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The Andean Community and the European Union

Crisis on the Free Trade Agreement negotiations?

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In fact, even though the forces behind the Neo-liberal and free trade Project are strong, the Return Directive, which has fed a certain reciprocal mistrust and the serious internal crisis in the CAN, highlighted by the pressure from Brussels, give way to a scenario in which the cancellation of negotiations is not surprising. Neither will it be surprising should these be definitely aborted while the EU and the Peru-Colombia axis look for another formula in order to reach the longed-for FTA.

The question is: should the dialogue be re-started, when will this happen? On which bases? Will they insist on the block negotiations formula or will individual negotiations begin with certain CAN countries? Whatever happens, it is unlikely that the EU gives up to the formulas that from Bolivia or Ecuador seek to mitigate the most damaging aspects of international trade and alter, even if only timidly, Neo-colonial and dependence relations in North-South trade. We cannot expect the EU, already consolidating their imperialistic “Global Europe” Project (despite the Irish mishap with the Lisbon treaty) to look for solidarity exchange formulas for the people, since these formulas can only be construed from the people.

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the 14th of August, in which it was made clear that there shall be no agreement for a joint position on these issues, so that the destiny of block negotiations becomes suspended²¹.

But the EU probably considered, at the time of cancelling the round, the problems which might have aroused from the reject reaction in all Latin America against the new immigration policies passed in June. The Return Directive, which so far seems to be yet another obstacle in the advance of negotiations and certainly generates resistance in the Andean countries with an important number of immigrants in Europe and would have been an uncomfortable issue to discuss at a time when Brussels was receiving darts from all fronts, including international human rights organizations, is an extremely repressive legislation which even foresees the separation of sons and parents in the event of deportation and a retention up to 18 months in special detention centres. The most serious side of the problem is that, during the Third Round of Negotiations of the EU-CAN AA in Quito, the EU had committed to integrate the issue of migration on the 4th round of negotiations. By passing the legislation and ignoring the commitment to deal with the issue with the CAN on the Brussels round, the EU do not show much respect for their Andean “associates”, and show that their negotiation style is very democratic in theory, but quite the opposite in fact.

It is not very likely that Uribe or García go beyond expressing their “discomfort” (in fact they have no alternative, given that there are two million Andean immigrants in Europe), but Correa, as the current president of the CAN, placed the negotiations below the need to derogate that directive. In his own words, “*In the event that (...) the migrant population’s rights are seriously affected (...) my government will seriously consider retiring of the Association Agreement negotiations*”²².

²¹ www.portafolio.com.co

²² www.gloobal.net See page 3

What will happen after the negotiations?

Faced with all these difficulties, it was to be expected that the fourth round of the negotiations, which should have taken place at the beginning of July, has been cancelled unilaterally by the EU, arguing that the CAN could not agree on their position towards issues of European interest, such as services or Intellectual Property (which was “solved” in mid August).

On the one hand, both Ecuador and Bolivia oppose an FTA, even if the recent decision of the Ecuadorian Government to support the alteration to Resolution 486 on Intellectual Property¹⁸, which aggravates the crisis at the CAN¹⁹, seemed to indicate that Ecuador is willing to make concessions to the Neo-liberal counterpart (Peru and Colombia) of the CAN than Bolivia. In turn, neither Colombia nor Peru are willing to make any concessions and, spurred by the EU, they seem to be ready to break off if necessary in order to push forward an FTA with the EU.

However, it seems that to pass this FTA will not be so easy, seen the current force balance of the CAN and above all, considering the opposition it would have to face in Bolivia, Ecuador and Peru, where the popular movement, after a series of strikes and demonstrations which have been hardly repressed by Alan García’s government, seems to be on the raise again.

Correa, in his letter to the EU, refers to this in a more or less clear manner: *“I believe it is necessary to ratify my government’s decision, which goes beyond the relation with the EU of not negotiating free trade agreements with any country. We believe in trade, but not in the irrational and indiscriminate opening of markets”*²⁰.

Also, the differences in the Areas Of trade and sustainable development remain unsolved, even after the extraordinary meeting on

¹⁸ peru21.pe

www.elcomercio.com.pe

¹⁹ espanol.news.yahoo.com

²⁰ www.gloobal.net See page 4

The unexpected cancellation of the fourth round of negotiations for the Association Agreement (AA) of the European Union and the Andean Community (EU-CAN), which should have taken place between the 7th and the 11th of July, has evidenced the serious difficulties this AA is going through in the current situation and which compromise its viability, at least in the terms in which it had originally been presented. In this article we intend to provide an overview of the milestones in this negotiation and, while at it, to reveal its true nature: that of a new Neo-liberal colonialist imposition disguised as an “association”.

The EU-CAN AA: a wedge for imposing a FTA

The EU-CAN AA is an instrument that intends to re-define relations between the South-American region and the EU based on negotiations of three main areas: trade, political dialogue and cooperation¹. For a year, in response to the complaints of several popular movements, the EU repeated again and again that these agreements do not constitute a Free Trade Agreement, but that they go beyond that and understand free trade as an aspect in harmony with social and political goals with the altruistic mission of “helping” Andean development at the core. And all this despite that one of the explicit goals of the agreement would be the establishment of a timescale (under no circumstances over 10 years) for a Free Trade Area. However, even if the EU denies the AA being nothing but disguised FTA, the Neo-liberal nature of these negotiations became clear from the very beginning of the negotiations in Bogota (September 2007).

But it was not until the Third Negotiations Round, held in April 2008 in Quito, that the pro-development façade of these agreements started to fall. It was then when all the elevated social-democrat rethorics gave place to the true Neo-liberal nature

¹ This can be seen with a little more detail at www.anarkismo.net

of the AA. Up to then, this had been more than obvious, since the allegedly harmonious balance between the pillars was refuted in practice by the fact that, out of 14 working groups, 11 are doomed to the trade pillar. In that occasion three negotiation tables were blocked (services and investments, intellectual property and trade and sustainable development). Then, the Bolivian government, backed by Ecuador, demanded that for free trade to be established not only temporary variables should be considered (a timescale of no more than 10 years according to the European proposal), but also to take into account the need to exclude issues of the agenda, such as the privatization of services and public contracts, as well as the establishment of clear landmarks of a social nature, and not merely calendar timescales in order to bring about a trade opening-up. Moreover, the free trade agreements developed by Peru and Colombia with the US² were used as a starting point in this occasion for the commercial negotiations.

This Neo-liberal nature, in case someone had any doubts, became apparent in May in a worryingly aggressive manner when in Lima. During the 5th Summit of Chiefs of State of Latin America, the Caribbean and Europe, the EU'S Commissioner for Trade Peter Mandelson suggested at a EU-CAN meeting that the AA was essentially an FTA and that he would not accept any proposals outside this frame, as well as adding that whoever should insist on these proposals (directly referring to Bolivia) would be excluded from the Fourth Round of Negotiations³. Even though Euro MP Helmut Harkov, President of the Commission for International Trade at the European Parliament hurried in contradicting Mandelson and outlining the need to reinforce the pillars of political dialogue and cooperation at the same time as seeking alternatives to free trade

² I would like to thank Søren Stecher-Rasmussen, coordinator of the EU-CAN network based on Brussels, for his excellent work on following the negotiations and for constantly updating different organizations and movements on the development of these agreements.

³ www.asc-hsa.org

of the FTA with the EU would have for the same reasons we have already mentioned in relation to the Peru-US FTA. Colombia and Peru, in such case, would end up mediating for the products and capitals of those powers enter the CAN duty-free.

This division inside the CAN, as a matter of fact, is not so circumstantial and responds to the small cold war in the continent between the sectors following the Washington Agreement (ever more minority) and the populist and “progressist” governments. This was clearly stated by the President of the National Confederation of Private Business Institutions of Peru (CONFIEP), Jaime Cáceres Sayán, who stated:

“Peru must insist in distancing themselves as much as they can from Chávez (...) we have to detach ourselves totally and deal with other countries in which the FTA with the EU is achieved”, he expressed. However, he said that if block negotiation was not to be possible, “I believe that as Peruvians we should do all we can to achieve it individually”¹⁶.

In their eagerness to promote the FTA at all costs the EU, even if they are not creating the actual contradictions already existing at the core of the CAN, they are exacerbating them up to the point of becoming a pressure factor which could lead to an imminent breakdown of the Community. Such a role is, to say the least, contradictory with the initial objective of the AA according to what has been expressed by the EU: *“An important aspect of this agreement is that it shall be negotiated from region to region in order to give a greater impulse to the regional integration process of the Andean Community”¹⁷.* That is, once again we are faced with a situation in which the EU promises are totally contradicted by reality.

¹⁶ www.adnmundo.com

¹⁷ “Commission’s recommendation to the Council authorizing the Commission to open negotiations for the conclusion of an Association Agreement between the European Community and its Member States and the Andean Community and its Member Countries”. p.6

feel “ready”. This is neither democratic nor it responds to the need for a negotiation as such, which implies that a meeting point not unacceptable for any of the parts must be found. However, the EU has not proved willing to make the effort.

The governments of Colombia and Peru rapidly echoed Mandelson’s words. Peruvian Minister for Trade, Mercedes Aráoz, was the one who first indicated the involution of the negotiations by skating that “*it is necessary to accelerate the signing of the Free Trade Agreement (FTA) between the Andean Community (CAN) and the European Union (EU), as long as the priorities of the Andean countries are respected*”¹². Aráoz added that “*advance is being made at different paces. Peru wants to go faster, and we believe that negotiations could end before March 2009*”¹³. Peruvian President Alan García backed this, showing that her views were more than a mere mishap by a somewhat irresponsible Minister: “*We have to understand that chances might be missed if we start debating philosophical issues. Should this happen, other countries would take advantage of the relationship with Europe*”¹⁴.

In turn, right-wing Colombian President Álvaro Uribe expressed his views in similar terms: “*I am of the idea that those countries who have declared to be ready to begin the negotiations should respect all paces, all flexibilities, all decisions on the issue made by Bolivia and Ecuador, and at the same time we should state that we respect Colombia and Peru’s will to walk towards a prompt conclusion of negotiations*”¹⁵.

Indeed, this tendency to spur two parallel negotiations deepens the crisis in the CAN and jeopardises its viability as an economic block, that without mentioning the impact that the implementation

¹² www.adnmundo.com

¹³ www.adnmundo.com

¹⁴ adnmundo.com Other representatives of the Peruvian bourgeois block, such as Peruvian economist Pablo Kuczynski, did also agree with this stance: www.adnmundo.com

¹⁵ www.adnmundo.com

(such as reinforcing the SGP+ system)⁴, the Neo-liberal emphasis on the negotiations was already evident, even to the eyes of the most guillable person⁵.

Evo Morales, referring to Mandelson’s words, referred to the imposition of an FTA on behalf of the EU in these harsh terms: “*It is not possible for them to tell us: accept the format of the Free Trade Agreement or else you are out of the negotiations (...) We want trade, yes, but a fair one, one which will allow us to seek balance between continents, between families*”⁶.

Crisis at the CAN?

But at the summit in Lima it also became apparent that Andean integration through the CAN is cracking everywhere: the push of free trade bi-lateral agreements with the US, both by Colombia and Peru, had already caused a recent crack when in 2006 Venezuela decided to retire from the Community pleading that these damaged the community as a whole. Venezuela’s withdrawal did not mean the end of problems brought about by those FTAs: in fact, Bolivia have never hidden their intention of suing Peru in the event that they implement the FTA already approved with the US in these months, since they claim that it would not only be contrary to Andean regulations, but it would also have a negative impact on the rest of countries. This, for a very basic reason: the CAN being a market in which products circulate free of taxes, **the fact that a**

⁴ The Generalized Preference System (SGP+) is a system that allows, as an exception to the principle of trade equality between the members of the WTO, some countries (the so-called underdeveloped ones) to export certain products duty free to some other countries in the so-called First World without the obligation for the latter to obtain a profit out of this. According to this scheme, 90% of Andean imports enter Europe duty-free since 2005.

⁵ Harkov’s full response to Mandelson can be read at www.enlazandoalternativas.org

⁶ www.bilaterals.org

country enters an FTA with the US or any other country results in the products or investments of those third countries entering the rest of the countries outside the Agreement, using the CAN country which signed it as a springboard.

Up to now, its regional nature (from block to block of the negotiation) has put some pressure on the CAN, aggravating the marked social and economic differences of the four member states, their disparate political views and thus encouraging centrifugal differences. Both the governments of Bolivia and Ecuador have stated that they do not want an FTA and that they expected the EU to keep loyal to their promise of doing something else with the AA. It is worth mentioning that, if they ever sincerely believed in the honesty of the “pro-development” and “socio-democrat” promises of the EU, even after Mandelson made public the orientation of the European block in his document “Global Europe”, then they would either be incredibly naïve or else incredibly ill-advised.

On the other hand, the governments of Peru and Colombia have revealed an addiction to free trade even larger than that of their European peers, and have entered an acute disagreement on the issue of intellectual property with Bolivia⁷, particularly regarding biodiversity patents: last August 14th Resolution 486 on Intellectual Property was modified⁸, which is fundamental in order to promote the Peruvian FTA with the US and also the AA. By means of this, they seek to change the compulsory nature of the Resolution and turn it into a sheer recommendation in order to “*extend the deadlines and facilities in applying for patents and multi-class registrations of brands; Introducing additional specifications limiting the divulgation of an invention; Compensating for delays in the granting of a patent; Eliminating the compulsory nature of registering licence contracts of brand uses; Giving greater protection to brands faced with*

⁷ www.bilaterals.org

⁸ www.elcomercio.com.pe
www.elcomercio.com.pe

*denominations of origin; Establishing a greater control in intellectual property at the borders that would be extended to shippers.”*⁹

Parallel negotiations?

This internal contradiction in the CAN has been skilfully utilized by an EU with a perennial imperialist vocation which sees with special interest a market that, even though nowadays relatively insignificant, is potentially important with 97 million people and an ever-growing between the two blocks¹⁰.

This is how the EU starts to change its discourse, from the emphasis on regional negotiation, towards a parallel negotiation: Ecuador and Bolivia, on the one hand, Colombia and Peru on the other. From the negotiation with the former economic issues World be excluded, while with the latter they could advance in the creation of the FTA. According to Mandelson, “*if they (Bolivia and Ecuador) feel that the time is not ripe for entering the same commitment that, for instance, Colombia and Peru feel they can subscribe, then I respect their wishes*”, adding that both countries may subscribe what was agreed with Colombia and Peru whenever they feel “ready”¹¹.

It all sounds very democratic, but (there’s always a “but”) the problem is that this is a deceitful and seemingly democratic way (as everything in the EU) of ignoring the proposals coming from Ecuador and Bolivia that are alternative to free trade. With this, the EU proves not to be interested in dialogue, but in imposing a Neo-liberal agenda. If Bolivia or Ecuador do not want to accept these conditions right now, they Hill have to do it sooner or later, and after being excluded from the negotiation and alter their proposals have all been discarded, they will have to eventually accept what has been negotiated by Peru and Colombia whenever they

⁹ www.asc-hsa.org

¹⁰ www.elcomercio.com.pe

¹¹ www.elcomercio.com.pe