

Democracy in EU-Latin American Trade Relations: Challenges and Perspectives

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Abstract

This Working Paper analyzes the value of democracy in trade relations between the European Union (EU) and its partners, focusing on the case of Latin America (LA) through three main thematic axes: first, the role of the EU as a significant global actor that includes promoting democracy in the exercise of its external action. Secondly, trade relations with Latin America and the democratic clause in trade agreements are analyzed. Finally, reflections are offered on the criticisms, challenges and possible strategies for strengthening cooperation between the two regions, including the effective promotion of democratic values. All this is based on the recognition that the EU is the most influential actor in areas such as development cooperation and regional integration. At the same time, Latin America is a region that broadly shares some European values such as democracy and could benefit from cooperation to promote its growth while pursuing sustainable development. Although both the EU and Latin America incorporate the promotion of democracy through democratic clauses in their trade and association agreements, both bilateral and bi-regional, the implementation of these provisions has not been consistent, which calls into question the efficiency of this instrument given the EU's aspiration to promote democracy through its trade relations.

Key words: Bi-regional integration, democratic clause, trade, international relations

1. Introduction: The European Union and the promotion of democracy.

The EU is considered by some authors to be a *sui generis* international actor, characterized by a complex nature and a foreign policy encompassing multiple dimensions and levels.³ From its constitution to date, the EU has established and maintained itself as a significant actor in international relations, as the leading regional integration project and the largest donor of development aid. It has also proclaimed a series of fundamental values centered on democracy, equality, human rights, and freedom, among others.

Democracy is a fundamental pillar of European public policies, official declarations, and legal frameworks. Also, it is actively promoted in the EU's international and external relations

with strategic partners. Since the Schuman Declaration of 1950, widely regarded as the founding text of the European Communities, intrinsic values such as equality, solidarity, and cooperation were established, with the need to maintain global peace as the foundation for economic and trade relations.

The development of these values can be seen from the founding treaties, such as the 1957 Treaty of Rome, where the pillars of the creation of the European communities went beyond economic component to lay the foundations of a solid political structure. The EU has promoted democracy as a prerequisite for membership, a commitment that was reinforced with the Maastricht Treaty of 1993, which created the Union. In addition, together with the accession criteria for candidate states, known as the Copenhagen Criteria, the EU's commitment to democracy in its member states is further reaffirmed, as this value is enshrined in the fulfillment of the political criteria.

Similarly, Article 21 of the Treaty on European Union states that the promotion of democracy, the rule of law, human rights and respect for international law and principles are fundamental premises for the implementation of any agenda and for the establishment of any negotiation with its partners. Thus, the exercise of its external action and international relations are based on EU norms and policies, as well as respect for European values and interests.⁴

In a similar way, the EU Action Plan for Human Rights and Democracy 2020-2024 prioritizes: “to protect and empower people; to build resilient, inclusive and democratic societies, to promote a global system of human rights and democracy”.⁵ This underscores the need to continue strengthening this value within Europe while expanding its influence globally.

Democracy also plays a crucial role in the EU's trade relations at the international level. As the world's largest trading bloc, the EU is a major player in global trade with more than 40 trade agreements in force concluded with 70 partners around the world.⁶

Regarding its trade policy, Article 206 of the TEU states that “the Union shall contribute, in the common interest, to the harmonious development of world trade, the progressive abolition of restrictions on international trade and foreign direct investment, and the lowering of customs and other barriers”.⁷

Thus, the EU is not only limited to promoting its economic interests, but it also uses its commercial weight to promote its fundamental values at the global level. This is reflected in the inclusion of clauses such as the democracy clause in the trade and association agreements it signs with third countries. This clause establishes respect for democracy, human rights and the rule of law as essential conditions for cooperation, as well as for the maintenance of economic and trade relations. Respect for democracy should be understood as the European Union's commitment to strengthening the democratic principles of the states with which it maintains relations, particularly those with which it engages in development cooperation. In this context, the EU

applies the democracy clause in two ways: positively, by using it as a mechanism to promote the adherence to democratic standards and human rights, which, in turn, serves as a key factor for increasing development aid; and negatively, by suspending, modifying, or conditioning the delivery of aid to countries that violate these principles. Over time, this approach has been formalized through specific clauses in trade agreements, as exemplified by the EU-Colombia-Peru trade agreement, where Title I, Chapter I, Article 1 designates respect for democratic principles and human rights as essential elements of the agreement.⁸

Therefore, it could be understood that, in an effort to uphold its values, the EU promotes and incorporates them as parameters of reference in its trade relations with third parties, aiming to foster democracy within the territory of its strategic partners.

The purpose of this Working Paper is to present a review of democracy as a value in the trade relations between the EU and its partners, with special attention to the lessons learned and opportunities observed in its relations with Latin America. To this end, this Working Paper adopts an interdisciplinary perspective grounded in international relations and international law. It is based on a review of existing international literature, official European Union documentation such as treaties and communiqués, as well as a review of the trade agreements. The aim is to analyze the extent to which the EU's aspirations regarding the promotion of democracy through its trade agreements have been realized. In this vein, following this introduction, the document conceptualizes the democratic clause and its historical context. The document then focuses on the trade relationship between the EU and Latin America at the bilateral and bi-regional levels. Subsequently, some reflections are offered on the challenges and opportunities observed in practice and, finally, conclusions are drawn aimed at new research agendas.

2. The Democratic Clause in trade agreements

The EU trade policy gives special relevance to respect for democracy and its institutions, as well as to the guarantee of human rights, as means or strategies to avoid conflicts and guarantee peace.⁹ Recognizing the need to strengthen these principles in its partners regions, the EU incorporates in its trade association agreements the legal figure known as the “democratic conditionality clause” or “democratic clause”.

This clause is an instrument that the EU includes in its trade agreements to guarantee or promote the preservation of democracy and the guarantee of human rights. Humberto Cordero identifies two modalities of the democracy clause: (i) positive and (ii) negative. The positive modality allows increasing aid to countries that show improvements in the protection of human rights and the democratic regime, as established in the Resolution of the European Council of

November 28, 1991. The negative modality, on the other hand, empowers the EU to impose sanctions in cases of gross and systematic violations of human rights or democratic disruptions that threaten international peace and security.¹⁰

This clause was incorporated selectively into certain association and trade agreements until 1992, when it was systematically included and subsequently standardized in all international agreements, concluded with third countries in which the EU provided some type of assistance.¹¹

As explained by Cintia Diaz-Silveira Santos, this process began with the Lomé IV Convention of 1989 and the Cooperation Agreement with Argentina in 1990 and continued with the inclusion of this clause in successive framework and association agreements, both in terms of trade and cooperation. Subsequently, through the Resolution of September 20, 1996, on respect for democratic principles in agreements between the EU and third countries, its incorporation was systematically established in all new agreements signed by the European Community. Finally, with the signing of the Partnership Agreement between the African, Caribbean, and Pacific (ACP) States and the European Union in Cotonou in June 2000, the human rights clause acquired, for the first time, the status of an “essential element” of the agreement, thus giving it legally binding value. However, on June 25, 2005, this agreement was revised, and Cotonou came to be conceived as an instrument that required further development through specific trade and cooperation agreements. As part of this revision, and to provide greater regulatory clarity, Article 9 of the agreement was renamed “Essential elements regarding human rights, democratic principles and the rule of law, and a fundamental element regarding good governance”. It should be noted that the human rights clause was introduced in Latin America at the request of Argentina when, on April 2, 1990, the country signed the Framework Agreement for Trade and Economic Cooperation with the European Union. Since then, its inclusion in international agreements has become established as an essential mechanism for the promotion and protection of fundamental rights within the European Union's foreign policy.¹²

In the agreements signed with Latin America, as will be seen throughout this document, this clause has been included to strengthen the promotion of democracy in the region. The next section provides an analysis of these cases.

3. EU-Latin America Relations: Trade Agreements and Democracy Promotion

Cooperation relations between Latin America and the European Union are based on historical and cultural foundations. In the political sphere, the EU has played a significant role,

especially since the 1980s and 1990s, in supporting various initiatives related to the promotion of democracy and peace building in the Latin American region.

More recently, both regions have managed to maintain a certain rapprochement which, however, as will be seen below, has not been consolidated. There are many issues that require a more solid cooperation between the two sides, since global challenges such as climate change, sustainable economic development, the promotion of democracy, multilateralism, human rights and others, reaffirm the need for joint efforts to develop effective solutions.

For context, the bi-regional strategic partnership began to be strengthened in 1999 within the framework of the Rio Summit, at which time both regions agreed to promote the consolidation of Euro-Latin American relations based on trade exchange, cooperation and multilateralism, and the defense of their common values.¹³

In this context, trade is one of the fundamental axes of bi-regional relations. Within this framework, the European Union's trade relations with Latin America (LA) have particularly strong links; the EU is one of the main investors in LA and its third largest trading partner.¹⁴ Specifically, the EU's trade relations with its partners are managed through trade agreements, which, in the words of the Council of the European Union, aim to "improve trade opportunities and overcome related barriers".¹⁵ Likewise, the Union's trade policy is a tool through which the EU aims to promote its principles and values such as democracy, the defense of human, social and environmental rights.¹⁶

The European Union currently has trade agreements with the Central American group (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama) and with three countries of the Andean Community (Colombia, Ecuador and Peru), as well as bilateral agreements with Mexico and Chile to regulate their trade relations. In addition, the EU has established bilateral framework agreements with each of the founding members of Mercosur (Argentina, Brazil, Paraguay and Uruguay), and an EU-Mercosur interregional framework agreement, negotiations for which were finalized in December 2024.¹⁷ Trade agreements have been classified into first, second, and third-generation agreements. This classification arises from the need to encompass significant aspects that extend beyond the traditional economic and commercial elements associated with market access, incorporating principles such as democracy, the promotion and protection of human rights, and environmental sustainability. For instance, the European Union's trade agreements, like those mentioned above, are considered third-generation agreements as they include democratic conditionality clauses, for the exercise of economic and trade relations with these strategic partners.¹⁸

Although affinities and needs of a solid cooperation are evident, relations between the two regions have remained somewhat stagnant and below their potential.¹⁹ This has opened spaces for other actors such as China, which is beginning to gain greater prominence in Latin

America without imposing democratic conditions in its agreements. In 1993, only 2% of Latin American exports were destined for China and by 2013, the percentage had risen to 9%. By 2022, China was the destination for 12.98% of Latin America's exports and the origin of 20.97% of its imports.²⁰ Likewise, Latinobarómetro data in 2022 showed that China is considered a better partner compared to the EU in the areas of: digital technology, infrastructure, trade and investment.²¹

On the other hand, the United States continues to be the region's main trading partner, concentrating 41.7% of its exports and being the origin of 31.27% of its imports²², being considered, according to Latinobarómetro, a better partner than the EU in issues related to: the fight against drug trafficking and health. The EU, for its part, maintains its leadership in areas such as: the environment, the fight against poverty and inequality, culture and education, and the strengthening of democracy.²³ However, this context may shift in the short to medium term due to the recent change of government in the United States, with the arrival of President Donald Trump and the implementation of new policies regarding U.S. cooperation with Latin America. This dynamic inevitably creates opportunities for other global powers, such as China, to further consolidate their presence in the region.

This scenario demonstrates the challenge that the EU currently faces in terms of the influence it can have in Latin America. In addition, the democratic clause may be perceived as an additional obstacle that the EU imposes compared to other global actors.

The current challenge is to consolidate bi-regional relations.²⁴ This means being able to promote a common agenda and move towards more horizontal relations. An advance towards this consolidation could be the Joint Declaration of the Signatory States Parties of MERCOSUR - Argentina, Brazil, Paraguay and Uruguay - and the European Commission on the conclusion of the negotiations of the Association Agreement held on December 6, 2024, which marked the end of negotiations between the two blocs after more than two decades since its inception.

3.1 EU-Mercosur Bi-regional Relations

In the Latin American context, the integration process of the Southern Common Market (MERCOSUR) originated in the 1980s, driven by the domestic and international circumstances faced by the founding countries. Brazil and Argentina decided to strengthen their trade ties through the “Declaration of Iguazú” on November 30, 1985, which was later joined by Uruguay in 1988. Paraguay's entry, however, faced difficulties due to the dictatorship of Alfredo Stroessner, which ended in 1989.²⁵

Neither the Treaty of Asunción, which constituted MERCOSUR, nor the Ouro Preto Protocol expressly mentions the promotion of democracy or human rights. However, in 2011, the

Ushuaia II Protocol was adopted, which establishes sanctioning measures in case of violation of the constitutional order or situations that put democratic principles at risk.²⁶ This is evidence of the existence of a democratic clause within MERCOSUR, which in principle would facilitate trade relations between the two regions because they share common values. In this case, the democratic clause would be declarative and is part of the need to comply with the standards that the European integration model promotes among its strategic partners.

In the framework of the bi-regional trade negotiations between MERCOSUR and the EU, according to Insignares Cera, there are three key stages up to 2005: The first stage (1995-1999) resulted in the signing of the Interregional Framework Cooperation Agreement, which came into force in 1999 and included political, economic and trade chapters. During the second stage (1995-2004), negotiations stalled due to disagreements over import quotas for key products such as beef and the enlargement of the EU towards Eastern countries. The third stage (from 2005 onwards) was characterized by the relaunching of negotiations between the blocs.¹⁹ More recently, the existence of a fourth stage could be affirmed, in which the negotiation process has been unblocked and is in the process of being signed by all the States parties belonging to both regions.

Although there are structural challenges within MERCOSUR, such as social inequality and democratic deficiencies, the EU could contribute to the strengthening of this block through technical advisory missions to facilitate the improvement of its free trade zone and promote more efficient economic integration. Similarly, there are still challenges related to trade in beef and dairy products, which are sensitive products for both regions, as well as environmental issues that are marked by an unharmonized political agenda within the different member states.

4. Challenges and opportunities

Despite its potential, the democracy clause has been criticized for its selective application, and this represents its main challenge. Within the Latin American context, an example can be found in the Association Agreement between the EU and Central American countries, which not only regulates trade in goods and services, but also includes specific commitments on democratic governance and human rights. Similarly, free trade agreements with countries such as Colombia and Peru incorporate chapters dedicated to sustainable development and the protection of fundamental rights, reaffirming the EU's vision that trade can be a tool to promote democracy and political stability with strategic partners.

However, the application of democracy clauses has been perceived as inconsistent or permeated by geopolitical interests. The lack of a specific mechanism for the protection of human rights weakens the democratic clause and turns it into a declaration of intent. For this

reason, some authors even suggest the need for a possible reform of the Treaty on the Functioning of the European Union (TFEU) to establish suspensive procedures in the event of human rights violations.²⁷

In practice, the EU has rarely suspended trade agreements for non-compliance with this clause, an example includes the cases of Israel, Turkey and Sudan, where human rights violations did not generate significant consequences on the trade relations between these states and the EU.²⁸ Likewise, the agreement with Morocco in 2000 was maintained despite violations against Saharawi refugees, due to the EU's economic interests in fisheries in this area.

It is important to emphasize that, regarding the promotion of democracy, two main approaches should be considered: (i) its application based on EU values, and (ii) its implementation through the inclusion of the democratic clause in trade agreements with strategic partners. The latter is the focus of this document. This distinction allows us to observe that, in practice, the application of the democratic clause in Latin America has been inconsistent. A few examples illustrate the democratic weaknesses present in certain countries: Venezuela, where trade relations persist despite sanctions; Brazil, under the Bolsonaro administration, during which democratic institutions were weakened; and El Salvador, where democratic concerns were raised, but no specific actions were taken against the government.

Haiti represents a unique case in international trade and cooperation, marked by the joint intervention of the UN, the OAS, and the EU following allegations of electoral fraud in the 2001 elections, where President Jean-Bertrand Aristide was re-elected. In response, economic sanctions were imposed, and several cooperation and financial assistance programs were suspended measures that continued even after the institutional crisis was resolved with Aristide's departure and the assumption of the vice-president in accordance with the Constitution.²⁹

Additionally, the cases of Honduras and Nicaragua are notable, where their participation in the Central America Association Agreement was suspended due to human rights violations in these countries—Honduras in 2009 under the government of Manuel Zelaya, and Nicaragua in 2023.

These examples suggest that the democratic clause is applied selectively to certain regions or countries, which may raise questions about whether the EU is prioritizing economic and trade interests over democratic standards.

Thus, although the EU has sought to promote democratic values through its trade agreements, the effectiveness of the democratic clause is limited by its uneven application. To strengthen its impact, greater involvement of the European Parliament, civil society and other institutions, as well as public monitoring and accountability mechanisms by the EU's strategic partners, would be necessary.³⁰

The strengthening of trade cooperation between Latin America and the European Union has the potential to generate political and economic benefits that reinforce Europe's global influence; however, in practice, the challenge facing both regions is precisely the consolidation of their relations, which have remained in a certain state of stagnation, and have even ceded space to other international actors.

In the Latin American context, attempts have been made to incorporate the democratic clause in trade agreements as a way of promoting democracy within States. However, this clause presents some challenges due to the political and economic context of Latin America in view of two fundamental factors: (i) the lack of political will in its application; and (ii) the unequal economic relations between the two regions. This being the case, we could be facing an asymmetric scenario in economic and trade terms, so it is the duty of each State to ensure the necessary strategies through efficient public policies that can mitigate the risks that may arise for domestic production, as well as for the different sectors of the State. This must go hand in hand with a balance in the regulatory power of the State.

In addition, the use of trade as an instrument to promote democracy can generate tensions with trading partners who consider these conditions as interference in their sovereignty, as they impose conditions for the maintenance of trade relations. Despite these difficulties, the EU remains committed to a model in which democracy and trade are mutually reinforced.

5. Conclusions

This document has analyzed democracy as a value promoted by the EU in its trade agreements, based on the inclusion of the democratic clause. The different experiences mentioned in the text allow us to observe the challenges of this instrument in terms of its applicability and effectiveness. In turn, the question arises as to whether this type of conditionality generates a real and significant impact on the exercise of international relations or whether, on the contrary, it represents an obstacle to the consolidation of the EU as a global actor, in comparison with other actors that have opted for a more pragmatic turn. The answer to this question will depend on the image and objectives that the EU prioritizes in its global strategy. Therefore, the promotion of democracy through the application of the democratic clause in its trade agreements is an area that should be reviewed in terms of its effectiveness, as it presents some ambivalences regarding its implementation.

Overall, while the democracy clause reflects the EU's normative power aspirations, its selective application highlights the complex interplay between values and pragmatic considerations in international relations, where a combination of political and economic factors

largely determines the course of decision, especially when issues related to security or specific economic interests are at stake.

In this scenario, this Working Paper opens new research agendas that allow a critical approach to observe and analyze these issues, contributing to a better understanding of the European Union's policies and its relations with other actors in the international system.

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