

RECOGNISING that the signatory Andean Countries are members of the Andean Community, and that the Decision 598 of the Andean Community requires that when its Member Countries negotiate trade agreements with third countries, the Andean legal system is preserved in the reciprocal relations between the Andean Community Member Countries;

RECOGNISING the importance of the respective regional integration processes of the European Union, and of the signatory Andean Countries within the framework of the Andean Community,

HAVE AGREED AS FOLLOWS:

TITLE I

INITIAL PROVISIONS

CHAPTER 1

Essential elements

Article 1

General Principles

Respect for democratic principles and fundamental human rights, as laid down in the Universal Declaration of Human Rights, and for the principle of the rule of law, underpins the internal and international policies of the Parties. Respect for these principles constitutes an essential element of this Agreement.

Article 2

Disarmament and non-proliferation of weapons of mass destruction

1. The Parties consider that the proliferation of weapons of mass destruction and their means of delivery, both to States and non-state actors, represents one of the most serious threats to international stability and security.

2. Consequently, the Parties agree to cooperate and contribute to countering the proliferation of weapons of mass destruction and their means of delivery through full compliance with and national implementation of their existing obligations under agreements, treaties and other relevant international obligations on matters of disarmament and non-proliferation.

3. In cooperating to contribute to the objective of disarmament and non-proliferation of weapons of mass destruction, the Parties agree to work together to achieve the universalisation and implementation of the treaties on these matters.

4. The Parties agree that paragraphs 1 and 2 of this Article constitute an essential element of this Agreement.

CHAPTER 2

General provisions

Article 3

Establishment of a Free Trade Area

The Parties hereby establish a free trade area, in conformity with Article XXIV of the General Agreement on Tariffs and Trade of

1994 (hereinafter referred to as 'GATT 1994') and Article V of the General Agreement on Trade in Services (hereinafter referred to as 'GATS').

Article 4

Objectives

The objectives of this Agreement are:

- (a) progressive and gradual liberalisation of trade in goods, in conformity with Article XXIV of the GATT 1994;
- (b) facilitation of trade in goods through, in particular, the application of the agreed provisions regarding customs and trade facilitation, standards, technical regulations and conformity assessment procedures and sanitary and phytosanitary measures;
- (c) progressive liberalisation of trade in services, in conformity with Article V of the GATS;
- (d) development of an environment conducive to an increase in investment flows and, in particular, to the improvement of the conditions of establishment between the Parties, on the basis of the principle of non-discrimination;
- (e) facilitate trade and investment among the Parties through the liberalisation of current payments and capital movements related to direct investment;
- (f) effective and reciprocal opening of government procurement markets of the Parties;
- (g) adequate and effective protection of intellectual property rights, in accordance with international rules in force between the Parties, while ensuring a balance between the rights of intellectual property right holders and the public interest;
- (h) conduct of economic activities, in particular those regarding the relations between the Parties, in conformity with the principle of free competition;

- (i) establishment of an expeditious, effective and predictable dispute settlement mechanism;
- (j) to promote international trade in a way that contributes to the objective of sustainable development, and to work in order to integrate and reflect this objective in the Parties' trade relations; and
- (k) to ensure that the cooperation for technical assistance and the strengthening of the trade capacities of the Parties contribute to the implementation of this Agreement and to the optimal utilization of the opportunities offered by it according to the existing legal and institutional framework.

Article 5

Relation to the WTO Agreement

The Parties reaffirm the existing rights and obligations between them under the *WTO Agreement*.

Article 6

Definition of the Parties

1. For the purposes of this Agreement:
 - 'Party' means the European Union or its Member States or the European Union and its Member States within their respective areas of competence as derived from the Treaty on European Union and the Treaty on the Functioning of the European Union (hereinafter referred to as the 'EU Party'), or each of the signatory Andean Countries;
 - 'Parties' means, on the one hand, the EU Party and, on the other hand, each signatory Andean Country.
2. When this Agreement provides for specific and individual commitments with respect to a Member State of the European Union or for a signatory Andean Country, this Agreement will refer to that specific country or countries as appropriate.
3. In accordance with Article 7, for the signatory Andean Countries the terms 'another party' or 'the other Parties' shall mean the EU Party, when such terms are used in this Agreement.

Article 7

Trade and Economic Relations Covered by this Agreement

1. The provisions of this Agreement apply to the bilateral trade and economic relations between, on the one part, each

individual signatory Andean Country and on the other part, the EU Party; but not to the trade and economic relations between individual signatory Andean Countries ⁽¹⁾.

2. The rights and obligations established by the Parties in this Agreement shall not affect to the rights and obligations between signatory Andean Countries as Member Countries of the Andean Community.

Article 8

Fulfilment of Obligations

1. Each Party is responsible for the observance of all provisions of this Agreement and shall take any necessary measure to implement the obligations under it, including its observance by central, regional or local governments and authorities, as well as non-governmental bodies in the exercise of governmental powers delegated to them by such governments and authorities ⁽²⁾.
2. If a Party considers that another Party has failed to fulfil its obligations under this Agreement, such Party shall exclusively have recourse to, and abide by, the dispute settlement mechanism established under Title XII (Dispute Settlement).
3. Without prejudice to the existing mechanisms for political dialogue between the Parties, any Party may immediately adopt appropriate measures in accordance with international law in case of violation by another Party of the essential elements referred to in Articles 1 and 2 of this Agreement. The latter Party may ask for an urgent meeting to be called to bring the Parties concerned together within 15 days for a thorough examination of the situation with a view to seeking an acceptable solution. The measures will be proportional to the violation. Priority will be given to those which least disturb the functioning of this Agreement. These measures shall be revoked as soon as the reasons for their adoption have ceased to exist.

Article 9

Geographical Scope of Application

1. This Agreement shall apply, on the one hand, to the territories in which the Treaty on European Union and the Treaty on the Functioning of the European Union are applied under the conditions established in those Treaties, and on the other hand, to the territories of Colombia and Peru, respectively ⁽³⁾.

⁽¹⁾ This provision shall not be interpreted to the detriment of the obligations established between the signatory Andean Countries and the EU Party in Articles 10 and 105.

⁽²⁾ The Parties understand that 'central, regional or local governments and authorities' includes all authorities and governmental levels of the Parties.

⁽³⁾ For greater certainty the Parties hereby declare that the references to territory contained in this Agreement shall be understood exclusively for purposes of referring to its geographical scope of application.

2. Notwithstanding paragraph 1, to the extent that the customs territory of the European Union (hereinafter referred to as the 'EU customs territory') includes areas not covered by the preceding territorial definition, this Agreement shall also apply to the EU customs territory.

Article 10

Regional Integration

1. The Parties recognise the importance of regional integration in furthering the economic and social development of the signatory Andean Countries and of the European Union, enabling to strengthen the relations between the Parties and to contribute to the objectives of this Agreement.

2. The Parties recognise and reaffirm the importance of the respective regional integration processes between the Member States of the European Union and between the Andean Community Member Countries as a mechanism to achieve greater trade opportunities and foster their effective integration into the global economy.

3. The Parties recognise that progress in Andean regional integration will be determined by the Andean Community Member Countries.

4. The Parties recognise that the signatory Andean Countries must preserve the Andean Legal System in the relations between them, in accordance with Decision 598 of the Andean Community.

5. Having regard to the aspiration of the Parties of achieving an association between the two regions, when all the Andean Community Member Countries become Parties to this Agreement, the Trade Committee will re-examine the relevant provisions, particularly this Article and Article 105, with a view to adapting them to the new situation and supporting regional integration processes.

CHAPTER 3

Definitions of general application

Article 11

Definitions

For the purposes of this Agreement, unless otherwise specified:

- 'days' means calendar days, including weekends and holidays;
- 'good of a Party' or 'product of a Party' means domestic products as these are understood in the GATT 1994 or such goods or products as the Parties may agree, and includes products or goods originating in that Party as defined in Article 19;

- 'juridical person' means any legal entity duly constituted or otherwise organised under applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship, or association;

- 'measure' means any act or omission of a Party, including laws, regulations, procedures, decisions, administrative acts or practices, or any other form;

- 'person' means a natural or juridical person.

TITLE II

INSTITUTIONAL PROVISIONS

Article 12

Trade Committee

1. The Parties hereby establish a Trade Committee. This Committee shall comprise representatives of the EU Party and representatives of each signatory Andean Country.

2. The Trade Committee shall meet at least once a year at the level of Ministers or the representatives that such level may designate. In addition, upon written request of a Party, the Trade Committee may meet at any time at the level of senior officials designated to take the necessary decisions.

3. The Trade Committee shall meet on a rotational basis, in Bogota, Brussels and Lima, unless the Parties agree otherwise. The Trade Committee shall be chaired by each Party for a period of one year, on a rotational basis.

4. Without prejudice to paragraph 1, the Trade Committee may meet in sessions where the EU Party and one signatory Andean Country participate, regarding matters which:

- (a) relate exclusively to the bilateral relationship between the EU Party and such signatory Andean Country; or
- (b) have been discussed in a session within a 'specialised body' in which only the EU Party and one signatory Andean Country have participated, and that matter has been referred to the Trade Committee.

If another signatory Andean Country expresses interest in the matter to be discussed in such session, it may participate in the session subject to prior agreement of the EU Party and the signatory Andean Country concerned.