# New Generation EU Agreements - The Basis for Future World Trade

Professor **Lubica BAJZÍKOVÁ**<sup>1</sup>
Professor JUDr. **Daniela NOVÁČKOVÁ**<sup>2</sup>
Mgr. PhD. **Lucia PAŠKRTOVÁ**<sup>3</sup>

#### Abstract

International trade agreements contribute to the development of international trade and services. The European Union is currently modernizing the system and structure of international agreements related to international trade, investment and services. The aim of the scientific study is to clarify and identify the characteristic features of the agreements of new generation that are concluded between the European Union and non-EU member states. Based on the facts, we can confirm that trade policy supports, among others, values such as the protection of human rights, the protection of labor rights, the environment and the fight against climate change. Such an approach of the European Union to the liberalization of world trade through comprehensive trade agreements is also supported by the strategy of the European Commission "Trade for All".

**Keywords**: European Union, common trade policy, international trade agreements, liberalization.

JEL Classification: F15, F18, K22, K33

**DOI:** 10.62768/TBJ/2024/14/1/07

#### Please cite this article as:

Bajzíková, Lubica, Daniela Nováčková and Lucia Paškrtová, "New Generation EU Agreements – The Basis for Future World Trade", *Juridical Tribune - Review of Comparative and International Law* 14, no. 1 (March 2024): 116-129

### **Article History**

Received: 02 November 2023 Revised: 17 January 2024 Accepted: 12 February 2024

### 1. Introduction

A universal feature of the current international community is the dynamic development of globalization, the deepening of European economic integration and the development of international relations. Globalization tendencies help the development of international trade and services. International treaties are the key to the development of international relations and form part of the sources of international law. International

 $<sup>^{\</sup>rm l}$  Lubica Bajzíková - Comenius University in Bratislava, Faculty of Management, Slovakia, lubica. bajzíkova@fm.uniba.sk.

<sup>&</sup>lt;sup>2</sup> Daniela Nováčková - Comenius University in Bratislava, Faculty of Management, Slovakia, daniela. novackova@fm.uniba.sk.

<sup>&</sup>lt;sup>3</sup> Lucia Paškrtová - Comenius University in Bratislava, Faculty of Management, Slovakia, lucia.paskrtova @fm.uniba.sk.

agreements are, at root, an exchange of promises among states.<sup>4</sup> The international treaties that are binding on Slovakia form part of Slovak legal system. The international agreements concluded by the European Union are subordinate to the primary law of the European Union.<sup>5</sup> The international treaties are parts of a special category *sui generis*, since they form the legal framework for the external relations of the European Union (art. 3, 4, 207, 216 TFEU<sup>6</sup>). They are treaties concluded according to the principles of international law establishing the rights and obligations to their contracting parties. International agreements on free trade with third countries represent a new beginning in the development of trade and investment relations and are an important tool of the common trade and investment policy of the European Union. The international treaties help the European Union to achieve the goals established in the founding Treaties and also in the European Green Deal.<sup>7</sup>

The European Union (EU) has concluded so called "new generation" trade agreements with several non-member states. Their scope of application is much more ambitious than just trading in goods. The currently applicable international agreements also include areas such as trade in services, intellectual property, international investments and sustainable development. The agreements have brought significant business opportunities, which are increasingly used by the companies of the contracting parties, which also have a positive effect on the development of economic relations. The growing globalization process requires not only new approaches, but also modern legal frameworks with the aim to functionning of fair trade between states. In the sense of statements by prominent economists, for example, Ch. Oman<sup>8</sup> or P. Dicken<sup>9</sup>, globalization in the economic field is associated with the accelerated growth of transfers of economic activities across national and regional borders. Through its activities, the European Union contributes to fair trade, where economic benefits no longer dominate, but emphasizes the protection of social rights, environmental protection and sustainable development.

4

<sup>&</sup>lt;sup>4</sup> Guzman, T. A. (2005). *The Design of International Agreements*. "European Journal of International Law", Volume 16, Issue 4, September 2005, Pages 579–612, https://doi.org/10.1093/ejil/chi134.

<sup>&</sup>lt;sup>5</sup> Matúšová, S., Nováček, P. (2022). New generation of investment agreements in the regime of the European Union, "Juridical Tribune", Vol.12, issue 1, March 2022, p. 22.

<sup>&</sup>lt;sup>6</sup> European Union (2016). Treaty on the Functioning of the European Union, OJ EU C 202, 7.6.2016.

<sup>&</sup>lt;sup>7</sup> European Union (2019). The European Green Deal. Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions (COM (2019) 640 final, 11.12.2019).

<sup>&</sup>lt;sup>8</sup> Oman, C. P. (1996). *The Policy Challenges of Globalisation and Regionalisation*, OECD Development Centre Policy Briefs 11, OECD Publishing, DOI: 10.1787/151004514681. Citované podľa: Cihelková, E. a kol. (2010): Regionalismus a multilateralismus. Základy nového svetového obchodního řádu? Praha: Vydavateľstvo C. H. Beck. ISBN 978-80-7400-196-3.

<sup>&</sup>lt;sup>9</sup> Dicken, P. (2006). Global Shift: Reshaping the Global Economic Map in the 21<sup>st</sup> Century. Fourth Edition. New York – London: The Guilford Press. Citované podľa: Cihelková, E. a kol. (2010): Regionalismus a multilateralismus. Základy nového svetového obchodního řádu? Praha: Vydavateľstvo C. H. Beck. ISBN 978-80-7400-196-3.

## 2. Objective and methodology

The aim of the scientific study is to identify particular provisions in the international treaties of new generation concluded by the EU with other subjects of international law (with non-member states). With this approach, the EU is changing its original strategy and inserting into international agreements provisions that is part of the Treaty on the Functionning of the EU (fair trade, protection of intellectual property rights, economic competition, environmental protection, etc.).

In the interest of achieving the goals of the scientific study, we have analyzed the applicable international treaties published in the Official Journal of the EU. Subsequently, we have specified international agreements belonging to the category of international agreements of the new generation. Using legal analysis and legal logic helped us to identify provisions that are typical for new generation treaties. The aim of this paper is not to exhaustively describe all the provisions contained in all new generation agreements concluded by the EU, but we deal with the provisions that, by their characteristics, belong to the category of new generation agreements. Our conclusions and findings point to the fact that the European Union, in an effort to contribute to the performance of international trade and to deepen cooperation in various fields, concludes international agreements containing other forms of cooperation, such as environmental protection, sustainability and the protection of labor and social rights.

# 3. Competences of the EU to conclude international treaties

The Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU) represent an important milestone within the history of European integration. The Treaty of Lisbon gave the EU the full legal personality (subject of international law) and the right to conclude international agreements in accordance with Article 216 TFEU.<sup>10</sup> Thus, for the first time in the history of the European Union the codification of its competences to conclude international treaties takes place. The notion of competence itself can be understood as the capacity to perform certain activities for which the given entity is authorized. In this context, it is the capacity to enter into international legal obligations and to be vested with rights and duties. The catalogue of individual powers of the EU and its member states is precisely defined in articles 3 to 6 TFEU<sup>11</sup>. Article 216 (1) TFEU empowers the EU to conclude international agreements with one or more third countries or international organisations. Article 216 (2) explicitly states that agreements concluded by the Union are binding upon the institutions of the Union and on its member states. 12 It means that the member states have obligations to fulfill their duties arising from international agreements concluded by the EU. The procedure of negotiating and concluding

<sup>&</sup>lt;sup>10</sup> European Union (2016). Treaty on the Functioning of the European Union, OJ EU C 202, 7.6.2016

<sup>&</sup>lt;sup>11</sup> Ibid.

<sup>12</sup> Ibid.

international agreements is stipulated in articles 207 and 218 TFEU.<sup>13</sup> It is the Council, that takes part in the procedure through adopting its decisions by the qualified majority vote, in majority of cases. The ability of the European Union (EU) to negotiate and implement international trade agreements as a single actor has been a prominent achievement of European market integration.<sup>14</sup> The economy of the European Union is one of the most important players on the international market, however, the level of economic development of its individual members differs significantly. Therefore, the consequences of the entry into force of the 'new generation' trade agreements may be different for particular member states.<sup>15</sup> We agree with this opinion, because not all member states have a significant presence on international markets and cannot withstand strong competition, as indicated by the results of international trade.

## 4. Identification of international trade agreements of new generation

The European Union has always been acting as global player in international markets. A long history in the field of international treaty-making is documented by the high number of international trade agreements concluded by the European Union with the aim to boost trade and services. The European Union has been concluding so called modern treaties, new generation ones, within the framework of the new strategy. On the basis of data published by the Official Journal of the European Union we have identified the following agreements as the new generation agreements, which have the common systemic features and differ from the agreements of the first generation by the fact that they have new provisions covering new policies, such as environment and social policies, as well as sustainable development.

The new generation agreements are closely linked to other significant international agreements Trade – Related Aspects of Intellectual Property Rights (TRIPS) or with other EU agreements (European Green Deal). Some provisions of new generation agreements are in accordance with the provisions of EU primary law. It is in the discussion part of the scientific study that we identified these articles.

# 5. Free trade agreement between the European Union and the Republic of Korea

The first bilateral agreement of a new generation on free trade with the full name Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part<sup>16</sup> is provisionally applied since

<sup>13</sup> Ibid.

Valerie J. D'erman (2020). Mixed competences and 'second generation' trade agreements: a consideration of EU disintegration, Political Research Exchange, 2:1, DOI: 10.1080/2474736X.2020.18 06003.

<sup>&</sup>lt;sup>15</sup> Śliwińska, M. (2018). New generation trade agreements as an economic challenge for the European Union and its Member States – the case of CETA. "Przegląd Europejski", Vol. 2018, No. 4 ORCID ID: 0000-0001-7050-9599.

<sup>&</sup>lt;sup>16</sup> European Union (2011). Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part. OJ L 127, 14.5.2011, pp. 6–1343.

July 2011, and it formally entered into force as of 13<sup>th</sup> December 2015. In line with the agreement the contracting parties undertook to gradually eliminate or reduce tariffs and import quotas for the import and export of industrial goods, as well as agricultural and fishery products. There is no doubt that South Korea represents a suitable trading partner for the EU member states. The gradual liberalization of trade and services is the subject of serveral first generation agreements. The EU mainly exports machinery, equipment, transport equipment, chemical products to South Korea, it also has a high share in foreign direct investment and a well developed trade in services. The new generation agreement contains traditional provisions on the commercial exchange of goods and services, especially with regard to the most-favoured-nation clause. We focused our research on the provisions related to fair trade, which are typical of these agreements and are in line with the current objectives of the EU as stipulated in the European Green Deal:

- a) development of investment relations,
- b) governmental procurement,
- c) protection of intellectual property rights,
- d) proper application of competition rules,
- e) implementation of sustainable development in trade relations,
- f) protection of labour and social rights.

Free movement of capital and direct foreign investment are also included in the new generation agreement between the EU and South Korea. These issues are regulated by chapter 8 of the agreement. The subject of cooperation is based on the removing obstacles to free movement of capital and on the liberalization of financial services. Within the framework of the development of investment relations, the contracting parties will create a suitable favourable environment for investors and will also ensure legal protection of investments. Following the agreement, the contracting parties are entitled, *inter alia*, to introduce measures necessary for the protection of public safety and morals or for the ensuring the public order.

Chapter 9 of the agreement of new generation between the EU and South Korea contains the system of cooperation in the area of public procurement, while rights and obligations of contracting parties are regulated by the plurilateral Agreement on Government Procurement contained as appendix 4 of the WTO Agreement. Public procurement represents a superstructure or a higher level of normal business relations, based (only) on the reduction or removal of tariff or non-tariff barriers. It incorporates special requirements for transparent and non-discriminatory processes that improve, or at least should improve, the business environments of individual states.<sup>17</sup>

In public procurement, the principles of equal treatment, non-discrimination of business entities, principle of transparency, as well as the principles of proportionality, economy and effectivity apply. The universal sign of public procurement is the public tender, in which an unlimited number of economic entities can participate.

The separate chapter 10 of the new generation agreement between the EU and

<sup>&</sup>lt;sup>17</sup> Kováčiková, H. (2020) *Harmonizácia pravidiel verejného obstarávania v práve medzinárodného obchodu*, Hana Kováčiková – 1. vyd. – Bratislava: Univerzita Komenského v Bratislave, Právnická fakulta, 227 p. ISBN 978-80-7160-575-1.

South Korea contains provisions of intellectual property rights in relation to the WTO Agreement on Trade – Related Aspects of Intellectual Property Rights (TRIPS). The purpose of protecting intellectual property rights is to protect the rights of authors, inventors and artists so that their works are not used without authorization. In other words, the rights of authors to an artistic or literary work, industrial design, trade mark or the results of other intellectual creative activity are ensured by legal protection related to the WTO Agreement on Trade –Related Aspects of Intellectual Property Rights. According to its article 10.6 the agreement of new generation protects the works of authors during the period of their life and 70 years after the authors' death. Significant importance is placed on counterfeit goods, which distort fair trade.

The cooperation in the area of competition is regulated in chapter 11 of the new generation agreement between the EU and South Korea. Economic competition is one of the tools to ensure fair and equal conditions for businesses and at the same time to preserve space for innovation. Competition is an economic concept that postulates that economic resources will be most efficiently deployed when any given product market is contested by rivals. Enforcement of strict legal rules in the area of economic competition, that effectively deal with agreements restricting competition, abuse of dominant position by one or more undertakings or control of concentrations between enterprises.

The agreement also contains provisions related to subsidies that have negative impact on fair business and economic competition (article 10.9).

The issues of trade and sustainable development are included in chapter 13 of the agreement. The substantive dimension of sustainable development is determined by the economic and social development, as well as by the protection of environment. In this connection, it is inevitable that within the framework of their trade relations the contracting parties put emphasize on the cooperation in social and environmental matters, which contribute to sustainable development. The protection of fundamental rights relates in particular to:

- a) freedom of association and effective recognition of the right to collective bargaining,
  - b) removal of all forms of forced or compulsory labour,
  - c) effective elimination of child labor, and
- d) elimination of discrimination in connection with employment and work (article 13.4).

The contracting parties have jointly resumed the obligation related to fundamental labor standards of International Labour Organisation and the program of dignity at work. In article 13.13 of the agreement of new generation between the EU and South Korea there are mechanisms established to ensure fulfilment of these obligations, including through participation of civil society. Current information indicates that the cooperation between the contracting parties is developing. For example, Italian company Col d'Orcia exports at present to South Korea more than

<sup>&</sup>lt;sup>18</sup> Williams, M. (2004), *Competition Policy: One Theory, Three Systems*, "China Perspectives" [Online], 51 | january-february 2004, Online since 20 April 2007, connection on 08 February 2023. URL: http://journals.openedition.org/chinaperspectives/789; https://doi.org/10.4000/chinaperspectives.789.

1.500 bottles of wine annualy. Swedish company Insplorion exports technology for measuring and dealing with air pollution to South Korea. German company Kolbus exports book binding machines and paper processing machines to South Korea. <sup>19</sup>

# 6. Trade agreement between the European Union and Andean states (Colombia, Peru, Ecuador)

Another significant agreement of new generation with the states of Latin America represents the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, to take account of the accession of Ecuador.<sup>20</sup> The trade agreement with European Union and Colombia and Peru has been provisionally applied with Peru since 1 March 2013 and with Colombia since 1 August 2013. On 1 January 2017, Ecuador also joined the agreement. The EU thus established the comprehensive institutional framework for its relations with Andean states and provided them with the same treatment as with other regional blocs in Latin America. By the trade agreement the EU has established the free trade zone with these states. The Andean region was the first region in Latin America, with which the EU concluded regional agreements on cooperation. The first agreement was concluded already in the year 1983. The aim of the agreement is the development of trade and services. As a suitable tool for the liberalization of trade and services, the contracting parties will apply the most-favoured-nations clause and the principle of of non-discrimination on grounds of nationality. The contracting parties undertook to create conditions for the liberalization of capital movements, for the opening of the public procurement market. The agreement also includes a system for the protection of human rights, social rights and, last but not least, the protection of the environment. The main benefit of the trade agreement is that it should provide businesses with stable and predictable conditions, allowing them to trade and invest with confidence.<sup>21</sup>

The conditions and system of government procurement are regulated in title VI of the new generation agreement. According to the OECD, public procurement refers to the purchase by governments and state-owned enterprises of goods, services and works. As public procurement accounts for a substantial portion of the taxpayers' money, governments are expected to carry it out efficiently and with high standards of conduct in order to ensure high quality of service delivery and safeguard the public interest.<sup>22</sup> In public procurement, procedures are used in accordance with national legal regulation of the contracting parties, while the methods of open competition, selective

<sup>&</sup>lt;sup>19</sup> European commission (2018). Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on *Implementation of Free trade agreements*. Brussels, 31.10.2018. COM (2018) 728 final.

<sup>&</sup>lt;sup>20</sup> European Union (2012). *Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, to take account of the accession of Ecuador, OJ EU L 354, 21.12.2012, p. 3 – 2607.* 

<sup>&</sup>lt;sup>21</sup> EUR-Lex EU (2021). Trade agreement with Colombia, Peru and Ecuador. Available: https://eur-lex.europa.eu/EN/legal-content/summary/eu-trade-agreement-with-colombia-peru-, Cit.03.07.2023.

<sup>&</sup>lt;sup>22</sup> OECD (2023). *Public procurement*. [online cit.06.07.2023]. Available: http://www.oecd.org/gov/public-procurement/.

choice using electronic auctions are used. However, the limited procurement procedure can only be used under taxatively defined conditions (article 185). The EU-Colombia—Ecuador-Peru Trade Agreement allows for EU companies to bid and compete for government tenders in the partner countries under equal conditions with domestic companies. Annex XII of the Agreement new generation states the rules applicable to public procurement. It describes which entities are covered by the agreement, as well as the goods and services that may be subject to public contracting. It also lists excluded areas, such as land acquisition or lease, tax or deposit agencies, and public employment services.

Within the framework of exchange of goods and services the important place belongs to intellectual property regulated in Title VII of the new generation agreement. According to Dobiáš, intellectual property is an intangible asset created by mental activity. It is independent of the material substrate and as such can be used by an unlimited number of subjects at any time and anywhere in the world without harm to its essence.<sup>23</sup> Vojčík is of the opinion, that intellectual property thus consists of "all intangible assets that are capable of being the subject of private law dispositions of their owners and have a certain, at least potential, property value.<sup>24</sup> The protection of intellectual property rights within the meaning of the EU-Colombia-Peru-Ecuador Trade Agreement is based on compliance with the Trade-Related Aspects of Intellectual Property Rights and the Convention on Biodiversity (CBD), especially with regard to respecting the national treatment and most favoured nation treatment clauses. This means, that your intellectual property in Colombia, Ecuador or Peru will be treated in the same manner as that of the nationals of those countries. Colombia, Ecuador, and Peru also amended and adopted new legislation to incorporate regional specialities and Geographical Indications (GIs) in a manner similar to the EU.<sup>25</sup>

Title VIII of the new generation agreement named Competition regulates the conditions for the cooperation in the area of economic competition. In the agreement, the contracting parties undertook to fully apply the legal regulations in the field of economic competition. Articles 101, 102 and 106 of the Treaty on the Functioning of the European Union as well as the Council Regulation (EC) No. 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) apply to the EU Member States. The mutual cooperation takes the following forms:

- a) control of the abuse of the dominant position of entities on the market,
- b) control of company concentrations.

Authorities competent for competition policy mutually exchange information and cooperate in the given area.

<sup>&</sup>lt;sup>23</sup> Dobiáš, I. 2004. *Management duševního vlastnictví poznatku*. Vydal Ústav termomechaniky AV ĆR, 2004, 48 s., ISBN 80-85918-90-0, p. 9.

<sup>&</sup>lt;sup>24</sup> Vojčík, P. 2007. *Právo priemyselného vlastníctva*. Bratislava: Iura Edition, spol. s. r.o., 2007. 445 s. ISBN 80-88715-38-5, p. 4.

<sup>&</sup>lt;sup>25</sup> DG Trade (European Commision) (2023), The EU-Colombia-Ecuador-Peru Trade Agreement [online cit.06.07.2023]. Available: http://www./trade.ec.europa.eu/access-to-markets/en/content/eu-colombia-peru-ecuador-trade-agreement.

Millennium Development Goals adopted in September 2000, the Johannesburg Declaration on Sustainable Development and its Plan of Implementation adopted on 4 September 2002 became the basis of international cooperation in the area of trade and sustainable development. This form of cooperation is regulated in Title IX of the new generation agreement named "trade and sustainable development" and its main purpose is the adherence to legal regulations in the area of environment. The development of trade policy is determined by the effective use of natural resources with the aim to reduce pollution of environment. Within the framework of this sector of cooperation the space for the participation of public on the policy of trade and sustainable development is created. The contracting parties mutually support the adoption of tools related to corporate social responsibility within the framework of business development: elimination of any discrimination and any forced labour the introduction of the right to collective bargainingIn this context, it has to be borne in mind, that the basic protection regarding the prohibition of discrimination is covered by key international treaties: International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, International Convention on the Elimination of All Forms of Racial Discrimination and others. A key priority for the development of mutual relations is cooperation in the field of protection of environment. The basic framework for cooperation is international agreements of various international organizations and agreements establishing the protection of the environment and biodiversity. In the new generation agreement, the contracting parties undertook to use forestry products and fisheries products efficiently and responsibly in order to promote sustainable development. They will also introduce innovations in the field of energy efficiency and renewable energy in such a way that they correspond to environmental and economic needs. The new generation trade agreements between the EU on one side and Columbia, Peru and Ecuador, on the other side, opened up markets between the contracting states. As an example, the import of fruits from Colombia can be mentioned, which is processed by the company TUKI (based in Luxembourg), and exotic fruit juices are made from it.<sup>26</sup>

# 7. The EU-Canada Comprehensive Economic and Trade Agreement (CETA)

Comprehensive Economic and Trade Agreement is a comprehensive economic and trade agreement concluded between the EU Member States at one side and Canada, on the other side.<sup>27</sup> The CETA contains provisions on the access to market for goods, services, on investments and public procurement, as well as on intellectual property rights, sanitary and phytosanitary measures, sustainable development, cooperation in

<sup>26</sup> European Commission (2018). Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on *Implementation of* 

Free trade agreements. Brussels, 31.10.2018. COM (2018) 728 final. <sup>27</sup> European union (2017) Comprehensive Economic and Trade Agreement is a comprehensive economic and trade agreement concluded between the EU Member States at one side and Canada, on the other side, OJ L 11, 14.1.2017, p. 23–1079.

the area of regulation, mutual recognition, trade facilitation, cooperation in the area of raw materials, dispute settlement and the elimination of technical barriers of trade. The CETA represents a modern text, set of rules that establishes a balance between the state and investor, it grants rights to investors and at the same time, it preserves the regulatory authority of the Member States. It introduces the new system of dispute settlement – the investment court system, that replaced the existing system of dispute settlement before ad hoc investment tribunal.

With regard to the aim of the scientific study, even in this multilateral international agreement, we identify provisions that are typical for international agreements of the new generation and originate in the primary legislation of the European Union. The cooperation in the area of competition policy is regulated in Chapter 17. In principle, the contracting parties agreed that anti-competitive business behaviour can disrupt the proper functioning of markets and undermine the benefits of trade liberalization. In dispute settlement the parties will proceed in accordance with the Agreement between the European Communities and the Government of Canada Regarding the Application of their Competition Laws, done at Bonn on 17 June 1999. The economic competition is an important element for the formation of healthy business environment. The purpose of the competition policy is to ensure fair and equal conditions for entrepreneurs on the market.

The issue of public procurement is regulated in Chapter 19 of the CETA - Government procurement. The basis of public procurement policy is open competition. The universal principle of these relationships is transparency, equal treatment, disclosure of information and conducting public procurement through electronic auctions.

Chapter 20 relates to intellectual property rights that are regulated in the EU law in article 207 of the Treaty on the Functioning of the EU and forms part of common trade policy. The contracting parties agreed that they will introduce fair and adequate procedures within the framework of this policy. As part of the implementation of this cooperation, the contracting parties will respect international agreements on the protection of intellectual property rights, such as TRIPS.

Support for sustainable development is regulated in Chapter 22. Part of the policy of sustainable development is strengthened coordination and integration in the field of labour and environmental relations. The purpose of sustainable development is to protect the planet, ensure the protection of human rights and guarantee prosperity for all. Sustainability of organizational innovations can be thought of as the point at which new ways of working become the norm and the underlying systems and ways of working become transformed in support.<sup>28</sup> The contracting parties undertook to realize following forms of cooperation:

- a) to develop economic relations with regard to the protection of environment,
- b) to correctly implement labour and environmental regulations in practice and to comply with international agreements in the field of labour and the environment,
  - c) mutually support rational use of natural resources,

<sup>&</sup>lt;sup>28</sup> Greenhalgh at al. (20004). *Diffusion of innovations in service organizations*. Systematic review and recommendations. The Milbank Quarterly. 2004;82(4):581–629. doi: 10.1111/j. 0887378X.2004.00325.x.

- d) freedom of association and effective recognition of right to collective bargaining,
  - e) elimination of all forms of forced or compulsory labour,
  - f) elimination of discrimination related to employment and occupation,
  - g) protection of health and safety at work,
- h) non-discrimination in terms of working conditions, including migrant workers.

These forms of cooperation are considered in the democratic and developed countries to be fundamental pillars of modern legal systems and they strengthen the protection of social rights of workers. A fundamental element of employment relations is the prohibition of discrimination on grounds of nationality. Based on the case law of the Court of Justice of the EU, discrimination means the application of different rules in comparable situations as well as the application of the same rule in different situations.<sup>29</sup> Equal treatment can be understood as equal access to employment, remuneration and work procedure, professional training and working conditions and:

- a) discharges or emissions of pollutants or environmental contaminants,
- b) preservation and protection of wild plants and animals, including endangered species and their habitats, to support sustainable development.

Based on the facts, it can be concluded that a fundamental part of all "new generation" trade agreements concluded since 2010 are strong provisions on trade and sustainable development, protection of social and labour rights, and environmental protection, which is also in line with current trends, especially with regard to the European Green Deal. For mutual trade cooperation, the main catalysts for market opening are trade agreements, however, the more ambitious and complex the trade agreement, the more complex and demanding its implementation.

### 8. Trade activities between the EU and third countries

Globalization and European integration contribute to the development of international trade, in which goods and services are exchanged. The EU is considered as a global player, as evidenced by its international cooperation with the countries of the world. The trade activities can be cited as a concrete example of cooperation. The following table shows the commercial exchange of goods for the year 2021.

**Table 1:** European Union Trade in goods with selected counties in 2021, in millions of EUR

	Imports	Exports	Total trade
Canada	23,6	37,3	60,8
Ecuador	3,4	2,1	5,5
Kolumbia	4,5	6,4	10,9
Peru	6,5	3,5	10,0
South Korea	55,4	51,8	107,2

Source of data: webgate.ec.europa 2023

 $^{29}$  Judgement of the Court of Justice of the EU in case C-394/1996 Mary Brown v. Rentokil Ltd. of 30 June 1998.

Based on the facts, it can be concluded that the international trade exchange of goods is not negligible, nonetheless in terms of the volume of trade, the lead belongs to South Korea. There may be more reasons (transport), however, we cannot forget that it is South Korea that is building multinational enterprises in the Member States, that produce products distributed in other Member States. As an example, serves the car factory Kia Motors Slovakia or Samsung Electronics in Slovakia. Both of these companies rank among the largest enterprises in Slovakia in terms of their turnover, export volume, employment, as well as their share of total exports, while they have significantly contributed to the profiling of the Slovak economy.

## 9. Discussion

Considering the goal of the scientific study, we compared the provisions of the new generation agreements with the provisions of the articles that are also found in the Treaty on the Functioning of the EU, using the legal comparative method. The result of the comparative analysis is the findings that the EU and its Member States and South Korea cooperate in various fields. The states of Colombia, Peru, Ecuador or Canada are no exception. The European Union brings a higher added value to the process of economic cooperation with non-member states, which is undoubtedly sustainable development and environmental protection and protection of social rights. In particular, states such as Colombia, Peru and Ecuador have to review their approaches to cooperation and introduce new measures related to improving the protection of social rights or improving environmental protection.

**Table 2:** Comparison of the provisions of the new generation agreements with the provisions of the Treaty on the Functioning of the European Union and other international agreements

International agreements	TFEU	
Protection of environment	Article 11 TFEU, European Green Deal	
Protection of economic competition	Articles 101 and 102 TFEU	
Sustainable development	Article 11 TFEU, European Green Deal	
Protection of intellectual rights	Article 207 TFEU, The Agreement on Trade-	
	Related Aspects of Intellectual Property	
	Rights TRIPS	
Development of investment relations	Article 207 TFEU, Articles 63 to 66	
Public procurement	Articles 26, 34, 53 paragraph1 and	
	Articles 56, 57, 62 and 114, the Agreement	
	on Government Procurement	
Protection of social rights	Articles 45 – 48, 91, 114, 115, 151, 153	
	and 352	

Source: own processing

On the basis of the above, it can be concluded that some articles of the primary legislation of the EU also become part of international agreements of the new generation with non-member states. Individual activities of the EU thus become subject of international cooperation. In the area of public procurement, the contracting parties

fully respect the international regulation of the WTO – Agreement on Government Procurement. Each international agreement regulates a certain area of relations and imposes obligations on its contracting parties. International law, the EU law and national law are three relatively three separate legal systems, nonetheless they have close ties with each other, while creators of this law are states.

### 10. Conclusion

Currently, the framework of trade relations of the European Union is fundamentally changing. The European Union has already concluded several new generation agreements with selected partners. Trade relations with other countries are conducted within the framework of the WTO rules.

As an important international organization, the European Union affects international trade and the world economy on a larger scale. The states from various continents conclude international trade agreements with the EU with the aim to facilitation and liberalization of trade. However, since from year 2011, within the framework of the system of international agreements, we have also encountered new generation agreements that show new features and new areas of cooperation. As a result of the development of international trade, the system of international contract theory and practice is also changing, because areas of cooperation that belong to the internal activities of the European Union are also coming to the fore. This new and modern system brings new forms of cooperation into the processes of European integration, as well as new international obligations, mainly as regards fair trade and ethical trading system. These agreements do not only strengthen only business interests of companies, but they also require from their contracting parties to protect environment, to keep the standards applicable to food security, public health and social rights. At the same time, they contain provisions on deregulation and liberalization of public services, mainly on public procurement. The trade agreements create a system that allows new protected geographical indications for specific countries and regions.

# Bibliography

- Cihelková, E. a kol. (2010): Regionalismus a multilateralismus. Základy nového svetového obchodního řádu? Praha: Vydavateľstvo C. H. Beck. ISBN 978-80-7400-196-3.
- Court of justice EU (1996) Case C-394/1996 Mary Brown proti Rentokil Ltd. 30. 06. 1998.
- 3. DG Trade (European Commision) (2023), The EU-Colombia-Ecuador-Peru Trade Agreement [online cit. 06. 07.2023]. Available: http://www./trade.ec.europa.eu/access-to-markets/en/content/eu-colombia-peru-ecuador-trade-agreement.
- 4. Dicken, P. (2006): *Global Shift: Reshaping the Global Economic Map in the 21st Century.* Fourth Edition. New York London: The Guilford Press.
- 5. Dobiáš, I. (2004). *Management duševního vlastnictví poznatku VaV*. Vydal Ústav termomechaniky AV ĆR, 2004, 48 s., ISBN 80-85918-90-0.
- 6. Erman, J. D., Valerie (2020) Mixed competences and 'second generation' trade

- agreements: a consideration of EU disintegration, "Political Research Exchange", 2:1, DOI: 10.1080/2474736X.2020.1806003.
- EUR-lex EU (2021) Trade agreement with Colombia, Peru and Ecuador. Available: https://eur-lex.europa.eu/EN/legal-content/summary/eu-trade-agreement-with-colombia-peru-.
- 8. European Commission (2018) Report from the Commission to the European parliament, the Council, the European economic and social committee and the Committee of the regions on implementation of free trade agreements. V Bruseli 31. 10. 2018 COM (2018) 728 final.
- 9. European Union (2011) European Union Free trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part (OJ L 127, 14.5.2011, pp. 6–1343).
- 10. European Union (2012) Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part. OJ EU L 354, 21.12.2012, s. 3 2607.
- 11. European Union (2017) Comprehensive Economic and Trade Agreement (CETA) between Canada, of the one part, and the European Union and its Member States, of the other part. OJ L 11, 14.1.2017, p. 23–1079.
- 12. Greenhalgh T, Robert G, Macfarlane F, Bate P, Kyriakidou O. (2004) *Diffusion of innovations in service organizations: systematic review and recommendations*. Milbank Q. 2004; 82(4): 581–629.
- 13. Guzman, T.A. (2005). *The Design of International Agreements*, "European Journal of International Law", Volume 16, Issue 4, September 2005, pp. 579-612, https://doi.org/10.1093/ejil/chi134.
- 14. International Labour Organization Convention concerning Freedom of Association and Protection of the Right to Organize No. 87 of the year 1948.
- 15. International Labour Organization Convention concerning the Application of the Principles of the Right to Organize and to Bargain Collectively No. 98 of the year 1949.
- 16. Kováčiková, H. (2020). *Harmonizácia pravidiel verejného obstarávania v práve medzinárodného obchodu*, Hana Kováčiková 1. vyd. Bratislava: Univerzita Komenského v. Bratislave, Právnická fakulta, 227s, ISBN 978-80-7160-575-1.
- 17. Matúšová, S., Nováček, P. (2022). New generation of investment agreements in the regime of the European Union, "Juridical Tribune", Vol.12, issue 1, March 2022, p. 21-34.
- 18. OECD (2023). Public procurement. [online cit. 06.07.2023]. Available: http://www.oecd.org/gov/public-procurement/.
- Oman, C. P. (1996). The Policy Challenges of Globalisation and Regionalisation, OECD Development Centre Policy Briefs 11, OECD Publishing, DOI: 10.1787/1510 04514681.
- 20. Śliwiňska, M. (2018). New generation trade agreements as an economic challenge for the European Union and its Member States the case of CETA. "Przegląd Europejski" Vol. 2018, No. 4 ORCID ID: 0000-0001-7050-9599.
- 21. Vojčík, P. 2007. *Právo priemyselného vlastníctva*. Bratislava: Iura Edition, spol. s.r.o., 2007. 445 s. ISBN 80-88715-38-5.
- 22. Williams, M. (2004), *Competition Policy: One Theory, Three Systems*, "China Perspectives" [Online], 51, january-february 2004, Online since 20 April 2007, connection on 8 February 2023. URL: http://journals.openedition.org/chinaperspectives/789; DOI: https://doi.org/10.4000/chinaperspectives.789.