SISTEMA ECONÓMICO LATINOAMERICANO Y DEL CARIBE

Comisión para la Defensa y Promoción de la Competencia

Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Swiss Confederation

compal

UNITED NATIONS
UNCTAD

Current status and evolution of regulatory frameworks for trade and competition in Latin America and the Caribbean: Towards regulatory convergence

Economic and Technical Cooperation

VI Annual Meeting of the Working Group on Trade and Competition in Latin America and the Caribbean
Roatán Island, Honduras
2 to 4 November 2016
SP/VIRAGTCCALC/DT N° 2-16

C O N T E N T

F O R E W O R D

This document has been prepared in compliance with Activity II.1.5 of the Work Programme of SELA for the year 2016, entitled "Latin American and Caribbean cooperation in the area of trade and competition. UNCTAD-SELA joint project. VI Annual Meeting of the Working Group on Trade and Competition of Latin America and the Caribbean (WGTC)". This study addresses the status of the regulatory frameworks in the area of trade and competition of the different subregional integration mechanisms in Latin America and the Caribbean, how they have evolved and how these integration mechanisms have been moving towards regulatory convergence.

The Permanent Secretariat of SELA thanks Mr. Eugenio Rivera for his dedication to the preparation of this document.

INTRODUCTION

The difficulties in the progress of multilateral negotiations of the WTO's Doha Round highlight the importance of moving forward with greater liberalization of trade and strengthening of competition, with a view to developing subregional integration mechanisms in Latin America and the Caribbean with a view to promoting regulatory convergence in the region.

The first chapter analyses globally and briefly the transformations of international trade and, in this context, the complex forms that international agreements and their interrelations are acquired. In the second chapter, the main characteristics of the five subregional integration mechanisms are studied in a general way, seeking to identify the fundamental milestones of the reform process experienced by each of them, in order to determine their current situation and the way they confront the convergence process. The third chapter analyses how the different subregional integration mechanisms deal with the main aspects related to trade agreements. For this, charts were prepared specifying the common aspects and the differences characterizing them. The fourth chapter specifies how the different agreements incorporate the regulations of free competition and the supranational institutional structures derived therefrom. The fifth chapter is a systematic analysis of the concept of convergence and identifies the various strategies that are on the agenda, as well as the main areas for advancing regulatory convergence in both commercial and competition matters. Finally, chapter six deals with the conclusions.

I. INTERNATIONAL PRODUCTIVE TENDENCIES, INTEGRATION MECHANISMS AND FREE TRADE AGREEMENTS

I.1 Transformations of international global production

In order to understand the course that the international negotiations are taking, it is necessary to consider the transformations that are affecting Global production. Baldwin (2011). It is notable that between 1985 and the end of the 90s, revolutionary transformations of industry and commerce took place, specifically the regionalization of supply chains. Before this transformation, successful industrialization meant building such chains within the country itself. Now, Baldwin sustains, companies are developing these chains and growing rapidly, as delocalized production generates elements that Taiwan and Korea took decades to develop internally. These changes are not reflected in a general theory of the development, which can lead to misinterpretations of data and lack of attention to important policy issues (2011, p.2).

Contrary to the opinions by many scholars who see globalization driven by the natural reduction of the artificial costs of trade, Baldwin argues that what drives globalization are the advancements in two connectivity technologies: transportation and transmission. Those developments have brought about crucial changes. Indeed, according to Baldwin (2006 and 2011) globalization driven by lower costs of "Information and Communication Technologies" (ICTs) is fundamentally different from that driven by lower trade costs. In the first phase of unbundling (before 1980), international competition took place at the sectorial level (for example, Japanese automobiles vs. Thai). In the second phase, however (after 1985), international competition occurs in a finer resolution degree, that is, at the level of the production stages (Thai automobiles may contain Japanese parts and vice versa) (Id. P 4).

In this context, Baldwin identifies two significant changes. The first questioned the changes in the participation of developing countries in the export of manufactures as a percentage of total exports. The author ascertains that there are several countries with a population of more than 10 million inhabitants, with a significant increase in the participation of manufactured exports (around 50% in 2007 and 2008). This is the case of the Philippines, Mexico, China, Malaysia Thailand, among others. The other relevant finding is that the winning countries are grouped around the countries that dominated the world industry until the second disaggregation, being the United States, Germany, and Japan (id. pp. 4 and 5).

How do ICTs affect this process? According to Baldwin, before 1985 industrialization involved building the entire supply chain at home. Given the simple ICTs available at the time, extreme proximity was essential to coordinate sophisticated industrial processes. All stages of production had to be within a factory or industrial district. Most of the necessary skills had to exist internally; no nation could be competitive without building a wide and strong industrial base – an obstacle that only a few nations were able to overcome (id. p. 6). The radical change in the second phase of delocalization is made possible by the revolution in ICTs, by spatially separating some stages of production without significant losses of efficiency or opportunity. There are three main implications of these changes:

I.1.1 Globalization, operating at the level of the production stages, instead of the sectorial level, makes industrialization less difficult, since countries can be industrialized by joining supply chains.

I.1.2 On the other hand, as companies with advanced industrial skills relocate some production stages, they mobilize their knowledge along with production. The technical and managerial knowledge become more mobile internationally. So, the delocalized stages of production must evolve in tandem and imbricated without problems with the rest of the productive network. That is why the process of providing technology is very different from the technology transfer of the 1970s and makes creation of advanced industrial activities possible in developing countries in a few months, although the higher value-added links remain in the developed countries.

I.1.3 Distance matters in supply chains. Even with new technologies, the coordination of production networks involves some face to face and face-machine interactions. Technicians and managers must travel from the technology centres of the central countries to the underdeveloped countries; this must be fast; if something goes wrong, the entire production chain could be affected until the node resumes operation. This may explain why the countries comprising the production networks are close to the high-tech countries (id. pp. 6-7).

In this context, UNCTAD (2013) found that about 60% of global trade consisted of trade in intermediate goods and services that are incorporated into various stages of the production process. In this sense, they also argued that the fragmentation of the production process and the dispersion of tasks and activities within it has led to the emergence of production systems without borders that can be sequential chains or complex networks that can be global, regional or reach only two countries. Unlike Baldwin, who uses the concept of supply chains, UNCTAD prefers the concept of global value chains (GVCs). The same concept is used by Gary Gereffy in his many publications (2011). These chains are usually coordinated by transnational corporations, which include trans-border trade in inputs and outputs, which take place within their affiliate networks, contractual partners (in a non-shareholder approach of international production) or independent parties (p. 122) .

I.2. Transformations of international trade

The process described in the previous section has radically transformed trade. The core of trade in the XXI century is structured on the basis of the nexus trade - investment - services - intellectual property, reflecting, according to Baldwin (2011), the interlinking of 1) trade in parts and components; 2) international movement of investments in production facilities, personnel training and long-term business relationships and; 3) services to coordinate dispersed production, especially infrastructure services such as telecommunications, internet, urgent parcel delivery, air cargo, trade-related finance, customs clearance, among others (Baldwin 2011, p.13). According to the author, this implies that while trade in the XX century consisted of selling goods made in one country to customers in another, the trading system was mainly about demand, that is, to sell things. The XXI century trade involves a continuous bidirectional flow of things, people, training, investment and information that takes place among factories and offices and, therefore, the trading system is about offering, i.e. doing things (id. p. 13).

In this context the 'goods', Baldwin argues, are packages of factors from many nations, technology, social capital and governance capacity; moreover, a country's productive pattern is inseparable from its position in the supply chain. Thus, comparative advantage changes from being a national concept to become a regional one (id.).

The second dislocation produced by globalization results in international trade having richer, more complex, more interconnected trans-border flows. This new nature of trade transforms policymaking in a global manner, creating a new supply and demand for stronger disciplines and the creation of a link between the various aspects of policymaking – some of which were always seen as international issues – many others were seen as internal policy issues (id. p. 31).

For Baldwin, the complexity and interconnection of supply chain trade changed the governance of world trade towards regionalism. Although this is not new, and inasmuch as most of the supply chains are regional, there is a strong tendency to establish complex rules at the regional level rather than at the multilateral level. Although it would have been more efficient in GATT, it would have been more cumbersome and slow[1] (id.) On the other hand, XXI century trade requires two types of disciplines associated with international trade. On the one hand, supply chain trade requires producing abroad, either directly or via long-term relationships with independent suppliers. This corresponds basically, according to Baldwin, to the issues of investment and intellectual property, as the establishment of businesses abroad is an essential part of XXI century trade.

In turn, ECLAC (2014) draws attention to the fact that trade in value chains is characterized by its close relationship with direct foreign investment, a correlation that has become more pronounced in the last two decades, especially in the less developed countries, by an intense exchange of intermediate goods, which has represented between 50% and 55% of the world exports of (non-oil) goods over the entire period from 2000 to 2011. It is also characterized by the increase of the imported content of exports: approximately 28% of the gross value of world exports of goods and services in 2010 corresponded to imported content and the fundamental role played by a wide range of services (financial, legal, logistical, design and communications, among others), many of which are incorporated as inputs to the final goods marketed. In this way, the participation of services in world exports in 2008, measured in terms of value added, was 42%, that is, almost double the participation achieved when the measurement is made in terms of gross value (WTO, 2013c). Finally, ECLAC points out that many services that support value chains have, in turn, been fragmented into different tasks and delocalized to countries that have competitive advantages in these tasks (p.21).

I.3 Transformations of the integration processes

The various subregional agreements contain different views on the imbrication between the relevance assigned to regional and subregional agreements and the multilateral debate in GATT and WTO as well as methods on the insertion of subregional agreements into the global economy.

A distinction can be made between two types of trade agreements; (1) International cooperation agreements, where several states are associated in order to achieve certain common objectives that meet their shared interests, without affecting their jurisdictions or their prerogatives of sovereign state by the action taken or measures adopted to achieve them. (2) Integration agreements, on the other hand, are mechanisms that unite several States, accepting not to assert their jurisdictions unilaterally and delegating their exercise to a supranational authority, in which

[1] The formulation of the author appears contradictory at first glance. How can it be an efficient yet cumbersome and slow process at the same time? What the author suggests is that a negotiation at the GATT or WTO level would save countless resources by becoming a single global negotiation. However, such negotiation could take much longer by involving all member countries.

merging of their interests operates, and to whose decisions submission is agreed through control and the appropriate procedures, for everything related to the sector of activity entrusted to the high authority.

Literature also establishes a clear distinction between the First Generation Agreements, prior to the Uruguay Round of the WTO which were characterized by agreements of a basically commercial nature and involved the tariff reduction on goods and the Second Generation Agreements arising after the Uruguay Round that have gradually incorporated elements such as trade in services, investment, intellectual property and state purchases. Also considered are matters regarding rules of origin, phytosanitary and animal health, and anti-dumping measures. On the other hand, the concept of Third Generation Agreements was structured to deal with agreements between two regions that are characterized by more advanced efforts of cooperation, a diversification of the areas and instruments of cooperation, incorporation of the evolutionary clause and the importance given to respect for fundamental rights and liberties. A detailed classification is given in table 1.1 below:

TABLE Nº 1.1

SUPERFICIAL AND DEEP INTEGRATION			
Level of integration	Type of preferential trade agreement	Characteristics	Example
SUPERFICIAL INTEGRATION	Free Trade Agreement (FTA)	The members liberalize their internal trade but maintain their independent foreign tariffs	USA-Israel FTA
	FTA+	An FTA that also harmonizes some standards that go beyond cross-border measures (for example, environmental standards)	NAFTA
	Customs Union	The members liberalize trade within the union and adopt common external tariffs vis-à-vis the rest of the world	SACU
	Common Market	Establishment of free movement of all production factors within the preferential trade agreement, including labour and capital	EU
	Monetary Union	Establishment of a common currency and a fully integrated monetary policy and exchange rate	Euro Zone
DEEP INTEGRATION	Fiscal Union	Establishment of a common fiscal policy	United States
Source: Taken from the Report on World Trade 2011. The WTO and the preferential trade agreements:			
From co-existence to coherence (2012, p. 110).			

In order to understand the problems of convergence between the different trade agreements in Latin America, it is interesting to describe the ways in which the different experiences of regionalism are organized. The first has, as its fundamental reference point, the creation of the European Economic Community which proposed establishing a common external tariff. In this

context, agreements flourished in Latin America, characterized by industrialization protected by high tariffs where the State played an active role. Economic integration appeared as a suitable way to address bottlenecks associated with the limited sizes of national markets. This policy led to the establishment of the Central American Common Market; The Caribbean Community and the Andean Community. It also led to the establishment of the Latin American Free Trade Association and, later, to ALADI (Latin American Integration Association).

The regional integration adopted in the 90s differs from the regional integration process that began in the late 50s -called by Bhagwati and Panagariya (1996) the "first regionalism"- in several important respects. First, the first episode was inspired in the European Community process, the new agreements have been more influenced by the United States policy on the matter. Secondly, the first generation of agreements focused its attention on the relationship with the countries of the region. Currently, the region also seeks to strengthen ties within the region, to exploit commercial opportunities with its extra-regional[2] partners. Thirdly, the first generation of agreements focused on the integration process as a way of encouraging import substitution policies, ultimately resulting in selective low-impact[3] sectoral integration. At present, the integration process is inserted into an outward focused trade policy, resulting in more ambitious, extensive and in-depth liberalization approaches. Likewise, in one of the most radical changes in the integration approaches, Latin American countries seek trade agreements with full reciprocity, moving away from traditional approaches to special and differential treatment. Last but not least, currently, the integration process incorporates a growing number of trade dimensions that are partially incorporated (investments) or absent from the previous approach (services). All of this supported by a trade dispute settling mechanism, at that time unknown in the region (Sáez, 2008 pp. 13-14).

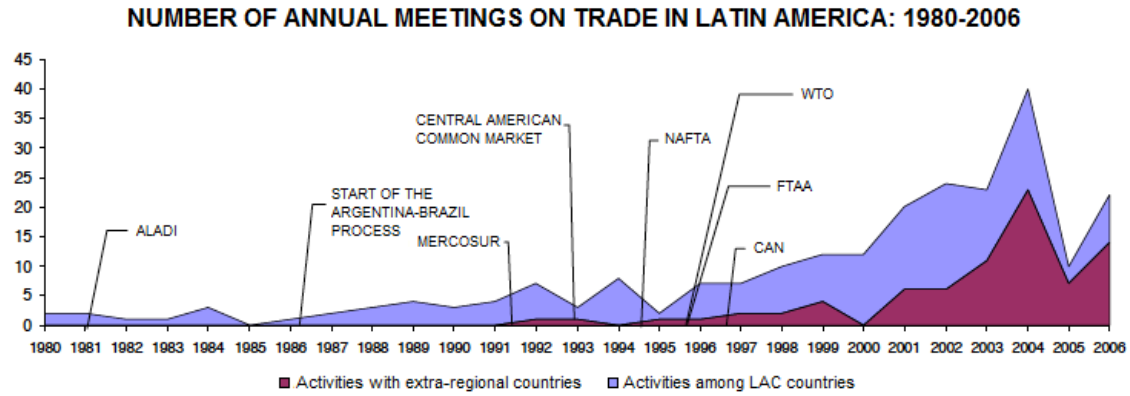
Different factors explain the increasing density observed in the interregional dimension of international economic relations. Some of the most important are (Peña, 2013):

- Greater connectivity among different national markets, whatever the region to which they belong, as a result of technology innovations that have shortened all sorts of distances (physical, economic, cultural).
- Proliferation of global value chains with their impact on the transnational strategies of the companies, the foreign trade policies of the countries and the way international trade is measured.
- The loss of multilateral sphere dynamism institutionalized in the WTO to continue expanding the acquis of trade liberalization commitments and rules of the game that facilitate trade flows and transnational investments.

This gives a strong impetus to trade negotiations. An order of magnitude appears in the chart below:

[2] To align the objectives of strengthening the ties between the countries comprising an agreement and exploiting commercial opportunities with extra-regional partners, although theoretically it is possible, in practice, as will be seen below, has been a complex process which, in several cases, has strengthened the trends towards a *de facto* fragmentation of integration agreements. Building a path to overcome these tensions is probably one of the great challenges for regional leadership.

[3] The policy of import substitution has been the subject of much debate in Latin America. Critical reflections are now taking on new dimensions, as what would be the object of a policy of import substitution in the context of global value chains. In this connection, it seems necessary to discuss how to optimize the insertion of the region in an advantageous way into those chains.



Source: Taken from Sáez (2008) p. 10.

I.4 Transformations of integration agreements in Latin America and the Caribbean

Preparation for the FTAA negotiations took place between 1995 and 1997. In 1998, in Santiago, Chile, on the occasion of the Second Summit of the Americas, formal negotiations were initiated, which should have been completed in 2005, by establishing a hemispheric free trade area. This process, which is currently suspended, had an impact on the integration of Latin America and the Caribbean in the emergence of integration models and approaches that have not been able to coexist. On the one hand, the NAFTA model followed by a group of countries whose paradigmatic example is the Pacific Alliance and, on the other hand, a model of integration articulated around the approaches followed by MERCOSUR.

All these developments have had a significant impact on the architecture of regional integration. In fact, from these two new role models, countries began to incorporate the set of trade dimensions trade that are part of the WTO and the new ones that have been developed in greater detail in the NAFTA model. In the latter case in particular, it deals with the chapters on investments, services, competition policies and, more recently, electronic trade. All these aspects are added to the development of complex rules that affect trading of goods, particularly in the customs area, the rules of origin and procedures for verification of origin.

There are differences in the institutional approaches followed. In the case of free trade agreements (whether those negotiated under ALADI or those negotiated under the NAFTA model), a minimum institutional framework was favoured, not creating supranational institutions, leaving the integration process to be driven by its members. ACN and CACM adopted the integration method based on supranational institutions, but with ample interference by its members in the definition of speed and depth. For its part, MERCOSUR has followed an approach in which some supranational entities have been created, such as the Secretariat of MERCOSUR, but without initiative in the integration process which has remained in the hands and control of its member countries. Likewise, the interest to sign extensive and ambitious trade agreements with the United States and the European Union represents a change of approach in Latin America, and one of the differences with the old integration method that was based on strengthening the ties with the countries within region. (Sáez, 2008 pp. 13-15).

Richard Baldwin and Patrick Low (2008) point out that the fragmentation of productive processes from the political economy point of view has had significant effects, particularly by blurring the old distinctions between 'us' and 'them' which encouraged the commercial policy. In this regard, they argue that the interests of producers who previously sought to protect their local markets from foreigners are now also concerned about access conditions and trading costs across a wide

spectrum of other markets. Hence the growing political and economic forces that favour more open markets. For the authors, it is a problematic principle that, instead of having faced this development with multilateral agreements, they have proliferated regional agreements with their discriminatory and distorting collateral effects (p. 2).

The entry into force of NAFTA not only had a regional impact but also made countries outside the region look at Latin America with attention. The European Union understood the possible negative consequences in terms of diversion of trade and of investment that the consolidation of an economic space as the one proposed by the United States would have in the frame of FTAA, which encouraged it to change the emphasis of its relations with Latin America from "cooperation" to partnership, based on political, cooperative and commercial pillars.[4]

Something similar, although of less impact, occurs in the way that the Asia-Pacific looks at the region. This translates, at the beginning of this century, into the beginning of trade negotiations between Mexico and Japan; in the negotiations of Chile with the Republic of Korea, China and P4 (Brunei, Chile, New Zealand and Singapore). More recently, Peru has concluded negotiations or is in the process of negotiations with Canada, China, Singapore and Thailand. Also, some Central American countries have concluded trade negotiations with Singapore and the Chinese Province of Taiwan (Sáez, 2008, p.15).

A quick analysis of the integration process in Latin America and the Caribbean reveals that all of them, without exception, have undergone complex transformation processes that today lead to states that are very different from those established by the founders and that one day will probably appear with forms also different from those they show today.

Félix Peña (2013) emphasizes that the growing interaction between the various regional geographic spaces is a dominant feature of the current global economic scenario. Multiple interregional alliances, simultaneous and cross-linked, tend to be normal in these times. Transpacific and transatlantic spaces are some of the most outstanding examples. But so are- among others that populate the agenda of relevant news and events in contemporary international economic relations- the interregional spaces of Eurasia, the Mediterranean, the Arab-Latin American, that of the New Silk Road (Asia, the Arab countries and North Africa), as well as the wider and sometimes more diffused in its design and concretions, the named South-South. It is precisely in a global scenario, with multiple regional spaces that are simultaneously interconnected, that thought should be given to the future of relations between the countries of the Latin American and European geographical spaces. (Peña, 2013). This is also relevant to Latin American and Caribbean spaces.

Likewise, Peña continues to point out, global economic competition tends to develop simultaneously in multiple scenarios with different intensities of connection among them. Such scenarios may be individual countries, especially where these are of large economic size. But they

[4] Trade agreements promoted by the European Union include political dialogue, as it represents "one of the main means of consolidating the partnership established by the Agreement". To this end, it is considered that the main objective of the political dialogue between the two Parties is the "promotion, dissemination, development and common defense of democratic values", including, in particular, respect for human rights, freedom of the person and the principles of the Rule of Law (10). To this end, the Parties shall discuss and exchange information on joint initiatives on international issues of mutual interest, with the main objective of achieving common objectives, including "security, stability, democracy and regional development". The European Union also emphasizes a second pillar, cooperation by the assessment made by strengthening and promoting social development, economic development and environmental protection, while giving particular priority to respect for fundamental social rights. It is in this context that trade agreements must be developed.

are constantly more regional and even interregional spaces, with some form of organization and institutional structures. (id.). For a country -whatever its size or level of economic development- the exercise of multi-spatial economic diplomacy implies knowing how to identify communicating vessels that exist or may be developing even simultaneously and imperceptibly among different countries and regions, often in superimposed form. Such communicating vessels may result from production and trade activities carried out by the different modalities of transnational value chains or global and regional production networks, or from the very different variants of connection and joint work between academic institutions, as well as scientific and technological development. And they are also the result of the new transport axes or corridors, of commerce and investment, which even recreate those of a very distant past (id.).

Economic co-operation relations among different regions are becoming denser. Although they reflect a phenomenon with a long history, in recent times there has been a clear trend towards the conclusion of different modalities of economic cooperation agreements and even of preferential trade. Sometimes they are the result of the interaction of organized regions (or sub-regions) whose countries are expressed through different modalities of common institutional frameworks, as in the case of the EU and, in Latin America, MERCOSUR, SICA or CARICOM, and now CELAC. But they are also the result of bilateral interaction among countries belonging to different regions (for example, each member country of the EU with each Latin American country) or, as in the case of the EU amid an organized region and individual countries (for example EU-India, or EU-Chile).

II. ORIGIN, EVOLUTION AND CURRENT STATUS OF THE SUBREGIONAL INTEGRATION MECHANISMS IN LATIN AMERICA AND THE CARIBBEAN: AN OVERVIEW

As Sáez (2008) points out, the analysis of regional integration in Latin America and the Caribbean shows different modalities. Of course, a first form is seen in subregional integration methods such as the Andean Community of Nations (CAN), the Caribbean Community (CARICOM), the Central American Integration System (SICA) and the Southern Common Market (MERCOSUR). On the other hand, the countries of the region tried to carry out bilateral trade negotiations, either as members of a bloc, in the case of MERCOSUR, or individually, as is the case of the member countries of CAN and Central America. In this regard, the Latin American Integration Association (ALADI), a product of its regulatory flexibility, played an important role, especially during the 1990s. In this process, countries that are not part of any subregional method also participated actively, as is the case of Chile and Mexico. Finally, in a third modality, from the beginning of this century, the countries of the region have actively developed negotiations and have signed very ambitious agreements with countries or groups of countries outside the region (pp. 11 - 11).

Similarly, Sáez emphasizes that in the 1990s all the regional methods in force began renewal and update processes seeking to make them consistent with the trade policy approaches adopted by the countries of the region. This is the case of the Central American integration method that was reformed in 1991 and 1993 through the Protocols of Tegucigalpa and Guatemala, respectively. Also, in 1989, at a meeting held in the Galapagos Islands, the members of the Cartagena Agreement decided to renew their integration method supported by import substitution policies, adapting it to the reforms undertaken. In 1997, through the Trujillo Protocol, the institutionalism of the Andean integration process was reformed, seeking a greater dynamics to address the relationship between the Andean countries and to have greater citizen participation, and created the Andean Community that institutionally and normatively represents the renewal proposed by its members in the late 1980s.

II.1 The Central American Integration System (SICA)[5]

From the point of view of Convergence of regional integration mechanisms, in the case of Central America, it is necessary to distinguish the following milestones: the creation of the Common Market in 1960; the establishment of the Central American Integration System on 13 December 1991; the Free Trade Agreement between the United States, Central America and the Dominican Republic (DR-CAFTA) and the European Union Central American Association Agreement, whose negotiation was concluded in March 2010.

Chronologically, Central American economic integration began in 1952 with the Charter of San Salvador, which gave rise to the Organization of Central American States (ODECA), along with the agreement on the Regime for Central American Integration Industries and the multilateral agreement on free trade and economic integration. The General Treaty of Central American Integration was signed in 1960 by the four northern countries of the region and Costa Rica incorporating two years later. This agreement comprises: the formation of the Central American Common Market (CACM), unfair competition policies in international trade, transport of goods, fiscal incentives, creation of key institutions for the process, such as the Secretariat for Central American Economic Integration (SIECA) and the Central American Economic Integration Bank (CABEI), the role of economic policy institutions and the definition of those goods with special regimes that would not be part of CACM. The objectives were aimed at achieving a greater market for the industries that were developing in each country, in order to take advantage of economies of scale and specialization. The pillars to achieve this were the reduction of tariffs to the countries subscribing to the agreement, harmonization of tariffs with economies outside the region, homogenization of regulations, simplify administration, and investment in infrastructure. (Urrutia, 2011 p. 10).

The Central American Integration System (SICA) was established on 13 December 1991, through the signing of the Protocol to the Charter of the Organization of Central American States (ODECA) or Protocol of Tegucigalpa, which reformed the Charter of ODECA, subscribed originally in San Salvador, El Salvador, on 14 October 1951. It formally took effect on 01 February 1993. The Republic of El Salvador is the headquarters of SICA (http://www.sica.int/sica/sica_breve.aspx).

The Central American Integration System (SICA) is the institutional framework for Central American Regional Integration, created by the States of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama. Subsequently, in the year 2000, Belize joined as a full member and, as of 2013, the Dominican Republic. The system has a group of Regional and Extra Regional Observers. The Regional Observers are: Mexico, Chile, Brazil, Argentina, Peru, the United States of America, Ecuador, Uruguay and Colombia. On the other hand, the Extra Regional Observers are: China (Taiwan), Spain, Germany, Italy, Japan, Australia, South Korea, France, Vatican City, the United Kingdom, the European Union, New Zealand, Morocco, Qatar and Turkey.

At present, Haiti is in the process of incorporating into the category of Regional Observer.

The main objective of SICA is the integration of Central America in order to establish it as a Region of Peace, Freedom, Democracy and Development and, in this sense, it proposes: a) to consolidate democracy and strengthen its institutions on the basis of the existence of Governments elected by universal suffrage, free and secret, and of the unrestricted respect for Human Rights; b) establish a new model of regional security based on a reasonable balance of forces, strengthening civilian

[5] For a brief historic review of SICA, see http://www.sica.int/sica/sica_breve.aspx.

power, overcoming extreme poverty, promoting sustainable development, protecting the environment, eradicating violence, corruption, terrorism, drug trafficking and trafficking of arms. (c) promote an ample system of freedom that ensures the full and harmonious development of individuals and of society as a whole. (d) achieve a regional system of economic and social welfare and justice for the Central American peoples.

Outstanding among SICA's goals in commercial and competition matters, are the following (SICA 1991):

a. Achieve economic union and strengthen the Central American financial system.
b. Strengthen the region as an economic bloc to successfully insert it into the international economy.
c. Reaffirm and consolidate Central America's self-determination in its external relations, through a unique strategy that strengthens and extends participation of the region as a whole in the international arena.
d. Promote, in a harmonious and balanced manner, the sustained economic, social, cultural and political development of the Member States and of the region as a whole.
e. Conform the Central American Integration System based on an institutional and legal framework, based likewise on mutual respect among Member States.

With regard to trade, States Parties agreed to improve the free trade zone for all goods originating in their respective territories, for which purpose all tariff and non-tariff barriers to intra-regional trade would be gradually eliminated, abolishing any quantitative restriction and any other measure having the same effect, by which one of the Parties unilaterally prevents or hinders free trade. Goods originating in States Parties shall enjoy national treatment in the territory of all of them (SICA, 1993). Likewise, the States Parties agreed to improve the Central American Import Tariff in order to promote greater levels of efficiency in the productive sectors and to help achieve the objectives of the common commercial policy.

Pacheco and Valerio (2007) point out that during the 1980s, Central American countries adopted programs for economic reform and aperture and, since the beginning of the 1990s, they have been encouraging greater insertion in the international economy. This results from the adoption of a strategy that feature foreign investment and trade as a key role in economic development. Such efforts have resulted in the participation of these countries in international trade negotiations at different levels since the early nineties. First, in the multilateral forum of the General Agreement on Tariffs and Trade (GATT) and later in the World Trade Organization (WTO) which replaced it. Then, in negotiations on bilateral agreements as a region and by countries with various trading partners, particularly Mexico, Chile, Canada, the Dominican Republic, Panama, CARICOM (Caribbean Common Market) and the United States. Subsequently, in the participation in the hemispheric negotiations of the Free Trade Area (FTAA), today at a standstill. Finally, in the drive to modernize and strengthen the Central American economic integration method, in force among the five countries of the region since the beginning of the sixties, which now form an almost perfect free trade zone in the process of becoming a customs union. With these agreements, the Central American countries seek more and better conditions for access of their products to foreign markets, with a legal framework that generates mutual duties and rights, as well as greater stability and predictability in their trade relations (pp. 9-10).

In Central America, the drive for integration was renewed following the 2002 Plan of Action on Central American Economic Integration, whose aim is to move towards a Customs Union and other instruments such as the Information Exchange and Mutual Assistance Convention; The Central

American Uniform Customs Code; The Community Transit Regime and the Convention on the Compatibility of Tax Systems and the creation of a regional Dispute Settlement Mechanism (ECLAC, 2007). In February 2007, the Protocol to the Treaty on Investment and Trade in Services was signed and is currently being ratified. This Protocol incorporates these dimensions of trade into the Central American framework with an approach similar to that adopted under CAFTA-DR (id.).

The Free Trade Agreement among Central American countries, the Dominican Republic and the United States (DR-CAFTA), the third milestone in the evolution of the integration method in Central America, was negotiated since 2002, signed in 2004 and ratified by all countries between 2005 and 2006. In the case of Costa Rica, the Supreme Electoral Court adopted a decision to hold a referendum on the agreement instead of having the National Assembly approve or reject said agreement. This referendum took place in October 2007, resulting victorious the option of joining CAFTA-DR. In addition, all Central American countries are negotiating a partnership agreement with the EU, including a trade component, along with the political and cooperation aspects (ECLAC, 2007) (Sáez, 2008, pp. 15-16).

Table 2.1 shows the extent of issues included in the agreement with the United States. Outstanding among them are the issues of rules of origin, customs procedures, trade facilitation, investment, services including financial services, telecommunications, temporary entry of business persons, electronic trade, public sector purchases, competition policies, intellectual property, labour issues and dispute resolution. Although its extent is outstanding, it is noteworthy that many of the new issues have already been dealt with in the trade agreements with Mexico, Chile, the Dominican Republic, Canada and CARICOM. From the point of view of a convergence process in Central America, agreements with the United States set an extremely important model.

TABLE N° 2.1

CONTENTS OF THE AGREEMENTS SIGNED BY THE CENTRAL AMERICAN COUNTRIES

Chapters	With Mexico	With Chile	With Dominican Republic	With Canada	With CARICOM	With the United States
Initial provisions	V	V	V	V	V	V
General definitions	V	V	V	V	V	V
National treatment and market access of goods	V	V	V	V	V	V
Rules of origin	V	V	V	V	V	V
Agricultural sector	V	V1	V1	V1	V1	V1
Sanitary and phytosanitary measures	V	V	V	V5	V5	V5
Customs procedures	V	V	V	V	V	V
Trade facilitation	X	X	X	V	X	V
Safeguard measures	V	V	V	V	V2	V
Unfair trade practices	V	V5	V5	V5	V5	V5
Technical barriers to trade	V	V	V	V5	V5	V5
Investment	V	V3	V	V3	V	V
Services	V	V	V	V2	V2	V
Financial services	X1	X1	X1	X	X	V
Telecommunications	X	X2	X	X	X	X3
Temporary entry of business persons	V	V	V	V2	V2	X
Electronic commerce	X	X	X	V4	X	V
Public sector procurement	V	V	V	V2	V2	V
Competition policy	X	V	V2	V	V2	X
Intellectual property	V	X	V5	X	X	V
Labour	X	X	X	V4	X	V
Environment	X	X	X	V4	X	V
Publication, notification and transparency	V	V	V	V	V	V
Administration of the Treaty	V	V	V	V	V	V
Dispute settlement	V	V	V	V	V	V
Exceptions	V	V	V	V	V	V
Final provisions	V	V	V	V	V	V

V: It contains a chapter on the matter (with the same or a similar name).

V1: It contains specific provisions on the matter included in another chapter.

V2: It provides that the countries that are Party to the Treaty shall review this matter and/or negotiatte specific provisions.

V3: The Parties have a treaty for reciprocal promotion and protection of investments, which will continue to govern their relations on this matter.

V4: The Parties have other legal instruments regulating the subjects under question.

V5: The Treaty reaffirms the WTO provisions in this area (in some cases, it includes less important additional s de provisions).

X: The Treaty does not contain any provisions on this matter.

X1: The Treaty does not contain a chapter on this matter, but the general provisions of another chapter are a este applicable in this area.

X2: The Treaty contains a chapter on this matter, but it does not apply to Costa Rica.

Source: Taken from Pacheco and Valerio (2007).|

On the other hand, it should be noted that the Agreement with the United States committed the countries of the Region to a series of changes, including legal changes. This issue is analysed in detail by Pacheco and Valerio (op.cit.). With regard to urgent services reforms, the countries committed themselves to ensuring that the provisions are subject to the agreement and to maintaining at least the level of aperture established by their respective legislations at the time of

its signing[6] and they accepted commitments on representatives of foreign houses and agreements for distribution and representation which allow contractual freedom of the Parties. They also accepted commitments for legal changes in the case of Costa Rica, to enable financial institutions to provide consulting services for investment management and collective investment methods for aperture the insurance market. With respect to intellectual property, the parties accepted commitments on trademarks, geographical indications, Internet domain names, copyright and related rights, satellite signals, patents, measures relating to certain regulated products and enforcement. This involved ratifying or signing a series of agreements and conventions outlined in Table N° 2.2. Generally, it is the ratification of many multilateral agreements. With regard to domain names, the agreement also obliges availability of tools that prevent cybernetic piracy of trademarks so that the administration of the country code top-level domains (ccTLDs) make available dispute resolution procedures based on the Uniform Policies for Dispute Resolution in Domain Names matters.

[6] Such provisions are the prompt collection, transportation and delivery of documents, printed materials, packages, goods and other items and their control during the provision of the service. The express delivery services do not include (i) air transport services, (ii) services provided in the exercise of governmental authority, and (iii) maritime transport services (Pacheco y Valerio, 2007p. 42).

TABLE Nº 2.2

INTELLECTUAL PROPERTY COMMITMENTS IN INTERNATIONAL AGREEMENTS

Treaty or Agreement	Commitment	Situation of countries
WIPO Copyright Treaty (1996)	Ratify or sign	All Central American countries have signed. Dominican Republic shall do so upon the entry into force of CAFTA-DR.
WIPO Performances and Phonograms Treaty (1996)	Ratify or sign	All Central American countries have signed. Dominican Republic shall do so upon the entry into force of CAFTA-DR.
Patent Cooperation Treaty, according to its review and amendment (1970)	Ratify or sign	Only Costa Rica and Nicaragua have signed. The others should do so before 01 January 2006.
Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (1980)	Ratify or sign	No country has signed it, and they should do solel before 01 January 2006.
Convention relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (1974)	Ratify or sign	Only Costa Rica and Nicaragua have signed. The others should do so before 01 January 2008.
Trademark Law Treaty (1994)	Ratify or sign	No country has signed and they should do so before 01 January 2008. Costa Rica and Dominican Republic are yet to ratify and enact it.
International Convention for the Protection of New Varieties of Plants (1991)	Ratify or sign. Those countries that grant effective protection to plants through patents by the entry into force of CAFTA-DR may not ratify it. The Parties shall make the necessary efforts for ratification	Only Nicaragua has signed the 1978 version. El Salvador, Guatemala, Honduras and Dominican Republic should do so before 01 January 2006, and Costa Rica before 01 June 2007. Nicaragua just has to update the 1978 version to make it compatible with that of 1991.
Patent Law Treaty (2000)	Make all reasonable efforts to ratify it	None of the Central American countries, neither Dominican Republic, have signed it.
Hague Agreement concerning the International Registration of Industrial Designs (1999)	Make all reasonable efforts to ratify it	None of the Central American countries, neither Dominican Republic, have signed it.
Protocol to the Madrid Agreement on the International Registration of Marks (1989)	Make all reasonable efforts to ratify it	None of the Central American countries, neither Dominican Republic, have signed it.

Source: Taken from Pacheco and Valerio (2007), p 44.

The fourth milestone is represented by the entry into force of the European Union Central American Association Agreement (EU-CAAA), characterized as one of the few existing agreements between two complete regions. Due to the EU's request that the negotiations take place in an intraregional manner, that is to say that the Central American countries make decisions together, PARLACEN turns out to be the main interlocutor in the region. Through the negotiations the Central American countries have been able to establish tariffs and other common trade barriers. Consequently, apart from the consolidation of relations with Europe, the Agreement also means the promotion of joint regional integration for all Central America. This is expected to happen,

both commercially and politically. A major feature of AACUE is the fact that future intraregional relationships are not restricted to the commercial sector only. This diversification of contractual content turns out to be the decisive factor, contrary to other bilateral FTAs maintained by Central America, for example with China or the USA. As the political and social components become focal points of interest, thus acquiring a status that has mainly been attributed to trade, the incorporation of the chapters Political Dialogue and Cooperation raise the level of biregional relations.[7]

As SELA points out (2014), development of the competition policy has recently been adopted in Central American countries (15-20 years) and there is yet a country that does not have specific competition legislation but has committed itself to its approval and implementation, no later than December 1, 2016. This is the case of Guatemala, which has been actively participating, even with this limitation, in the Working Group on Competition.[8] However, as the increasingly open and globalized trade and markets develop, this requires the ability to ensure that these relationships among economic actors promote effective competition, creating opportunities for production, but also for the consumer.[9]

Finally, it is important to highlight the emergence of transnational companies of Central American origin that promote the named de facto integration and focusing beyond the regional space. (See Table 2.3).

TABLE Nº. 2.3

Central American Transnationals

GROUP - SECTOR	ORIGIN COUNTRY	DESTINATION COUNTRY
Grupo Pantaleón (Agriculture)	Guatemala	Honduras, Nicaragua, Mexico and Brazil
Grupo Multi Inversiones (Agriculture)	Guatemala	Central America
Grupo Pellas (Financial sector, agriculture, telecommunications, real estate, among others)	Nicaragua	United States, Central America, Caribbean
Cervecería de Costa Rica (Beverages)	Costa Rica	United States
CBC, bottling plant (Beverages)	Guatemala	Central America, Colombia, Ecuador, Jamaica, Trinidad and Tobago and Barbados
UNICOMER (Commerce)	El Salvador	Central America, Caribbean, Ecuador
Grupo Spectrum (Real estate projects)	Guatemala	Honduras, Nicaragua, Colombia
Grupo Poma (Real estate and hotel business)	El Salvador	Central America
Grupo Agrisal (Hotel business)	El Salvador	Central America

Source: SELA (2014) p. 24.

[7] (http://www.kas.de/costa-rica/es/pages/6207/).
[8] This Working Group was replaced by the Central American Network of Competition Authorities (RECAC) in 2012 and in which Guatemala no longer participates.
[9] For a detailed analysis of the conditions and the competition policy in Central America, we refer to Schatan Claudia and Rivera Eugenio (2008).

II.2 Andean Community of Nations

The main milestones comprising the trajectory of the agreement are its constitution in the year 1969; The Galapagos Meeting of 1989, the Cartagena Presidential Agreement of 1997, the reinstatement of Peru to the commitments of the Liberation Program of the Cartagena Agreement in 1997, the 2010 Strategic Agenda and the reengineering process in 2013.

On the other hand, the agreements signed by the Andean countries with third parties, such as the Bolivia Agreement with MERCOSUR (ACE-36), the Colombia Agreement and Venezuela with Mexico (G3), followed by the agreements signed between Peru and Colombia with United States and then with the EU, as well as the incorporation of Peru and Colombia into the Pacific Alliance, amidst various commitments agreed with third countries, are elements that are part of the new scenario faced by economies worldwide, taking advantage of the decrease in logistic costs and the new forms of connectivity with suppliers, in order to find new markets to place their products and improve their productive structure with the supply of materials from third countries that can reduce costs.

On 26 May 1969, five South American countries (Bolivia, Colombia, Chile, Ecuador and Peru) signed the Cartagena Agreement with the objective of improving, together, the life standards of their inhabitants through integration and economic and social cooperation. In this way, the Andean integration process, then known as the Andean Pact, the Andean Group or the Cartagena Agreement, was initiated. On 13 February 1973, Venezuela acceded to the Agreement. On 30 October 1976, Chile withdrew from it. The today known Andean Community has been characterized by advances and setbacks. From the "import substitution" model prevalent in the seventies, which protected the domestic industry with high tariffs, it changed to the open model in the late eighties. At the meeting in Galapagos (1989), the Andean leaders approved the Strategic Design and the Work Plan where the new model is implemented. According to him, the Andean countries eliminated tariffs among themselves and formed a free trade zone in 1993, where goods circulated freely. This allowed intra-community trade to grow significantly and thousands of jobs were also generated. It also liberalized services, especially transport in its different forms. The presidents decided, in 1997, to introduce reforms in the Cartagena Agreement to adapt it to changes in the international scenario. These reforms allowed conduction of the process to be taken over by the Presidents, and both the Andean Presidential Council and the Andean Council of Ministers of Foreign Affairs to form part of the institutional structure. The Andean Community was created to replace the Andean Pact.[10]

Originally, the Andean Community (CAN) aims at promoting balanced and harmonious development of the Member Countries in conditions of equity, through integration and economic and social cooperation; accelerating growth and generating employment; facilitating their participation in the regional integration process, with a view to the gradual formation of a common Latin American market.[11] Germanico Salgado (2009) draws attention to the fact that "the theoretical approach of the Agreement was based on a conception different from that prevailing today regarding the relations between the functioning of the international economy and the development of Latin America. It was clear that the region could not escape the dynamic gravitation of the international economy, but it was a conflictive relationship, with both positive and negative effects. The latter had to be avoided or, at least, put in a position to negotiate the

[10] See (http://www.comunidadandina.org/Seccion.aspx?id=195&tipo=QU&title=resena-historica).
[11] For a brief historic review of the Andean Community we refer to http://www.acuerdoscomerciales.gob.pe/index.php?option=com_content&view=category&layout=blog&id=95&Itemid=118

aperture and minimize as far as possible such negative effects. The predominant policies today, it is true that with the evident aftermath of a much more advanced internationalization (see gr. Financial Flows), they assume that the relationship is always positive in its consequences or, alternatively, that nothing can be done to sift its effects" (P.84).

In this context, Salgado points out, the main objective was industrialization through expansion of the market, which would allow the development of export activities and a better insertion in the international market. Success condition was the development of a common industrial policy and planning in the development of key sectors that was finally limited to four industrial sectors. In this view, direct foreign investment played an important role (they had the know-how of the most advanced technologies and could contribute to a better insertion in the world market), but it had to be subject to conditions. The Andean Group had some successes, but it began to suffer problems; first the exit of Chile in 1976, difficulties in the tariff liberalization process among the countries of the mechanism and in the negotiation of the common external tariff. The Group suffered a serious blow as a result of the external debt crisis during the first half of the 1980s. The Protocol of Quito of 1989 tried to introduce reforms but was quickly overcome by the events. Industrial programming would also encounter many difficulties.[12]

The second crucial milestone opens with the Galapagos meeting of December 1989 which approved the strategic design to accelerate economic integration that culminated in September 1992 with the constitution of a free trade zone[13] through a total liberalization of the exchange, that is, unconditionally and unreservedly and, in November 1994, with the approval of the Common External Tariff and the Price Range System, applicable to the main agricultural products. An imperfect Customs Union was formed[14]. In successive presidential meetings, a common 4-level tariff and a list of exceptions were agreed. Industrial programming was also terminated. The emphasis of policy harmonization was placed on legislation aimed at preventing divergence from the implementation of the fundamental instruments, without being able to advance in the harmonization of basic macroeconomic policies. The Common Regime on Foreign Capital was reviewed, transforming itself into an incentive system, leaving wide discretionary powers to the national authorities. The regime on industrial property was also transformed in accordance with the policies of the United States. (Salgado, 2009, pp. 89 et seq.). Generally, Salgado argues, the mechanism that arose from the Galapagos is the antipode of the old Cartagena Agreement, "with an emphasis on the static effects of creation and diversion of trade as evaluation criteria". According to the author, it corresponds to the concept of "open regionalism" which seeks to 'reconcile free-trade policies with regional integration efforts' (id.)[15].

The Cartagena Agreement of June 26, 2006 represented a significant effort in updating the agreement. Of course, the following mechanisms and measures shall be used to fulfil the objectives of this Agreement.[16]

a. The integration with other economic blocs in the region will be intensified and political, social and economic-trade relations will be established with extra-regional systems.

[12] For a detailed analysis of this process, we refer to Salgado (2009).
[13] Peru voluntarily marginalized itself in the negotiation of the market constitution until the end of 1993. Its status was temporary suspension. According to decision of April 1994, it will be gradually incorporated in the free trade zone. It conserves the status of observer with regards to the Common External Tariff (Salgado, 2009, p. 95).
[14] Imperfect because it does not establish free circulation of domestic goods, with removal of internal customs (id.)
[15] For a conceptual discussion on open regionalism, see Salgado, 2009, pp. 96 and ss.
[16] (http://www.sice.oas.org/trade/junac/decisiones/dec563s.asp)

b. Economic and social policies will be gradually harmonized and national laws with regard to pertinent matters will be aligned.
c. Joint programming will be instituted, subregional industrialization will be intensified, industrial programs will be implemented, and other means of industrial integration will be applied.
d. A more advanced schedule of trade liberalization than the commitments derived from the 1980 Treaty of Montevideo will be instituted.
e. A Common External Tariff will be adopted.
f. Programs will be carried out to accelerate the development of the agricultural and agro-industrial sectors.
g. Resources will be channelled from in and outside the Sub-Region to finance the investments needed by the integration process.
h. Programs will be conducted in the areas of services and the liberalization of intra-subregional trade in services.
i. Physical integration will be pursued.
j. Bolivia and Ecuador will receive preferential treatment.

In addition to the mechanisms set out above, the following economic and social cooperation programs and aims shall be carried out in a concerted effort:

a. Programs to promote scientific and technological development.
b. Border integration measures.
c. Programs in the area of tourism.
d. Activities for the use and preservation of natural resources and the environment.
e. Social development programs.
f. Efforts in the field of social communications.

In Articles 53-59 the following measures are agreed:

Article 54.- The Member Countries shall coordinate their development plans in specific sectors and shall gradually harmonize their economic and social policies, with a view to achieving the integrated development of the area through planned actions.

This process shall be carried out simultaneously and in coordination with the creation of the subregional market, by means of the following mechanisms, among others:

a. Industrial Development Programs.
b. Agricultural and Agroindustrial Development Programs.
c. Physical Infrastructure Development Programs.
d. Intra-subregional Programs for the Liberalization of Services.
e. Harmonization of foreign exchange, monetary, financial, and fiscal policies, including the treatment of subregional or foreign capital.
f. A common trade policy in relation to third countries.
g. Harmonization of planning methods and techniques.

Article 55.- The Andean Community shall have a common system for the treatment of foreign capital and on trademarks, patents, licenses, and royalties, among other things.

Article 56.- The Andean Community shall have a uniform regime that Andean multinational enterprises must abide by.

Article 57.- The Commission, at the General Secretariat's proposal, shall establish the necessary permanent procedures and mechanisms for achieving the coordination and harmonization referred to in Article 54.

Article 58.- The Commission, at the General Secretariat's proposal and taking into account the progress and needs of the subregional integration process, as well as the balanced compliance with the mechanisms of the Agreement, shall approve provisions and define timeframes for the progressive harmonization of economic legislation and the instruments and mechanisms for regulating and promoting the Member Countries´ foreign trade that affect the mechanisms provided for in this Agreement for the creation of the subregional market.

Article 59.- The Member Countries shall provide in their national development plans and in the formulation of their economic policies for the necessary measures to ensure compliance with the preceding Articles.

The new agreement shall face, however, numerous problems that shall result in an increasing obsolescence and fragmentation process.

Of course, special mention should be made that, although CAN is a customs union (http://www.comunidadandina.org/), Decision 598, adopted on July 11, 2004 (http://www.comunidadandina.org/), grants liberty to member countries of CAN to negotiate, exceptionally, trade agreements with third countries or groups of countries. Article 1 of that rule explicitly establishes that "The Member Countries can conduct preferentially community or joint negotiations, and exceptionally individual negotiations for trade agreements with third countries. Article 2 adds that: If it is not possible to conduct community negotiations for whatsoever reasons, the Member Countries can negotiate bilaterally with third countries. In such event, the participating Member Countries should a) Preserve the Andean legal system in the relations between the Andean Community Member Countries; b) Take into account the commercial sensitivities of the other Andean countries in the trade liberalization offers; c) Maintain within a transparency and solidarity framework an adequate exchange of information and consultations during the course of the negotiations. Then, Article 5 establishes that: "Upon concluding the negotiations, the principle of the Most Favoured Nation should be applied as provided for in the Andean legal system". Article 6 further states that "The purpose of the trade negotiations authorized through this Decision can be the establishment of free trade areas and may refer to topics other than the liberalization in the trade of goods". Likewise, Articles 3 and 4 establish the obligation of notifying commencement of negotiations, keep CAN permanently informed on progress and notify the Commission prior to signing the respective agreement.

With respect to trade, once the goal of establishing a free trade zone among the Andean Community countries has been achieved, the aim is to improve the regulations governing this enlarged market and encourage actions that contribute to transparency and facilitate the free flow of goods. In this context, actions are being developed with a view to facilitating trade, free circulation and full use of the Free Trade Zone, establishing reference prices of the products that comprise the Andean Price Range System (SAFP). Also outstanding is the technical assistance to Member Countries in their trade information systems.

In 2013, a process of re-founding CAN was launched, based on the concentration of activities around certain priorities (trade integration, SMEs, electricity interconnections, Andean citizenship)

and institutional simplification. The pro-tempore Presidency is currently presided by Colombia.[17] Decisions 792 and 797 provide the issues and working group prioritized at this stage of the integration process; however, there are disciplines that have normative regulation on other issues that Member Countries have been reviewing.

Differences in trade and foreign policy have had an impact on subregional integration processes. Currently, CAN is facing a crucial moment. Colombia and Peru concluded negotiations for a free trade agreement with the United States and negotiations for a similar agreement on the part of Ecuador are suspended indefinitely. The Bolivarian Republic of Venezuela, criticizing the decision of Colombia and Peru to negotiate a bilateral agreement with the United States, withdrew from CAN, formalizing its decision on April 22, 2006. Subsequently, it requested its incorporation into MERCOSUR, which is in the ratification process in the congresses of Brazil and Paraguay. CAN has a set of common policies that have been formally incorporated into the national legislations of its members. But, there are compliance problems in various fields (ECLAC 2005a and 2006, Duran 2005 and Sáez 2007) (Sáez, 2008, p. 15).

In turn, negotiations between the EU and CAN were launched in June 2007, on the occasion of the CAN Summit in Tarija (Bolivia) ((http: //.ec.europa.eu) and later initiated in September of that year in Bogotá (http://www.comunidadandina.org/). They were preceded by a Declaration from Rome on Political Dialogue on 30 June 1996 (http://www.comunidadandina.org/) and by a signed Political Dialogue and Cooperation Agreement, also in Rome, on 15 December 2003 (http://www.comunidadandina.org/) Peña, 2009, February). On 11 November 2016, Ecuador signed the Agreement with the EU, thus joining the Agreement signed by Colombia and Peru.

It should also be borne in mind that the Andean countries benefit from preferential access in the EU for included products, within the framework of the General System of Preferences (GSP), which came into force on 01 July 2005, under the modality of the Special Incentive Arrangement for Sustainable Development and Good Governance (SGP "Plus").[18]

Under Decision 598, two countries of CAN have already concluded (or are negotiating) bilateral free trade agreements, in the case of Peru with the USA and with several countries within the ambit of APEC and ALADI (http://www.mincetur.gob.pe/) and in the case of Colombia, also with the USA (the latter has not yet entered into force) (http://www.mincomercio.gov.co/).

In turn, on 30 November 2005, the member countries of the CAN (Colombia and Ecuador) concluded an economic complementation agreement (ACE 58) with member countries of MERCOSUR, which includes differentiated tariff reduction programs for the respective signatory countries (http://www.mincetur.gob.pe/).

In January 2009, the EU Council amended the negotiating mandate for the agreement with CAN, opening the possibility of undertaking bilateral trade negotiations (Council of the European Union. Press Release, 2918th meeting of the Council, Brussels, 19 January 2009, 5471 (Presse 13) at http://www.consilium.europa.eu/newsroom). The new negotiation stage began in Bogotá in February 2009.

17
(http://www.exteriores.gob.es/Portal/es/PoliticaExteriorCooperacion/Iberoamerica/Paginas/ProcesosDeIntegracionRegional.aspx).
18 (http://ec.europa.eu/ and http://www.comunidadandina.org/)

The fundamentals of the competition policy are outlined in articles 93 and 94 of the Cartagena Agreement which states the following:

> Article 93. Before December 31, 1971, the Commission, shall adopt, at the General Secretariat's proposal, the rules which are needed to guard against or correct practices which may distort competition within the Sub-region, such as dumping, improper price manipulations, manoeuvres made to upset the normal supply of raw materials and others with a like effect. In this respect, the Commission shall consider the problems that could derive from the imposition of levies and other restrictions on exports.
>
> It shall be the General Secretariat's responsibility to ensure the application of those rules in the particular cases that are reported.
>
> Article 94. The Member Countries may not adopt corrective measures without the General Secretariat's prior authorization. The Commission shall regulate the procedures for implementing the rules of this Chapter. (Andean Community, 1997).

The rules on protection and promotion of free competition of the Andean Community are developed in Decision 608.[19] It should be noted that CAN has advanced therefore much more than the Central American countries in terms of regional competition policy and has an Andean Committee for the Defence of Free Competition that is part of the General Secretariat. The regional competition authority may conduct investigations and impose sanctions. We will later refer on this issue.

II.3 CARICOM

CARICOM originated with the signing of the Treaty of Chaguaramas on 04 July 1973, entering into effect on August 1 of that same year. Since 2001, the community has been operating within the framework of the Revised Treaty of Chaguaramas (RTC) which includes the establishment of the CARICOM Single Market and Economy (CSME). Appearing together with these two fundamental milestones is the Association Agreement with the European Union.

CARICOM's main objective is to generate the conditions for growth and development through the creation of a single economic space for the competitive production of goods and services. The "CARICOM Single Market and Economy" (CSME) is the heart of the economic integration, being this one of the four pillars of the institution.

Twelve CARICOM nations, plus the Dominican Republic, signed the Economic Partnership Agreement (EPA) with the EU in 2008[20].

In September 2002, the EU and the ACP countries initiated negotiations with a view to achieving economic partnership agreements. The aim of these agreements is to go beyond a relationship based on non-reciprocal preferential access and ensure integration of ACP countries into the world economy. The negotiations of the economic partnership agreements seek to achieve four objectives: a partnership implying rights and obligations for both parties, economic development

[19] (http://www.sice.oas.org/trade/junac/Decisiones/DEC608s.asp).

[20] (http://www.exteriores.gob.es/Portal/es/PoliticaExteriorCooperacion/Iberoamerica/Paginas/ProcesosDeIntegracionRegional.aspx).

of the parties (with emphasis on flexibility and gradual implementation of commitments), harmony with regional integration initiatives, and gradual integration of ACP countries into the global economy.

The negotiations to achieve an economic partnership agreement between countries of the Caribbean and the EU began on 16 April 2004 in Kingston, Jamaica and were organized into four stages: (i) the first stage would focus on measures to accelerate integration within CARIFORUM and establish guidelines for an agreement to be implemented no later than 01 January 2008; (ii) the second stage would focus on meetings of technical negotiating groups; (iii) the third stage would serve to consolidate conversations and common points of understanding achieved in a draft economic partnership agreement; and (iv) in the final stage, the agreement would be concluded. The second stage was launched in Barbados on 12 November 2004. Subsequently, on 30 November 2006, within the framework of the third ministerial meeting on the negotiation of this agreement in Brussels, the EU Trade Commissioner and Ministers of the Caribbean countries concluded the third stage of negotiations and provided guidelines for the conclusion of the negotiations in accordance with the Joint Plan and the negotiations Schedule for an Economic Partnership Agreement. CARICOM Heads of State and EU Trade and Development Commissioners met in Montego Bay, Jamaica for a special meeting on 04 and 05 October 2007. The parties agreed on the text of the Economic Partnership Agreement in Barbados on 16 December 2007. Subsequently, the final text of the agreement was published on 22 February 2008.

On 15 October 2008, the EU and the countries of the Caribbean region signed the Economic Partnership Agreement (EPA) aimed at strengthening links between the two regions and encouraging regional integration between the Parties and in CARIFORUM region. Guyana signed the CARIFORUM-CE EPA on 20 October 2008. On 10 December 2009, Haiti signed the Economic Partnership Agreement joining the 14 Caribbean States that signed it in October 2008 (http://www.sice.oas.org/TPD/CAR_EU/CAR_EU_s.asp).

The partnership agreement with the European Union represents CARICOM's decision to seek a state-of-the-art agreement. Its objectives are:
(http://www.sice.oas.org/Trade/CAR_EU_EPA_s/CAR_EU_s.asp#A1):

a. Contribute to the reduction and eventual eradication of poverty through the establishment of a trade partnership consistent with the objective of sustainable development, the Millennium Development Goals and the Cotonou Agreement;
b. Promote regional integration, economic cooperation and good governance thus establishing and implementing an effective, predictable and transparent regulatory framework for trade and investment between the Parties and in the CARIFORUM region;
c. Promote the gradual integration of the CARIFORUM States into the world economy, in accordance with their political choices and development priorities;
d. Improve the CARIFORUM States' capacity in trade policy and trade related issues;
e. Support the conditions for increasing investment and private sector initiative and enhancing supply capacity, competitiveness and economic growth in the CARIFORUM region;
f. Strengthen the existing relations between the Parties on the basis of solidarity and mutual interest. To this end, taking into account their respective levels of development and consistent with WTO obligations, the Agreement shall enhance commercial and economic relations, support a new trading dynamic between the Parties by means of the progressive, asymmetrical liberalization of trade between them and reinforce, broaden and deepen cooperation in all areas relevant to trade and investment.

The Partnership Agreement is not considered contradictory with CARICOM; on the contrary: "The Parties acknowledge the efforts of the CARIFORUM States to encourage regional and subregional integration between them through the Revised Treaty of Chaguaramas, establishing the Caribbean Community including the CARICOM Single Market and the Economy, the Treaty of Basseterre establishing the Organization of Eastern Caribbean States, and the Agreement establishing a Free Trade Area between the Caribbean Community and the Dominican Republic" (id.). Title I of the Agreement addresses trade and trade-related issues, specifically Customs duties; Trade defence instruments; Non-Tariff measures; Customs and trade facilitation; Agriculture and fisheries; Technical barriers to trade, Sanitary and phytosanitary measures. For its part, Title II addresses Trade in Services and Electronic Commerce, including the cross-border supply of services; Temporary presence of natural persons for business purpose; Telecommunications services and financial services. Title III deals with current payments and capital movement; Title IV, on Trade-Related issues, includes a chapter of Competition; Innovation and intellectual property; Public procurement; Environment; Social aspects; Dispute avoidance and settlement (http://www.sice.oas.org/Trade/CAR_EU_EPA_s/careu_in_s.ASP).

CARICOM initiated a major reform process in 2013 with two main objectives: (1) To develop a five-year strategic plan and to transform the Secretariat with a clearer strategic focus, implementation capacity and strengthening of corporate functions. Included in the 11 priorities is the accelerated implementation and use of the CARICOM Single Market and Economy (CSME). Of crucial importance is the CARICOM Secretariat's Office of Trade Negotiations responsible for development and of a cohesive framework for the coordination of resources for the negotiation of trade agreements.

In 2013, CARICOM and the United States signed a Trade and Investment Framework Agreement (TIFA). The document replaces and updates the agreement created by the United States-CARICOM Trade and Investment Council in 1991, which commits both parties to strengthen their business relationship.

Along with trade issues, CARICOM has devoted considerable attention to the development of a competition policy. Chapter 8 of the 2001 RTC develops the basis of Community Competition rules, whose goal (Article 169) is to ensure that single market benefits are not frustrated by anti-competitive business conduct. For its part, Article 171 of the RTC created the CARICOM Competition Commission (http://caricom.org/about-caricom/who-we-are/institutions1/caricom-competition-commission).

II.4 MERCOSUR[21]

On 26 March 1991, the Treaty of Asunción was signed. With four member countries, a continuous founding process started in 1986, with the bilateral agreements between Argentina and Brazil. In turn, the agreements culminated in a preparatory phase initiated following the tripartite agreement (Argentina, Brazil and Paraguay) on water resources signed in October 1979 (Peña, 2016). In its founding Treaty, MERCOSUR proposed establishment of a Common Market as of 31 December 1994. This implied (1) The free circulation of goods, services and productive factors among countries through, among others, the elimination of customs duties and non-tariff restrictions on the movement of goods; (2) The establishment of a common external tariff and the adoption of a common commercial policy with respect to third States or groups of States and the

[21] For a brief historic review of MERCOSUR see:
http://www.mercosur.int/innovaportal/v/3862/4/innova.front/en-pocas-palabras

coordination of positions in regional and international economic-commercial forums; (3) Coordination of macroeconomic and sectorial policies among State Parties: trade whether foreign, agricultural, industrial, fiscal, monetary, exchange and capital, services, customs, transport and communications and others that may be agreed in order to ensure adequate competition conditions among State Parties; and (4) The commitment of the State Parties to harmonize their legislation in the relevant areas, in order to strengthen the integration process (MERCOSUR, 1991).

To achieve these objectives, a Trade Liberalization Program was agreed, consisting of progressive, linear and automatic tariff reductions which should be accompanied by the elimination of non-tariff restrictions, the coordination of macroeconomic policies and a common external tariff, among others.

In the area of competition, a Protocol was agreed identifying practices that restricted competition. Likewise, it was determined that application of the mentioned Protocol was the responsibility of the MERCOSUR Trade Commission and the Commission of Competition Defence, an intergovernmental body composed of the national bodies, (Mercosur, 1996).

To complete the picture, it should be noted that Decision N° 32 adopted by the Common Market Council in the year 2000 (http://www.mercosur.int/) establishes the commitment of MERCOSUR member countries to negotiate in a joint manner trade agreements with third countries or groups of countries outside the zone in which tariff preferences are granted. This rule is in force; it applies to MERCOSUR negotiations with the EU and refers only to tariff preferences. That is, it does not apply to contents that do not refer to tariffs or that are not preferential. This distinction is important for the setting of scenarios on the possible future evolution of the EU negotiations with MERCOSUR or, eventually, on a bilateral level with member countries of MERCOSUR, a hypothesis that could not be completely ruled out.

As in the cases of SICA, CARICOM and countries such as Chile and Mexico, MERCOSUR developed negotiations to enter in an Agreement with the European Union. Formally, the bi-regional negotiations between the EU and MERCOSUR began in April 2000. As a precedent, it should be noted that, in 1995, an Interregional Framework Cooperation Agreement was signed in Madrid, which has been ratified by all parties and is in force (Peña, 2009, February).[22] Negotiations of the strategic partnership agreement contemplated in this case – as in the others that the EU has celebrated or is negotiating with countries of the region – three interlinked pillars: political, cooperation and trade.

In relation to the commercial pillar, according to official information from the European Commission itself, the agreement that was being negotiated was based on a region-by-region approach. It sought to be both comprehensive and ambitious, and to have a WTO-plus scope, that is, to go beyond the commitments already achieved at the global multilateral level or to be achieved in the negotiations of the Doha Round. It would have the format of a free trade agreement within the framework of the provisions of Article XXIV of GATT-1994. As European official information indicates, no sector would be excluded from trade liberalization, even when you take into account sensitivities of both parties in relation to products and sectors. The agreement should cover goods, but also services, investments and access to government purchases. It should also ensure adequate protection of intellectual property, consider competition policies that will be effective, include an agreement on sanitary and phytosanitary standards and a trade dispute settling mechanism. The official information available on the European side indicates

[22] This can be reviewed at http://www.sice.oas.org/ and http://eur-lex.europa.eu/)

that until 2008, 16 negotiating rounds were held. Since October 2004, however, only technical progress has been made. In December 2007, a declaration was signed at ministerial level expressing the political will to reinitiate negotiations (the statement can be downloaded from the following Web site (http://ec.europa.eu/) (Peña, id.).

One of the reasons given to explain the difficulties in progress was the close relationship between bi-regional negotiation and the WTO Doha Round. In this regard, it is pointed out that, with more clarity on the future evolution of global multilateral negotiations, it would be feasible to reinitiate and eventually conclude with the bi-regional ones. However, it is important to note that there was no formal conditioning that would establish a necessary relationship between bi-regional negotiation processes – either with MERCOSUR or with CAN – and the Doha Round. It is more an issue related to each specific case (especially agricultural products – both market access and subsidies – access to markets for non-agricultural products, different types of services) with the equilibrium points that are expected by the different parts of each bi-regional negotiating front and their relationship with those that can finally be articulated in the Doha Round – the idea of a "single pocket". In the case of the MERCOSUR-EU negotiation, it was even suggested by a group of experts from both regions the possibility of dividing the negotiation process into two stages in order to consider the need to correlate its evolution with that of the Doha Round [id .].

But at the beginning of 2009, the future of the Doha Round negotiations remained uncertain following the successive failures of July and December 2008. The global crisis and its impact on protectionist tendencies could, however, incentivize a formal re-launching of the EU-MERCOSUR bi-regional negotiations this year, regardless of what can be advanced in the Doha Round. The idea of its division into two stages, mentioned in the previous paragraph, still seems to be relevant.[23]

Since its creation in 1991, valuable experiences and assets have been accumulated, for example in terms of relatively guaranteed preferential access to the respective markets and an incipient productive integration. Also, at times, MERCOSUR was perceived as something successful. But many frustrations have been accumulated. They originate from the difficulties of a joint venture that requires combining very different national interests in a context of numerous asymmetries, especially of relative economic dimension. It is necessary to acknowledge, however, that such frustrations can also be explained by a relative tendency to produce media events – at that time categorized as "historical" by the respective protagonists – that have ended up generating the image of a kind of "showcase integration" (Paraphrasing the expression of "showcase modernization" used at that time by Fernando Fanjzylber, the known economist of ECLAC), in which appearances seemed to predominate over realities. Frustrations that may explain the indifference and even the rejection of the idea of regional integration by sometimes broad sectors of some of the respective countries (Peña, 2013). In like manner, the incompatibility of macroeconomic policies, particularly between the two largest MERCOSUR countries, has contributed significantly to the failure to meet the commitments.

Félix Peña, in the aforementioned article, underlines that, as Jean Monnet taught at the time, the essential thing is to find formulas adapted to each historical circumstance. That is where an adequate combination of political and technical imagination is required. Regarding the options of once again giving directionality to MERCOSUR, the author considers as an option conceiving MERCOSUR as a network of bilateral and plurilateral agreements, including sectorial and multisectoral agreements of productive integration, connected to each other. It would require

[23] For an assessment of the Status of MERCOSUR see Peña, Felix, 2015 B).

flexible mechanisms of variable geometry and multiple speeds. The EU itself has experiences in this regard. It would not mean leaving aside the commitment to build a customs union as a step towards a common economic space. It could be done through Additional Protocols to the Treaty of Asuncion or by parallel, but not contradictory, legal instruments. The bilateral agreements between Argentina and Brazil set a precedent to be taken into account. Among other regions, Central America is a point of reference in this regard.

Such an option would allow flexibility, under certain conditions, in finalizing commitments undertaken in the framework of preferential agreements concluded by one or more member countries with third countries or groups of countries. Of course, this would mean agreeing on collective disciplines among MERCOSUR partners whose compliance can be monitored and evaluated by a technical body with effective competencies. It does not have to adjust to the stereotype installed with the misleading concept of "supranational". The role of the WTO Director-General can be useful in this regard.

But in the case of MERCOSUR, at that time in the closing of one stage and moving towards a new one, not yet precisely defined, three seem to be the most relevant conditions that will be required in order to make a leap towards a more solid and effective construction, with the potential to capture the interest of citizens for their ability to generate mutual gains for each of the participating countries, taking into account the diversity that characterize them. These conditions are: the strategy for development and international insertion of each participating country; of institutional quality and of the rules of the game, and the productive articulation at transnational level (id.).

In MERCOSUR, institutional uncertainties and the rules of the game, including insufficient transparency and poor participation by civil society – manifested in several examples – are one of the main causes of deterioration suffered by integration process. Peña argues that it may be a kind of virus that comes from the integration experience first in LAFTA and then in ALADI, where many could observe the predominance of a culture of anomie, in the sense that the rules were fulfilled only where this was feasible and the information needed to decide was not easily accessible. The history of the lists of exceptions would merit reconstruction in this respect. It is a custom, both at the domestic level of a society and at the international level, to favour those who have more relative power.

Reconciling flexibility with predictability seems to be fundamental if MERCOSUR seeks to include other South American countries in its next stage, thus increasing the asymmetries and diversity of interests at stake. This will require the use of variable geometry and multi-speed methodologies. Without quality rules of the game, such methodologies could accentuate trends towards dispersion of efforts and lead MERCOSUR to new frustrations.[24]

[24] Regarding the problems arising from the difference in size between MERCOSUR countries, see Peña, Celina and Ricardo Rozemberg (2005) (p.4-5) See also p. 7, on the problems of the decision of the Common Market Council of contamination by political or economic problems that one of the countries could be facing. P. 14; the problems of MERCOSUR as an effect of the lack of prolixity of the countries that comprise it.

II.5 Pacific Alliance

At the beginning of this decade, the main regional initiatives existing in Latin America were either (MERCOSUR), or they were mainly institutional and political (CELAC), or focused on aspects that are not strictly economic (UNASUR), or with a more protectionist nature (ALBA). Therefore, there was a space for the creation of a new initiative of strictly Latin American integration, created under the principles of free market and economic openness, of an inclusive nature, and of a mainly economic nature (Blanco, 2015, pp. 1-2).

On 06 June 2012, in Paranal, Antofagasta, Republic of Chile, the presidents of Chile, Colombia, Mexico and Peru signed the Framework Agreement (Pacific Alliance, 2012) that gave rise to the Pacific Alliance as a regional integration area. There are three conditions for participating in the Alliance: (1) Rule of Law, democracy and the respective constitutional orders; (2) separation of powers of State; and (3) protection, promotion, respect and guarantee of human rights and fundamental liberties.

The main milestones of the Pacific Alliance's trajectory are as follows:[25]

- 28 April 2011: First Summit of the Pacific Alliance (Declaration of Lima)
- 04 December 2011: II Summit of the Pacific Alliance (Declaration of Merida)
- 15 March 2012: III Summit of the Pacific Alliance through virtual media
- 06 June 2012: IV Summit of the Pacific Alliance Signing of the Framework Agreement establishing the Pacific Alliance (Declaration of Paranal)
- 17 November 2012: V Summit of the Pacific Alliance (Declaration of Cadiz)
- 27 January 2013: VI Summit of the Pacific Alliance (Declaration of Santiago)
- 23 May 2013: VII Summit of the Pacific Alliance (Declaration of Cali)
- February 10, 2014. VIII Summit of the Pacific Alliance (Declaration of Cartagena) Signing of the Additional Protocol of the Framework Agreement
- 20 June 2014: IX Summit of the Pacific Alliance (Declaration of Punta Mita)
- 03 July 2015: X Summit of the Pacific Alliance (Declaration of Paracas)
- 20 July 2015: Entry into force of the Framework Agreement
- 01 May 2016: Entry into force of the Trade Protocol

The Pacific Alliance has the following objectives: (1) To build, in a participatory and consensual manner, an area of strong economic integration and to move gradually toward the free circulation of goods, services, capital, and people. (2) To promote the growth, development and competitiveness of the Parties' economies, aiming at achieving greater welfare, overcoming socioeconomic inequalities, and achieving greater social inclusion of their residents. (3) To become a platform for political articulation, and economic and trade integration, while projecting these strengths to the rest of the world, particularly the Asia-Pacific region.

At least three elements characterize the new entity. Instead of developing an effort to manage trade among the parties, the Alliance seeks to "liberalize trade in goods and services, with a view to consolidating a free trade zone among the parties." Likewise, it seeks to move towards the free movement of capital and the promotion of investments among the Parties. In this context, attention is focused on precise and operational objectives such as the development of actions for trade facilitation and customs matters. Particular attention is given to the promotion of

[25] https://alianzapacifico.net/?wpdmdl=4441.

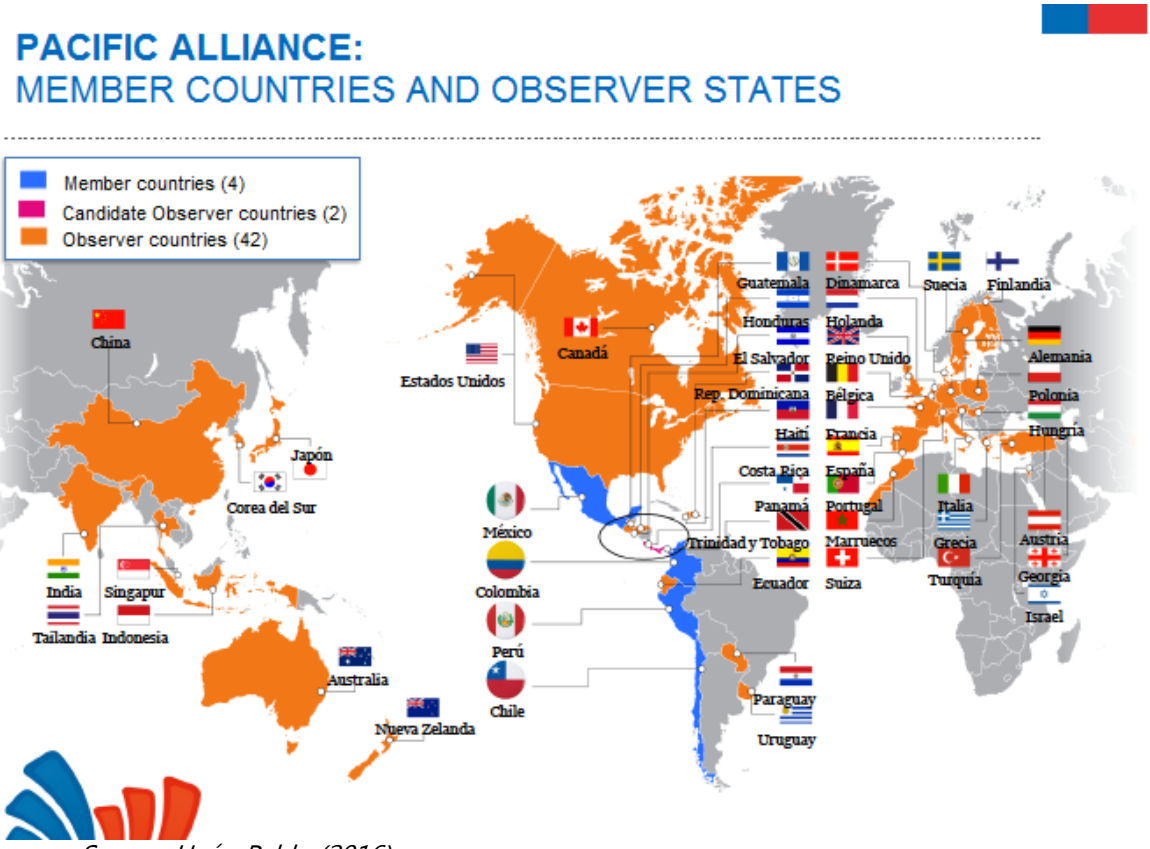
cooperation between migration and consular authorities to facilitate migration transit among the Parties.

A second characteristic is the option for institutionalism structured on the basis of the national entities themselves. In this sense, a Council of Ministers is created that directly assumes decision making, monitoring of its compliance, evaluation of the results, definition of the political guidelines of the Alliance in its relationship with third parties, States or integration systems, as well as the establishment of working groups that are deemed necessary, which cease to function once the entrusted task is fulfilled. The Pro Tempore Presidency is also created.

Another key decision is to become a platform for political articulation, and economic and trade integration, while projecting these strengths to the rest of the world, particularly the Asia-Pacific region.

In relation to trade and integration, the entity's main documents govern provisions related to tariff liberalization, rules of origin, technical barriers to trade, sanitary and phytosanitary measures, trade facilitation, and customs cooperation. Among the subgroups are: Regulatory Cooperation; Trade Facilitation and Customs Cooperation; and Foreign Trade Single Window.

The PA is an agreement that goes beyond a traditional free trade agreement (FTA), in terms of its thematic coverage and negotiation approach. Its members have already signed numerous trade agreements and, although they are now part of this new subregional alliance, they remain completely free in their trade negotiations with third countries and strengthen their policies for international economic integration. (Echebarría and Estevadeordal, 2014, p. 28). In this sense, deep integration agreements such as the PA can encourage the upsurge of regional value chains because they tend to incorporate disciplines that go beyond simple tariff reduction and address key issues for the chains such as investment, service, logistics or customs issues, among others. (id. p. 31). This greater integration among the countries of the PA would not only assist in generating productive networks that serve the demand of the intra-bloc market. The PA can also be an instrument to organize production within the bloc by using the comparative advantages of each country and allowing access to world markets with more competitive products. (id. pp. 31-32). The bloc also represents a privileged forum for cooperation between the public and private sector in the region. In August 2012, CEAP was established, whose mission is to contribute to the integration process of the Alliance, encouraging the regional integration, growth, development and competitiveness of the economies that comprise it in order to generate a deep integration space that is attractive to promote investment and trade. This council aims at promoting actions for the PA to become an effective instrument capable of coordinating business efforts with a strong emphasis on innovation and productive chains, with a view to materialize opportunities offered by emerging markets in Asia and other continents. The PA has been a project in which there has been important business ties especially in the field of investments. They are relationships that have been built for some years, which have given the process a different stamp of bottom-up integration and a more pragmatic and flexible nature (id. p. 33).



Source: Urría, Pablo (2016).

III. COMPARATIVE ANALYSIS OF THE MAIN PROVISIONS OF THE REGULATORY FRAMEWORKS FOR TRADE OF THE SUBREGIONAL INTEGRATION MECHANISMS

There is growing concern for practical results of the integration. The figures mentioned, indicate problems of integration schemes that are manifested in (ECLAC, 2007):

a. Non-compliance of commitments and weakness in the mechanisms for resolving disputes: regarding this aspect, the main problem involves the efficiency of the systems to encourage compliance with the agreements;
b. Slow incorporation of the regulations agreed on in the integration schedule (particularly MERCOSUR);
c. Weak institutions and as a result, management of the integration;
d. Absence of coordination and collaboration within the framework of the macroeconomic policies: this has been one of the main tensions of some in the integration process in the region, particularly, although not exclusively, within the MERCOSUR framework, as a result of the stabilisation policies implemented and the correction of these;
e. Absence of an operational approach to the asymmetries in the level of development of its members: regarding this aspect, the problem arises in that the differences in the levels of development and physical integration create an unbalance with respect to the benefits of the integration process. Recently, mechanisms have been created to address this problem within the MERCOSUR framework.[26]

[26] The creation of a Structural Converging Fund MERCOSUR (FOCEM) is a step in the direction to confront the problem of asymmetries and is viewed as an additional step to partially compensate in benefit to the lesser partners. The fund has a

This has led to the weakening of support from the private sector because of a deficit in credibility associated with the regional integration schemes. This, however, does not mean ignoring the advances recorded in the period, particularly, if the current integration schemes are compared with the existing mechanisms in the period of substitution of imports. Among the advances, it must be mentioned the significant development of trade, the growth of intraregional trade including the Asian crisis and the importance of intra industrial trade, which is an indicator of a qualitative structural transformation (IDB, 2002). Progress is also reflected in the complement of the significance of the 90's regionalism in the process of reforms in the countries of the region. The development noted means that the actual integration needs a change of focus that permits it to advance even further in the goals set (ECLAC, 2006 and 2007) (Sáez, 2008 p. 20).

III.1 Agreements with countries or extra regional agreements as a basis for regulatory convergence in Latin America and the Caribbean

As observed in the previous chapter, four of the five integration mechanisms (with the exception of the recently created Pacific Alliance) appear to follow a path with similar aspects. Although created at different times, they constitute, in the first instance, an effort to create a single market separated from the rest of the global market by a common tariff. There are significant efforts, in particular the Andean Pact, later called Andean Community of Nations and MERCOSUR to develop initiatives of common industrial policies and an effort in industrial planning. Despite the different advances, the various agreements are faced with crisis followed by profound restructuring, particularly the cases of Central America and CARICOM, while the other experience processes of stagnation and fragmentation.

In this regard, the Galapagos meeting in 1989, the Presidential agreement of Cartagena 1997, constitute an attempt of renewal. Something similar occurred with CARICOM, which since 2001 has been functioning within the "Revised Treaty of Chaguaramas" (RTC) framework that includes the establishment of the CARICOM Single Market and Economy (CSME). The establishment of the Central American Integration System, constituted on 13 December 1991, also represented an effort to adapt to the new circumstances by Central America. However, these mechanisms of integration have been subjected to a number of difficulties. These are all synthesized in the following table (3.1). These difficulties, as well as the change in international context, a different vision with respect to the internal policies and the evaluation of the opening an integration of flow of international trade, have created significant processes of change.

The main changes arise from the establishment of a number of trade agreements, in particular the agreements with the European Union and the United States, which are indicated in Tables 3.2 and 3.3.

capital of US$ 100 million, of which 75% are contributions of the Brazilian government. In the Río de Janeiro Summit, 11 pilot-projects were approved for a total amount of US$ 73 million. Among the projects approved, five are in Paraguay, two to strengthen the Technical Secretariat of MERCOSUR and one to fight foot and mouth disease in the region, ECLAC (2007).

TABLE Nº 3.1

PRINCIPALES HITOS DE LA EVOLUCIÓN DE LOS ACUERDOS DE INTEGRACIÓN ECONÓMICA Y LIBRE COMERCIO			
Acuerdo	**Fundación**	**Revisión**	**Principales desencadenantes de las transformaciones de los mecanismos de integración.**
Mercado Común Centroamericano	1960 Dos años después se incorpora Costa Rica	1991: Protocolo de Tegucigalpa; 1993: Protocolo de Guatemala. Los protocolos indicados fueron en parte resultados del esfuerzo de superación de los graves conflictos que afectaron a Centroamérica en las décadas de los 70s y 80s.	Durante la década de 1980, los países de Centroamérica adoptaron programas de reforma y apertura económica y, desde inicios de la década de 1990, vienen impulsando una mayor inserción en la economía internacional. Esto como consecuencia de la adopción de una estrategia que atribuye a la inversión extranjera y al comercio internacional un papel central en el desarrollo económico. Tales esfuerzos se han traducido en la participación de estos países en las negociaciones comerciales internacionales a distintos niveles desde inicios de los años noventa y en el impulso de la modernización y profundización del esquema de integración económica centroamericano, vigente entre los cinco países de la región desde inicios de los años sesenta, los cuales ahora forman una zona de libre comercio casi perfecta en proceso de convertirse en una unión aduanera. Con estos acuerdos los países centroamericanos buscan más y mejores condiciones para el acceso de sus productos a los mercados externos con un marco jurídico que genere nte a la CAN(id.)s mutuos, así como mayor estabilidad y previsibilidad a sus relaciones comerciales. La búsqueda de un acuerdo comercial con Estados Unidos fue un objetivo de las naciones centroamericanas de larga data por la importancia de los flujos de comercio con ese país (Pacheco - Valerio, 2007)
PRINCIPALES HITOS DE LA EVOLUCIÓN DE LOS ACUERDOS DE INTEGRACIÓN ECONÓMICA Y LIBRE COMERCIO			
Pacto Andino	26 de mayo 1969	Reunión de Galápagos: del modelo de "sustitución de importaciones" predominante en los setenta, que protegía la industria nacional con altos aranceles, se pasó al modelo abierto a finales de los ochenta.En la reunión de Galápagos (1989), los mandatarios andinos aprobaron el Diseño Estratégico y el Plan de Trabajo donde se plasma el nuevo modelo.En 1993 se eliminan los aranceles entre si y se forma una zona de libre comercio.1997: Se crea la Comunidad Andina en reemplazo del Pacto Andino. En 2003 el Plan Integrado de Desarrollo Social y poco a poco se fueron recuperando para la integración los temas de desarrollo que estuvieron presentes en los inicios del proceso. En el 2007, en la Cumbre de Tarija, los Presidentes de los Países de la Comunidad Andina acordaron impulsar una Integración Integral que propugna un acercamiento más equilibrado entre los aspectos sociales, culturales, económicos, políticos, ambientales y comerciales	La firma del TLC con EEUU generó una crisis en la Comunidad Andina, que implicó el retiro de Venezuela, y litigios ante el Tribunal Andino por parte sobretodo de Bolivia que entabló juicios a los países que habían firmado TLC, por los cambios que implicaban en la normativa comunitaria principalmente propiedad intelectual. Las diferentes concepciones de inserción internacional de los países andinos y de estrategias de desarrollo, llevaron a un entrampamiento y en la práctica una fragmentación, con la salida de un socio importante. No se pudo implementar los acuerdos de Tarija, donde se planteaban flexibilidad y un proceso de geometría variables, en el impulso de la integración regional y acuerdos con socios extra-regionales.(Fairlie, 2012) Ecuador y Bolivia han manifestado su interés de ingresar al Mercosur. Todos los miembros de la Can son países asociados del Mercosur, y viceversa. Pero, un ingreso pleno al Mercosur por parte de cualquier socio andino, implicaría según las normas actuales, renunciar previamente a la CAN(id.)
PRINCIPALES HITOS DE LA EVOLUCIÓN DE LOS ACUERDOS DE INTEGRACIÓN ECONÓMICA Y LIBRE COMERCIO			
CARICOM	4 de julio 1973	"Revised Treaty of Chaguaramas" (RTC) que incluye el establecimiento del "CARICOM Single Market and Economy" (CSME) (2001).	
PRINCIPALES HITOS DE LA EVOLUCIÓN DE LOS ACUERDOS DE INTEGRACIÓN ECONÓMICA Y LIBRE COMERCIO			
MERCOSUR	26 de marzo de 1991	!999: Argentina y Brasil emprenden correcciones en sus políticas de estabilización lo que provoca un deterioro en las cifras de comercio intraregional así como un detrioro en la relación comercial.El Mercosur no pudo establecer un arancel externo común completo. Según Motta Veiga y Ríos (2007) solo un 10% del comercion de importación del MERCOSUR se rige por el arancel externo común (Saéz, 2008)	En el Mercosur, hay discusiones al interior del bloque no solo por las diferencias de política comercial para enfrentar la crisis internacional, que han llevado a la imposición de trabas al comercio entre los socios. Además, por las críticas de Uruguay, Paraguay a las asimetrías existentes y la dinámica impulsada por los socios mayores. Si bien Mercosur establece solo negociaciones en bloque y no ha firmado TLCs, hay iniciativas sobre todo de Uruguay y Paraguay por avanzar en la participación de foros extra-regionales.
Alianza del Pacífico	6 de junio del 2012		

Prepared by the author.

TABLE Nº 3.2

FREE TRADE AGREEMENTS BETWEEN THE EU AND LATIN AMERICA AND THE CARIBBEAN			
Countries / Blocs	Date of signature	Coverage	Type of Agreement
Mexico	08 Dec 1997	Goods and services	Free Trade and Economic Integration
Chile	18 Jan 2002	Goods and services	Free Trade and Economic Integration
CARIFORUM & APEC States	15 Oct. 2008	Goods and services	Free Trade and Economic Integration
Colombia-Peru (on 11 November 2016 Ecuador joined in)	26 June 2012	Goods and services	Free Trade and Economic Integration
Central America	29 June 2012	Goods and services	Free Trade and Economic Integration

Source: http://rtais.wto.org/UI/PublicSearchByMemberResult.aspx?MemberCode=918&lang=3&redirect=1

TABLE Nº 3.3.

FREE TRADE AGREEMENTS BETWEEN THE UNITED STATES AND LATIN AMERICA AND THE CARIBBEAN			
Countries / Blocs	Date of signature	Coverage	Type of Agreement
Canada - Mexico	17 Jan 1992	Goods and services	Free Trade and Economic Integration
Chile	06 June 2003	Goods and services	Free Trade and Economic Integration
Dominican Republic - Central America	05 Aug 2004	Goods and services	Free Trade and Economic Integration
Peru	12 Apr 2006	Goods and services	Free Trade and Economic Integration
Colombia	22 Oct. 2006	Goods and services	Free Trade and Economic Integration
Panama	28 June 2007	Goods and services	Free Trade and Economic Integration

Source: http://rtais.wto.org/UI/PublicSearchByMemberResult.aspx?MemberCode=918&lang=3&redirect=1

III.2 Advances of Regulatory Convergence in the treaties of the region's countries with the United States and the European Union

The question regarding the possibilities and path to advance in the regulatory convergence of the different mechanisms of integration of Latin America and the Caribbean should attempt to be answered with respect to the comparative analysis of the different agreements. A first set of analysis is found in the revision of the characteristics of the status of the integration agreements in itself. Table N° 3.4 compares the topics included in the different integration agreements. The cases of CAN and MERCOSUR, although they contain several topics related to the common industrial policy, the industrial programme of specific sectors show few agreements on the "new" subjects of the trade agenda.

TABLE 3.4

CONTENTS OF SIGNED TREATIES					
CHAPTERS	MERCOSUR	SICA (1) (2)	CAN(3)	CARICOM Revised Treaty of Chaguaramas	Pacific Alliance
Initial Provisions	V	V	V	V	V
General Definitions		V	V	V	V
National treatment and market access of goods	V	V	V	V	V
Rules of origin	V	V	V	V	V
Agricultural sector		V	V	V	
Sanitary and phytosanitary measures		V	V		V
Customs procedures		V	V		V
Trade facilitation			V		V
Safeguard measures	V	V	V		
Unfair trade practices	V	V	V	V	
Technical barriers to trade		V	V		V
Investment	V	V	V		V
Services	V	V	V	V	
Financial services		V		V	V
Telecommunications		V	V		V
Temporary entry of business persons		V	V		
Electronic commerce					V
Public sector procurement					V
Competition policy	V		V	V	
Consumer protection			V	V	
Intellectual property	V		V	V	
Labour					
Environment		V		V	
Publication, notification and transparency		V			V
Administration of the Treaty	V	V	V		V
Dispute settlement	V	V	V	V	V
Exceptions	V	V	V		V
Final provisions		V	V	V	V

Source: Prepared by the author based on: http://www.sice.oas.org/agreements_e.asp

V: It contains a chapter or section on the matter.

(1) Protocol to the General Treaty on Central American Economic Integration.

(2) Treaty on Investment and Trade in Services among the Republics of Costa Rica, El Salvador, Guatemala, Honduras

(3) http://www.comunidadandina.org/index.aspx. There are provisions on NT and market access (Art. 75 and 72 of CA) Customs (Decisions … http://www.comunidadandina.org/Seccion.aspx?id=3&tipo=TE&title=aduanas), Sanitary Measures (Dec. 515...) Trade Facilitation (Dec. 770), OTC (Dec. 419), Investment (Dec. 291), Services (Dec. 436), Intellectual Property (DEC. 486), Consumer Defence (Dec. 539), Telecommunications (http://www.comunidadandina.org/Seccion.aspx?id=72&tipo=TE&title=telecomunicaciones), Migrations (http://www.comunidadandina.org/Seccion.aspx?id=84&tipo=TE&title=migracion) , Publication, notification and transparency (Cartagena Agreement).

http://www.comunidadandina.org/Documentos.aspx?GruDoc=07

In the cases of SICA and CARICOM, on the other hand, the new topics appear with stronger force, despite being still somewhat under developed.

TABLE Nº 3.5

CONTENTS OF SIGNED TREATIES					
CHAPTERS	NAFTA (1992)	Chile - USA (2003)	CAFTA - DR (2004)	Peru - USA (2006)	Colombia - USA (2006)
Initial provisions	V	V	V	V	V
General Definitions	V	V	V	V	V
National treatment and market access of goods	V	V	V	V	V
Rules of origin	V	V	V	V	V
Agricultural sector	V	V	V	V	
Sanitary and phytosanitary measures	V	V	V	V	V
Customs procedures	V	V	V	V	V
Trade facilitation			V	V	V
Safeguard measures		V	V	V	V
Unfair trade practices			V	V	V
Technical barriers to trade	V	V	v	V	V
Investment	V	V	V	V	V
Services			V	V	V
Financial services	V	V	V	V	V
Telecommunications	V	V	V	V	V
Temporary entry of business persons	V	V		V	
Electronic mail		V	V	V	V
Public sector procurement	V	V	V	V	V
Competition policy	V	V		V	V
Consumer protection					
Intellectual property	V	V	V	V	V
Labour		V	V	V	V
Environment		V	V	V	V
Publication, notification and transparency	V	V	V	V	V
Administration of the Treaty	V	V	V	V	V
Dispute settlement	V	V	V	V	V
Exceptions	V	V	V	V	V
Final provisions	V	V	V	V	V
Source: Prepared by the author, based on http://www.sice.oas.org/agreements_e.asp					
In the case of CAFTA-DR, Pacheco and Valerio (2007).					

Table N° 3.5 shows the topics included in the agreements established by countries in the region with the United States. The table shows a situation radically different for SICA, two member countries of CAN, Colombia and Peru and two other countries, Chile and Mexico that do not form part of a regional agreement. These involve trade agreements of second generation that include all aspects of services, of telecommunications, of electronic trade. Also, those referring to the temporary entry of persons for business, purchase in the public sector, policies of competition, consumer protection, intellectual property, labour aspects, environmental aspects, etc.[27]

[27] Only in the case of NAFTA some agreements are pending basically because of the tenure of the treaty. In any event, it must be reminded that it is this Treaty that will be served as a model for the others mentioned in Table 3.5.

CUADRO Nº 3.6

CONTENTS OF SIGNED TREATIES						
CHAPTERS	Mexico - EFTA (2000)	Chile - EFTA (2003)	CARIFORUM - European Community (2008)	Colombia - European Union (2008)	Peru - EFTA (2010)	Central America - European Union (2012)
Initial provisions	V	V	V	V	V	V
General definitions	V	V	V	V	V	V
National treatment and market access of goods	V	V	V	V	V	V
Rules of origin	V	V	V	V	V	
Agricultural sector		V	V	V	V	V
Sanitary and phytosanitary measures	V	V	V	V	V	V
Customs procedures			V		V	V
Trade facilitation			V	V	V	V
Safeguard measures	V	V	V	V	V	V
Unfair trade practices	V	V	V	V	V	V
Technical barriers to trade	V	V	V	V	V	V
Investment	V		V	V	V	
Services		V	V	V	V	V
Financial services	V	V	V			V
Telecommunications		V	V			V
Temporary entry of business persons			V			V
Electronic commerce			V	V	V	V
Public sector procurement	V	V	V	V	V	V
Competition policy	V	V	V	V	V	V
Consumer protection						
Intellectual property	V	V	V	V	V	V
Labour						V
Environment			V			V
Publication, notification and transparency		V		V	V	V
Administration of the Treaty		V	V	V	V	
Dispute settlement	V	V	V	V	V	V
Exceptions		V	V	V	V	V
Final provisions	V	V	V	V	V	V

Source: Prepared by the author, based on http://www.sice.oas.org/agreements_e.asp.

As can be seen in Table N° 36, the agreements between the countries of Latin America and the Caribbean with the European Union prompt the countries of our region to include the second generation topics in the trade agreements. Beyond the differences that can be identified between the agreements driven by the United States and the European Union[28] it is evidenced that the countries of the region have established several agreements with extra regional entities that could serve, easily within a technical viewpoint, as a base for a mega agreement that includes LA and the Caribbean. The difficulties seems to be more of a political nature.

The great exception is clearly MERCOSUR, which has not achieved, and sometimes have not wanted to advance in the negotiations with the United States and the European Union. In this regard, it is crucial the possibility (considered by many to be distant and difficult because of the concerns affecting the European Union) that MERCOSUR and the European Union could conclude the lengthy discussed association. The recent political changes that have occurred in the principal countries of MERCOSUR and the largely predisposition of the new governments to an opening to the outside could help in this process.

[28] The European Union, as we saw above, puts special attention on subjects such as political dialogue and social agenda.

IV. COMPARATIVE ANALYSIS OF THE REGULATIONS TO PROTECT FREE COMPETITION IN THE SUBREGIONAL INTEGRATION MECHANISMS AND THE AGREEMENTS ON THE MATTER OF INSTITUTIONS FOR PROTECTION OF CROSS-BORDER FREE COMPETITION

Competition policy is an aspect that has only been regulated in Latin America over the last 20 years. In the regional agreements, its treatment has been incorporated diversely and its practical results have not been completely evaluated yet.[29] CAN has a set of disciplines and institutions to respond to questions relating to these aspects. MERCOSUR prepared regulations that are not yet in effect (Decision 18/96), and therefore it is not possible to evaluate its efficiency. Among the countries of South America, there are no agreements that regulate substantively the anti-competitive practices.

Probably, Central America is the subregion that has advanced most in this field, despite the fact that most of the competition agencies were recently created.

Additionally, with the support of the Inter-American Development Bank and the World Bank, the Latin America Regional Centre for Competition (CRC America Latina) has been constituted, which has been proposed as a mission to "assist the authorities for competition in developing their capabilities and implementing laws and policies on competition in their respective jurisdictions". At the same time, its vision aims at "to be converted into an institutional entity of collaborative efforts that involves all Latin American countries to improve competition in the region and increase the wellbeing of the population". They are members of the National Defence Commission of Competition of Argentina; Administrative Council of Economic Protection of Brazil; Defence Court of Free Competition of Chile; National Economic Prosecutor of Chile; Superintendence of Trade and Industry of Colombia; Commission to Promote Competition of Costa Rica; Superintendence of Control of the People´s Market of Ecuador; Superintendence of Competition of El Salvador; Ministry of Investment and Competition of Guatemala; Commission for the Protection and Promotion of Competition of Honduras; Federal Commission for Economic Competition of Mexico; National Institute for Promotion of Competition of Nicaragua; Authority for Consumer Protection and Defence of Competition of Panama; National Institute of Defence of Competition and the Protection of Intellectual Property of Peru and the National Commission of Defence of Competition of the Dominican Republic. In August 2012 the Federal Commission of the USA requested to become a member of the Regional Centre for Competition http://www.crcal.org/quienes-somos).

IV.1 Competition policies in Central America

a. Convergence of the policy on competition

Article 25 of the Protocol of Guatemala 1993 indicates in its article 25 "In the trade sector, Member States agree to adopt common dispositions to avoid monopoly activities and to promote free competition in the regional countries." In this context, in 1995 Law N° 7472 was approved for the Promotion of Competition and Effective Consumer Protection and a Commission was created to promote competition. For its part, the Marco Agreement for the Establishment of a Central American Custom Union, of 2001 establishes in article 21 that "Member States shall develop a regional regulation on matters of policies of competition". In 2004, the Law on Competition of El Salvador was approved; in 2006 the Law on Competition was adopted in Honduras and Nicaragua. That same year, the Central American

[29] An initial work on this matter can be consulted in Brusick, Alvarez and Cernat (2005).

Group on Competition was created. In 2007, Panama was incorporated into the Work Group on Policies of Competition in Integration (Vargas, 2013).

The Working Group set a milestone in the joint work on the subject of competition in the region. Additionally, the Marco Agreement for the Establishment of the Central American Custom Union signed by the Ministers of Trade in 2007 – which contains a chapter on competition policy – the countries committed for the first time to the development of a regional regulation on policy of competition. Based on the above, the Working Group outlined more formally its parameters of organization and functioning to design and promote regional competition policy. This received help from the Secretariat of the Central American Economic Integration (SIECA) and the European Union through the "Project for Design and Application for Common Central American Policies" (ADAPCCA), which provided funds of cooperation for the activities of the Group (Escolan and Schatan, 2016, p.24).

According to Escolan and Schatan (op.cit) the policy on competition in Central America suffered a significant turn. With the signing of the Association Agreement between Central America and the European Union (May 2010), Central America committed to create a Central American organization and regulation on competition (Chapter VII, Trade and Competition), that could lead to the creation of another supranational authority for competition capable of implementing a regional policy. To support this initiative the IDB approved the Institutional Regulation Model project for a Regional Competition Policy, the objective of which is to "develop a regulatory and institutional model for a Regional Competition Policy (PRC) in Central America and Panama – the regional public benefit – that contributes to an increase in response to the common Central American market with activities aimed at eliminating barriers for entry into the markets and reducing anticompetitive practices." The Central American regulation on competition has already been prepared and approved at a technical level. However, the text is not yet available to the public and has not yet been approved by the authorities on competition policies.

In 2013, the Working Group of Central America for Competition Policy was transformed into the Central American Network of National Authorities In charge of the Topic of Competition (RECAC) with the purpose of including Panama. El Salvador, Honduras, Nicaragua and Panama form part of this, but Guatemala is still to become a part – lacking the requirements to be formally integrated and is only an observer at this moment – nor Costa Rica, which is not formally a member, although participating in the discussions of the Central American regulation on competition. According to Escolan and Schatan, the RECAC has no authority to decide on the actions of the States participating therein, therefore the activities of this Network are basically the nature of advocacy of the competition, technical cooperation and is a platform from where the IDB helps to develop the regional regulation on competition. Despite the above, Escolan and Schatan reveal that in the event a Central American regulation is approved, a regional space would be opened of exchange of information to attend to cases involving practices with cross border effects. Putting into practice a Regional Regulation is a great challenge, principally because of the difference between the authorities of the various countries, in experience, autonomy, priorities and independence of authorities. In consultation with specialists, the authors conclude that the Network is an excellent tool that allows coordination of the authorities to be able to deal with anti-competition practices regionally, since several companies operate in various countries of the region without any mechanism to evaluate their behaviour at a supranational level (id. pp. 24-25).

For its part, SELA (2014, p.46) synthesizes as follows the problems and differences encountered in the negotiation process to agree on the regulation and the mechanism of regional institution:

- Diverse criteria on the nature of application of the Legislation and the Authority of Regional Competition.
- Considerations regarding whether the scope of the Regulation should be subjected to the advances of the Central American Integration Process.
- The authorities that the Authority on Regional Competition would have, among these the authority to penalise.
- Mechanisms for handling confidential information.
- How would Public Aid function?
- Who would be responsible for the Regional Authority?
- What would be the jurisdiction of the supranational?
- Level of coordination by authorities of trade and competition in the region is not the same. Guatemala does not have a Competition Policy and slows progress.
- Caution when delegating national sovereignty to regional authorities, not only on subjects of competition.

b. The regulations on competition defined by the Partnership Agreement between the European Union and Central America.

Chapter VII of the Association Agreement between the European Union and Central America "Trade and Competition" clearly shows significant advances in the convergence of Central America with respect to competition.

In effect, Central American countries are committed, within a period of 7 years, to establish the "Central American Regulation on Competition" which stipulates in accordance with article 25 of the Protocol on General Treaty of Central American Economic Integration (Protocol of Guatemala) and article 21 of the Marco Agreement for the Establishment of a Central American Custom Union (Guatemala, 2007).[30] At the same time, the CA Party is committed, within the same period, to create the "Central American Organisation on Competition" that shall establish and designate in its Regulation on Competition, within the same period indicated".[31]

For its part, Article 278 reveals the importance of free competition in its trade relations and at the same time, acknowledges that "anticompetitive practices could affect the adequate functioning of the markets and the benefits of free trade". In this regard, the Parties agree that it is incompatible with the agreement the following behaviours:

a. The agreements between companies, the decisions of business associations and the practices agreed between companies, the objective or effect of which is to prevent, restrict or distort competition as established in their respective laws on competition.
b. Any abuse, by one or more companies, of a dominating position or substantial power in the market or notable participation in the market, as established in their respective laws on competition; and
c. Concentrations between companies that significantly hinders effective competition, as established in their respective laws on competition.

[30] Numeral 1, letter c of Article 277 indicates that "until the time of adoption of the Regulation in accordance with Article 279 'laws on competition' means national laws on competition that each of the Republics of the CA Party have adopted or maintained in accordance with Article 279".
[31] Numeral 2, letter c, indicates that until the time on which the Central American Entity for Competition is established and enters into effect in accordance with article 279, "authority on competition" means the national authority on competition of each of the Republic of the CA Party.

Article 280 clearly indicates that no disposition "shall prevent any Republic of the CA Party or any Member State of the European Union from designating or maintaining public companies, companies that are entitled to special or exclusive rights or monopolies in accordance with their local legislation" (N° 1); However, these companies "shall be subjected to the laws on competition to the extent that the application of such laws does not obstruct the fulfilment, in fact or in law, of the particular tasks that have been designated (N° 2). Finally, N° 4 indicates that "no provision of the present chapter shall affect the rights and obligations of the Parties established in respect of chapter V (public contracting) of part IV of this Agreement".

From a point of view of its implementation, the Agreement is limited with respect to "If, at the time of coming into effect of this Agreement, any of the Parties have not yet adopted laws on competition in accordance with article 277, paragraph 1, letters a) or b), or have not designated an authority for competition in accordance with article 277, section 2, letters a) or b), they must do so within a period of seven years. After the end of said transition period, the terms 'laws on competition' and 'authority on competition' contemplated in this chapter, shall be understood only as established in article 277, section 1, letters a) and b) and section 2, letters a) and b)". Article 279 N° 2).

It is important to highlight, that the agreements indicated, obligates the Central American countries to establish a legislation and a regional institution on matters of competition. With regard to cooperation between the parties in this area, this is very limited, since it is reduced to an exchange of non-confidential information and in the case of any disputes related to Chapter VII they cannot turn to the procedures for resolution of disputes of Chapter X (Resolution of Disputes) of part IV of the Agreement.

IV.2 Competition Policies in MERCOSUR

a. The Protocol on Protection of Competition of MERCOSUR of 1996

On 17 December 1996, MERCOSUR approved the "Protocol on Protection of Competition" (MERCOSUR/CMC/DEC. 18/96). Unfortunately, the Protocol did not come into effect. The objective of the Protocol was the protection of competition within the environment of MERCOSUR and it would be applied to the acts practiced by individuals or companies, public or private, and other entities, that are aimed at producing or that have produced effects on competition within MERCOSUR and which have affected trade between the Member States. It would correspond to each Member State "to regulate the acts practiced in their respective territory by individuals or public or private companies or any other entity domiciled therein, and to which the effects on competition are restricted" (Article 3). However, article 8 indicated that "it is the responsibility of the Trade Commission of MERCOSUR, under the terms of Article 19 of the Protocol of Ouro Preto, and the Committee for the Protection of Competition (CDC) to apply this Protocol". This CDC would constitute an "organization of intergovernmental nature, integrated by local organisations applicable to this Protocol in each Member State".

In Chapter V, particularly between Articles 10 to 21 the regulation with respect to the procedure for application is developed. In this procedure, after the presentation based on an interested party, the national organisations for the application should submit to the CDC the case with a preliminary evaluation. The CDC, after a preliminary technical analysis, shall proceed with the opening of an investigation or, ad referendum of the Trade Commission of MERCOSUR to the file of the process. Article 13 also determined that "in the case of an emergency or threat of irreparable damage to

the competition, the Committee for the Protection of Competition shall determine, ad referendum of the Trade Commission of MERCOSUR, the application of preventive measures, including the immediate cease of the practice submitted for investigation, the reestablishment to the prior situation or others that are considered necessary". At the same time, Article 14 determined that it is the responsibility of the CDC to establish "in each case investigated, aspects that will determine, among others, the structure of the relevant market, the means of testing the conducts and criteria of analysis of the economic effects of the practice investigated". In case of discrepancies, Article 17 establishes that "with respect to the application of the procedures stipulated in this Protocol, the Committee for the Protection of Competition could request the Trade Commission of MERCOSUR to pronounce on the matter". Article 18, for its part, indicates that "once the investigation process is concluded, the national organization responsible for the investigation shall present to the Committee for Protection of Competition a conclusive decision on the matter", which shall determine the offending practices and shall establish the sanctions to be imposed or the other measurers corresponding to the case (Article 19). In the case where the CDC has not reach a consensus, the interested Member party could resort directly to the procedures established in Chapter IV of the Protocol of Brasilia for the Solutions of Disputes (Sole Paragraph of Article 21).

Already in 1997, Jose Tavares de Araujo Jr. and Luis Tineo (1997) had anticipated problems: Some problems of this system can be anticipated… The substantive provisions and procedures of the Protocol are applied only to practices with implications for MERCOSUR. Given the fact that the national agencies, the CDC and the CC are independent in their judgment in each phase of the process in determining the dimension that concerns MERCOSUR in each phase it could burden and slow the system. In each phase the agency can apply different criteria to determine the relevant market. For example, the national agency can use restrictive criteria to determine the market and close the investigation. On the other hand, it could happen that more permissive criteria are applied. The same problems can be anticipated observing the evaluation of the evidence and the economic effects of the practices. There is a huge controversy regarding the limitations of applying the economic analysis to the anticompetitive practices. However, assuming that each criteria is determined adequately by the national agencies, this does not guarantee that the other determinations or focuses are accepted by the CDC. Likewise, although it is expected that the decision are ratified by the CC, this latter has the authority to reject these based on its own criteria". (p.13).

Further on they indicated: "Additionally, given the limited experience accumulated in each country regarding these practices, both the preliminary analysis and those of the CDC could lead to inconsistent results. This could open the doors for political influence and discretion in each phase, if the instances base their decisions on considerations different to the technical ones, particularly with the analysis of the effects on the market of the practices. It is thus left to be seen how well the intergovernmental mechanisms of coordination will work and how appropriate and politically neutral are the criteria applied to the practices under investigation. These topics lead to the consideration of a more preventive focus towards practices that involve extraterritorial dimensions, since many of these practices are possible only when there is an unbalanced treatment at each national level. To address this crucial area, the Protocol contains measures for the harmonisation of the laws and policies on competition" (id).

For his part, Felix Pena in 2000 proposed a series of measures aimed at overcoming the problems, which up to that year had prevented advancement in the constitution of the CDC.

b. Protection of Competition Agreement of MERCOSUR 2010

In 2010, the "Protection of Competition Agreement of MERCOSUR" (MERCOSUR/CMC/DEC. Nº 43/10) was established based on the fact that after 14 years, the Protocol of Strengthening had not come into effect. The objective is significantly less ambitious. In its clauses it is acknowledged that there is need for a common instrument that preserves and promotes free competition since the cooperation on matters of free competition contributes to objectives established by the Treaty of Asuncion. At the same time, it indicates that "It is important to institutionalize and strengthen the mechanisms of consultation and exchange of information already implemented by authorities on competition of the Member States". The agreement derogates the decision CMC Nº 18/96 and 02/97.

The objectives of the Agreement are the following:

i. Promote cooperation and coordination between the Member States in the activities of application of the law on national competition within MERCOSUR.
ii. Provide mutual assistance on any query relating to the policy on competition that is considered necessary.
iii. Ensure careful examination by the Member States of their relevant reciprocal interests, in the application of their laws on competition.
iv. Eliminate anticompetitive practices with the application of the respective law on competition.

The new model of cooperation on matters of competition was intended to be based on consultations between the authorities on competition of the Member States. In addition, the idea of harmonising the anticompetitive regulations, applicable to all member states is abandoned, and rather rests on the agreements of cooperation and coordination signed in 2004 and 2006. Notwithstanding, as indicated by Mota and Bertrand (2015), although this new agreement appears to be promising, it still strongly depends on domestic operated regulatory institutions. Because of this, the authors sustain, that the evolvement of the agreement is uncertain. More so if, to date, the agreement has not yet been internalized by the member countries, with the exception of Argentina. Internalization requires that each country enact the terms of the agreement as legal regulations domestically, whether as statutes, executive decrees, or regulations depending on the rules of each country (p.218).

For his part, Luis Diez Canseco (2013) indicates "To date there is no information on putting into practice of the procedures established in the protocol for the investigation and application of the regional regulation on competition. In a review of the Minutes of the Committee for the Protection of Competition of MERCOSUR (CT N°5) available on their website, it can be observed that most of the activities carried out externally by this Committee, are aimed not on enforcement but on the update and exchange of non-confidential information of the laws on competition in each country and its application in a general nature, that is, without reference to a concrete case" (p.8).

IV.3 Competition policies in the Andean Community

a. Decision 285 of March 1991:

From a procedural point of view, Decision 258 had established that the Commission at the proposal of the Board, shall review the regulations on trade competition. Likewise, Decision 281 established that at the latest, 31 March 1991, the Commission, at the proposal of the Board, shall review the regulations on trade competition established in Decision 230.

Decision 285[32] in its first Article, establishes that the objective of the regulations stipulated in the Decision is to prevent or correct distortions in competition resulting from practices that are restrictive in free competition. Likewise, the second article establishes that Member Countries or the companies with a legitimate interest could request the Board the authorization or mandate for the application of measures to prevent or correct threats to prejudice or prejudices to the production or export, arising from restrictive practises of free competition originating in the sub region or in those by a company that has an economic activity in a Member Country. Practices carried out by companies in only one country are excluded. Article 3 establishes that restrictive practices of free competition are understood to be the agreements, parallel activities or practices agreed between companies that produce or that may produce the effect of restriction, prevention or misrepresentation of competition. These agreements include those of horizontal or vertical types, which are signed between parties related to the companies. Also, restrictive practices of free competition are considered as the abusive exploitation by one or several companies of their position to dominate the market. In this regard, the following agreements, parallel activities or agreed practices are considered:

i. Inappropriate manipulation or direct setting of prices or other conditions of trade, in a discriminating manner, with respect to those that have maintained normal trade operations.
ii. Limitation or control of the distribution, technical development or investment. Likewise, limitations or prohibitions to export, import or compete.
iii. Distribution of the market or the sources of supplies, particularly works aimed at perturbation of the normal supply of raw material.
iv. Application of unequal conditions for same services in trade relations that put other competitors at a disadvantaged position with regards to others.
v. Subordination of signing contracts with the acceptance of complementary services which, because of its nature, or with the customary trade arrangement, is not related to the objective of such contract; and;
vi. Others of similar effects.

Likewise, it is considered as an abuse of position to dominate the market:

- Inappropriate manipulation, direct or indirect imposition of prices or other trade conditions, under discriminating terms with respect to those that would have existed under normal trade operations;
- Limitation or control of production, distribution, technical development or investments. Likewise, limitations or prohibitions to export, import or compete.
- Unjustified negativity to satisfy the demands to purchase products, among others, failure to supply products to companies in competition for the market of the final product.

[32] (http://www.sice.oas.org/trade/junac/Decisiones/Dec285s.asp).

- Applications in trade relations of services, unequal conditions for the same service, which puts competitors in a disadvantaged position with respect to others.
- Subordination of signing contracts with the acceptance of complementary services which, because of its nature, or with the customary trade arrangement, is not related to the objective of such contract; and;
- Other cases of similar effects.

It is the responsibility of the Board to receive claims from the intermediary organisations of member countries or from companies with legitimate interest. In this regard, and having the complete background required, the Board shall initiate the investigation. During this period the Board could request and gather evidence and information from the intermediary organisations, from its intermediate or directly from the producers, exporters, importers, distributers or consumers, with a legitimate interests in the investigation. Likewise, they can submit information, or in the case, present allegations to the Board. To carry out an investigation, the Board shall have a period of two months, counted from the date of the publication of the Resolution referred to in Article 7 of the Decision, which could be extended to an additional two months. At the end of the investigation, within a period of ten working days, counted from the period established in Article 11, the Board shall pronounce by means of Resolution, based on merit of its conclusion and based on the information available. Once the Board verifies, at the request of the intermediary organisations of the interested parties, that the causes motivating the Resolution referred to in the above article has been amended or ceased, they shall be annulled, partially or totally, modifying or derogating them. For pronouncement, the Board shall dispose of two months. The Board shall pronounce with a declaration of prohibition after determining the existence of a restrictive practice of free competition that has created a threat of prejudice or prejudice. The Board can also determine the application of relevant measurers to eliminate or mitigate the distortions that motivated the claim. Member Countries shall adopt the necessary measures to cease their effects. The corrective measures could consist in the authorization so that the countries where the affected companies carry out the economic activity can apply for preferential tariffs with respect to the sub regional tariff engagements, for the cases of import of products affected by the restrictive practice of free competition (http://www.sice.oas.org/trade/junac/Decisiones/Dec285s.asp).

Decision 285 would have been considered a great success if it could have been applied, but the lack of promotion of the Andean regulation, or in its defect the lack of cross border practices were not carried out to the Andean procedure making it impossible to apply this Andean regulation. In effect, as indicated by Javier Cortázar (2006), if from the establishment of the Cartagena agreement the protection of competition was considered as an important element within the integration process, the regulatory design adopted, particularly with Decision 285, failed to produce any concrete result. Structural deficiencies and conceptual tremendous errors, as well as absolute lack of grip (absence of sanctions and concrete investigation faculties) or the establishment of absurd requirements such as the proof of prejudice or threat of the same to the national industry, contributed simply to the fact that after 14 years this decision is dismissed without leaving absolutely any concrete legacy.

b. Decision 608 of March 2005

In the context of the failure of Decision 285, on 28 March 2005 Decision 608[33] was approved. With a higher standard of reality, the third article established the principles that would guide the application of this Decision as well as the internal legislation of competition of each Member

[33] (http://intranet.comunidadandina.org/Documentos/decisiones/DEC608.doc).

Country, resulting applicable in accordance that this will be based on the principles of non-discrimination, transparency and due process. Additionally, it is established that subject to the Decision, are the activities carried out in the territory of one of more Member Countries and whose real effects are produced in one or more Member Countries, except when the origin and the effect is caused in only one country; and in the territory of a non-member country of the Andean Community and whose real effects[34] are caused in two or more Member Country.

Also, Article 6 establishes that Member Countries can submit for consideration by the Commission, the establishment of exclusions or exceptions within the framework of this Decision of the sensitive economic activities necessary to achieve the fundamental objectives of its policy, providing that these are contemplated in the national legislation of the petitioning country.

It is presumed that restrictive conducts to free competition constitutes, among others, the agreements with the objective or effect of (Article 7):

a. Directly or indirectly set prices or other trade conditions.
b. Restrict the offer and demand of goods and services.
c. Distribute the market of goods and services.
d. Prevent or make difficult access or permanence of competitors, current or potential, in the market; or
e. Establish, agree or coordinate positions, abstentions or results in bidding, tender or public auctioning.

Intergovernmental agreements of multilateral nature are excluded. For its part, Article 8 indicates that conducts of abuse of a dominant position on the market:

a. Setting of predatory prices.
b. Setting, imposition or unjustified establishing of exclusive distribution of goods or services.
c. Subordination of signing contracts with the acceptance of complementary services which, because of its nature, or with the customary trade arrangement, is not related to the objective of such contract.
d. Adoption of unequal conditions with respect to contracting third parties of analogue situation, in the case of equivalent benefits or operations, putting them at a disadvantageous level of competition.
e. Unjustified negativity to satisfy the demands of purchase or acquisitions or to accept offers of sale or benefits or products or services.
f. Instigating third parties to refuse to accept the delivery of goods or the rendering of services; or preventing the service or acquisition; or to not sell raw materials, or render services, to others; and, ,
g. Those conducts that prevent or make difficult access or permanence of actual or potential competitors in the market for reasons other than economic efficiency.

[34] Someone from CAN caught the attention of the author that this element is essential and differs from the competition of the national authorities of the community organisation (the SGCAN). Although in the negotiating meetings Decision 608 was admitted, the evaluation was discussed of fighting the "potential" and real effects, these were the last that the countries agreed on that should be competent of the community organisation under the Andean regulation. Added to this, only one case was proceeded in accordance with Decision 608, in the cases where there are 2 countries involved, considering the practice and effect to be real of the same, as evidenced in Article 5 of this regulation.

The Decision creates the Andean Committee for the Protection of Free Competition, integrated by a representative of the national authority, competent on matters of free competition of each Member Country.

From the procedural point of view, Article 93 of the Cartagena Agreement (http://www19.iadb.org/int/intradebid/DocsPdf/Acuerdos/CANDINA%20-20Acuerdo%20de%20Cartagena%20Decision%20563.pdf) states that it is the responsibility of the Secretary General to ensure the application of the regulations necessary to prevent or correct practices that may distort competence within the sub region. In this regard, Article 10 of Decision 608 indicates that the Secretary General could initiate investigation on his own or at the request of the competent national authorities on matters of free competition or from the national organisations of integration of Member Countries, or from individual or companies, public or private, consumer organisations or other entities when there are indications that these have carried out conducts that could have unlawfully restricted the competition in the market. On compliance with the requirements, the Secretary General shall request the competent national authorities on matters of free competition of the Member Countries where the companies identified in the request have, or carry out their economic activity, and, if being the case, where the effect of the conduct reported or the domicile of the petitioners, to carry out the investigations relating to the confirmation of the existence of the conduct indicated as restrictive (Article 15). The investigation under the responsibility of the competent national authority, shall be carried out within ninety (90) working days following the date of notification of the Investigation Plan referred to in Article 15. On expiration of the period referred to in article 17, the Secretary General shall have an additional period of forty five (45) working days to carry out his own investigation, and if considered pertinent, could complement the investigation by requesting additional information from the competent national authorities on matters of free competition, the parties involved or from their governments, or verifying the information. On expiration of this period, the Secretary General shall have a period of ten (10) working days to prepare a Report on the results of the investigation. The Report shall be submitted to the members of the Committee, to the competent national authorities referred to in Article 15, and to the interested parties. The President of the Committee shall submit to the Secretary General their report at the end of the meeting. After the period of thirty (30) working days from the date of the summons made by the Secretary General to the Committee, failure to submit said report shall be interpreted that the Committee is in agreement with the content of the technical report. During any time of the process or investigation, the petitioning party could request from the Secretary General, the establishment of precautionary measures. The Secretary General could demand the establishment of a cautionary measure or guarantee for the granting of such measurers. If the results of the investigation confirms violation of Articles 7 and 8, the Secretary General could dispose to immediately cease the restrictive conduct and, if merited, the application of corrective and/or penalising measurers. The corrective measures could consist, among others, in the cease of practice within a determined period, the imposition of specific conditions or obligations or fines to the offender. The execution of the precautionary or definite measures established in this Decision, shall be the responsibility of the governments of the Member Countries where the companies, subject to the measure, has their main business in the Sub-region or where the effects of the practices reported were carried out, in accordance with their national regulation.

Decision 608 has had little application, having as restriction cross border cases and the application of measurers that can correct real effects of anti-competitive practices. We can name a case that was initiated with Decision 285 and concluded with the procedures of Decision 608, the investigation initiated by means of Resolution 892, under Decision 285, relating to the request of the Confederation Nacional de Palmicultores y Empresas de Palma Aceitera of Peru, and the

companies Industrial del Espino S.A., Industrial Alpamayo S.A., Alicorp S.A. and Ucisa S.A. for the "…application of measurers to correct prejudices caused from restrictive practices of free competition", which concluded with Resolution 984.

Likewise, the case of Flores Colombia (sentence 001-2007) wherein the Secretary General, indicated that the claimants of the Colombian companies did not submit any proof of how the alleged discriminatory application of the Colombian programmes of ICC and ISF; the case of Transmilenio, request of a Colombian company in a bidding in Bogota, that measures were not applied or that proceeding was given to a request on failing to demonstrate real effects in another Member Country.

In February 2016, an investigation was opened under Resolution 1827, requested by the Colombian company INTERNEXA S.A. and INTERNEXA PERU S.A., for alleged practices of abuse of dominating position, according to stipulations in Decision 608, which is under investigation. Likewise in June 2016, under Resolution 1855, the opening of an investigation was denied in the sector of pampers and hygienic paper, requested by a Colombian individual, for alleged restrictive practices of competition in accordance with stipulations in Decision 608, which involved the markets of Colombia and Ecuador, for failure to present evidence of the period when these practices occurred, in accordance with stipulations under the Andean regulation.

On 14 November 2016, Resolution 1883 was adopted wherein an investigation initiated requested by the Superintendence of Control of the Market of Ecuador, for alleged existence of an agreement to set prices and distribute the market of soft paper.

IV.4 CARICOM and competition policy

a. Provisions on the matter of competition in CARICOM

In their tenth meeting in Grenada in 1989, the Heads of State of CARICOM agreed that although CARICOM would remain as a "Community of Sovereign State" a series of changes would be introduced that were essential for improving the structure and management of the Community to allow better response to challenges and opportunities globally. The Revised Treaty of Chaguaramas, which entered into effect in 2001,[35] was one of the changes agreed on to reflect the new structures of the Community and to advance CARICOM from a common market to a single market and economy. As a result of this, it was expected that greater competition in and for the market would encourage the companies to become involved in conducts aimed at preserving their participations in the market. Consequently, Chapter 8 of the Revised Treaty of Chaguaramas prepared the regulatory basis to govern the conducts within the new environment with a view at ensuring a healthy competition and promoting the wellbeing of the consumer. The objective of the policy on competition according to stipulations in article 169 of the Revised Treaty of Chaguaramas, points in general to ensuring that the benefits of the establishment of the single market is not frustrated by anticompetitive conducts by the companies. In this regard, the Commission for Competition of CARICOM was established in Article 171 of the Revised Treaty of Chaguaramas, and it is one of the key institutions that support the single market. In 2004 it was decided that the Commission would have its headquarters in Surinam and 4 years later, on 18 January 2008 the Commission was put into operation.[36] The Committee is integrated by seven members named by the Regional Commission of Judicial and Legal Services. The Regional

[35] Adopted on 4 July1973 in Chaguaramas. Entered into effect on 1 August 1973 Revised on 5 July 2001 in Nassau. Entered into effect on 4 February 2002

[36] (http://www.caricomcompetitioncommission.com/en/about-us/history)

Commission of Judicial and Legal Services shall name a President from within the members named for the Committee.

The functions of the Committee are as follows:[37]

- Shall apply the rules of competition with respect to any cross border anticompetitive conduct.
- Shall promote and protect competition in the Community and shall coordinate the application of the Policy on Competition of the Community; and
- Shall undertake any other function that is requested by any competent organization of the Community.

For this purpose, the Committee shall:

- Monitor anticompetitive practices of companies operating in the MUEC, and investigate and arbitrate cross border litigations.
- Maintain under examination Competition Policy of the Community and assess and make recommendations to the CCDE so that it is more effective.
- Promote the establishment of institutions and the preparation and application by Member States of laws and practices of harmonised competition, to achieve uniformity in the administration of applicable regulations.
- Examine the progress made by the Member States in the application of the legal and institutional framework for observance.
- Cooperate with competent authorities of Member States.
- Provide support to Member States to promote and protect the wellbeing of consumers.
- Enable exchange of information and relevant capacities.

Article 174, for its part, establishes in numeral 1, that All Member States can request the investigation to which reference is made in Paragraph 1 of article 174, when there are reasons to think that the business conduct of a company located in another Member State prejudices the trade and prevents, restricts or distortions competition in the territory of the petitioning Member State.

By 2012 only two countries had enacted laws and the authorities for application of the agreement. According to Taimoon Stewart (2012) this reflected the low priority given to the subject by the Participating Countries.

b. Regulation of Competition of the Association of CARICOM-European Union

Competition

Article 125

Definitions

For the effects of this chapter, the following is understood:

[37] (http://www.caricomcompetitioncommission.com/en/about-us/competition).

1) «Authority responsible for competition»: for the EC «European Commission», and, for the States of Cariforum, one or more of the Authorities responsible for Competition, as follows: The Commission of Competition of Caricom and the National Commission for the Protection of Competition of the Dominican Republic.
2) «Procedure for effective application»: the procedure indicated by the Authority responsible for Competition of one of the Parties against one or more companies to determine and correct an anti-competition behaviour.
3) The «Legislation on Competition» includes:

    a. On the part of EC, Articles 81, 82 and 86 of the Treaty constitutive of the European Union and its regulations for application or modifications.
    b. For the States of Cariforum, Chapter 8 of the Revised Treaty of Chaguaramas, dated 5 July 2001, the national legislation on competition in accordance with the Revised Treaty of Chaguaramas and the national legislation on competition of the Bahamas and the Dominican Republic. On the effective date of this Agreement and from thereon, the adoption of this legislation shall be communicated to the EC through the Committee of Trade and Development of Cariforum-EC.

Article 126

Principles

The Parties acknowledge the importance of free and effective competition in their trade relations. They are conscious that anticompetitive trade practices can prejudice the correct functioning of the markets and, in general, reduce the benefits of free trade. Consequently, they agree that restrictive practices of competition mentioned below, are incompatible with the correct functioning of this Agreement, in as much as they can affect trade between the Parties:

a) Agreements and practices signed between companies, the objective or effect of which is to prevent or significantly decrease competition totally or to an important part of the territory of the EC Party or the States of Cariforum.
b) The abuse of a dominant position by one or several companies to the total or an important part of the territory of the EC Party or the States of Cariforum.

Article 127

Application

1. The Parties and States, signatories of Cariforum, shall ensure that within a period of five years from the date of effect of this Agreement, to have in place the legislation relating to restrictions to competition within their jurisdiction, and to have established the organisations mentioned in article 125, section 1.

2. When the legislation comes into effect and the organisations mentioned in section 1 are established, the Parties shall apply the dispositions established in article 128. The Parties shall also agree to review the functioning of this chapter once the period of trust has been created between the authorities responsible for competition of a period of six years from the date of application of article 128.

Article 128

Exchange of information and cooperation on matters of effective application:

1. Each of the Authorities responsible for Competition could communicate to the other Authorities responsible for Competition of their wish to cooperate in ensuring compliance of the regulations. This cooperation shall not prevent the Parties or the States signatories of Cariforum to adopt decisions autonomously.
2. To enable the effective application of their respective legislations on competition, the Authorities responsible for Competition can Exchange non-confidential information. All exchange of information shall be subject to the rules on confidentiality applicable to each Party and the States signatories of Cariforum.
3. Each of the Authorities responsible for Competition could communicate to the other Authorities responsible for Competition any information that they might have indicating the existence, within the territory of the other Party, of anticompetitive trade practices that are under the nature of the application of this chapter. The Authority responsible for Competition of each of the Parties shall decide on the manner of exchange of information in accordance with their best practices. Each of the Authorities responsible for Competition could also inform the other Authorities responsible for Competition on any proceeding of the effective application that is carried out in the following cases:

i. When the activity investigated is committed totally or in some manner substantially under the jurisdiction of any of the other Authorities responsible for Competition.
ii. When the corrective measure that may be imposed requires the prohibition of a conduct established in the territory of the other Party or the States signatories to Cariforum.
iii. When the activity investigated involves a conduct that is considered to have been demanded, encouraged o approved by the other Party or the States signatories of Cariforum.

Article 129

Public companies and companies holders of special or exclusive rights, including designated monopolies

1. None of the provisions of this Agreement shall prevent another Party or a State signatory of Cariforum from designating or maintaining public or private monopolies with agreements to their respective legislation.
2. With respect to public companies and companies holders of special or exclusive rights, the Parties or States signatories to Cariforum shall guarantee that, from the date of effect of this Agreement, they shall not adopt or maintain any measure that distorts the trade of goods or services between the Parties in a manner contrary to the interests of the Parties and that such companies are subject to the regulations of competition in the manner in which the application of such regulations do not interfere with the carrying out, in fact or in law, the specific tasks that have been assigned.
3. Notwithstanding the provisions in Section 2, the Parties agree that the public companies of the States signatories to Cariforum, subject to sectorial rules specifically prescribed within their respective regulatory framework, shall be related or regulated as established in this Article.
4. The Parties and States signatories of Cariforum shall gradually adjust, without prejudice to their obligation with respect to the WTO Agreement, any monopoly of the State, of a trade nature or character to guarantee that, at the end of the fifth year from the date of entry into

effect of this Agreement, that there is no discrimination in the conditions under which they sell or purchase goods and services originating from the EC Party, and originating from the States of Cariforum, or between the nationals of the member states of the European Union and the States of Cariforum, unless such discrimination is intrinsic to the existence of said monopoly.

5. The Trade and Development Committee of Cariforum-EC shall be informed of the adoption of the sectorial rules established in section 3 and the measurers of application in Section 4.

V. ENVIRONMENT FOR ADVANCING TOWARDS REGULATORY CONVERGENCE IN MATTERS OF TRADE AS WELL AS REGULATIONS ON COMPETITION AND SUPRANATIONAL INSTITUTIONS

The regulatory frameworks establish the rules at play in the economy and are characterised by having an extreme complex structure, since they are created in respect of a sophisticated network of statutes, legal regulation, judicial rules, on a local level, determined by each country in the environment of their internal competitions, as well as regionally, within the framework of bilateral and/or multilateral agreements. In this regard, the harmonisation of these legal framework can only be carried out by means of a complex process, which not only involves negotiations of treaties or trade agreements that affect the flow of goods and services between nations, but they also have an impact on the designation of productive resources (movement of capital and free circulation of labour factor) eventually affecting aspects such as financial stability and the coherence and synchronization of the regional economic cycles (SELA, 2015, p.3).

Based on all of this, it is not exaggerating to affirm that one of the main challenges facing LAC countries is identifying and characterizing the greatest tendencies which, on matters of regulatory harmonization, already work has begun on the different initiatives of regional integration. It is necessary to understand in depth the nature and significance of these ambitious institutional transformations in order to determine at what level it is occurring, in the exercise of the policy practice, a structural change that will definitely impact the economic, political and social future of Latin America and the Caribbean (id. p. 13).

What should be understood by convergence between the multiple existing models of agreements of joint action between countries or group of countries in the region?

To respond to this question, Peña (2014) sustains it would be convenient to bear in mind that convergence does not necessarily mean that the idea is being proposed that from the multiple parties and lines of action, emerges a new single and harmonize everything. In this regard, a more correct use of the expression is in the Montevideo Treaty of 1980, created by ALADI, the idea is that having advance only partially – that is, limited commitments to only some of the member countries – it is expected its extension up to all the other interested member countries. In the context of the disposition of the Treaty, which can be considered that such an idea is more likely the indication of an objective rather than the prescription of how and in what time frame it can be achieved.

In the strategic plan under which the expression is currently used,[38] it is correct to understand that this involves implementing a set of autonomous actions which, however, are aimed at achieving goals that are compatible among themselves. It is more the idea of pointing out the direction of

[38] According to Peña, it is the extent that can be attributed to the word convergence in the proposal made by the Chancellor Heraldo Muñoz in the article "Convergence in diversity: The new Latin American policy of Chile", note published in the press El País, Madrid, Thursday 13 March 2014, in: http://elpais.com/.

lines of strategic action that can be considered to reflect, in this case, the concept of convergence. Inserted in the idea, mentioned above, the fact that the construction of a regional space for cooperation and integration takes time and results from a succession of steps, including apparently unconnected, and not from a single fundamental act and design that is included therein. If this could be understood in this manner, the question therefore arises, which would be formulated and debated in order to confront the achievement of the goal mentioned above of a strategic convergence in a diversified region as Latin America. This is maybe the most relevant and practical. This question could be formulated on the following terms:

Which of those can be, taking into consideration the actual institutional map of the region and the extent mentioned of the idea of convergence, the principal fields of action to be developed and the steps to be taken, in order to guarantee the strengthening of the regional diversities as an asset while attempting to take advantage of challenges and opportunities that arise globally, regionally and internally in each country? The answer to be considered in response to this question would be the analysis regarding the availability of options resulting precisely from the diversity in resources and situations, of ideas and values, of experiences and motivations that is observed in Latin America. This is a diagnosis that in the world currently requires constant updating. It should be considered, among other factors, the potential effects on the countries in the region of the future evolution of the multilateral system of international trade, in the light of what finally occurs with the Doha Conference and with the results obtained formally but still very uncertain in its concrete effects, in the Ministerial Conference of the WTO, in Bali in December 2013.

But also, Peña says, the results of the current negotiations aimed at establishing new interregional and regional preferential mega-agreements should be considered – such as the Trans Pacific Partnership (TPP), The Trans-Atlantic Trade and Investment Partnership (TTIP), and the Regional Comprehensive Economic Partnership (RECEP) – if these can be completed within the period expected or in more reasonable periods. None of these cases can give a concrete scenario, whether on its membership, its contents or periods for conclusion. In certain form, they reflect characteristics of an international system in transition towards a new stage, yet unclear. In this regard, there are numerous proposals and initiatives aimed at achieving convergence between particular blocks and on specific subjects. There are also proposals that sustain that convergence could be advanced on the basis of agreements established between the different mechanisms of integration of the Region or of particular countries with the United States as well as with the European Union.

V.1 Proposal ALADI-Andean Community-MERCOSUR at the request of the First Meeting of Heads of State of the South American Community held in Brasilia on 29 and 30 September 2005

The document (ALADI-CAN-MERCOSUR (2006) had as its objective measures on theme aspects selected to "gradually establish a South American free trade area, and also advance in the complementation of the economies of the countries of South America". These theme areas included: a) tariffs; b) disciplines of trade, which will distinguish non-tariff measurers, technical obstacles to trade, sanitary and phytosanitary measurers, rules of origin, mechanisms of protection of trade, solution of disputes; and c) complementary matters, among which included trade of services, investments, intellectual property, policies on competition and purchase by the public sector.

On matters of regulatory convergence, the document proposes the unprecedented need to rely on a set of rules and disciplines that support and guarantee trade exchange, as well as, allow for

considerations of new environments and complementary matters. With this objective, a comparison was made of the regulatory regime of CAN and of MERCOSUR, as well as the broad collection of agreements signed between the South American countries within the framework of TM 80, under the cover of ALADI. On this basis, it was proposed to create in respect of the current rules of common ground that, reducing the multiplicity of current scales, enables the flow of trade and reduces the administration costs of the agreement. There were seven proposals:

a. To create a regimen of common origin for the Region. Particularly it was proposed to address the process of harmonisation, creating a scheme which, on the one hand is adjusted to the actual conditions of the South American countries and, on the other, permit that the benefits of the free trade area are not distorted by triangular practices.
b. To advance in the definition of common custom regimes on the basis of international agreements on the matter and strengthen the mechanisms of international custom transit. In this regard, it was proposed to harmonise the rules of custom valuation with the remission of the Agreement on Custom Valuation of the WTO and incorporating those elements that facilitate the uniform application of the criteria of values established in the multilateral rule.
c. To identify the principal non-tariff measures that hinder trade and reach agreements for its elimination. For this it was proposed: (i) to assume commitments such as identifying and communicating the measures adopted in each country, in terms of the corresponding nomenclature, so as to guarantee transparency and enable access to goods on the market; and (ii) agree on an action programme based on the gradual attenuation, up to reaching total elimination of those measurers that affect reciprocal exchange.
d. Reach a regional agreement on matters of technical obstacles to trade and provide its implementation. It was confirmed the existence of a Regional agreement within the framework of ALADI, called "Framework Agreement for the Promotion of Trade through the Overcoming of Technical Obstacles to Trade".
e. To design and implement a regional system for sanitary protection, that strengthens the elements incorporated in the multilateral rules and promote the free flow of goods by means of the harmonisation of the rules and acknowledgement of certifications.
f. To establish a single mechanism to safeguard and sustain antidumping schemes and on subsidies in the multilateral regulations.
g. To consider the creation of a Regional Regime of Solution of Disputes that would include, minimum, a stage of direct negotiations between the parties involved.

Regarding complementary matters, the following measures were proposed:

a. To strengthen regulations for trade in services, extending their coverage and defining schemes that enable its exchange.
b. To establish a common rule on matters of promotion and protection of investment, and at the same time, develop mechanisms of cooperation among the national organisations of promotion.
c. To establish a regimen of principles and procedures on matters of intellectual property on aspects of interests for the region, such as brands, geographic locations, models of use, industrial design and anticompetitive practices of contractual licenses, emphasis is placed on the development of relations with the public health service and protection of traditional knowledge.
d. To establish mechanisms of cooperation between the national agencies for protection and promotion of free competition for exchange of information related to experiences, technical training, jurisprudence and administrative doctrine, relating to the defence of free

competition. It is also proposed to establish a regional regulatory framework, dictating measurers of general nature that will be applied to all South American countries. Also proposed was to develop mechanisms that allow the protection of consumer interests.

e. To agree on a common regime for procurement by the public sector that includes provisions with respect to information; transparency in the bidding and purchase in general.

This initiative is characterised by the attempt to harmonise those existing regulations, without evaluating sufficiently the difficulties arising from the differences between the models of integration and at the same time, the idea of creating a regulation without considering the regulations of the trade agreements with respect to NAFTA.

V.2 Proposals by ECLAC in 2007-2008

Based on the proposals ALADI – Andean Community – MERCOSUR, (ECLAC, 2007 AND SAEZ, 2008) ECLAC evaluated the proposals developing some critical considerations that left in evidence a different focus. The turning point, is the acknowledgement that the integration process in the region is not a single process, but that in it, coexists schemes of sub regional integration that involve political, economic and strategic interest of different nature, which proposes the challenges of articulating a better co-existence among the different sub regional integration processes with the general objectives of a larger economic integration in Latin America.[39] Likewise, it is noted that the integration process depends on the leadership that promotes it, of the objectives that are desired to be reached and on the functions that are assigned to it. The integration processes in Latin America and the Caribbean consequently requires leadership.

A particular element in the integration efforts in Latin America is that the principal drive has originated from government initiatives and therefore has not constituted a political response to a demand of the private sector of stable rules for development.[40] Another important element to point out, according to Sáez, is that integration among the Latin American countries shows a lower level of thematic coverage, an unbalance of content and a discriminatory treatment (less favourable) among these vis á vis the commitments assumed among some of its members or groups of countries outside the region.[41] In this regard, it appears as a task pending, to facilitate higher levels of superregional schemes of integration, and among these latter and their peers (CAN/MERCOSUR/MCCA), and at the same time in the interconnection of trade among the individual members of the region.

In this regard, Sáez defines convergence as a process wherein the agreements signed between the countries of the region adopt regulations and disciplines more or less similar (harmonised) or in the cases where they are different, equivalent. Convergence can occur when driven in the following three ways: i) voluntarily; ii) semi-voluntarily; and iii) non-voluntarily. Sáez insists in that convergence could result from different models that should be examined in accordance with the relevant topics. For this, it is necessary to maintain a flexible focus that promotes creative solutions. In this regard, for example, convergence could, through informal agreements facilitate trade; or through formal agreements on matters of exchange of custom information or the reduction of

[39] The contribution of ECLAC reveals the challenge of articulating the co-existence of different levels of regional integration. Additionally, it highlights the importance of political leadership to advance in such a complex process.

[40] The author also reveals a crucial difficulty that continues to affect possibilities of advancing with mechanisms of integration: The relative separation between the official forces of integration and the private sector. This is more important when considering the advancement in what has been referred to as the integration fact.

[41] The weakness also constitutes an opportunity since the non-existence of agreed regulations in this field could enable the agreement on new regulations.

regulatory load on matters of technical obstacles, unilateral acknowledgement of safety measures, harmonization of rules to enable trade on matters of transport, border or immigration inspection within the sphere of competition of the responsible institutions.

According to Sáez, the proliferation of agreements in the region could be creating – inadvertently – some problems. There are at least three types of problems arising from multiplied agreements and regulations: i) excessive bureaucracy and confusion at the time of applying regulations and procedures, which affects the attraction of these instruments for the private sector; ii) diverse rules – and unequal quality – which can be converted into non-tariff barriers; and iii) problems in compliance with the regulations and procedures.

Within this context, the need to think of mechanisms that simplify the network of signed agreements has grown significantly, reducing the costs of transactions that could be affecting the flow of trade. There are four categories of aspects that must be addressed so as to achieve the objectives of expanding the regional market, improving interconnection of markets and simplifying the existing regulation. These aspects are: i) operative; ii) regulations and disciplines; iii) institutional; and iv) discrimination among business partners. Some of these aspects could imply delicate and technically complex negotiation processes.

From an operational point of view, Sáez proposed to suggest that in the cases where there are similar obligations but with different wording, that common interpretation is agreed, based on, for example the provisions of the WTO[42] as a way of ensuring legal coherence among the only common dispositions that exist between the members of different bilateral and subregional treaties in LA. Additionally, in view of the absence of certain disciplines and rules in specific agreements, it is recommendable the adoption of the same through a negotiation process, bearing in mind that there may be different focuses for its treatment and putting into effect.

Regarding access to the markets of goods, although this is advancing, the slow pace of free trade between members of the South American Community is noted. In respect of origin, although the analysis does not include all the existing agreements, it is considered that the differences between the various agreements and decisions reviewed are not significant. Despite this, it would be necessary to harmonise the rules to be able to reach total convergence of the agreements. There is on the other hand, according to Sáez, a common base on matters of custom valuation to automate, simplify and facilitate trade, without reducing activities relating to taxes.

With regard to the non-tariff measures, ECLAC deferred from the procedure suggested by ALADI – Andean Community – MERCOSUR for being very complex and burdensome,[43] and therefore proposed a focus on strengthening the disciplines with respect to the non-tariff measurers, in this regard, for example, the corresponding dispositions in the WTO, establishing its prohibition, complemented with the relevant preparations, putting special emphasis on the effects of the measurers and its possible justification with the context of the rules agreed.
ECLAC also distanced itself from the proposal to advance in the harmonisation of technical regulations and technical rules in the above mentioned technical obstacles to trade and sanitary and phytosanitary measurers. They proposed on the contrary, to emphasise full advantage of the principle of equivalence, implementation of operational criteria in "areas free of plague or sickness", improvement in the procedures of management and decision making and the evaluation

[42] This suggestion is of significant importance since it proposes a method, to use as reference the provisions of the WTO, to advance in certain matters, which could lead to more rapid advancement in the convergence process.
[43] For details see Sáez 2008 p. 35.

of risks, and greater cooperation of responsible institutions to promote the effective use of equivalence as an instrument of enabling trade.

With respect to the protection of trade, Sáez sustains that it would be possible to advance more than that suggested by ALADI – CAN – MERCOSUR, in the sense that on matters regarding safeguarding these could be limited to the period of use and the causes to be invoked, with the objective that they are eliminated definitely for intra-community trade. Likewise, on matters of disloyal competition, only those measurers for correcting the negative effects of grants should be maintained, and antidumping measurers should be removed, which has been proliferated in the last years in the region, and which are not justified in a free trade area.

The services such as dimensions of trade began forming part of the agreements in the 1990s as an effect of the implementation of TLCAN, the AGCS and the decision of the countries in the region to begin negotiations to create a Free Trade Area of the Americas (FTAA), adopted in April 1998. Sáez considered that although the models of the AGCS are common basis for all members of UNASUR, this does not mean that it is the appropriate model for an ambitious process of regional integration, particularly, because of the absence of essential rules in diverse areas as regulatory principles, mutual acknowledgement, especially, although not exclusively, in professional services, movement of persons and others, but also, because this model is not useful if they want to develop regional disciplines in investment.[44] In this regard, it was proposed to opt for a focus on regulatory competition of the European Union that combines minimum standards of quality in the rendering of services with strong principles of liberalization, which could be combined with an initial selection of sectors where this focus could implement and define the sectors for which it is necessary to establish additional regulations.[45] However, it must be considered that in the case of services, although not exclusively, a permanent mechanism is required for negotiation and perfecting the trade disciplines.

With respect to investment, Sáez highlights that there is greater convergence between the Agreements of Economic Complementation signed by the Member Countries of the Andean Community and MERCOSUR, which includes the rules of each economic bloc. On the other hand, the relations between the members of the CSN with respect to third parties, have privileged agreements of promotion and protection of investment which protects the investment under the terms of their national legislation. However, there is no advancement on aspects related to access, operation of investment (handling, requirements for performance and others). Additionally, some members of the Community in their relation with countries outside the region, have adopted models that, in practice, could give a better conditions than those signed among them[46]. In this regard, there is a wide range of bilateral agreements of promotion and protection of investment among the developed South American countries, which could make convergence all the more difficult.

[44] This is because there cannot be two agreements of the same subject: investment in services and on the rest of the activities.
[45] According to Sáez, the main point was to adopt a focus that obligated, within a short period, the elimination of the non-compatible restrictions with the main sectors of trade of services. Contrary, three levels of liberalisation would cohabit in UNASUR: those within the sub regional schemes, those between these, and the commitments of each country individually with respect to countries outside the region.
[46] It should be mentioned that in the Cartagena Agreement, Article 139 establishes, with respect to the principle of NMF that all Member Countries must extend the best benefit granted to a third party country with respect to conditions of export and import.

With respect to the competition policy, ECLAC-SAEZ considered that the most recommendable is to create efficient mechanisms of cooperation among the responsible agencies to prevent these practices. It is not realistic to think of a substantive instrument that addresses the practices with cross-border effects, particularly when normally this requires a supranational institutions.

Regarding the mechanisms for dispute settlement, although coinciding with ALADI, CAN and MERCOSUR in the need to rely on an instrument of this nature, this mechanism should be optional among others that are available, in particular the WTO.

V.3 The Pacific Alliance: To converge with the world as the basis for internal convergence

The AP in its basic conception constitutes an effort of convergence. In effect, as shown above, the objective "is to advance toward the free movement of goods, services, capitals and persons, on the basis of existing trade agreements between the member countries and by means of the intra and extra AP cooperation". (Urría, (n/d).

In this context, on 10 February 2014, the Additional Protocol of the Marco Agreement was signed and the existing FTAs were updated among four countries of the AP, which became effective 1 May, 2016.

V.4 ECLAC's proposal for convergence of the Pacific Alliance and MERCOSUR

Although the Pacific Alliance was interpreted by some as an association conceived as an alternative and competitive with the efforts of integration being carried out in the Atlantic of South America, the election of Michelle Bachelet as a well-known left-wing politician of South America as President of Chile in 2013 helped to dispel this perception and proposed the convenience of making efforts in favour of convergence of the countries of the Pacific Alliance with MERCOSUR. In this regard, the Ministry of Foreign Affairs of Chile organized the seminar on "Dialogue on Regional Integration: The Pacific Alliance and MERCOSUR" held on 24 November 2014. For this seminar, ECLAC prepared a document on policy with the title "The Pacific Alliance and MERCOSUR. Toward convergence in diversity". The document was of great interest since it represented the intent to overcome the ideological differences of the governments of both mechanisms of integration, it constituted a practical and operational proposal for advancing in convergence and becoming aware of the efforts made on this matter to date.

Key in this proposal is the simultaneous assessment of the importance of constituting a regional space that unites more than 600 million inhabitants and the need to create a powerful block capable of gaining importance in a global economy articulated in respect of integrated macro regions. Convergence of the AP and MERCOSUR exceeds by far the environment of trade policies, more so when this involves develop subregional or regional value chains. In effect, for ECLAC, competiveness of these chains depends largely on the quality of regional infrastructure of transport, logistic, energy and communications,[47] as well as the regulatory convergence between countries. Therefore, working together on these areas will contribute to revitalize intra-regional flows of trade and investment, favouring in this way a more productive integration.

For ECLAC, convergence of MERCOSUR and the AP, forms part of the effort to overcome the "middle-income trap" that engulfs the region, requiring innovation, increases of productivity, diversification of products and investments in infrastructure and human capital. For this purpose, it

[47] The experience of Central America and Mexico appears as an interesting experience to analyse, see Integration Project and Mesoamerica Development (2011)

is indispensable to involve a modern conception of integration, support in the creative competition of value chains. From there, emerges the consensus that is developing in the region to assign a more significant role to the subjects of integration on the productive basis, encouraging regional or sub regional value chains. In order to be coherent with this proposal, it is necessary to elevate the profile of national industrial policies and incorporate this move with similar focus on activities on regional integration and cooperation. In light of the evidence available, the region presents greater advances in the first task than in the second" (ECLAC, 2014, p. 70).

At the same time, convergence and cooperation must be aimed at "taking advantage of the great opportunities that gives the region accelerated growth of the middle class in Asia and the rest of the developing world" (id.). In this regard, the work agenda includes in the first instance the enabling of trade "intra-regionally as well as with the rest of the world". A crucial turnaround is confirmed; the enabling of trade is constituted into a global effort of integration with the world. At the same time, the effort proposed is of an operational nature: this involves digitalization of the procedures associated with trade, the introduction and interconnection of Foreign Trade Single Windows, simplification of custom procedures and the establishment of scales of authorized economic operator, efforts that gain in potential if guided with a regional vision. The practical emphasis of the proposals is evidenced with the simple proposal that both mechanisms are "applicable to trade between both groups, the advances that each one has made internally" (id. p. 71). On matters of technical regulations, sanitary and phytosanitary, advances is confirmed in the different integration mechanisms, and consequently it is proposed that the following step be to define the common standards applicable to both mechanisms or a mutual acknowledgement of the respective standards, this work is necessarily sectoral (id.). With respect to origin accumulation, it can be noted that both in MERCOSUR and in the Pacific Alliance (which entered into force on 01 May 2016) there exists such mechanism, so the future challenge is to "move towards a unique set of rules of origin and towards an origin accumulation mechanism applicable to all their members". (id.)

The rest of the proposed agenda points to enabling the movement of persons, collaborating with joint development of statistics on trade in services, making a common effort in the development of basic sciences, and developing technology capable of strengthening new value chains. Sustainability of development is also a main concern and a proposal was made to include subjects such as management of hydric and biodiversity resources, fighting erosion and deforestation, development of renewable non-conventional energy, the promotion of energy efficiency in different extractive activities, and biotechnology applied to agriculture, the forest and mining sector. Importance is attached to collaboration in the areas of transport and energy.

Going back to earlier concerns, ECLAC insists on the drive of a modern industrial policy to advance towards activities characterized by higher levels of productivity and greater intensity in knowledge, either in the manufacturing, natural resources or services sector. This must be adjusted to the context of globalization in which the region is inserted, characterized by a greater opening to trade and to FDI and by the restrictions that some trade and investment agreements establish to the use of certain instruments, and should be of a multi-national nature. The political, technical and budget challenges posed by the coordination of multi-national industrial policies make it necessary to adopt a gradual focus that could begin with the support of the internationalisation of SMEs. The new nature of convergence leads ECLAC to propose an approach to relations with China and the Asian-Pacific region in general.

V.5 Ricardo Lagos' proposal: The agreements with the European Union as a basis for Latin American convergence

In an article published in the newspaper Clarín, of Buenos Aires, under the suggestive title "And what if Europe takes us to our integration?", former Chilean President Ricardo Lagos wrote: "We are about to start a very important process to set up an almost complete integration of Latin America and the Caribbean with the European Union. And, even though it may seem unexpected, it could create the conditions for a very comprehensive agreement towards Latin American integration, based on what we agree with Europe" (2016). Then he stated: "Which are the reasons for such optimism? On the one hand, they are based on the prospects to make progress, seriously this time, in the negotiations between MERCOSUR and the European Union. On the other hand, in view of the number of our countries that would be related to that market, we can look for ways to apply the same concessions and agreements with Europe in order to look for a genuine Latin American integration". The former President noted that Mexico, the Central American countries and Dominican Republic, CARICOM, Colombia, Peru, Chile and Ecuador had signed commitments with the European Union. In this connection, if the agreement between the EU and MERCOSUR, which has been delayed for 13 years, could eventually be reactivated, a vast majority of the countries of the region – with the sole exceptions of Venezuela and Bolivia – would have entered agreements on a set of rules with the EU that would make it possible, according to Lagos, "to negotiate if we are able to grant those same benefits to every one of us". In other words, if we put all the agreements with Europe on a table, wouldn't we be able to grant the same advantages to our countries in Latin America?"

V.6 Alejandro Foxley's proposals for convergence between MERCOSUR and the Pacific Alliance: The role of the agreements with China

If integration from the productive basis is the key to compete with products from China and other emerging economies in global markets, which approach should be promoted in Latin America beyond the existing schemes? A real and effective integration agreement should aim at zero tariffs within the region, rules of trade facilitation in the style of the most open economies of the world, an accumulation of rules of origin to induce investments among companies in the region, strong joint investments in energy, transport, bi-oceanic roads, ports and airports, and a massive exchange of engineers, technicians and students in order to accelerate the creation of an integrated pool of human resources of high quality. Such agreement should not exclude special incentives to attract the best international companies that can invest and transfer high-level technologies to the region (Foxley, 2014).

If productive integration in Latin America is the key to successfully compete with China and other East Asian economies, how could we induce a faster and deeper advancement in that direction? Without citing an enumeration of factors, Foxley calls attention on two particularly important elements: The first one is that public-private dialogue must be fostered in order to think and develop shared strategic visions of a regional nature, looking at 2020 and 2030, in the style of countries such as Finland, Australia, New Zealand and South Korea, which have successfully organized their economies.

The second factor is that the integration effort from the productive basis would be facilitated if a country such as Brazil assumed an explicit leadership in this task, similar to the role played by the

United States in the creation of the NAFTA.[48] The basis of this approach consists of open economies complementing each other, without quotas and managed trade. The key political decision by Brazil would be to open up its market without restrictions to the rest of the region, which in turn would liberalize its rules, in order to allow Brazilian investments to assume, without restrictions, a leadership in the integration among regional companies to form conglomerates that are capable of competing with the best economies of Asia.

V.7 Convergence as cooperation among competition agencies

Only the blocs of the Andean Community and CARICOM have developed regulatory schemes based on supranationality. MERCOSUR, according to its constituent agreements or equivalent standards, has an inter-governmental structure, but lacks a supranational order.

There are various problems that make it difficult to develop a coordinated competition law among the countries in Latin America and the Caribbean. Firstly, there are asymmetries and divergences in both the economic policies of the countries and in the standards to defend national competition. This makes it difficult to undertake joint action.

At present, the use and promotion of subregional competition tools is scarce. This makes the institutionalization of competition relatively fragile, both due to the lack of resources and trained staff to strengthen their application and to the lack of knowledge among economic agents about the regional regulations in force.

Anyway, there is a significant number of free trade agreements that include chapters on competition policy and that have among their main commitments and features the following characteristics: Obligation to keep laws and authorities to defend competition; independence of the authorities in applying national competition laws; commitments regarding cooperation and technical assistance; exchange of information and confidentiality; admission of the existence of State and designated monopolies, and expression of commitments in favour of training and technical assistance (10, 2013).

Effective collaboration among Latin American competition agencies is in an initial stage, and it is only recently when spaces for cooperation are opening up in aspects relating to research and enforcement, as well as exchanges of experiences among competition authorities, in view of the similar characteristics of the markets and presence of the same actors.

In this connection, it has been fundamental to formalize the signing of inter-agency cooperation agreements, and to establish the Latin American Regional Competition Centre (CRCAL).

On 14 September 2011, within the framework of the IX Latin American Competition Forum, held in Bogotá, Colombia, the Latin American Regional Competition Centre (CRCAL) was formally established through the signing of an agreement, initially by 13 competition agencies.

The mission of the CRCAL is to assist competition authorities in the development of their capacities and in the implementation of competition laws and policies in their respective jurisdictions, and intends to become an institutional keeper of collaborative efforts involving all Latin American

[48] On the debate about Brazil's insertion into the international economy, see Da Motta Veiga, Pedro (2014). The trend towards the depletion of the prevailing protectionist model, according to the author, can be confirmed with the recent change of government.

countries to improve competition in the region and increase the wellbeing of the population. The CRCAL emerges in view of the important challenges faced by competition authorities in Latin American countries, which include limitations in technical capabilities and available resources, low levels of cooperation and exchange of information between agencies, and insufficient communication with the judicial branches. (The list of participating institutions in the CRCAL appears in Table 5.1). In 2012, the U.S Federal Trade Commission (FTC) requested its incorporation to the CRCLA, which was accepted unanimously, thereby increasing to 14 the number of members of the Centre.[49]

TABLE 5.1

Agencies that make up the Regional Centre on Competition for Latin America	
Name	Country
National Commission for Defence of Competition	Argentina
Tribunal for Defence of free Competition	Chile
National Economic Prosecutor	Chile
Superintendence of Industry and Commerce	Colombia
Commission to Promote Competition	Costa Rica
Ministry of Industries and Productivity	Ecuador
Superintendence of Competition	El Salvador
Vice-Ministry of Investment and Competition	Guatemala
Commission for the Defence and Promotion of Competition	Honduras
National Institute for Promotion of Competition	Nicaragua
National Institute for Defence of Competition and Protection of Intellectual Property	Peru
National Commission for Defence of Competition	Dominican Republic
Federal Commission on Competition	Mexico
Federal Commission on Trade	United States

Source: (http://www.fne.gob.cl/2013/12/03/centro-regional-de-competencia-para-america-latina/)

V.8 Transnationals, multilatins: Integration *de facto* and the process of regulatory convergence

There is a broad debate regarding the achievements of the various initiatives for official integration in the region. Less discussion exists regarding the progress experienced by the business integration in Latin America. The growth of Latin American multinationals is an increasingly massive phenomenon: The investments flows from Latin American countries to the rest of the region and beyond are becoming increasingly important. They are the leading companies in their productive sectors in their countries of origin and in those where they start to operate, displacing domestic companies. This highlights the importance of the multilatins as a source of investment in Latin America and the Caribbean, as active agents in regional integration, and as a means to improve practices and knowledge related to their productive processes.

[49] (http://www.fne.gob.cl/2013/12/03/centro-regional-de-competencia-para-america-latina/).

FDI flows from companies of Central American countries investing in the region are little documented, but they are of great importance and a growing trend. There are no official records in El Salvador, Nicaragua and Panama of the investments that are made abroad, but there are companies with great experience in their expansion. According to ECLAC, this is a trend originated in the intrinsic advantages of this group of companies and also in the need to concentrate on the most competitive activities and expand their operations because of the size of their countries of origin. Another argument is the level of regional integration and the homogeneity of the markets (SELA, 2014, p. 4).

According to this report, Central America advances towards its insertion into chains of services with Costa Rica leading as regards business processes, information technology and other knowledge-intensive services (legal, financial and market research) and financial services. In the case of medical tourism chains, Costa Rica and Panama have a major stake, and for services related to call centres and customer contact, all the countries of the region participate in them (id. p. 5).

On the other hand, Rivera's work (2014) calls for inquiring into the possibility of building a public-private cooperation scenario that gives new impetus to the integration process. The author says it is possible to think of a sort of contract whereby States commit themselves to generate regulatory frameworks to facilitate enterprise integration. In turn, the companies could assume the commitment of adjusting their actions to strict codes of conduct.

In terms of regulatory frameworks, the main dimensions of a gigantic effort of harmonization should primarily aim at ensuring equal treatment in the following areas:

- Legislation on investments
- Tax norms
- Environmental regulations
- Labour conditions
- Specific sectoral standards. For instance in the aeronautics area.

For their part, the codes of conduct should ensure that enterprises:

- Respect consumers' rights
- Promote the development of endogenous technological capabilities
- Adopt high standards of corporate governance
- Reject bribery and any other type of corrupt practices.

The creation of an alliance of this kind is a huge task that still requires a time of maturation. It is a novel idea that is currently completely out of the agendas under debate.

V.9 The multilatins in the telecommunications sector in Latin America and the creation of a single digital market

The analysis of telecommunications shows the presence of two large companies throughout the region. Even though only one of them is a multilatin in the strict sense – América Móvil – its main competitor, Telefónica de España, also helps to generate a global infrastructure for telecommunications in Latin America.

In this context, on the occasion of the V Ministerial Conference on the Information Society, held in August 2015, ECLAC launched the initiative to create the digital single market. The proposal was to

move towards a common bloc with a uniform regulatory and institutional framework that would significantly support the region's efforts to expand the digital economy, which covers various fields, from the telecommunications infrastructure (fixed and mobile broadband networks) to the industries of information and communications technologies (hardware, software and ICT services), including the appropriation of these technologies by users. From this perspective, ECLAC submitted a paper entitled "The new digital revolution: From the consumer Internet to the industrial Internet".

The document highlighted the region's disadvantages as regards all components: infrastructure, industry, individuals and contents. Such disadvantages hinder the use of cross-border synergies that could be achieved thanks to a uniform institutional and regulatory framework. In this connection, the document noted that a common digital market or bloc could significantly support the regional efforts to expand the digital economy. As a matter of fact, telecommunications operators have also identified the benefits for companies derived from economies of scale, reducing regulatory complexity and eliminating duplication of functions. ECLAC's proposal includes a plan of action to advance towards the objective indicated above (ibid).

The Ministerial Meeting approved the "Digital Agenda for Latin America and the Caribbean (eLAC2018)", which defined 23 priority objectives. The agenda seeks to "consolidate a set of regionally-focused actions designed to act on critical factors that condition digital development, such as institutional and regulatory strengthening, broadband deployment, capacity-building and skills development, content and application development and monitoring and evaluation of the proposed objectives. This agenda sets out 23 interdependent and complementary objectives that will produce mutually reinforcing results, mapped out into five areas of action: (i) access and infrastructure; (ii) digital economy, innovation and competitiveness; (iii) e-government and citizenship; (iv) sustainable development and inclusion; and (v) governance.[50]

[50] (http://repositorio.cepal.org/bitstream/handle/11362/38886/S1500758_es.pdf?sequence=1).

CONCLUSIONS

The difficulties to make progress with the WTO Doha Round of multilateral trade negotiations show the importance of moving forward in deepening trade liberalization and strengthening competition by seeking to develop subregional integration mechanisms in Latin America and the Caribbean with a view to promoting regulatory convergence in the region. At the same time, the growing questioning of trade agreements require reflection about how further to integrate the interests of different social actors that are different from those of the large multinationals, which places on the agenda the issue of democratic governance of globalization.

The history of Latin America and the Caribbean evidences that all the countries of the region have participated and still participate in one or more trade agreements. It is a story that takes more than half a century.

The various agreements which were analysed in this study – i.e. the Andean Community, CARICOM, MERCOSUR and SICA – show the persistence with which Member countries have sought to collaborate in recent decades in order to advance on the path towards development. Those efforts have had important successes but have also faced difficulties that have prevented the mechanisms from achieving the desired objectives. Associated with this and with the new visions regarding trade agreements, the Pacific Alliance emerged, and has been in force for little more than one year now.

In the face of such drawbacks, the various agreements have sought to reshape their strategies while trying to adapt themselves to the new realities of the global economy.

These efforts have not been easy. There are discrepancies related to national and business interests that are not easy to solve and call into question the viability of the various agreements. Although differently, there are tensions when the various integration mechanisms attempt to develop supranational authorities. More often than not, national authorities are reluctant to delegate sovereignty to such entities. Supranational rules are regularly drafted, but they fail to translate into the effective creation of new jurisdictions.

There are also different views with respect to the course to be followed by the various cooperation initiatives. Nuances can also be noticed with respect to the priority that cooperation among the Member countries of the various agreements should have versus the development of relationships with extra-regional counterparts. Moreover, the emergence of new integration initiatives puts strains on the continuity of previously existing mechanisms.

The transformations in the global international production appear as the very foundation of the transformations in trade agreements.

International trade changes in its very own nature: While trade in the 20th century consisted of the sale of goods made in one country to clients in another, the trading system was mainly about demand, i.e. selling things; trade in the 21st century involves a continuous two-way flow of things, people, training, investment and information, that takes place among factories and offices, and therefore, the trading system is about an offer that involves doing things.

These are the processes that underpin the emergence of a second and a third generation of trade agreements. The nature of international fragmentation of production processes helps explain the

incorporation of the so-called new issues, which were not materialised in the Doha Round, but have become an integral part of the second and third generation agreements.

Latin America and the Caribbean have not been alien to this process. On the contrary, it can be seen how Central America and CARICOM have established this type of agreements with both the United States and the European Union. The same process can be witnessed in the case of individual countries such as Chile, Mexico, Colombia and Peru. Moreover, the establishment of the Pacific Alliance appears as an intra-regional initiative that takes as its reference the new models of agreements.

Albeit with difficulties, competition policy has been gaining relevance in the regional concerns. The four traditional arrangements – CAN, CARICOM, MERCOSUR and perhaps to a lesser extent SICA – have attempted to make progress with collaboration in defence of free competition. Notwithstanding the existence of ambitious goals, it has not been possible to move forward in a substantial way. In this connection, the initiative to create the Latin American Regional Competition Centre emerges as an initiative to be watched carefully.

Amid this turbulent context, arises the question about the possibilities for convergence among the five integration mechanisms of Latin America and the Caribbean. It is a shared aspiration. For instance, the possibilities and specific environments for convergence between MERCOSUR and the Pacific Alliance have been explored. Such effort is not exempt from difficulties, frequently associated with political perspectives that sometimes help to boost and sometimes to hinder the advance of the agreements. The idea of harmonizing regulations and standards of the various agreements has encountered serious difficulties. That is why some propose to move forward on the basis of the agreements of the WTO and on the agreements that the countries and the different mechanisms have been established with extra-regional actors. Relevant officials in the region have argued in favour of the advisability of taking as a basis the agreements established by integration mechanisms of the region or by individual countries with the United States or the European Union.

Although globalization seems to be an incontrovertible process, the truth is that trade and integration agreements, such as NAFTA and the European Union, are being questioned in a very harsh way. Great Britain's BREXIT and the hard campaign of Donald Trump against NAFTA are paradigmatic examples but they are not the only ones. Paradoxically, some agreements that in some way were questioned as mechanisms of domination by larger countries with respect to smaller economies are now being questioned by the dominant countries. There are numerous press articles in the major world media and academic studies showing displeasure and irritation that affect significant sectors of the working population in those countries and that seem to constitute the political basis of the "Trumpism" in the United States and the BREXIT in Great Britain. The establishment of supra-regional agreements regional – such as the TPP and TTIP, which seemed to be promising from the point of view of the establishment of disciplines and common regulations in important areas of the global economy – faces strong and perhaps unexpected difficulties.

This context suggests that globalization and trade agreements accompanying and supporting it increasingly seem to be oriented at facilitating the free movement of capital and the objectives of the large multinational companies, paying little attention to the interests of other social and economic actors such as the workers and the small and medium-sized enterprises (ECLAC, 2014 B). The British magazine "The Economist" has also urged to devote greater efforts and more money to

meet the needs of those people in developed countries who have been affected by the opening-up of markets.[51]

In this connection, concerns about making progress with more inclusive integration processes which naturally refer to a more democratic governance of globalisation are relevant. Of course, this is linked to the possibility that in the different countries the advancement of internal democratization attaches to this dimension a crucial importance to other social actors.

[51] The Economist, Special Report. The World Economy, 01 October 2016.

BIBLIOGRAPHY

ALADI, General Secretariat (2012) Rapporteur's Report on the Preparatory Meeting for the Meeting of Regional and Subregional Integration Mechanisms, CELAC-ALADI, 1 and 2 August 2012, Montevideo, Uruguay. www.aladi.org/biblioteca/Publicaciones/ALADI/...di/.../2504Rev1.doc

ALADI-CAN-MERCOSUR (2006). Convergence of the economic integration agreements in South America. http://www.comunidadandina.org/unasur/documento_convergencia.pdf

Pacific Alliance (2012), Framework Agreement, file:///Users/eugeniorivera/Downloads/1.0%20Acuerdo%20Marco%20(1).pdf

Pacific Alliance (2014). Additional Protocol to the Framework Agreement of the Pacific Alliance file:///Users/eugeniorivera/Downloads/PROTOCOLO_ADICIONAL%20AL_ACUERDO_MARCO_DE_AP_COMPLETO.pdf

Pacific Alliance (2012). ABC The Pacific Alliance, https://alianzapacifico.net/wp-content/uploads/2015/06/abc_AP.pdf

Antràs, P and Staiger R. (2008), "Offshoring and the role of trade agreements", NBER Working Papers Cambridge, Massachussets. National Bureau of Economic Research (NBER) Working Paper Nº 14285. https://dash.harvard.edu/bitstream/handle/1/3374525/antras_offshoringrole.pdf

Armony, Ariel (Ed.) (2012). Setting the Agenda: Asia and Latin America in the 21st Century University of Miami Centre for Latin American Studies Publications. http://scholarlyrepository.miami.edu/cgi/viewcontent.cgi?article=1000&context=clas_publications

Baldwin, Richard (2006).Baldwin, NBER, Working Paper 12545. http://www.nber.org/papers/w12545.pdf

Baldwin, Richard (2011 A) Unilateral Tariff Liberalisation, Global COE Hi-Stat Discussion Paper Series Nº 159. https://hermes-ir.lib.hit-u.ac.jp/rs/bitstream/10086/18834/1/gd10-159.pdf

Baldwin, Richard (2011 B) Trade and Industrialisation after Globalisation's 2nd Unbundling: How Building and Joining a Supply Chain are Different and why it Matters, NBER Working Paper Series Nº 17716, December. http://www.nber.org/papers/w17716.pdf

Baldwin, Richard (2012), "WTO 2.0: Global governance of supply-chain trade", Policy Insight, Nº 64, Centre for Economic Policy Research (CEPR), December [online] http://www.cepr.org/pubs/PolicyInsights/PolicyInsight64.pdf

Baldwin, Richard y Patrick Low (2008) Multilateralizing Regionalism. Challenges for the Global Trading System, WTO – Cambridge. https://www.wto.org/english/res_e/booksp_e/multila_region_e.pdf

Bizzozero, Lincoln (n/d). The process to build MERCOSUR: An assessment of its first ten years. http://cienciassociales.edu.uy/unidadmultidisciplinaria/wp-content/uploads/sites/6/2013/archivos/56%20Mercosur%20-%20diez%20a%C3%B1os-%20FCS.doc.trabajo.pdf

Blanco Estevez, Adrián (2015). The Pacific Alliance. A long way to go towards integration, Wilson Centre. Latin American Programme. https://www.wilsoncenter.org/sites/default/files/La_Alianza_del_Pacifico_Blanco_0.pdf

Blyde, Juan (Coordinator) (2014) Synchronized factories: Latin America and the Caribbean in the era of global value chains. Special Report on Integration and Trade. IDB. https://publications.iadb.org/bitstream/handle/11319/6668/FLagship-2014-ESPANOL.pdf?sequence=2

Caldentey del Pozo, Pedro and Romero Rodríguez, José (2010) SICA and the EU: Regional integration from a comparative perspective, Collection of Central American Studies Nº1 https://eulacfoundation.org/es/system/files/La%20SICA%20y%20la%20UE.pdf

Caballeros, Rómula (2008) Central America: The challenges of the Partnership Agreement with the European Union, Series Studies and Prospects, 102, Subregional headquarters of ECLAC in Mexico, July http://repositorio.cepal.org/bitstream/handle/11362/4881/1/S0800514_es.pdf

Argentine Chamber of Commerce (2016). The Trans-Pacific Strategic Economic Partnership Agreement. The largest free trade agreement since the Uruguay Round. http://www.cac.com.ar/data/documentos/56_CAC%20Info%20TPP%20v4ene.pdf

CARICOM. Revised Treaty of Chaguaramas establishing the Caribbean Community including the CARICOM Single Market and Economy http://www.wipo.int/wipolex/es/regeco_treaties/text.jsp?file_id=204029

Carrasco, Pablo (2011) Analysis of Decision 608 of the Andean Community on protection and promotion of competition and prospects for its application in Ecuador, Thesis for the Master's Degree in Law from the *Universidad Andina Simón Bolívar.* http://repositorio.uasb.edu.ec/bitstream/10644/2783/1/T0986-MDE-Carrasco-An%C3%A1lisis%20de.pdf

CEFIR (2012) MERCOSUR. Prospective 20 years, GIZ – Friedrich Ebert Stiftung. https://www.fes.de/lateinamerika/pdf_documents/MERCOSUR%20Prospectiva%2020%20anos.pdf

CELAC (2015). Report on the IV Meeting of Regional and Subregional Integration Mechanisms in the Community of Latin American and Caribbean States (CELAC) http://www.sela.org/media/2087665/iv-reunion-de-mecanismos-de-integracion-celac.pdf

ECLAC (2014 A) Latin America and the Caribbean in the World Economy 2014: Regional integration and value chains in a challenging external environment. October http://repositorio.cepal.org/bitstream/handle/11362/37195/1/S1420693_es.pdf.

ECLAC (2014 B) The Pacific Alliance and MERCOSUR. Towards convergence in diversity. November. http://repositorio.cepal.org/bitstream/handle/11362/37304/1/S1420838_es.pdf

Regional Centre on Competition for Latin America (2011). Agreement for the creation of the Regional Centre on Competition for Latin America. http://www.crcal.org/quienes-somos/acta-constitutiva

Andean Community (1997) Andean Subregional Integration Agreement (Cartagena Agreement) http://www.comunidadandina.org/Documentos.aspx

Andean Community (1997) Regulations on Administrative Procedures of the General Secretariat of the Andean Community

Andean Community (2005) Decision 608. Norms for the protection of competition and promotion of free competition in the Andean Community http://www.sice.oas.org/trade/junac/Decisiones/DEC608s.asp

European Community (1991) Bases to develop "third generation" cooperation between the Andean Group and the European Community

Cortázar, Javier (2006) Decision 608 of the Andean Community: A step forward for the anti-trust system of the region, Derecho Competencia magazine, Vol. 2, Nº 2, pp. 123 – 152, January-December, file:///Users/eugeniorivera/Downloads/SSRN-id1263625.pdf

Christophe Mendizábal, Philippe Albert (2015) Compared analysis of the CAFTA-DR and the Partnership Agreements: Models and Implementation Strategies, *Universidad Francisco Marroquín*, February, http://es.slideshare.net/UFMposgrado/anlisis-comparado-de-los-acuerdos-caftadr-y-acuerdo-de-asociacin-modelos-y-estrategias-de-implementacin

Del Valle Márquez Molina, Julibeth (2013). Perspectives of the Pacific Alliance for the generation of regional productive chains file:///Users/eugeniorivera/Downloads/estudio%20de%20caso%20completo.pd

Dent, Christopher (2012) Central American Integration System. Learning international best practices for regional cooperation and integration, Guatemala. http://www.sieca.int/PortalData/Documentos/6B35BAF1-2ECB-43B1-9B99-523B8719564F.pdf

Diez Canseco, Luis (2013). Regional Agreements on Competition in Latin America and the Caribbean, IDB – CRCAL. file:///Users/eugeniorivera/Downloads/DiezCRCVer_Espan%CC%83ol.pdf

Escolán, Celina and Claudia Schatán (2016). Outlook and challenges of competition policy in Central America, Series Studies and Prospects. Subregional headquarters of ECLAC in Mexico http://repositorio.cepal.org/bitstream/handle/11362/40014/1/S1600322_es.pdf

European Commission (2015). Evaluation of the cooperation of the EU with Central America. Final Report, Volume 1 – Main Report. https://ec.europa.eu/europeaid/sites/devco/files/evaluation-central-america-informe-final_es.pdf

Fairlie, Alan (2012). Integration and convergence in UNASUR. http://www.fes.org.pe/descargasFES/Dr%20Fairlie%20Integracion%20y%20Convergencia%20en%20UNASUR.pdf

Foxley, Alejandro (2014). New challenge for Latin America: Productive Integration, in Foxley, Alejandro and Patricio Meller (Publishers) (2014).

Foxley, Alejandro and Patricio Meller (Publishers) (2014). Pacific Alliance: In the process of Latin American integration, CIEPLAN http://www.kas.de/wf/doc/kas_39450-1522-4-30.pdf?141107162130

Gal, Michal S. (2009) Regional Competition Law Agreements: An Important Step for Antitrust Enforcement, Preliminary Draft. https://www.law.utoronto.ca/documents/conferences2/Trebilcock09_Gal.pdf

García Bermejo, Julia (2016) Economic Analysis of the ten largest enterprises of IBEX35 (2012-2015), Omal Report Nº 18/2016, http://omal.info/IMG/pdf/2016_informe_omal_no_18.pdf

Grossman, G. and E. Helpman (1995), "Technology and trade", NBER Working Paper Series, Nº 4926, http://www.nber.org/papers/w4926.pdf

Halperín, Marcelo (2011) Spaghetti Bowl or Multilateralism in question, Institute for Latin American Integration, Faculty of Judicial and Social Sciences, *Universidad Nacional de la Plata.* IIL–FCJS–UNLP. http://www.comunidadandina.org/bda/docs/can-int-0048.pdf

Hoekman, Bernanrd (2002) Competition Policy and Preferential Trade Agreements, World Bank and Centre for Economic Policy Research. http://siteresources.worldbank.org/WBI/Resources/wbi37131.pdf

INTAL (2016) Autum Colloquium. New governance, new convergences. The integration of Latin America into prospective, Buenos Aires, March. http://www19.iadb.org/intal/convergencia/data/INTAL-Nueva%20gobernanza-Nuevas%20convergencias.pdf.

Kotschwar, B. (2009), "Mapping investment provisions in regional trade agreements: towards an international investment regime?", in Estevadeordal, A., Suominen, K., and Teh, R. (comp.), Regional Rules in the Global Trading System, [7] Cambridge: Cambridge University Press: 365-417.

Lagos Escobar, Ricardo (2016) And what if Europe takes us to our own integration? http://www.clarin.com/opinion/acuerdos_economicos-Tabare_Vazquez_0_1497450277.htm

Lawrence, Robert Z. 1996. Regionalism, multilateralism, and deeper integration. Washington, D.C.: Brookings Institution.

Lawrence, R. Z. (2006), "Rulemaking amidst growing diversity: A club-of-clubs approach to WTO reform and new issue selection. https://www.hks.harvard.edu/FS/rlawrence/LawrenceClub%20ofClubsFinal.pdf

Maira, Luis (2012). South America and the prospects for integration in the post Cold War, in CEFIR (2012).

Makuc, Adrián, Graciela Duhalde and Ricardo Rozemberg (2015). MERCOSUR-European Union negotiations 20 years after the Framework Cooperation Agreement: Quo Vadis? IDB. https://publications.iadb.org/bitstream/handle/11319/7126/La_negociacion_MERCOSUR_Union_Europea_a_veinte_anos_del_acuerdo_marco_de_cooperacion.pdf.

Márquez Molina, Julibeth del Valle (2013). Prospects of the Pacific Alliance for the generation of regional productive linkages. Study for the Master's Degree in International Strategy and Business Policy. Universidad de Chile, Santiago. file:///Users/eugeniorivera/Downloads/estudio%20de%20caso%20completo%20(1).pdf

Martner, Gonzalo (2016) ¿Pueden converger MERCOSUR y la Alianza del Pacífico? Economía Exterior Nº 77. http://www.politicaexterior.com/articulos/economia-exterior/pueden-converger-mercosur-y-la-alianza-del-pacifico/

McLean, Sheldon and Jeetendra Khadan (2015) An assessment of the performance of CARICOM extra-regional trade agreements. An initial scoping exercise, Series Studies and Perspectives 41 ECLAC Subregional Headquarters for The Caribbean. http://repositorio.cepal.org/bitstream/handle/11362/37612/5/lcarl455_rev1.pdf.

MERCOSUR (1991) Tratado para la Constitución de un Mercado Común entre la República de Argentina, la República Federativa del Brasil, la República del Paraguay y la República Oriental de Uruguay. http://www.mercosur.int/innovaportal/file/719/1/CMC_1991_TRATADO_ES_Asuncion.pdf

MERCOSUR (1996). Protocolo de Defensa de la Competencia del MERCOSUR, file:///Users/eugeniorivera/Downloads/TRTRA92537210220131114428ESP.pdf. Also in: http://www.sice.oas.org/trade/mrcsrs/decisions/dec1896sText.asp

MERCOSUR (2010) Acuerdo de Defensa de la Competencia del MERCOSUR, http://www.cndc.gov.ar/DEC_43-1.pdf

Monge-Ariño, F. (2011), "Costa Rica: Trade opening, FDI attraction and global production sharing", Geneva, World Trade Organization (WTO), Work Document Nº ERSD-2011-09. https://www.wto.org/english/res_e/reser_e/ersd201109_e.pdf

Mota Prado, Mariana and Vladimir Bertrand (2015) Regulatory Cooperation in Latin America: The Case of MERCOSUR, Law and contemporary problems. Vol. 78: 205. http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=4746&context=lcp

WTO (n/d) Summary of the Final Act of the Uruguay Round. https://www.wto.org/spanish/docs_s/legal_s/ursum_s.htm.

WTO (2004) Decision adopted by the General Council on 01 August 2004. https://www.wto.org/spanish/tratop_s/dda_s/draft_text_gc_dg_31july04_s.htm#par1a

WTO (2011) Report on Global Trade 2011. WTO and the preferential trade agreements: From co-existence to coherence.
https://www.wto.org/spanish/res_s/booksp_s/anrep_s/world_trade_report11_s.pdf

WTO (2012) Report on Global Trade 2012. Trade and public policies: Analysis of non-tariff measures in the 21st century.
https://www.wto.org/spanish/res_s/booksp_s/anrep_s/world_trade_report12_s.pdf

WTO (2013) Report on Global Trade 2013. Factors determining the future of trade. https://www.wto.org/spanish/res_s/booksp_s/world_trade_report13_s.pdf

WTO (2014) Report on Global Trade 2014. Trade and development: Recent trends and function of the WTO. https://www.wto.org/spanish/res_s/booksp_s/world_trade_report14_s.pdf

WTO (2015) Report on Global Trade (2015). Speeding up trade: Advantages and challenges of the applications of the WTO Agreement on Trade Facilitation.
https://www.wto.org/spanish/res_s/booksp_s/world_trade_report15_s.pdf

Pacheco, Amparo and Federico Valerio (2007). DR – CAFTA: Aspectos relevantes seleccionados del Tratado y reformas legales que deben realizar a su entrada en vigor los países de Centroamérica y la República Dominicana, ECLAC, Industrial and International Trade Unit, Mexico, March.
http://repositorio.cepal.org/bitstream/handle/11362/5001/1/S0700169_es.pdf

Peña, Celina and Ricardo Rozemberg (2005) Una aproximación al desarrollo institucional del MERCOSUR: sus fortalezas y debilidades, INTAL-ITD Dissemination document 31. http://www19.iadb.org/intal/intalcdi/PE/2010/06593.pdf

Peña, Felix (2000) Una política de competencia económica para el Mercosur, Contribuciones Magazine (CIEDLA-Konrad Adenauer Foundation) September.
http://www.felixpena.com.ar/index.php?contenido=wpapers&wpagno=documentos/2000-09

Peña, Felix (2009) Perspectivas de concreción de los Acuerdos pendientes entre la Unión Europea, el Mercosur y la CAN.
http://www.felixpena.com.ar/index.php?contenido=wpapers&wpagno=documentos/2009-02-acuerdos-union-europea-mercosur-can

Peña, Félix (2013 A) El Mercosur tras la cumbre de Mendoza.
http://www.felixpena.com.ar/index.php?contenido=wpapers&wpagno=documentos/2013-01-futuro-mercosur-cumbre-mendoza

Peña, Félix (2013 B) La diplomacia económica multi-espacial e interregional: el caso de las relaciones entre América Latina y la Unión Europea.
http://www.felixpena.com.ar/index.php?contenido=wpapers&wpagno=documentos/2013-09-diplomacia-economica-multi-espacial-e-interregional

Peña, Félix (2014) América Latina, entre la convergencia o la fragmentación, December
http://www.felixpena.com.ar/index.php?contenido=wpapers&wpagno=documentos/2014-12-america-latina-entre-la-convergencia-o-fragmentacion

Peña, Félix (2015 A) Regional integration in Latin America: the strategy of "convergence in diversity" and the relations between Mercosur and the Pacific Alliance, Paper presented at the Seminar "A New Atlantic Community: The European Union, the US and Latin America" (February). http://www.felixpena.com.ar/index.php?contenido=wpapers&wpagno=documentos/2015-02-regional-integration-in-latin-america

Peña, Félix (2015 B) Iniciativas que merecen atención. Prioridades del Mercosur para este segundo semestre y para tener un futuro creíble. http://www.felixpena.com.ar/index.php?contenido=wpapers&wpagno=documentos/2015-07-28-prioridades-mercosur-para-futuro-creible

Peña, Félix (2016) Reflexiones con motivo de un aniversario: Los 25 años del Mercosur y opciones en el camino de su evolución futura. http://www.felixpena.com.ar/index.php?contenido=negociaciones&neagno=informes/2016-03-25-anos-mercosur-evolucion-futura

Porananond, Ploykaew (2016). A Critical Analysis of the Prospects for the Effective Development of a Regional Approach to Competition Law in the ASEAN Region, Submitted in Fulfilment of the Requirements for the Degree of PhD in Law, University of Glasgow. http://theses.gla.ac.uk/7489/1/2016porananondphd.pdf

Mesoamerica Integration and Development Project (2011) Executive Report on the Mesoamerica Project 2010-2011, XIII Summit of Dialogue and Concertation Mechanisms, Tuxtla, Merida, Yucatan, Mexico http://www.proyectomesoamerica.org/joomla/images/Documentos/Cumbres_Tuxtla/XIII_Cumbre_Tuxtla/informe%20ejecutivo%20proyecto%20mesoamerica%202010-2011.pdf

PWC (2014). La Alianza del Pacífico. Una nueva era para América Latina https://www.pwc.com/mx/es/publicaciones/archivo/2014-10-alianza-pacifico-baja.pdf

Rodríguez, Miguel (2012). Tratados de Libre Comercio en América del Sur. Tendencias, perspectivas y desafíos, CAF, Series on Public Policies and Productive Transformation, Nº 7/2012 http://publicaciones.caf.com/media/21339/caf_libro_tlc_web_dl-orginal.pdf

Rosales, Osvaldo (Compiler) (2015). Globalización, integración y comercio inclusivo en América Latina. Textos seleccionados 2010 – 2014, ECLAC. http://repositorio.cepal.org/bitstream/handle/11362/38952/1/S1500632_es.pdf

Roy, M., Marchetti J. and Lim, A. H. (2007), "Services liberalization in the new generation of preferential trade agreements: how much further than the GATS?", World Trade Review 6 (02 (July). 155-192. https://www.wto.org/english/res_e/reser_e/ersd200607_e.pdf

Salgado, Germánico (2009). El Grupo Andino: entre dos concepciones de la integración económica, en Secretaría General de la Comunidad Andina (2009).

Sáez, Sebastián (2008). La integración en busca de un modelo: los problemas de la convergencia en América Latina y El Caribe, ECLAC, International Trade Division, July. http://www19.iadb.org/intal/intalcdi/PE/2008/02082.pdf

Andean Community General Secretariat (2009) 40 años de integración andina. Avances y perspectivas, Integration Magazine Nº 4, June.
http://www.comunidadandina.org/Upload/201166191016revista_integracion_4.pdf

Schatan, Claudia and Rivera, Eugenio (2008) Competition Policies in Emerging Economies. Lessons and Challenges from Central America and Mexico, ECLAC–IDRC, Springer. (There is also a Spanish version) http://www.sela.org/media/265675/t023600004992-0-mecanismos_modalidades_fomentar_comercio_paises_america_sur.pdf

SELA (2012) Mecanismos y modalidades para fomentar el comercio entre los países de América del Sur, May.
file:///Users/eugeniorivera/Documents/Consultori%CC%81as/Grupo%20de%20Trabajo%20sobre%20Comercio%20y%20Competencia%20de%20Ame%CC%81rica%20Latina%20y%20el%20Caribe/SELA/Mecanismos%20y%20modalidades%20para%20fomentar%20el%20comercio%20entre%20los%20pai%CC%81ses%20de%20Ame%CC%81rica%20del%20Sur.pdf

SELA (2014) Evolución del Sistema de Integración Centroamericano (SICA).
http://www.sela.org/media/264704/t023600006231-0-di_9-_evolucion_sica.pdf

SELA (2015). Marcos regulatorios en los mecanismos de integración subregional en América Latina y el Caribe: Armonización y Convergencia, XLI Regular Meeting of the Latin American Council, Caracas, Venezuela, 25 to 27 November.
http://www.sela.org/media/2087914/marco-regulatorio-dt-n-2-15.pdf

SICA (1991) Protocolo de Tegucigalpa a la Carta de la Organización de Estados Centroamericanos (ODECA) http://www.sica.int/consulta/documento.aspx?Idn=82677&IdEnt=401&Idm=1

SICA (1993) Protocolo al Tratado General de Integración Económica Centroamericana (Protocolo de Guatemala).
http://www.sica.int/consulta/documento.aspx?Idn=82712&IdEnt=401&Idm=1

SICA (2007) Protocolo al Tratado sobre inversión y comercio de servicios entre las repúblicas de Costa Rica, El Salvador, Guatemala, Honduras y Nicaragua.
http://www.mineco.gob.gt/sites/default/files/protocolo-tics_1.pdf

Silva, Verónica (2005) Cooperación en política de competencia y acuerdos comerciales en América Latina y el Caribe (ALC), Santiago: Chile: United Nations Economic Commision for Latin America and the Caribbean, Integration and International Trade Division, January. http://www19.iadb.org/intal/intalcdi/PE/2010/06548.pdf

Silva, Verónica and Ana María Álvarez (2006) Cooperación en políticas de competencia y acuerdos comerciales de América Latina y el Caribe: desarrollo y perspectivas, Integration and International Trade Division, June
http://repositorio.cepal.org/bitstream/handle/11362/4418/S2006613_es.pdf?sequence=1&isAllowed=y

Stewart, Taimoom (2006) Evaluación de la relevancia de las leyes de competencia en países pequeños. El caso de CARICOM, in Schatán, Claudia and Ávalos, Marcos (2006) Condiciones y políticas de competencia. Economías pequeñas de Centroamérica y El Caribe, Fondo de Cultura Económica, Mexico.

Stewart, Taimoon (2012). The Role of Competition Policy in Regional Integration: The Case of the Caribbean Community, https://sta.uwi.edu/salises/workshop/papers/tstewart.pdf

Tavares de Araujo Jr, José and José Tineo (1997). The Harmonization of Competition Policies among Mercosur Countries, Caribbean Trade Reference Centre. http://ctrc.sice.oas.org/TUnit/STUDIES/COMPET/Index.asp

Tavares de Araujo Jr, José (2000) Competition Policy and the EU – MERCOSUR Trade Negotiations, http://www.oas.org/en/sedi/desd/trade/pubs/tav00_cpeumerc.pdf

Ulloa, Alfie and Sebastián Marambio (2014). Latinoamérica y El Caribe, desafíos comerciales de la región y una agenda para la integración, in Foxley, Alejandro and Bárbara Stallings (Publishers) (2014). Economías latinoamericanas. Cómo avanzar más allá del ingreso medio, Centre for Latin American & Latino Studies, American University – Cieplan. https://www.american.edu/clals/upload/Economi-as-latinoamericanas_CLALS-CIEPLAN.pdf

UNCTAD (United Nations Conference on Trade and Development) (2013), Global Value Chains and Development. Investment and Value Added Trade in the Global Economy, Geneva [online] http://unctad.org/en/publicationslibrary/diae2013d1_en.pdf.

Urría, Pablo (n/d) Beneficios del Protocolo Adicional: ¿Cómo participar y beneficiarse de este Acuerdo Comercial", https://www.direcon.gob.cl/wp-content/uploads/2016/01/Alianza-del-Pacifico-Pablo-Urria.pdf

Urrutia Nájera, Pablo (2011). La integración económica centroamericana y sus principales componentes, ASIES Magazine, Nº1 http://www.kas.de/wf/doc/4158-1442-4-30.pdf

Vaillant, Marcel (2007). Convergencias y divergencias en la integración sudamericana, Integration and International Trade Division, August. http://repositorio.cepal.org/bitstream/handle/11362/4427/1/S0700638_es.pdf

Vargas, Regina (2013). Políticas de competencia en Centroamérica. Presentation by the Law Intendent of Competition in Lima, Peru, 4 September, Superintendence of Competition, El Salvador. http://www.oecd.org/competition/latinamerica/SII-El%20Salvador.pdf

Varillas, Walter (2012). Convergencia CAN MERCOSUR con miras a UNASUR. Perspectiva social. Identificación de nuevas áreas, temas o proyectos con perspectivas favorables. http://www.fes.org.pe/descargasFES/Dr%20Walter%20Varillas%20Dimension%20Social%20en%20UNASUR.pdf

Zago, Andrés (2005), MERCOSUR agreement on competition policy - How effective has it been and how to promote further cooperation? Joint Group on Trade and Competition. OECD: COM/DAF/TD/(2005)57, October.