financial Times 2021).

Chile updated its NDC in December 2020 which includes a strategic move toward a national circular economy in order to adapt better waste management and energy use strategies, the adoption of better practices in forestry management (including mixed methods reforestation and promoting alternative uses of timber products) and land use, as well as the development of specific plans targeting agriculture and forestry, fisheries and aquaculture, energy, tourism and water resources.

6. EU Association Agreement with Colombia, Ecuador, and Peru

The EU Association Agreement has been provisionally applied since 2013 to Colombia and Peru, and since 2017 to Ecuador following the signing of the Protocol of Accession for Ecuador in 2016. There are no current plans for a further renegotiation of this Association Agreement; nonetheless, meetings are regularly held by the Trade Committee and the Trade and Sustainable Development Sub-Committee and it is expected that following the EU Trade and Sustainable Development Review 2021, there will be increased momentum to update this FTA.

Colombia and Peru both revised their NDCs in December 2020. In trade-related environmental issue areas identified in the Colombian 2020 NDC, focus is placed on the need for market approaches to deforestation, the development of forest plantations, technology transfer, and integrating greenhouse gas emissions-related externalities from both production and consumption processes, amongst others. More broadly, five issues identified in the Peruvian 2020 NDC are water (including hydrological resources), agriculture, fisheries, forestry management, and human health. At the time of writing, Ecuador has not issued NDCs since 2019.

7. EU Association Agreement with Central America

The EU concluded an Association Agreement with Central America – comprising Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama – on 29 June 2012. There are no negotiations on the review or modernisation of the agreement underway at present, and no such reviews have been formally proposed according to the most recent Association Committee meeting minutes (Commission 2021c). Regular discussions on the implementation of the agreement are organised at least annually within the Association Committee.

Honduras has issued its NDC for 2021 and both Costa Rica and Nicaragua updated theirs in late 2020. Among the trade-related environmental issues and strategies which Honduras (NDC 2021) identifies are the sustainable development of its agricultural and agroforestry sectors, tackling emissions from deforestation, transitioning to sustainable renewable energy resources and alternative fuels including biofuels, promoting low-emission mobility and the adoption of electric mobility across the country, as well as the development of efficient and durable urban infrastructure. In its 2020 NDC, Costa Rica emphasises sustainable transportation and mobility, transforming its industries and infrastructure with high efficiency and low-emissions processes, sustainable forestry management, and the development of its agri-food system. Similarly, Nicaragua (NDC 2020) highlights the need for an energy policy shift, the adoption of mitigating strategies for its cement industry, the development of a circular economy, and the need for a cleaner transportation sector.

**Annex A: Table Summaries of NDC Commitments and Trade Agreement
Renegotiations**

Mexican Environmental Priorities and Possible Trade Renegotiation Initiatives		
Key Mexican Nationally Declared Commitments	Current EU-Mexico Agreement Disciplines	Possible Trade Agreement Disciplines
1. Promoting Clean and Alternative Transportation Solutions	<ul style="list-style-type: none"> - Article 24 on cooperation in transport. - Article 27(2), Decision 2/2001 of the EU-Mexico Joint Council creating a general exception for measures ‘necessary to protect human, animal or plant life or health’ (para b). 	<ul style="list-style-type: none"> - Obligations to cooperate on clean domestic and international transport strategies. - Liberalising sustainable transport services. - Establishing broader general exceptions for achieving environmental commitments.
2. Adapting to Alternative Energy Sources and Consumption Practices	Article 23 on cooperation in energy.	<ul style="list-style-type: none"> - Obligations to cooperate on and promote the transition to clean energy. - Including environmental commitments to achieving clean energy objectives. - Preferential treatment and greater market access obligations for trade in clean energy and clean energy-reliant technology. - Dedicated renewable energy chapter. - Establishing general exceptions for achieving international environmental commitments.
3. Redesigning Agricultural Practices considering Environmental and Climatic Variables	Article 21 on cooperation in agriculture and the rural sector.	<ul style="list-style-type: none"> - Cooperation commitments on agricultural practices, common standards on agricultural production, and agricultural technology transfer. - Commitment to reducing GHG emissions from agriculture.
4. Adopting Ecological Restoration Programmes	N/A	<ul style="list-style-type: none"> - Cooperation commitments on environmental restoration; - Establishing general exceptions for achieving international environmental commitments.

<p>5. Adopting Net-Zero Deforestation Programmes</p>	<p>- Article 27(2), Decision 2/2001 of the EU-Mexico Joint Council creating a general exception for measures ‘necessary to protect human, animal or plant life or health’ (para b).</p>	<ul style="list-style-type: none"> - Establishing cooperation commitments on forestry management. - Exclusion of certain forest products from trade liberalisation or enhanced trade in sustainable forestry. - Broader general exceptions for achieving international environmental obligations.
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<p align="center">Chilean Environmental Priorities and Possible Trade Renegotiation Initiatives</p>		
<p>Key Chilean Nationally Declared Commitments</p>	<p>Current EU-Chile Agreement Disciplines</p>	<p>Possible Trade Agreement Disciplines</p>
<p>1. Strategic Move Toward a National Circular Economy, and National Plan for Energy</p>	<p>Article 22 on cooperation on energy.</p>	<ul style="list-style-type: none"> - Stricter provisions on public and private sector cooperation on waste and energy, as well as carve-outs from existing trade liberalisation obligations. - Liberalisation of environmental services. - Exceptions for achieving international environmental obligations, and broader framed or clarified exceptions for environmental protection.
<p>2. The adoption of better practices in forestry management and land use</p>	<p align="center">N/A</p>	<ul style="list-style-type: none"> - Specific commitments on cooperation and technical assistance in forestry management; - Exclusion of certain forestry products from trade liberalisation.
<p>3. National Plans on Fisheries and Aquaculture</p>	<p>Article 25 on fisheries policy collaboration.</p>	<ul style="list-style-type: none"> - Specific commitments on sustainable fisheries policies; - Obligations to eliminate fisheries subsidies;
<p>4. National Plans on Agriculture</p>	<p>Article 24 on cooperation on agriculture and rural sectors and sanitary and phytosanitary measures.</p>	<ul style="list-style-type: none"> - Commitments and cooperation on carbon-neutral agricultural practices; - Measurement of - Potential technology transfer commitments;

		- Commitment to reducing GHG emissions from agriculture.
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Environmental Priorities and Possible Trade Agreement Renegotiation Initiatives with Colombia, Ecuador, and Peru		
Key Trade Partner Nationally Determined Contributions	Current Association Agreement Disciplines	Possible Trade Agreement Disciplines
1. Market approaches to deforestation	- Article 273 on sustainable trade in forest products. - Article 286(d), (g) and (h) on trade and sustainable development cooperation.	- Establishing specific commitments on cooperation concerning sustainable forestry product trade. - Promotion of FSC and other standards. - Commitment to sustainable forestry.
2. Increased Forest Plantations	- Article 273 on trade in forest products. - Article 286(d), (g) and (h) on trade and sustainable development.	- Establishing EU commitments on increased cooperation, technology transfer, and technical assistance in reforestation activities. - Preferential treatment for sustainable forestry products.
3. Increased technology transfer for achieving sustainable development objectives	- Articles 195(b), 196(3), 197(5), 201(6), 255, 324(2)(b), inter alia, on technology transfer and relevant exceptions to disciplines.	N/A
4. Integrating greenhouse gas emissions-related externalities associated with consumption and production	Article 286 on cooperation on trade and sustainable development.	- Introducing precise treaty carve-outs and clarifying the scope of exceptions <i>vis-à-vis</i> environmentally harmful process and production methods.
5. Sustainable management of water resources	Concerning public procurement obligations, see general exception in Article 174(b) for measures ‘necessary to protect human, animal or plant life or health, including the respective environmental measures’.	- Introducing specific carve-outs from services liberalisation for public procurement of water resources. - Introducing exception for achieving conformity ‘with laws or regulations which are not inconsistent with the provisions of this Agreement’, and ‘relating

		to the conservation of living and non-living exhaustible natural resources' modelled on Article 106 concerning exceptions to the Title on Trade in Goods.
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Environmental Priorities and Possible Trade Agreement Renegotiation Initiatives with Central America		
Key Central American Nationally Determined Contributions	Current Association Agreement Disciplines	Possible Trade Agreement Disciplines
1. Sustainable development of Agricultural (including Agro-food) and Agroforestry Sectors	<ul style="list-style-type: none"> - Article 72(4) on developing a common agricultural policy. - Article 89 on agricultural export subsidies. - No differentiation of carbon-neutral agriculture. 	<ul style="list-style-type: none"> - Cooperating in technology transfer in the agricultural and agroforestry sectors. - Promoting carbon-neutral agriculture. - Enhanced access for low carbon impact agricultural and forestry and even agroforestry products.
2. Sustainable Development of Agroforestry Sector	<ul style="list-style-type: none"> - Article 20 on dialogue on the environment. - Article 50(3) on forestry cooperation. - Article 65(2)(c) on energy and renewable energy cooperation. - Article 289 on promoting sustainable trade in forest products. 	N/A
3. Tackling emissions from deforestation	<ul style="list-style-type: none"> - Article 20(2) on dialogue concerning 'the protection and sustainable management of forests to, inter alia, reduce emissions from deforestation and forest degradation'. 	<ul style="list-style-type: none"> - Deeper cooperation on addressing production-related externalities from deforestation, including through technology transfer.
4. Transitioning to renewable energy resources and alternative fuels (e.g., biofuels)	<ul style="list-style-type: none"> - Article 20(2) on dialogue, inter alia, on 'the research and development of alternative fuels and renewable energy technologies'. 	N/A

	- Article 65 on cooperation on energy and renewable energy policies.	
5. Promoting low-emission mobility, the adoption of electric mobility	Article 68(2)(d) on ‘improvement of safety and pollution prevention standards’ through transport cooperation.	- Specific commitments and readjusted rules of origin to promote production and trade in electric and low-emission vehicles.
6. Establishing durable domestic infrastructure	- Article 55(3)(c) on cooperation and technical assistance on IP and technology transfer, inter alia, aimed at ‘infrastructure and technology development necessary for the development of [Central American] people’. - Article 65(2)(a) on cooperation on energy policy for creating ‘interconnected infrastructures of regional importance’.	N/A
7. Establishing circular economies	- Article 50(3)(b) on cooperating on the fight against pollution through waste management. - Article 287 reaffirming obligations under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.	- Liberalisation of environmental services such as waste management. - Rapid recognition of zero waste product design.
8. Adopting Mitigating Strategies in the Cement Industry	- Article 64(1) on industrial cooperation, including promotion of ‘the modernisation and restructuring of Central American industry and individual sectors [...] with the objective of strengthening the private sector under conditions which promote environmental protection.’	N/A

Annex B: References

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