

Toward Free Trade in the Americas

Table of Contents

Presentation

Introduction and Summary

Main Findings of Report

Chapter I: Merchandise Trade in the Americas

Trade in Latin America and the Caribbean

Trade in North America

Chapter II: Trade and Integration Arrangements in the Americas

Economic Integration: A Typology

Customs Unions

Free Trade Agreements

Preferential Agreements

Sectoral Agreements (Regional Scope and Partial Scope)

Chapter III: Commonality and Divergence in Existing Arrangements

General Considerations

Liberalization, Access and Trade Regulations

Services, Procurement, Investment and Intellectual Property

Special Areas (Energy, Autos, Textiles and Agriculture)

Chapter IV: Protection, Preferential Tariffs and Rules of Origin

Protection Policies in the Americas

Rules of Origin and Preferential Markets

Towards a Common Policy on Rules of Origin

Chapter V: Regionalism and the Multilateral Trading System

The Nature of the Problem

Regionalism in the GATT/WTO System

Regionalism in the Western Hemisphere

Chapter VI: Hemispheric Free Trade and the Less Developed Countries

Free Trade and Developing Countries

The Issue Today

The Need for a Fresh Approach

Chapter VII: The Road Ahead

The FTAA Building Blocks

The Negotiating Approach

The Role of the OAS

The Tripartite Cooperation Mechanism

Toward Free Trade in the Americas

Presentation

This report was prepared by the OAS Trade Section to serve as a basis for the discussions of the Special Committee on Trade at its second meeting held in Montevideo, Uruguay on June 14-15, 1995. The SCT decided to annex this paper to its report to the Trade Ministers at their meeting in Denver on June 30, 1995. Chapter IV is a contribution of the Inter-American Development Bank, based on its analysis of tariff structures and rules of origin systems in the region. The report was examined by the Advisory Group to the Special Committee on Trade at its fourth meeting held in Washington, D.C. on June 1-2, 1995.

Introduction and Summary

The Declaration of Principles issued at the conclusion of the Summit of the Americas assigns the OAS major responsibilities for assisting governments in carrying out the agreements reached as part of the Summit process. In the area of trade, the Plan of Action adopted at the Summit directs the OAS Special Committee on Trade (SCT), with the support of the Inter-American Development Bank (IDB), the Economic Commission for Latin America and the Caribbean (ECLAC) and the secretariats of other specialized regional and subregional organizations, to assist in the systematization of data in the region and to continue its work on studying economic integration arrangements in the Hemisphere, including brief comparative descriptions of the obligations in each of the Hemisphere's existing trade agreements.

In carrying out this request, the OAS Trade Section prepared a "compendium" of Western Hemisphere trade arrangements.⁽¹⁾ This report builds upon the information contained in the compendium and offers further information and analysis on the trade related issues dealt with in the Declaration and Plan of Action adopted at the Summit of the Americas.

The report provides an overview of recent developments with respect to trade and economic integration in the Americas and deals with some other issues of particular relevance to the establishment of the Free Trade Area of the Americas (FTAA). Chapter I focuses on the characteristics of trade flows and major trends with regard to trade among countries of the Hemisphere, and Chapter II describes briefly all the major bilateral, trilateral and subregional trade agreements in the Hemisphere. It also provides information on recent developments in integration groupings such as NAFTA, the Andean Group, Mercosur, Caricom and the Central American Common Market.

Chapter III identifies areas of commonality and divergence in the various trade and integration arrangements in the Americas. Chapter IV presents a detailed discussion on tariff structures and rules of origin systems in the region. Chapter V analyzes the relationship between hemispheric free trade in the Western Hemisphere and multilateral rules and disciplines, in particular with regard to the relevance of GATT Article XXIV and GATS Article V as a measure of the compatibility of regional agreements in the region and the multilateral trading system as embodied in the WTO.

The challenges facing the smaller developing countries in the Hemisphere with regard to free trade in the Americas are described in Chapter VI while Chapter VII discusses considerations which should be taken into account when designing the actions and measures leading to the formation of the Free Trade Area of the Americas (FTAA), as well as some proposals with regard to future work to be undertaken. At the end of this chapter, the report makes some suggestions as to the contribution which the Special Committee on Trade and the Trade Section could make towards the establishment of the FTAA.

Main Findings of the Report

Trade in the Americas

- The increase in intra-subregional trade is one of the most important aspects of the Hemisphere's international trade in the 1990s. Old and new trade arrangements propelled by the economic liberalization measures of the past 10 years contributed greatly to this increase. However, while countries of a same group are trading more with their partners, the level of these exchanges varies from one country to another and from one bloc to another.

- The share of intra-subregional exports in total exports more than doubled within the Andean Group, from 4.1 percent in 1990 (\$1.25 billion) to 10 percent in 1994 (\$3.34 billion); and within Mercosur, from 8.9 percent in 1990 (\$4.13 billion) to 19.1 percent in 1994 (\$11.42 billion). In the Central American Common Market, exports within the group also increased, from 17.3 percent in 1990 (\$686 million) to 21.6 percent in 1994 (\$1.23 billion), while Caricom's share slightly fell from 12.6 percent in 1990 (\$496 million) to 11.5 percent in 1993 (\$475 million). In North America, trade between Mexico, the United States and Canada rose following the entry into force of the NAFTA agreement in 1994.
- While the Western Hemisphere, as a whole, is the largest and most important trading partner for all the countries in the region, NAFTA is the largest partner of most trading blocs and most countries of the Hemisphere. It accounts for 48.8 percent of CACM's trade, 48.4 percent for the Caribbean, 65 percent for the Group of Three, and 46.1 percent for the Andean Group. However, Europe dominates the market in the Mercosur countries (27.6 percent compared to 22.5 percent for NAFTA), Bolivia (22.8 percent compared to 18.9 percent for NAFTA), Suriname (39.2 percent compared to 12.4 percent for NAFTA) and Guyana (43.4 percent compared to 35.2 percent for NAFTA).
- Latin America and the Caribbean are also important markets for several countries of the region. They account for as much as 19.5 percent of all CACM exports and as little as 8 percent of the Group of Three countries' exports. Latin America and the Caribbean represent a major export market for Bolivia and Paraguay (44.5 percent), followed by Uruguay (39.4 percent), El Salvador (33.6 percent), Guatemala (29.3 percent), and Argentina (28.2 percent). However, Haiti (0.8 percent), Dominica (3.2 percent), Honduras (4.8 percent), and Mexico (4.8 percent) are not at all dependent on the Latin American and Caribbean markets for their exports.
- Canada has been developing closer links with Latin America since the beginning of the 1990s, when it joined the Organization of American States and negotiated NAFTA with the United States and Mexico. Official consultations are held regularly with several Latin American and Caribbean countries. More than 95 percent of Canada's exports to the region in 1994 went to the United States. Latin America's share of Canadian exports dropped from 5 percent of total exports in 1983 to 2 percent in 1993.

Trade and Integration Agreements



- The new trade and integration agreements which have been established and/or revived in the region are very different from their counterparts of the 1960s and 1970s. The new agreements have been propelled mostly by serious trade and economic liberalization measures adopted by countries in the region.
- One might distinguish six different types of economic-integration agreements: economic unions in which the members integrate all of their economic policies; common markets in which a customs union is supplemented by removal of all barriers to factor movements between members; customs unions in which member countries eliminate tariffs and non-tariff barriers among themselves and establish a common external tariff on goods from third countries; free trade agreements in which member countries eliminate substantially all tariff and non-tariff barriers among themselves; preferential agreements in which access to a larger market is offered without demands for reciprocity; and sectoral agreements that provide for reduced-tariff or duty-free treatment among their members on a limited range of products.
- Examples of the last four types of agreements can be found in the Western Hemisphere today. There are a significant number of customs unions and free trade agreements among American states to which the report refers specifically and the compendium deals with intensively. In addition, Canada, the United States, and some Latin American countries (e.g., Venezuela and Colombia) offer preferential non reciprocal access to their markets under various types of programs. There are also numerous sectoral agreements, such as the AutoPact that the United States and Canada entered into in 1965, and bilateral agreements on specific products negotiated within the framework of LAIA (Latin American Integration Association).

Commonality and Divergence in the Agreements

- The agreements examined in the report fall into two general categories: four are customs unions and three are arrangements leading to free trade areas. One of the four customs unions (Mercosur - 1991) is a fairly recent agreement while the Andean, Caribbean and Central American arrangements have longer histories. Each of the earlier agreements have had to be modified to fit changing circumstances. The ability of the agreements to adjust to new conditions is one of their central features. In certain

cases, for example, adjustments have had to be made to respective schedules for trade liberalization in light of members' inability to meet certain original, or even modified, deadlines.

- The free trade agreements, on the other hand, are fairly recent in vintage. NAFTA is the most comprehensive and served as a useful model for the negotiation of the Group of Three agreement, which nevertheless, reflects the special interests of its constituent members. The Bilaterals with Chile, while sharing a number of common traits are essentially designed to address specific bilateral liberalization objectives, and are focused mainly on liberalization of trade in goods.
- NAFTA is the only agreement without a geographically defined accession clause, and to which all countries of the Hemisphere could theoretically adhere. Membership in all the other agreements is subject to geographical or other limitations at the subregional level, none of which could theoretically encompass the entire Hemisphere. There are thus, certain practical difficulties, barring amendments being made to the agreements in question, in achieving Hemispheric free trade by the expansion in the membership of existing arrangements to other countries.
- All agreements provide for the liberalization of tariffs and most non-tariff barriers. Some of the earlier integration attempts (i.e., Andean Group, Central America and Caricom) were less successful in achieving the trade liberalization objectives in the original timeframes that were established. Nevertheless, adjustments have been made as these agreements have evolved and new timetables have been established and generally adhered to. Some agreements have encountered difficulties in establishing common external tariffs in all products and therefore have required provisions allowing for limited time and specified exceptions.
- The agreements have clearly contributed to the liberalization of trade among the members. Three out of four customs unions contain, at least formally, MFN obligations with respect to tariffs as do the set of FTAs negotiated by Chile. When necessary, derogations from this obligation have been obtained so as to allow countries to enter into trade liberalization negotiations.
- A number of agreements, in particular the customs unions, contain special provisions designed to address the needs of participating countries that are at lower stages of development. Such provisions can take the form of different levels of obligations and/or differences in the number of exceptions or phasing requirements. Some agreements contain both forms, but differing stages of development do not, themselves, preclude participation in trade liberalization efforts.
- One area of significant difference among the agreements is found in how each addresses the issue of emergency measures. In Mercosur and Caricom, bilateral safeguards actions do not effectively exist. In NAFTA and the Group of Three, bilateral safeguard mechanisms essentially have sunset provisions, while they are essentially open ended in the case of the Andean Group and Central America. The subject of unfair trade practices has been one of the most difficult to address at all levels, be it multilateral, plurilateral or bilateral.
- With regard to trade in services, including financial services, transportation services, telecommunications services, provisions respecting the temporary entry of persons, as well as with respect to the issues of investment, government procurement, state and monopoly providers of goods and services and intellectual property provisions, the agreements that have been negotiated more recently provide thorough coverage. Nevertheless, some of the "older" agreements have been modified to take into account international progress in these areas, such as the adoption by the Andean Group of highly disciplined provisions in the area of intellectual property.
- Effectively, government procurement is only covered in the NAFTA and Group of Three agreements (procurement is a voluntary plurilateral agreement in the WTO, and Canada and the United States are the only signatories in the Hemisphere). Mercosur has set up a working group on procurement which is supposed to report its findings on June 30, 1995. Similarly, the Caricom countries are studying various options for a coordinated subregional approach.
- A number of agreements contain measures relating to the treatment of foreign investment, with most of those being ahead of similar provisions in the Uruguay Round. In the case of Mercosur, investment issues were not included in the original negotiation, but have since been included by incorporating the Colonia Protocol. The same situation pertains to the Andean Group which brought forward investment and intellectual property provisions since the inception of the original agreement. NAFTA contains the most comprehensive set of investment related disciplines of any agreement.

- Four of the agreements reviewed (plus the WTO) contain provisions relating to intellectual property rights. Those that do not are Mercosur, Caricom and the FTAs entered into by Chile. In the case of Central America, first attempts to include intellectual property rights date back to 1968, but did not, however, include patent rights. The agreement has since been amended in 1994 and is in the process of ratification. Both NAFTA and the Group of Three agreements contain well developed intellectual property provisions.

Protection, Preferential Tariff Elimination and Rules of Origin



The Inter-American Development Bank's study of tariffs and rules of origin in the Hemisphere, arrives at the following initial conclusions:

First, despite the depth and speed of the import liberalization process in Latin America, there still remain significant differences among national tariff structures in the Hemisphere. Moreover, the different approaches to trade policy in the region will strongly influence the type of integration that is feasible for the Americas in the foreseeable future. Given that the creation of an advanced integration arrangement such as a customs union is highly demanding regarding the harmonization of national trade policies, the creation of a free trade area can be viewed as the most likely first step toward the goal of economic integration in the Hemisphere.

Second, the process of preferential tariff elimination has advanced at a varied pace in the Hemisphere in recent years. The new generation agreements such as NAFTA, the Group of Three, and Mexico-Costa Rica will have duty free treatment for about 95 percent of the items by the year 2004, and the rest will circulate freely shortly thereafter. In contrast, the first generation agreements such as the Chilean bilateral accords will achieve almost full tariff removal under the LAIA regime by the end of this decade.

Third, the establishment and success of a hemispheric free trade area depends fundamentally on the adoption of a system of rules and disciplines, including those that govern origin, that have precise objectives, coherent criteria and simple administrative procedures.

The IDB's in-depth analysis of the LAIA system of rules of origin vis-a-vis that used in the new generation agreements supports the view to move towards a regime that borrows the best from existing systems in the Hemisphere. On the one hand, rules of origin should be as transparent as possible given certain clearly defined objectives; on the other hand, they must display sufficient rigor to fulfill those objectives in an effective way. In this regard, it would be preferable to minimize the number of criteria for origin, giving preference to a change in tariff classification, using complementary requirements like value added only in exceptional cases where they are merited. This more simplified, yet rigorous, approach seems to be emerging as a possible guideline for a future development of rules of origin, and indeed the option is being studied in the WTO for non-preferential schemes.

Regionalism and Multilateral Rules

- The future Free Trade Area of the Americas (FTAA) has to be consistent with the multilateral trading system. The need to ensure this compatibility applies not only to the prospective FTAA but also to existing regional and subregional arrangements in the Hemisphere. Indeed, "compatibility" is an objective as well as a necessity, due to the fact that almost all countries in the region are members of the WTO.
- According to a recent report by the WTO Secretariat, only seven trade agreements concluded among the countries of the Hemisphere have been notified to the GATT. These are the Canada-U.S. Free Trade Agreement (FTA), the North American Free Trade Agreement (NAFTA), the Caribbean Community and Common Market (Caricom), the Central American Common Market (CACM), the Latin American Integration Association (LAIA), the Andean Group, and the Southern Cone Common Market (Mercosur).
- The general view that trade agreements among developing countries need only to conform to the GATT Enabling Clause may be reexamined in light of the nature and wide scope of the new trade and integration agreements in the region. In fact, almost all existing agreements in the region could meet the requirements of Article XXIV. This would not have been so just a few years ago, when most trade and integration agreements covered a limited percentage of the participants' total trade and were designed more to exclude other countries' imports than to liberalize mutual trade. There is a strong case for notifying these agreements to the WTO as all countries stand to gain from greater transparency in the functioning of regional agreements.

- In addition, it seems to be necessary to go beyond the limited approach envisaged in GATT Article XXIV and the Enabling Clause, and to move towards a new attitude concerning the compatibility of subregional arrangements with multilateral obligations. Both the Hemisphere and the multilateral trading system in general would benefit from compatibility examinations that take into account the policy areas now incorporated into the trade policy arena.
- Regional agreements can constitute "building blocks" for multilateralism when regional disciplines are multilateralized or are used as a basis for multilateral agreements. Multilateral disciplines can also become building blocks for regional agreements when used as a basis for liberalizing trade among a limited number of countries. Within the Americas, establishment of the proposed FTAA can benefit from using multilateral disciplines as a foundation for hemispheric free trade. Moreover, the adoption of hemispheric agreements on areas not covered by multilateral rules and disciplines can help promote consensus-building on these issues at the international level.

Less Developed Countries

- Reciprocal trade liberalization between countries at different stages of development has always posed special problems. From the perspective of smaller countries, this problem has often been viewed as a question of fairness. From the perspective of larger and more developed countries, the problem takes on different dimensions. They often question whether it is appropriate to engage in free trade arrangements with countries at lower stages of development when such "partners" cannot undertake equivalent obligations.
- The conflict between these two perspectives has thus far been handled, if not entirely resolved, through the creation of special measures in favor of the developing countries. The best-known measures have been one-way preferential arrangements such as the Generalized System of Preferences (GSP), the Lomé Convention, the Caribbean Basin Initiative (CBI) and Caribcan. In addition, developing countries have been generally treated more favorably with respect to their obligations in multilateral trade negotiations through the "special and differential" treatment contained in Part IV of the General Agreement on Tariffs and Trade (GATT).
- The attitudes of both developed and developing countries to one-way preferential trade have changed. In Latin American and Caribbean countries, the implementation of structural reform programs and a drastic modification of the region's trade policy through the reduction of tariffs and non-tariff barriers and the removal of quantitative restrictions is now perceived as being part and parcel of good development strategy. The industrialized countries, for their part, have placed ever-greater emphasis on "reciprocity" in a new international trading environment.
- The old dilemma of trade relations between rich and poor thus remains in place, but in a new perspective. For less developed countries in Latin America and the Caribbean, enhanced participation in hemispheric trade is essential for rapid and sustained growth and development. However, the acknowledged need for a more open trading system and for hemispheric free trade does not change the fact that these countries remain in a vulnerable position. While the global benefits of trade liberalization are generally recognized, the realization of these benefits by small and less developed countries will depend greatly on their capacity to adjust to shifts in market opportunities and to increased competition. When these countries cannot adjust appropriately and quickly enough, more often than not due to underlying structural weaknesses, their trade and economic prospects may worsen.
- The challenge therefore is how to design a satisfactory reciprocal arrangement among unequal partners that will promote prosperity through free trade and integration in the Americas without endangering the economic viability of some countries in the process. That process should proceed from the understanding that while access to larger markets may be difficult for the smaller countries in the Hemisphere, due to quantitative restrictions on their most important export products, it is not the only problem. It is also one of supply-side constraints, whether related to scale and scope, quality, price, or some other consideration or combination thereof. Therefore, measures designed to enhance the productive and investment opportunities of the less developed countries would contribute to their ability to participate fully in hemispheric liberalization efforts.

The Road Ahead



- Free trade among the countries of the Americas should be constructed upon two basic building blocks: the multilateral disciplines of the GATT/WTO, and existing commitments contained in the various

bilateral and regional trade and integration agreements. As regards the GATT/WTO disciplines, two main implications for the establishment of the FTAA should be highlighted. First, where adequate multilateral disciplines and mechanisms exist they could be incorporated in the FTAA by reference, i.e., they would not need to be duplicated or renegotiated at the hemispheric level. Second, the countries could focus their negotiating energies in areas where a "WTO-plus" outcome might be achieved: WTO areas where further liberalization is required, and those areas falling outside the WTO where disciplines are crucial for intensified liberalization within the Americas.

- In analyzing the relationship between the FTAA and the regional and bilateral arrangements, three distinct but related issues are critical. First, the liberalization process has exposed countries in the region to increased international competition and adjustment pressures. Second, the intensification of trade liberalization brought on by the expansion of such agreements should be considered as steps toward hemispheric free trade, and could be organized to facilitate that process. Third, existing agreements in the Hemisphere could be used as a basis for a hemispheric-wide agreement in certain critical areas or sectors such as rules of origin, customs procedures, investment measures and transportation.
- There is a need for a two-staged approach toward hemispheric free trade. The next few years could be seen as both a preparatory process of the negotiations on the FTAA, and a time for countries to concentrate on measures essential for deeper trade liberalization and expansion, so that concrete progress can be achieved by the end of the decade. Three sets of actions seem to be particularly important:
 - A Framework for Hemispheric Liberalization in Goods and Services. Trade liberalization is the "core" of any free trade agreement, and to this end, a plan and timetable should be defined as soon as possible. It would encompass industrial and agricultural tariffs, and restrictions to trade in services.
 - Action in Areas That Could Facilitate Trade. In most cases, these measures are related to the WTO agreements as many of these agreements are designed to increase transparency and facilitate international trade. At this stage it is important to ensure that all the countries in the region are in a position to implement the WTO agreements and, where appropriate, to accelerate their implementation.
 - Identify Issues not yet Covered by the WTO such as investment and competition policy, which were included in the Summit of the Americas Plan of Action, in which hemispheric discussions can put the Americas at the forefront of multilateral consensus-building.
- The second stage would then be a period in which the FTAA would take shape and free trade in goods and services, as well as disciplines on new issues, are finally negotiated. One of the outstanding issues would be whether free trade in the Americas will be arrived at by accession to one of the existing agreements or by negotiating an "umbrella" agreement which may allow for the continued existence of regional agreements.

The Role of the OAS

- The OAS can assist the countries of the region in their search for trade liberalization through two key mechanisms: the Special Committee on Trade (and its Advisory Group) and the Trade Section. The Special Committee on Trade (SCT) offers a multilateral forum where trade and trade-related issues can be examined by the countries of the region with a view to taking action on hemispheric trade liberalization and expansion. Specifically, the SCT can provide a forum where alternative strategies and actions regarding the FTAA could be analyzed and recommendations be formulated.
- The Trade Section could provide technical support to the negotiating process, since its basic purpose is to support countries in the area of trade and to be responsive to their needs and concerns, including the tasks assigned to the OAS by the Summit of the Americas in relation to the establishment of the FTAA. The Trade Section is in a position to co-operate with the countries of the Hemisphere in the following areas:
 - Trade Liberalization: Efforts are being made to adapt the OAS Foreign Trade Information Service (SICE) to be used as a negotiating tool (in addition to existing functions) by making available information on trade flows and trade policy related information.

- Trade Facilitation: The Trade Section could be directed by Ministers to conduct research and analysis on the countries' laws, regulations and practices concerning specific issues such as technical standards, sanitary and phyto-sanitary measures and customs procedures, with a view to providing a comparative analysis that could be essential for the pursuit of negotiations.
- Policy Issues: The Trade Section is also prepared to conduct comparative studies of various policy issues that might have a bearing on the negotiation of a FTAA. The Trade Section, for example, has agreed with the United Nations Conference on Trade and Development (UNCTAD) to build a Western Hemisphere data base on services measures, and it could conduct comparative analyses in the areas of investment, competition policy, and intellectual property rights.
- Finally, institutional cooperation will be essential to promote the trade initiatives undertaken by countries of the region. The OAS-IDB-ECLAC Tripartite Cooperation Mechanism could play an important supportive role as the countries in the Americas move toward free trade. The same can be said of the secretariats of the regional and sub-regional integration agreements. Indeed, all available resources and capabilities in these institutions could be used to help in the construction of a more prosperous Hemisphere.

1. The agreements covered are: the World Trade Organization, the Southern Cone Common Market, the Andean Group, the Central American Common Market, the Caribbean Community and Common Market, the North American Free Trade Agreement, the Group of Three, and Chile's bilateral free trade agreements with Mexico, Colombia, Ecuador and Venezuela. See OAS Trade Section, "An Analytical Compendium of Western Hemisphere Trade Arrangements", June 1995.



Chapter I Merchandise Trade in the Americas

The increase in intra-subregional trade is one of the most important aspects of the Hemisphere's international trade in the 1990s. Old (Central American Common Market, Andean Group, Caricom) and new (such as NAFTA, Mercosur and the Group of Three) trade arrangements propelled by the economic liberalization measures of the past 10 years contributed greatly to this increase.⁽²⁾ However, while countries of a same group are trading more with their partners, the level of these exchanges varies from one country to another and from one bloc to another. Except for the Mercosur countries, Bolivia and a few Caribbean states, NAFTA is the largest trading partner of all countries of the Hemisphere.

After reviewing and explaining the extent to which intra-subregional trade has grown in the Western Hemisphere in the first half of the 1990s, this Chapter will present a brief review of the importance of such trade in the Americas. The chapter will end with a section on North American Trade with the Western Hemisphere, emphasizing the trade relationships (in terms of intensity levels and commodity components) of both the United States and Canada with their partners of the region.⁽³⁾

The flow of goods among the countries of the region has traditionally been very small. Intra-Latin American trade reached only 7 percent of total trade in 1938. It rose slightly after World War II to 10.4 percent in 1954, but remained fairly minor.⁽⁴⁾ A series of regional trade arrangements in the 1960s boosted intra-subregional trade. For instance, the share of intra-subregional exports in total exports peaked at 26 percent in the Central American Common Market (CACM) in 1970.⁽⁵⁾ However, because these trade arrangements were based on import-substitution policies aimed at promoting industrialization in the region, high trade barriers and numerous exceptions later prevented countries from expanding trade among themselves. Other factors which impeded intra-subregional trade include political conflicts; exchange rate volatility and macroeconomic mismanagement; and lack of political will on the part of the countries to implement their treaty obligations.⁽⁶⁾

In the 1980s, the effects of the debt crisis led to a sharp contraction in trade among Latin American countries. The countries that would later establish Mercosur saw their intra-subregional export share drop, from 11.6 percent in 1980 to 5.5 percent in 1985, while the share of the CACM countries fell from 25.4 percent in 1980 to 10.7 percent in 1986. The Andean Group countries experienced a smaller reduction, from 4.8 percent in 1982 to 2.9 percent in 1984. Unlike their Latin American neighbors, the Caricom countries first registered an increase in their share of intra-subregional

exports in total exports, from 8.3 percent in 1980 to 14 percent in 1989. It was, however, followed by a drop to 11.5 percent in 1992.⁽⁷⁾

The mid-1980s and early 1990s brought sweeping economic reforms, and trade liberalization based on an outward-looking and market-oriented strategy. Beginning in the late 1980s, old trade arrangements (e.g., CACM, Andean Group, Caricom) were revisited, while new ones (e.g., Mercosur and Group of Three) were created in the 1990s. These arrangements are the product of the economic liberalization process of the mid-1980s, and have succeeded in increasing intra-subregional trade.

2. The major subregional arrangements of the Western Hemisphere will be described in Chapter II. However, here is a list of the members of these trade groupings. Central American Common Market: Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. Andean Group: Bolivia, Colombia, Ecuador, Peru and Venezuela. Caricom: Antigua and Barbuda, the Bahamas (not a member of the Common Market, only of the Caribbean Community), Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, and Trinidad and Tobago. NAFTA: United States, Canada, and Mexico. Mercosur: Argentina, Brazil, Paraguay, and Uruguay. Group of Three: Mexico, Colombia, and Venezuela.

3. The reader should be aware that the data in this Chapter come from different sources (e.g., Economic Commission for Latin America and the Caribbean, INTAL, International Monetary Fund, U.S. Department of Commerce, and Statistics Canada) and should therefore be used with caution. This lack of information demonstrates the need for a comprehensive data base that would encompass up-to-date information on all countries of the Hemisphere, something that the OAS Trade Section is working on.

4. Donald W. Baerresen, Martin Carnoy, and Joseph Grunwald, *Latin American Trade Patterns* (Washington, D.C.: The Brookings Institution, 1965), 75.

5. See Economic Commission for Latin America and the Caribbean, *Desarrollo de los procesos de integración en América latina y el Caribe*, LC/R. 1527 (Santiago: ECLAC, 16 May 1995), 9.

6. For more information on this issue, see Richard Bernal, "Regional Trade Arrangements in the Western Hemisphere," *American University Journal of International Law and Policy* 8 (Summer 1993): 689.

7. See Economic Commission for Latin America and the Caribbean, *Desarrollo de los procesos de integración en América latina y el Caribe*, 9.

Trade in Latin America and the Caribbean

According to ECLAC (see Table 1), the share of intra-subregional exports in total exports more than doubled within the Andean Group, from 4.1 percent in 1990 (\$1.25 billion) to 10 percent in 1994 (\$3.34 billion); and within Mercosur, from 8.9 percent in 1990 (\$4.13 billion) to 19.1 percent in 1994 (\$11.42 billion). In the Central American Common Market, exports within the group also increased, from 17.3 percent in 1990 (\$686 million) to 21.6 percent in 1994 (\$1.23 billion), while Caricom's share slightly fell from 12.6 percent in 1990 (\$496 million) to 11.5 percent in 1993 (\$475 million). Further trade liberalization and the establishment of a common external tariff — albeit with transitory exceptions - in Mercosur and the Andean Group should ensure that the increase in intra-subregional trade will continue.

Table 1
Share of Intra-Subregional Exports in Total Exports
(Andean Group, Mercosur, CACM, and Caricom)
(in percentages)

	1990	1991	1992	1993	1994
Andean Group	4.1	6.2	7.9	9.6	10.0
Mercosur	8.9	11.1	14.3	18.8	19.1
CACM	17.3	18.7	23.3	22.6	21.6
Caricom	12.6	11.6	11.5	N.A.	N.A.

Source: Economic Commission for Latin America and the Caribbean,
Desarrollo de los procesos de integración en América Latina y el Caribe , 9.

As shown in Table 2, which indicates the average export share by subregional group for the 1989-1992 period, Mercosur accounts for almost 40 percent of Paraguayan exports and one-third of Uruguayan exports while it is much less important for Brazil (6.8 percent). However, this percentage for Brazil has been increasing significantly to reach 14 percent in 1993. It is also worth noting that Mercosur is a very important trading partner for Bolivia, a member of the Andean Group, since 32 percent of Bolivian exports are sold to the four Mercosur countries. In Central America, CACM represents a major market for both Salvadoran (30.9 percent) and Guatemalan (22.8 percent) exports, while it remains of little importance for Honduras (4.1 percent). In the Caribbean, the local market is most important to Barbados (14.5 percent) and Trinidad and Tobago (11.1 percent), while Colombia is the Andean country which trades the most with its Andean Group partners (8.5 percent of its exports).

Latin America and the Caribbean are an important market for several countries of the region. They account for as much as 19.5 percent of all CACM exports and as little as 8 percent of the Group of Three countries' exports. Latin America and the Caribbean represent a major export market for Bolivia and Paraguay (44.5 percent), followed by Uruguay (39.4 percent), El Salvador (33.6 percent), Guatemala (29.3 percent), and Argentina (28.2 percent). However, Haiti (0.8 percent), Dominica (3.2 percent), Honduras (4.8 percent), and Mexico (4.8 percent) are not at all dependent on the Latin American and Caribbean market for their exports. The importance of the Latin American and Caribbean market has increased in recent years (1993-1994) but no complete data is available.

With respect to the type of products exported by the countries of the region, information available for the Latin American Integration Association (LAIA) (see Table 3) shows that manufactured products accounted for 62.2 percent of LAIA's intra-subregional exports in 1992. However, these products represented only one-third of LAIA's exports to the rest of the world. Chemicals, transport equipment, and non-electrical machinery are among the products generally exported to Latin America. They are generally more diversified and more technology-intensive than the products exported (foodstuffs, agricultural products, oil, metals and minerals as well as footwear and textiles) to the rest of the world.

Table 2
Exports by Subregional Group
(Average 1989-1992, in percentages)

	CACM Countries	Caribbean	Group of Three	Mercosur	NAFTA
CACM	15.5	0.9	2.3	0.1	48.8
Costa Rica	10.4	1.2	1.7	0.3	54.3
El Salvador	30.9	0.9	1.4	0.2	40.8
Guatemala	22.8	1.2	3.9	0.0	47.0
Honduras	4.1	0.3	0.4	0.1	52.9
Nicaragua	11.1	0.1	5.5	0.1	29.7
Caribbean Countries	0.3	6.7	1.7	1.5	48.4
Barbados	0.0	14.5	0.1	0.0	18.5
Dominica	0.4	1.2	0.7	0.8	65.2
Guyana	0.0	6.5	2.7	0.3	35.2
Haiti	0.1	0.4	0.3	0.0	80.5
Jamaica	0.1	4.6	0.5	1.5	45.4
Suriname	0.0	2.7	0.0	6.9	12.4
Trinidad and Tobago	0.5	11.1	3.4	1.1	54.2
Group of Three	1.5	1.3	1.9	1.6	65.0
Colombia	1.2	0.7	5.4	1.3	43.3
Mexico	1.3	0.6	0.8	1.3	75.6
Venezuela	2.2	3.1	2.8	2.4	52.4

Mercosur	0.4	0.4	3.8	10.6	22.5
Argentina	0.3	0.3	4.1	16.3	14.5
Brazil	0.4	0.5	3.8	6.8	26.2
Paraguay	---	---	1.1	37.6	4.8
Uruguay	0.1	0.2	2.8	33.9	13.4

NAFTA 0.7 0.8 6.9 1.5 41.7

Andean Group	1.7	1.8	3.8	3.1	46.1
Bolivia	0.0	---	2.9	32.0	18.9
Colombia	1.2	0.7	5.4	1.3	43.3
Ecuador	1.4	---	2.7	1.0	51.5
Peru	0.6	0.1	6.8	4.9	25.4
Venezuela	2.2	3.1	2.8	2.4	52.4
LAC	1.4	1.0	2.8	5.6	43.3
W.Hem	0.8	0.8	6.4	2.3	40.4

	Latin America		Western	
	Andean Group	and the Caribbean	Western Hemisphere	Europe (former EEC)
CACM	0.8	19.5	66.3	18.2
Costa Rica	0.9	13.9	67.1	22.0
El Salvador	0.4	33.6	73.4	20.3
Guatemala	1.3	29.3	72.4	11.3
Honduras	0.2	4.8	57.6	17.6
Nicaragua	1.1	17.4	42.2	30.4

Caribbean Countries	1.6	10.4	58.6	19.7
Barbados	0.1	14.7	33.2	16.8
Dominica	0.5	3.2	68.2	19.0
Guyana	1.6	9.7	43.7	43.4
Haiti	0.1	0.8	81.2	14.7
Jamaica	0.5	6.7	52.0	29.0
Suriname	0.0	9.6	22.0	39.2
Trinidad and Tobago	0.3	16.7	70.4	7.2

Group of Three	2.5	8.0	72.7	13.2
Colombia	8.5	14.4	57.1	24.6
Mexico	1.2	4.8	80.3	9.4
Venezuela	2.8	12.2	63.8	16.2

Mercosur	3.8	19.8	40.3	27.6
Argentina	5.2	28.2	40.7	27.9
Brazil	3.4	15.3	39.3	27.5
Paraguay	1.8	44.5	49.1	30.5
Uruguay	1.6	39.4	50.8	24.1

NAFTA 1.6 10.6 46.7 17.6

Andean Group	8.9	14.1	59.3	19.1
Bolivia	5.1	44.5	63.0	22.8
Colombia	8.5	14.4	57.1	24.6
Ecuador	6.9	14.0	64.6	11.2
Peru	6.9	15.8	39.4	25.2

Venezuela	2.8	12.2	63.8	16.2
LAC	3.2	13.7	56.0	20.6
W.Hem	1.9	11.5	46.8	18.6

Source: Computed by the OAS Trade Section with data from INTAL

Table 3
LAIA's Intra-Subregional And Global Commodity Exports
(percentages of total exports)

	1985	1986	1987	1988	1989	
Foodstuffs						
. intra-subregional exports		19.8	23.6	15.3	14.7	19.3
. exports to the rest of the world		25.6	31.8	27.3	28.2	25.0
Agricultural raw materials						
. intra-subregional exports		4.6	5.6	5.4	6.1	6.0
. exports to the rest of the world		2.3	2.7	3.1	3.7	3.5
Combustibles						
. intra-subregional exports		21.9	11.9	14.3	11.9	10.4
. exports to the rest of the world		38.5	24.2	28.8	20.7	23.4
Metals and Minerals						
. intra-subregional exports		8.5	10.4	11.3	10.6	9.8
. exports to the rest of the world		9.4	9.7	10.2	12.9	13.2
Manufactured Products						
. intra-subregional exports		45.0	48.3	52.6	56.6	54.4
. exports to the rest of the world		23.8	31.2	30.1	34.2	34.4

	1990	1991	1992
Foodstuffs			
. intra-subregional exports	22.7	20.1	18.7
. exports to the rest of the world	23.6	25.0	25.9
Agricultural raw materials			
. intra-subregional exports	5.0	4.3	3.6
. exports to the rest of the world	3.4	3.5	3.6
Combustibles			
. intra-subregional exports	12.7	11.0	8.9
. exports to the rest of the world	28.8	24.7	24.1
Metals and Minerals			
. intra-subregional exports	8.0	7.3	6.4
. exports to the rest of the world	12.8	12.7	12.0
Manufactured Products			
. intra-subregional exports	51.5	56.9	62.2
. exports to the rest of the world	30.8	33.7	33.9

The total of intra-subregional exports and exports to the rest of the world (in percentages of total exports) both equal 100 percent.

Source: Economic Commission for Latin America and the Caribbean, El dinamismo reciente del comercio intraregional de la Asociación latinoamericana de integración (ALADI), LC/R. 1436 (Santiago: ECLAC, 23 August 1994), 20.

Trade in North America

In North America, trade between the United States and Canada rose following the entry into force of the Canada-U.S. Free Trade Agreement in 1989. In 1988, over 70 percent of Canada's total exports went to the United States; in 1994,

this amounted to 86 percent.(12) Moreover, as noted by the U.S. Department of Commerce, "trade among the NAFTA partners soared 17 percent in 1994, growing over \$50 billion in just one year. ... U.S. merchandise exports to Canada and Mexico grew twice as fast as U.S. exports to the rest of the world (16.4 percent vs. 7.5 percent) accounting for half of the 1994 gain in U.S. exports."(13)

Although countries of a same bloc are trading more with their partners, the intensity of these relationships varies from one country to another and from one group to another (see Table 1). For example, the NAFTA countries are those which trade the most with each other (over 40 percent of their total trade). As mentioned earlier, 86 percent of Canada's and more than 75 percent of Mexico's exports are going to the United States while these two countries are respectively the first and the third trading partner of the United States. Canada's exports to Mexico are still very small but growing, with a 28 percent increase in 1994.

NAFTA is the largest partner of most trading blocs and most countries of the Hemisphere. It accounts for 48.8 percent of CACM's trade, 48.4 percent for the Caribbean, 65 percent for the Group of Three, and 46.1 percent for the Andean Group. However, Western Europe dominates the market in the Mercosur countries (27.6 percent compared to 22.5 percent for NAFTA), Bolivia (22.8 percent compared to 18.9 percent for NAFTA), Suriname (39.2 percent compared to 12.4 percent for NAFTA) and Guyana (43.4 percent compared to 35.2 percent for NAFTA). Moreover, except for Bolivia, countries do very little trade with other countries of the Hemisphere that are not members either of their trading bloc or of NAFTA.

- U.S. Trade with the Western Hemisphere

The United States is undoubtedly the largest trading partner in the Western Hemisphere. It represents 69 percent of the market (gross domestic product) of the region. The share of Latin America and the Caribbean amounts to 24 percent, while that of NAFTA, Mercosur, Group of Three, the Andean Group, Central America and Caricom(14) is respectively 82 percent, 11 percent, 4 percent, 0.76 percent and 0.35 percent.(15)

The Western Hemisphere constitutes the largest U.S. trading partner, and has contributed significantly to the growth in U.S. exports over the last decade. The region's share rose from 38.0 percent in 1985 to 40.1 percent in 1994. Total U.S. exports to the Americas in 1994 were valued at \$205 billion. While imports have also grown, the region's contribution to total U.S. imports fell slightly, from 34.2 percent in 1985 to 32.4 percent in 1994. The United States purchased \$215.5 billion worth of products from the Americas in 1994.

While the Western Hemisphere as a whole is the largest U.S. trading partner, that trade is geographically quite concentrated among its NAFTA partners. Canada is the single largest U.S. trading partner in the region, and indeed in the world. Exports to Canada represented 22.3 percent of U.S. total exports in 1994, and 55.7 percent of its exports to the region. Imports accounted for 19.4 percent of total U.S. imports, and 59.8 percent of imports from the Americas. Exports to Mexico represented 9.9 percent of the U.S. total exports in 1994, and 24.7 percent of its exports to the Hemisphere. Imports from Mexico reached 7.5 percent of all U.S. imports, and 23 percent of imports from the region. Automobiles and automotive parts accounted for 20 percent of U.S. trade with its NAFTA partners while computers, machines, and electronics represented 17.8 percent.

The second-largest U.S. trading partner in the region in 1994 was the Andean Group. Imports from these countries accounted for 2.2 percent of U.S. total imports, and 6.7 percent of those from the region, while U.S. exports represented 2.1 percent of total exports, and 5.3 percent of exports to the Americas. Oil and petroleum products are the dominant U.S. imports, while computers, electronics, and vehicles are the main U.S. exports.

Mercosur represents a very small share of U.S. trade: 2.7 percent of all U.S. exports in 1994, and 6.7 percent of U.S. exports to the Hemisphere; and 1.6 percent of all U.S. imports, and 5.0 percent of imports from the region. In 1994, Brazil accounted for 59.3 percent of U.S. exports to the group, and 81.5 percent of U.S. imports from these four countries. Footwear, computers, machines and vehicles are the most traded goods. Mercosur is also a significant purchaser of U.S. aircraft.

U.S. exports to CACM amounted to 1.0 percent of total exports in 1994 (2.6 percent to the region) while imports represented 0.7 percent of total U.S. imports (2.2 percent from the region). Costa Rica is the largest U.S. trading partner in the group (34.0 percent of the total). The most important component here is the textile and apparel industry, for which these countries receive preferential quota treatment. Semi-manufactured apparel, both knit and unknit, accounts for almost one-fifth of U.S. exports to the region while the finished apparel products that are exported back to the United States comprise nearly half of Central American shipments.

The Caribbean Community countries are the smallest U.S. trading partners in the region (0.6 percent of total

U.S. exports and 0.4 percent of total imports). They have received preferential treatment from the United States since the inception of the Caribbean Basin Initiative in 1984.(16) As with CACM, apparel components account for most U.S. exports to the group, while finished apparel take a large share of U.S. imports. Oil and refined petroleum products from Trinidad and Tobago is also a major U.S. import.

With respect to Chile, U.S. exports have grown at a much faster rate than imports from Chile over the past 10 years. In 1994, exports reached \$2.8 billion (0.5 percent of total exports) and imports amounted to \$1.8 billion (0.3 percent of total imports). Trade is dominated by U.S. exports of manufactured goods, and imports from Chile of agricultural, mineral, and forestry products.

Haiti, the Dominican Republic, and Panama accounted for 0.8 percent of all U.S. exports and 0.6 percent of all imports in 1994. The commodity composition of U.S. trade with these countries is similar to that of the Caribbean Community.

- Canada's Trade with the Western Hemisphere

Canada has been developing closer links with Latin America since the beginning of the 1990s when it joined the Organization of American States and negotiated NAFTA with the United States and Mexico. Official consultations are held regularly with several countries, including Mexico, Argentina, Colombia, Brazil, and Chile. Bilateral relations have been enhanced when the Canadian Prime Minister visited Chile, Argentina, Brazil, Uruguay, Costa Rica, and Trinidad and Tobago with over 300 business representatives in January 1995. He also visited Mexico in March 1994.

Canada has had a long and historical relationship with the Caribbean States since the 1700s when the British Northern Atlantic colonies were trading fish, lumber, and other staples. Preferential treatment has also been a constant element of this long relationship, from 1898, when Canada established a 25 percent tariff preference on a number of West Indies exports to 1986, when the Canadian government announced the creation of Caribcan, a program that gives preferential duty-free access to almost all imports from the Commonwealth Caribbean countries.(17)

More than 95 percent of Canada's exports to the region in 1994 went to the United States.(18) Latin America's share of Canadian exports dropped from 5 percent of total exports in 1983 to 2 percent in 1993, while it was 4 percent in 1973. In 1994, Canadian exports to Latin America and the Caribbean were valued at CDN\$3.8 billion, and the imports at CDN\$7.3 billion.(19) Although "the rate of growth of Canadian exports to Latin America has been consistently lower than the average rate for Canadian exports . Canadian exports to Latin America have been persistently under-reported because of transshipment through the United States."(20) For instance, Chilean imports from Canada in 1993 were \$50 million higher than the Canadian registered exports to Chile.(21)

Trade with several Latin American countries has been growing at a very fast rate over the past few years. Exports have gone up by 80.0 percent with Colombia in 1994; 54 percent with Chile; 28 percent with Mexico; and 25 percent with Brazil. Over half of Canada's exports to Latin America and the Caribbean in 1994 went to Mexico (27 percent) and Brazil (25 percent), while Colombia (10.4 percent) and Chile (7.8 percent) represented a smaller share. On the import side, Mexico (61 percent) and Brazil (13 percent) were the two major suppliers for Canadian imports from the region in 1994. The Caribbean countries represented only 6.2 percent of the Canadian exports to the Hemisphere in 1994, and 6.8 percent of the imports.(22)

With respect to the commodity component of Canadian exports to Latin America, Canada sells goods such as wheat, coal, asbestos, sulphur and milk powder, as well as value-added products such as telecommunications equipment, mining machinery, motor-vehicle parts, electronic components and environmental technology.

12. Statistics Canada, Exports by Country Cat. No. 65-003 (Ottawa: Statistics Canada, 1989 and 1994).

13. U.S. Department of Commerce, NAFTA: First Year Snapshot (Washington, D.C.: 17 February 1995), 1.

14. Only Barbados, Guyana, Jamaica, and Trinidad and Tobago are included.

15. Most data bases use the US dollar to compare information on gross domestic products, exports, imports, etc. from different countries. However, foreign exchange rates are generally very inadequate as a basis for international comparisons. For instance, a dollar does not buy the same quantity of bananas in the United States and in Costa Rica. In order to minimize such discrepancies, R. Summers and A. Heston have constructed a common set of world

average relative prices which have been used here to calculate the gross domestic product of each trading group. See R. Summers and A. Heston, "A New Set of International Comparisons of Real Product and Prices: Estimates for 130 countries, 1950-1985," *The Review of Income and Wealth* 34 (March 1988): 1-25.

16. This program is described in the next chapter.

17. Ibid.

18. Statistics Canada. Exports by Country, 1994.

19. Ibid., and Statistics Canada, Imports by Country Cat. No. 65-006 (Ottawa: Statistics Canada, 1994).

20. Stephen Wilson, *Changing Partners: Trends in Canada's Regional Economic Relations*. Department of Foreign Affairs and International Trade, Policy Staff Paper No. 95/02 (Ottawa: Department of Foreign Affairs and International Trade, March 1995), 12.

21. Ibid.

22. Statistics Canada, Exports by Country, 1994; and Imports by Country, 1994.

[Top](#) | [Index](#) | [Continuation](#)

Chapter II: Trade and Integration Arrangements in the Americas

At the Summit of the Americas the leaders of the Western Hemisphere recognized the important role played by the subregional trade arrangements in forging the "Free Trade Area of the Americas." They resolved to "build on existing subregional and bilateral arrangements in order to broaden and deepen hemispheric economic integration and to bring the agreements together."⁽²³⁾

The Western Hemisphere is a very different place in 1995 than it was a decade ago. The countries of the region have taken a series of great leaps over the past ten years, with bilateral and subregional trade agreements serving as vital complements to their domestic economic reforms. In contrast to many of the agreements that countries negotiated in the 1960s, the agreements of the 1990s are based on an open and liberalizing trade regime. The region is now poised for even greater progress through the Free Trade Area of the Americas (FTAA).

The 1990s have seen the establishment of new trade arrangements in the region and the revival of old ones. These changes are largely a reaction to the situation faced by much of Latin America and the Caribbean in the 1980s, which was characterized by misguided fiscal and monetary policies resulting in a debt crisis for some and a net outward transfer of financial and other resources for many. In the 1990s, efforts aimed at enhanced participation in the increasingly globalized marketplace, prompted many countries to revive several of their existing trade and integration arrangements and adopt policies aimed at trade liberalization through unilateral efforts to open domestic economic and trade regimes. These unilateral trade measures facilitate the revival of Latin American and Caribbean integration. In part, this revival was also a reaction to the perceived consolidation of trade blocs in other regions of the world, which have "called attention to the potential benefits of freer trade with existing partners."⁽²⁴⁾

Meanwhile in North America, increased trade and economic linkages were built upon the foundation of the multilateral system embodied in the GATT. The notable exception to this was the decision of Canada and the U.S. to negotiate a special arrangement in 1965 to deal with trade in autos and autoparts. By 1987, however, the two countries had agreed that the sheer size and scope of bilateral trade had outgrown multilateral based trade instruments and the Canada-United States Free Trade Agreement was negotiated and came into force in 1989. In Mexico, domestic economic reforms began with that country's decision to join the GATT in 1986, which set the stage for all three countries to open negotiations in 1991 on a North American Free Trade Agreement (NAFTA) that came into force in 1994.

23. Summit of the Americas, Declaration of Principles (Miami: December 1994), 3.

24. Nora Lustig and C.A. Primo Braga, "The Future of Trade Policy in Latin America," in *Integrating the Americas: Shaping Future Trade Policy*, ed. Sidney Weintraub (New Brunswick, N.J.: Transaction Publishers, 1994), 23, 17.

Economic Integration: A Typology

One might distinguish six different types of economic integration agreements:

- economic unions in which the members integrate all of their economic policies;
- common markets in which a customs union is supplemented by removal of all barriers to factor movements between members;
- customs unions in which member countries eliminate all tariffs and non-tariff barriers among themselves and establish a common external tariff on goods from third countries;
- free trade agreements in which member countries eliminate substantially all tariffs and non-tariff barriers among themselves;
- preferential agreements in which access to a larger market is offered without demands for reciprocity; and
- sectoral agreements that provide for reduced-tariff or duty-free treatment among their members on a limited

range of products.(25)

Examples of the last four types of agreements can be found in the Western Hemisphere today. A significant number of customs unions and free trade agreements exist in the Americas. Canada, the United States, and some Latin American countries (e.g., Venezuela and Colombia) offer preferential non reciprocal access to their markets under various types of programs. There are also numerous sectoral agreements, such as the AutoPact that the United States and Canada entered into in 1965, and bilateral agreements on specific products negotiated within the framework of LAIA (Latin American Integration Association).

25. This typology is an elaboration of the scheme presented by Bela Balassa in *The Theory of Economic Integration* (Homewood: Richard D. Irwin, 1961). Balassa's typology did not include preferential or sectoral agreements.



Customs Unions

Mercosur:

The Common Market of the Southern Cone was created on March 26, 1991, when Argentina, Brazil, Paraguay and Uruguay signed the Treaty of Asunción. The two main instruments of the Treaty were a four-year Trade Liberalization Program and a commitment to implement a common external tariff by January 1, 1995.(26) Preceding the Asunción Treaty was the signature in 1986 by Argentina and Brazil of the Acta para la Integración Argentina-Brasileña. This new accord aimed at expanding bilateral trade among the two countries by adopting a sectoral approach. Two other accords preceded Mercosur: the Tratado de Integración in 1989; and the Acta de Buenos Aires in 1990. A meeting held in August 1990 with other Southern Cone countries led to the Asunción Treaty in March 1991.

On December 17, 1994, the presidents of the four Mercosur countries met at Ouro Preto in Brazil to sign a document that set January 1, 1995 as the implementation date of a common external tariff (CET) for 85 percent of the products imported from third countries. The meeting also agreed on a number of exceptions to trade liberalization. The CET ranges from 0 percent to a maximum of 20 percent. Each country was allowed a list of exceptions which will be phased out in five years. In fact, for each of these products, the tariff will fall automatically every year on a linear basis until it becomes equal to the CET in 2001. Domestic tariffs will converge to 14 percent by 2001 for Brazil and Argentina and by 2006 for Uruguay and Paraguay in the case of capital goods, and to 16 percent by 2006 for information technology products.(27) Finally, 90 percent of goods traded began circulating freely as of January 1, 1995.

The Common Market Council is Mercosur's policy-making body. It is composed of the four countries' foreign and economy ministers. The Common Market Group is the executive agency in charge of overseeing and implementing the Treaty. Mercosur also has a Secretariat based in Montevideo, a Trade Commission and a Dispute Settlement Tribunal in Asunción.

In early 1995, Brazil increased its tariffs from 32 percent to 70 percent on 109 products exempted from the customs union. Examples include cars, audio equipment, and consumer durables. The government of Brazil has emphasized that this increase will be in place for one year only, just to help Brazil to overcome its internal economic difficulties. The Common Market Council met in Asunción on April 25, 1995, and adopted a decision that will allow Brazil to increase its exception list from 300 to 450 products for the next year. Argentina and Uruguay are still entitled to 300 exceptions from the bloc's common external tariff, while Paraguay has 399.

Andean Group:

The members are Bolivia, Colombia, Ecuador, Peru, and Venezuela. The Andean Group was established in 1969 when Bolivia, Colombia, Chile, Ecuador and Peru signed the Cartagena Agreement. Venezuela joined the group in 1973, and Chile left in 1976. The main objectives of the Andean Group were to eliminate trade barriers within the Group; to create a customs union with a common external tariff; to harmonize economic, social, and economic policies; and to adopt a joint industrialization program.

In the early years of the process, at the beginning of the liberalization program, intra-subregional trade increased between member countries whose markets had few preexisting links. However, shortly thereafter the deadlines for the fulfillment of the liberalization program and the adoption of a common external tariff were practically abandoned. In 1987, the Quito Protocol acknowledged this fact and modified the Cartagena Agreement by, inter alia, providing for more flexibility in the achievement of the group's goals. In addition, a

new safeguard clause and tariff quotas were introduced.

A revival of the Andean Group began in 1989 when the Heads of State of the Andean Group countries assumed direct leadership of the process and set up clear guidelines for the entry into force of a free trade agreement and the adoption of a common external tariff. In December 1991, the Act of Barahona was signed in Cartagena. It provided for the establishment of a free trade zone by January 1, 1992, and the definition of a common external tariff with four levels (from 5 percent to 20 percent). Since then, Colombia, Venezuela, Ecuador and Bolivia have gradually created a free trade area. On February 1, 1995, a common external tariff (CET) was implemented by Colombia, Venezuela, and Ecuador. As authorized by the Act of Barahona, Bolivia maintained its national tariff schedule, and Peru is subject to transitional arrangements whereby its trade is regulated through bilateral agreements and its implementation of the common external tariff is gradual. A recent decision of the Commission of Cartagena -the policy-making body of the Andean Group- allows Peru to maintain its transitional arrangements until January 1, 1996. For most goods, the schedule is as follows: 5 percent for raw materials; 10 and 15 percent for semi-finished products; and 20 percent for finished goods. Although the CET cannot exceed 20 percent, there is an exception for the automobile sector with a tariff of 40 percent.

Central American Common Market (CACM):

Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. The General Treaty for Central American Integration (known as the Managua Treaty) was signed in 1960, and entered into force in 1961 for four countries. Costa Rica joined the Treaty in 1963. It provided for immediate free trade on 95 percent of all goods. In October 1961, the Permanent Secretariat for Economic Integration -SIECA- was established in Guatemala. SIECA along with the Central American Bank for Economic Integration (BCIE), which is headquartered in Tegucigalpa, Honduras, have been the main regional institutions responsible for the administration of the economic integration efforts in Central America.

The CACM flourished as the most advanced and successful regional integration scheme of Latin America in the 1960s. In 1970, following the conflict between Honduras and El Salvador, Honduras withdrew de facto by imposing tariffs on imports from Central America. Then came almost two decades of political unrest and economic difficulties (e.g., low international commodity prices and overvalued exchange rates) which meant that CACM survived in name only.

The agreement was reinvigorated in the early 1990s. In a June 1990 presidential summit in Antigua, Guatemala, the Plan de Acción Económica para Centroamérica (PAECA) called for the revival of economic integration in Central America. Since then, the presidents have met several times, setting the bases for a new and distinct strategy for regional economic integration compatible with external openness. In 1992, Honduras was "readmitted," and created, with El Salvador and Guatemala, the Northern Triangle. This led to the establishment of a free trade area in 1993, which Nicaragua later joined to create the Group of Four. They agreed on a common external tariff with four sub-tariffs of 5, 10, 15 and 20 percent. These countries signed the Guatemala Protocol in October 1993, a program aimed at modernizing the Managua Treaty of 1960. Its main objective is the establishment of an economic union.

The five CACM members and Panama showed their commitment to integration by establishing a new organization, the Sistema de Integración Centroamericana (SICA), which began its work in February 1993. Early in 1995, Costa Rica and Guatemala both increased their tariffs to try to solve their fiscal problems. Costa Rica added an 8 percent surcharge to its initial customs tariff. The Guatemalan decision to adopt a flat rate tariff in April was reversed ten days later. Moreover, at the 16th Presidential Meeting held in San Salvador on March 30, 1995, the region's ministers of economy signed an agreement to extend the tariff reductions implemented by El Salvador. As of April 1, 1995, El Salvador has cut its tariffs on capital goods from 5 percent to 1 percent.

Caricom:

Antigua and Barbuda, the Bahamas (not a member of the Common Market, only of the Caribbean Community), Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago. Suriname joined the Organization in February 1995, and will take its seat at the Guyana summit to be held in July 1995.

The Caribbean Free Trade Association (CARIFTA) was created in 1967 as a limited free trade agreement. It was superseded by Caricom when Barbados, Guyana, Jamaica, and Trinidad and Tobago signed the Treaty of Chaguaramas on July 4, 1973 to create the Caribbean Community. All Commonwealth Caribbean countries are members of the group. In July 1989, the Heads of Government adopted several measures aimed at stimulating and promoting economic and political integration. One of the main objectives of the Organization is a phased

common external tariff on most goods by 1998.

An agreement was signed with Chile in January 1995 to prepare preliminary studies that will analyze the prospect for a free trade agreement.

26. Roberto Bouzas, *Mercosur and Preferential Trade Liberalisation in South America: Record, Issues and Prospects* (Buenos Aires: Latin American School of Social Sciences, May 1995), 4.

27. The Economist Intelligence Unit, *Country Report: Brazil, 1st Quarter 1995*. London: 1995, 23.

Free Trade Agreements

North American Free Trade Agreement (NAFTA):

United States, Canada, and Mexico. The goal of negotiating a free trade agreement between the three North American countries grew out of a number of factors. Canada and the United States, partners in the single largest trading relationship in the world, successfully completed a bilateral FTA in 1988 that included goods, services, and investment, but did not deal in depth with intellectual property. For its part, Mexico had gradually come to be the third-largest trading partner of the United States, and had since the mid-1980s pursued a policy of economic and trade reform during the administrations of Presidents de la Madrid and Salinas. The three countries also shared a view that the size and scope of economic and commercial ties in North America essentially required a unique agreement, one that could be customized to fit the specific circumstances of the region.

The negotiations were launched in Toronto, Canada on June 12, 1991, and were completed fourteen months later on August 12, 1992 in Washington, D.C. The agreement was signed on December 17, 1992. It was supplemented in 1993 by the negotiation of "side agreements" on labor, the environment, and safeguards. Following the approval of the three countries' respective legislatures, NAFTA and its side agreements came into effect on January 1, 1994.

NAFTA is a comprehensive free trade agreement. In addition to establishing a five or ten-year schedule for the elimination of tariff barriers on most goods,⁽²⁸⁾ it covers trade in services; provides protection for investment and intellectual property; applies rules to government procurement and the operation of government enterprises; and contains highly developed systems for the settlement of disputes. The agreement liberalizes market access conditions in a number of important sectors critical to the continued development of North America's infrastructure, such as in transportation, telecommunications, and financial services. It facilitates the movement of business people and professionals among the three countries.

The agreement contains an accession clause and the three original members formally launched accession negotiations with the government of Chile on June 7, 1995, in Toronto, Ontario.

Group of Three:

Colombia, Mexico, and Venezuela. On June 13, 1994, Colombia, Mexico, and Venezuela signed the Group of Three economic treaty which entered into force on January 1, 1995. Trade between Colombia and Venezuela will still be governed by the Andean Group Agreement. The Group of Three agreement calls for the total elimination of tariffs over a 10-year period. Exceptions are particularly important in the agricultural sector. Unlike most trade arrangements among Latin American countries, the Group of Three goes beyond tariff provisions, and deals with such matters as intellectual property rights, services, government procurement, and investment.

Bilateral agreements with Chile:

Chile has negotiated a series of free trade agreements with Mexico (implemented on January 1, 1992), Venezuela (implemented on July 1, 1993), Colombia (implemented on January 1, 1994) and Ecuador (implemented on January 1, 1995) that provide for trade liberalization in respect of trade in goods with some limited provisions with regard to maritime transportation. The agreements share a common structure although provisions in certain cases are customized to fit particular circumstances. Each contains well developed mechanisms for the settlement of disputes and the administration of the agreements, as well as clear timetables for the elimination of almost all tariffs and non-tariff barriers. Disciplines on trade-related measures are well developed and each also contains timetables for the further elaboration of such measures, as in the case of safeguards. The agreements do not cover other issues, such as trade in services, investment, protection of intellectual property rights or the harmonization of technical standards, although Chile's

agreements with Colombia and Ecuador do contain some provisions in respect to sanitary and phyto-sanitary measures.

Other Western Hemisphere free trade agreements include the following agreements and negotiations in progress:

- Mexico-Central America: Accord with Costa Rica, implemented on January 1, 1995; negotiations in progress with Nicaragua to be followed by negotiations with El Salvador, Guatemala and Honduras;
- Mexico-Bolivia (implemented on January 1, 1995);
- Colombia and Venezuela-Central America (in progress);
- Chile-Mercosur (negotiations in progress);
- Andean Group-Mercosur (negotiations in progress); and,
- Chile-Peru (negotiations in progress).

28. Most tariffs were eliminated long before the end of this phase-in period. Tariffs between Canada and the United States will be eliminated by 1997, as already established under the bilateral FTA between these two countries. For a small number of items, tariffs will be phased out over a period of up to 15 years.

Preferential Agreements

There are several preferential trade agreements in the Western Hemisphere. They are summarized below.

Caribbean Basin Initiative (CBI):

The beneficiaries of this program are: Antigua and Barbuda, the Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, the Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Montserrat, the Netherlands Antilles, Nicaragua, Panama, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago.

Together with the Andean Trade Preferences Act (ATPA), the CBI provides (after NAFTA) the second-most preferential access to the U.S. market. Both of these two programs extend duty-free treatment to nearly all products imported from the beneficiary countries, other than those on an enumerated list. Countries agree to maintain certain standards in areas such as intellectual property, investment, and workers rights, which are criteria for CBI eligibility. The CBI has eliminated U.S. duties on all qualifying products except textile and apparel, petroleum, canned tuna, footwear, certain leather goods, and certain watches and watch parts. Textiles and apparel are the single largest U.S. import from the beneficiary countries and, though they are ineligible for tariff preferences, these goods nevertheless benefit from favorable quota treatment. The program came into effect on January 1, 1984. It became a permanent program in 1990 through the Caribbean Basin Economic Recovery Act (CBI II). Panama lost its status in April 1988 and regained it two years later. Nicaragua was not a member at the outset but is now included.

Since the negotiation of NAFTA, the CBI beneficiary countries have urged that the United States extend "parity" to them. The U.S. Congress is currently considering a bill that would achieve this end by extending NAFTA-like tariff treatment to all products not currently covered by CBI. In receiving enhanced benefits, the countries agree to strive for modified criteria, including high standards in investment and intellectual property, which are proposed to be reviewed every three years.

Andean Trade Preference Act (ATPA):

Bolivia, Colombia, Ecuador, and Peru. This preferential program took effect in 1991. As described above, ATPA is very similar in structure to the CBI. The United States provides duty-free treatment to certain exports of the four members for a ten-year period. Articles which are eligible are the same as those under the CBI (except for rum).

Canadian-Caribbean Agreement (Caribcan):

Anguilla, Antigua and Barbuda, the Bahamas, Barbados, Bermuda, Belize, British Virgin Islands, Cayman Islands, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago, and Turks and Caicos Islands are the beneficiaries. This program came into effect in June 1986. Caribcan aims at facilitating trade, development assistance and industrial cooperation between Canada and the Commonwealth Caribbean countries. Canadian duties are eliminated on all products from the beneficiaries except textiles, clothing, footwear; certain luggage and handbags products; leather garments; lubricating oils; and methanol. Under Canada's General Preferential Tariff, all Caribcan beneficiaries are eligible for reduced tariff rates for certain Caribcan exceptions (i.e. all exceptions barring textiles, clothing

and footwear).

Caribbean coverage offers stable duty-free access, and the program is not restricted by a time limit.

Caricom-Venezuela:

Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago. This agreement was signed in October 1992, and provides for duty-free access for some imports from Caricom countries into Venezuela. After a five-year period, negotiations are to begin to make the trade agreement reciprocal.

Caricom-Colombia:

Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago. This agreement was signed in July 1994. It provides for the immediate elimination of Colombian duties on goods covering 86 percent of the Colombian imports from Caricom. Another 4 percent will be included by January 1998. Further negotiations will include the liberalization of the remaining Colombian tariffs and the trade concessions that the largest Caribbean countries will give to Colombia in reciprocity.

Sectoral Agreements (Regional Scope and Partial Scope Agreements)

Latin American Integration Association (LAIA): (29)

In 1960, the Latin American Free Trade Association (LAFTA) was established by the Treaty of Montevideo. The main goal of this Treaty was to remove trade barriers among the member countries over a period of 12 years. However, this proved to be both controversial and difficult. By the end of 1978, the 11 signatories agreed that a restructuring of the Association was needed. The Treaty of Montevideo of 1980 set up LAIA as a successor to LAFTA. Its objective is to increase "bilateral trade among the member countries and between member countries and third countries through bilateral and multilateral agreements, with the goal of eventually achieving regional free trade."⁽³⁰⁾ LAIA members are Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Mexico, Paraguay, Peru, Uruguay, and Venezuela. LAIA integration mechanisms are more flexible than those of LAFTA. They are based on a sectoral approach: regional scope agreements covering all members of the Association; and partial scope agreements which are trade agreements giving preferences on some specific products, signed by sub-groups of members, normally two countries. Sometimes partial scope agreements are wider in scope and are called economic complementation agreements.⁽³¹⁾

There are currently 32 partial scope and economic complementation agreements in place, half of which have been signed in the 1990s. ⁽³²⁾ In June 1994, the LAIA Council of Ministers approved the Interpretative Protocol of Article 44 of the Montevideo Treaty of 1980 allowing members that have granted preferences to third countries the right not to have to apply the MFN clause and to extend these preferences to the other LAIA members provided negotiations are launched to compensate LAIA members. Mexico ratified this Protocol, and invoked it in September 1994, with regard to its obligations to LAIA members in respect of its membership in NAFTA.

29. Besides the LAIA agreements, there exists another major sectoral in the Western Hemisphere, the Canada-U.S. AutoPact. This bilateral agreement was signed by the two countries in 1965, and provides for duty-free trade in automobiles and automotive parts. It is significant not only for the amount of trade that it covers — the automotive sector is now the largest segment of the world's largest bilateral trade relationship — but also for the precedent that it set. This was the first significant departure that either the United States or Canada took in the post-war period from the rule of multilateralism. Both U.S. and Canadian negotiators cited the positive experience with this agreement when they began their bilateral FTA negotiations in 1986. The AutoPact was incorporated in the Canada-U.S. Free Trade Agreement.

30. World Trade Organization, *Regionalism and the World Trading System* (Geneva: WTO, 1995), 35.

31. For instance, Chile has signed a number of economic complementation agreements with other LAIA members. These agreements, such as the Mexico-Chile free trade agreement, are much wider in scope than the traditional partial scope agreements.

32. Economic Commission for Latin America and the Caribbean, *Desarrollo de los procesos de integración en América latina y el Caribe*, 19.

Chapter III Commonality and Divergence in Existing Arrangements

One of the key tasks assigned by the leaders in Miami to the Special Committee on Trade was the preparation of a comparative analysis of existing trade arrangements in the Americas. The "compendium", in its preliminary phase, meets this objective. It examines eight agreements or arrangements: the Uruguay Round Agreement, the Southern Cone Common Market, the Andean Group, the Central American Common Market, the Caribbean Common Market, the North American Free Trade Agreement, the Group of Three (Mexico, Colombia and Venezuela), a group of four Bilateral Free Trade Agreements between Chile on the one hand and Mexico, Colombia, Ecuador and Venezuela on the other. (33)

This Chapter is based on information contained in the compendium of Western Hemisphere trade arrangements being prepared by the OAS Trade Section, whose main findings are summarized. The Chapter is divided into four sections. The first is a general section covering broad issues such as type, scope and objectives of the agreements, their basic administrative and executive structures, accession and withdrawal provisions and dispute settlement. The second section is devoted to an examination of the terms of liberalization, provisions relating to market access and regulation of trade. It includes an examination of safeguard measures, trade remedies, technical and agricultural standards related measures and rules of origin. The third section is devoted to issues such as services, government procurement, the regulation of state enterprises, competition issues, foreign investment and intellectual property provisions. The fourth and final section examines four sectors (energy, autos, textiles and clothing, and agriculture) in which various agreements provide for special approaches.

33. Other agreements such as LAIA and others mentioned in Chapter III will be analyzed at a later stage.

General Considerations

Scope:

Excepting the WTO (multilateral), the agreements fall into two general categories: four are customs unions and three are arrangements leading to free trade areas. One of the four customs unions (Mercosur - 1991) is a fairly recent agreement while the Andean, Caribbean and Central American arrangements have longer histories. Each of the earlier agreements have had to be modified to fit changing circumstances. The ability of the agreements to adjust to new conditions is one of their central features. In certain cases, trade liberalization for example, adjustments have had to be made to respective schedules in light of members' inability to meet certain original, or even modified, deadlines. In other cases, the adjustments have been made so that the agreements could enter into new territory such as the adoption by the Andean Group of a well developed set of intellectual property provisions.

The free trade agreements, on the other hand, are fairly recent in vintage. NAFTA is the most comprehensive and served as a useful model for the negotiation of the Group of Three agreement, which nevertheless, reflects the special interests of its constituent members.(34) The Chilean bilaterals, while sharing a number of common traits are essentially designed to address specific bilateral liberalization objectives, and are focused on liberalization of trade in goods. NAFTA, on the other hand, is the only true "generic" agreement where the obligations contained in the various Articles are binding on all of the "Parties." In NAFTA, derogations or exceptions to the obligations are contained in various Annexes or reservations schedules. NAFTA also incorporates by reference the obligations of the Parties under the GATT and any successor agreements. In addition, while a number of the agreements have elements that might be described as WTO-plus, the NAFTA is the only agreement that goes far beyond the WTO in such areas as investment, services and government procurement.(35)

There are significant differences with respect to institutional development among the agreements. Some agreements, such as the Andean Group, Caricom and the Central American agreements are significantly more developed in this respect than other agreements such as Mercosur or NAFTA. In the case of the former agreements, one encounters Secretariats that are fully established with defined work programs and which serve as central points of contact for information or further elaboration of the agreements themselves. On the

other hand, agreements such as NAFTA or the Group of Three have adopted a minimalist approach to institution building which makes obtaining information on the agreements and commercial opportunities more difficult. By and large, the provision of such information, not to mention the further elaboration of the agreement itself, remains a responsibility primarily of national governments working in concert.

NAFTA is the only agreement without a geographically defined accession clause, and to which all countries of the Hemisphere could theoretically adhere. Membership in all the other agreements is subject to geographical or other limitations at the subregional level, none of which could theoretically encompass the entire Hemisphere. There are thus certain practical difficulties, barring amendments being made to the agreements in question, in achieving hemispheric free trade by the expansion in the membership of existing arrangements to other countries, with the exception, as noted, of NAFTA.

34. In certain circumstances, Colombia and Venezuela are governed by their respective obligations under the Andean Group, for example in the area of trade in goods. Those obligations are brought forward into the Group of Three agreement by reference.

35. The Central American Agreement, for example, has made some progress with respect to the adoption and harmonization of common technical standards that could be considered to be WTO-plus.

[Top](#) | [Index](#) | [Continuation](#)

Toward Free Trade in the Americas

Liberalization, Access and Trade Regulations

Section II of the compendium examines the range of rules governing market access and trade liberalization, as well as rules concerning safeguards, technical standards, sanitary and phyto-sanitary related measures, and rules of origin.⁽³⁶⁾

All agreements provide for the liberalization of tariffs and most non-tariff barriers. There are, however, a number of variations written into each agreement with regard to the general rule. Some of the earlier integration attempts (i.e., Andean Group, Central America and Caricom) were less successful in achieving the trade liberalization objectives in the original timeframes that were established. Nevertheless, adjustments have been made as these agreements have evolved and new timetables have been established and generally adhered to. Some agreements have encountered difficulties in establishing common external tariffs in all products and therefore have required provisions allowing for limited and specified exceptions, as was the case in the Andean Group and Mercosur. Similarly, each of the free trade agreements have found it necessary to provide for a limited number of exceptions or to address their obligations in light of other agreements (i.e., Uruguay Round). Exceptions are generally found in the areas of agricultural goods, textiles and auto related products.

Nevertheless, the agreements have clearly contributed to the liberalization of trade among the members. Three out of four customs unions (Caricom is the exception) contain, at least formally, MFN obligations with respect to tariffs as do the set of Chilean bilateral FTAs. When necessary, derogations from this obligation have been fairly easily obtained so as to allow countries to enter into trade liberalization negotiations.⁽³⁷⁾ Interestingly enough, while non-industrialized countries have generally been somewhat reluctant to "bind" tariffs at the multilateral level, all the subregional agreements contain provisions that have essentially the same effect within the context of such agreements. Countries are prepared to accept lower levels of flexibility, and hence higher disciplines, at the subregional level than they are at the multilateral level.

A number of agreements, in particular the customs unions, contain special provisions designed to address the needs of participating countries that are at lower stages of development. Such provisions can take the form of different levels of obligations and/or differences in the number of exceptions or phasing requirements. Some agreements contain both forms. The free trade agreements, on the other hand, tend to address the issue in the context of negotiated timetables for liberalization, but with obligations that tend to apply equally to all members. As almost all countries in the Hemisphere are participants in one arrangement or another, it would appear that differing stages of development does not, itself, preclude participation in trade liberalization efforts.

î One area of significant difference among the agreements is found in how each addresses the issue of emergency measures. In Mercosur and Caricom bilateral safeguards actions do not effectively exist.⁽³⁸⁾ In NAFTA and the Group of Three, bilateral safeguard mechanisms essentially have sunset provisions, while they are essentially open ended in the case of the Andean Group and Central America. In the case of the latter two agreements, however, resort to such actions is disciplined by requirements to notify and receive the approval of executive administering authorities of the agreements. The Andean Group countries have only rarely resorted to safeguard measures. Thus, in one form or another, countries tend to view emergency measures as either transitory in nature or being legitimately subject to disciplined oversight.

The subject of unfair trade practices has been one of the most difficult to address at all levels, be it multilateral, plurilateral or bilateral. Some useful progress has been made at the multilateral level, especially in the area of definitions and dispute settlement, but little real progress is evident with respect to the fundamental disciplining of either unfair trade actions or the practices that give rise to such actions. Various arrangements have wrestled with the issue, suggesting alternative models (i.e., application of competition based legislation or regulation) that might be explored, but none could be said to have effectively resolved the matter. The Andean Group, for example, obligates that Agreement's Commission to develop a common policy with respect to practices that distort competition in the market place.

Some of the agreements in question contain obligations that attempt to discipline the subsidy practices of their participating members, but not all. NAFTA itself, for example, contains no disciplines with respect to subsidies, but the Group of Three (which was modelled on the NAFTA) does contain explicit prohibitions, for industrial goods, based for the most part on multilateral obligations. Nevertheless, NAFTA Chapter 19 contains a unique, binding dispute

settlement mechanism focused on the application of trade remedy legislation.

There exists a broad-based understanding that technical and other standards-related measures can, and often do, work in ways that are protectionist and exist as barriers to trade. Within the region, a number of efforts aimed at subregional harmonization in the area of technical and related measures have been attempted with some modest success, as in the case of the Central American countries or the Caribbean Common Market Standards Council. The Andean Group recently adopted some standards in this area. Nearly all agreements have created working groups of one sort or another, designed to enhance harmonization or compatibility efforts.⁽³⁹⁾ Such efforts are built upon the foundations of national and most favored nation treatment that apply in nearly all cases. Of benefit to future hemispheric liberalization efforts is the existence of a solid network of working groups that contain significant technical expertise.

The Inter-American Development Bank (IDB) has completed a major quantitative analysis of rules of origin in existing agreements. The compendium sought to describe the basic attributes of the various regimes. The need for detailed rules of origin is minimized in the context of customs unions, although agreements that have exceptions to common external tariffs have generally established measures of a transitional nature. The most detailed rules are contained in the NAFTA, followed by the Group of Three agreement. Both agreements basically follow a change to tariff heading approach, although there are some exceptions where specified percentages of subregional content are required. Some of the "older" agreements contain mechanisms that allow the adjustment of specific rules of origin to take into account input availability, price or quality considerations. That trade within subregional arrangements has increased in all cases underscores the fact that any set of rules in themselves has not appeared to be a disincentive to increased commercial contact. Nevertheless, while existing rules could continue to govern trade within subregional arrangements, there does not appear to be an inherent reason why a hemispheric agreement in this area could not be negotiated. Further, a well developed set of hemispheric rules could in certain instances, with the agreement of the parties, be applied to trade within specific arrangements.

36. In the case of rules of origin, the Inter-American Development Bank (IDB) has conducted a more extensive quantitative analysis (see Chapter IV). This section in the compendium is a brief descriptive comparison only.

37. A number of examples exist: Colombia and Venezuela vis-a-vis their Andean Group obligations and the Group of Three, Costa-Rica vis-a-vis its Central American Common Market obligations and its bilateral FTA with Mexico, and more recently, Bolivia and its negotiation of a FTA also with Mexico. The exception to this easy authorization is LAIA Article 44, as was shown to be the case vis-a-vis Mexico and the NAFTA.

38. In the case of Chile's bilateral FTAs, safeguards are covered under the LAIA agreement.

39. There are no provisions relating to technical standards in the Chilean bilateral agreements.

Services, Procurement, Investment and Intellectual Property

Section III of the compendium examines the obligations contained in various agreements with respect to what had previously come to be known as "new" issues, although that particular appellation is clearly in need of updating. The comparison covers trade in services, with subsections devoted to financial services, transportation services, telecommunications services and provisions respecting the temporary entry of persons. The section also examines investment, government procurement, state and monopoly providers of goods and services and intellectual property provisions. As a general proposition, these areas have received thorough coverage in those agreements that have been negotiated more recently. Nevertheless, some of the "older" agreements have been modified to take into account international progress in these areas, such as the adoption by the Andean Group of highly disciplined provisions in the area of intellectual property.

Neither the Chilean bilateral FTAs nor the Mercosur agreement cover services in a formal manner, although in the case of Mercosur future negotiations are envisaged and certain limited liberalization has occurred in the area of maritime transportation services. In the case of the Group of Three Agreement, the core disciplines have been negotiated, but governments are still negotiating their investment and services reservations. In the other cases, the fundamental difference appears to be between those agreements that have adopted a negative list approach (list only exceptions) and a positive list approach (list only areas covered by the disciplines). Treatment in other areas, such as national or most favored nation treatment or rights of establishment, are broadly similar and differ only in the sense

that they tend to reflect subregional interests and sensitivities that might pertain to individual circumstances. Also, agreements will tend to reflect the theoretical stage of development of the "trade in services" debate that was operative at the time the agreements were concluded. Nevertheless, the Caricom agreement, which significantly predates much of the international discussion of this issue, contains a well developed set of trade in services disciplines. Further study in this area could usefully focus on an examination of commitments offered in the context of the Uruguay Round.

Regarding financial services, NAFTA is the only agreement (the WTO included) in which specific market access commitments, trade principles and dispute settlement provisions have been negotiated and implemented as negotiations are ongoing in the Group of Three and the WTO. In the case of Caricom, formal obligations appear to be limited, but the region is one of the most open with respect to the provision of financial services.

Transportation is one area that is critical to infrastructure development, and the handling of this sector in the various agreements tends to reflect different needs in this area. The Andean Group and the Central American agreement are the most comprehensive, with provisions covering the air, maritime and land modes, while NAFTA provides extensive coverage of land transportation services (as well as investment). Other regions, such as the Caribbean, have other arrangements outside the strict framework of their trade agreements to deal with air and maritime services. Similarly, NAFTA and the Group of Three have the most extensive coverage of telecommunications issues, with both the Andean Group and the Central American agreements containing provisions related to value-added services. This sector is not covered in Mercosur, Caricom or the bilateral FTAs with Chile.

Effectively, government procurement is only covered in the NAFTA and Group of Three agreements (procurement is a voluntary plurilateral agreement in the WTO, and Canada and the United States are the only signatories in the Hemisphere). Mercosur has set up a working group on procurement which is to report its findings on June 30, 1995. Similarly, the Caricom countries are studying various options for a coordinated subregional approach. Between NAFTA and the Group of Three, the former is the most highly developed. While both agreements have similar thresholds, the latter imposes much lower levels of obligations on Colombia and Venezuela than it does on Mexico. For example, neither Colombia nor Venezuela carry any obligations with respect to establishment of bid challenge mechanisms.

A number of agreements contain measures relating to the treatment of foreign investment, with most of those being ahead of similar provisions in the Uruguay Round. In the case of Mercosur, investment issues were not included in the original negotiation, but have been included through the incorporation of the Colonia Protocol. The same situation pertains to the Andean Group which brought forward investment and intellectual property provisions since the inception of the original agreement. Caricom has a work program in this area as well as certain provisions dealing with establishment of foreign investment. The bilateral FTAs with Chile are governed largely by domestic legislation, while the Group of Three generally tracks the provisions of NAFTA.⁽⁴⁰⁾ NAFTA contains the most comprehensive set of investment-related disciplines of any agreement. This suggests that there is both interest in and receptivity towards addressing investment issues in the context of a hemispheric agreement.

Four of the agreements reviewed (plus the WTO) contain provisions relating to intellectual property rights. Those that do not are Mercosur, Caricom and the Chilean bilateral FTAs. The Andean Group adopted a common set of new intellectual property regulations in 1993. In the case of Central America, first attempts to include intellectual property rights date to 1968, which did not, however, include patent rights. The agreement has since been amended in 1994 and is in the process of ratification. Both NAFTA and the Group of Three agreements contain well developed intellectual property provisions,⁽⁴¹⁾ on a par with or better than the Uruguay Round outcome, which nevertheless has established a "floor" for the countries in the Hemisphere.

40. However, in the case of the Group of Three, negotiations in respect of reservations are still ongoing, and Colombia has taken an exception with respect to provision relating to protection against expropriation.

41. To each other, Colombia and Venezuela are bound by the Andean Group provision rather than the Group of Three.



significant differences between the agreements. For example, only four of the agreements in the region contain the sorts of special provisions that were under examination, and are therefore included in this section of the compendium. The agreements covered are: the WTO, Mercosur, NAFTA, the Group of Three and the Chilean bilateral FTAs. The four sectoral areas examined are: energy, autos, textiles and apparels, and agriculture. Naturally, the four sectors are not applicable to each agreement.

Energy:

Both NAFTA and the Group of Three contain special provisions with respect to energy. NAFTA's provisions grow out of two essential factors: the first being special provisions exchanged by Canada and the U.S. in their bilateral FTA which they wished to carry forward into NAFTA, and Mexico's requirement to exempt itself from a number of provisions due to the constraints of its constitution. In the case of the first factor, Canada and the U.S. exchanged obligations related to security of supply, production incentives necessary to maintain the resource base, and disciplines on regulatory measures enacted by subfederal levels of government. Mexico, due to its Constitution, was required to lodge exemptions for these and other provisions relating to investment and the provision of services.

Autos:

Mercosur, NAFTA, the Group of Three, the Andean Group and some of the Chilean bilateral FTAs all contain special provisions relating to trade in the automotive sector. In the case of Mercosur, for example, negotiations are ongoing with a view to bringing the sector fully into the agreement, until which national legislation will continue to operate. There are also differing local content requirements in the four Mercosur countries. NAFTA's provisions in this area, taking into account the Canada-U.S. AutoPact of 1965 and the FTA's provisions, focus mostly on the phased elimination of Mexico's automotive decree. NAFTA does, however, establish a more strict rule of origin (phased in over time) that increases regional content from 50% to 62.5%, albeit with different methodology for the calculation itself. In the Group of Three, such measures as import permits, performance requirements and investment prohibitions regarding certain manufacturing companies are all maintained. Tariff elimination is also much slower than the average.

Textiles and apparel:

For the first time, this sector is brought into the disciplines of the GATT with a phased integration of GATT-based textile trade over a period of 10 years. In Mercosur, efforts are underway to forge a common import policy beyond the implementation of the common external tariff with respect to this sector. The provisions in NAFTA include: fairly strict rules of origin (balanced by tariff rate quotas for non-originating goods) and special bilateral safeguard regimes for the sector. The Group of Three shares similar provisions regarding bilateral safeguards; however, the biggest difference (and hence the requirement for special provisions) was the inability of Venezuela and Mexico to reach agreement on this sector. Therefore, the entire sector is excluded from coverage - between these two countries - in the agreement. The gradual reintegration of this sector into the scope of GATT/WTO disciplines could reduce the need for negotiating special provisions in regional or subregional agreement in the future.

Agriculture:

Trade in agricultural products has proven one of the most difficult areas to deal with in the context of international negotiations, and therefore the sector generally becomes subject to a host of special provisions that include: quotas, slower than average tariff elimination, exclusion of entire subsectors, special safeguards provisions. Nevertheless, the progress with respect to production and export subsidies to this sector could, over time, lessen the need for other special provisions. Comparisons of how existing hemispheric agreements handle the agricultural sector is difficult in that each is largely custom designed to fit particular circumstances. In NAFTA, for example, the outcome represents essentially three sets of bilateral negotiations, each attuned to their own particular sensitivities. The same thing is true with respect to the Group of Three and Mercosur agreements, and in the Andean Group there are large numbers of special stabilization programs. In the category of commonalities, the best thing that can be said is that all three agreements have found it necessary to design special provisions relating to trade in sugar and sugar-containing products.

Chapter IV: Protection, Preferential Tariffs and Rules of Origin

As part of a collaboration with the OAS on the topic of Free Trade in the Americas, the Integration, Trade and Hemispheric Issues Division of the Inter-American Development Bank (IDB) prepared a study on tariffs and rules of origin in the Hemisphere for the Special Committee on Trade. Herein is a summary of the topics addressed and their conclusions.

Despite the depth and speed of the import liberalization process in Latin America, there still remain significant differences among national tariff structures. These differences must be analyzed as a first step toward identifying priorities for a common scheme of preferential tariff elimination for intraregional trade.(43)

Among the principal advances in the liberalization process in Latin America since the mid-eighties, the following stand out:

- Import quotas have been almost eliminated. While in 1985 almost one half of the value of Central American and one third of the value of South American imports were subject to some type of quantitative restrictions, by the end of 1994 quotas were applied to less than 1 percent of tariff items in seven of eleven countries, and there were no cases above 5 percent.
- Applied tariff levels have been significantly reduced, so much so that in 1994 the unweighted average tariff was less than 18 percent in all the countries of the region, and in only 5 of the 14 Central and South American countries was it above 12 percent. The impressive nature of the tariff reduction process is illustrated by the fact that in 10 out of 12 Latin American countries where data is available, the average tariff in effect before liberalization was over 35 percent, and in four of those the average was over 50 percent. It should be noted, however, that in many cases bound tariffs are higher than applied tariffs.
- At the same time, tariff structures have been substantially simplified, not only through a reduction in the number of tariff rates, but also by reducing the maximum tariff level. As a result the highest tariff rate at the end of 1994 did not exceed 40 percent, while less than a decade ago it reached levels as high as 150 percent in almost all countries.

Despite significant progress, there are still important differences in the tariff structures among the countries of the Hemisphere. The degree of differentiation can be illustrated in the following examples:(44)

- In 1994 only two countries in Latin America applied an almost uniform tariff (on at least 96 percent of all items). The other countries showed a substantial dispersion in their tariff structures.(45)
- The average tariff level of the United States was significantly lower than that of the other countries; excluding Canada, it was less than 70 percent of the average applied tariff in other countries of the Hemisphere.(46)
- Substantial variations remain when a sectoral analysis of the tariff structure is carried out. This variation is reflected in the significant tariff differences at the disaggregated level, especially in the case of those goods and sectors considered sensitive or strategic in some of the countries of the region.
- With respect to the common external tariffs(CET) that are being implemented in the region, there are important lists of exceptions not only in terms of the number and relevance of the items, but also in terms of the different tariff rates applied to those excepted items. For example, the list of products exempt from the CET in the CACM includes about 19 percent of the tariff schedule, and the average of the differences between national tariff levels exceeds 7 percentage points in Guatemala and El Salvador and 17 percentage points in El Salvador and Honduras. In the case of the CET in MERCOSUR, the excluded products comprise 12 percent of the tariff schedule and make up 23 percent of intraregional commerce.

The presence of diverse approaches to trade policy will strongly influence the type of integration that the countries of the Americas can achieve in the foreseeable future. For instance, the requirements for national policy harmonization are much more demanding for the creation of an advanced integration arrangement such as a customs union than they are for the development of a free trade area. Not only is it necessary for the member countries of a customs union to agree on a policy of preferential tariff elimination on intraregional trade, they must also define a common protective trade policy vis-a-vis third parties. The creation of a customs union, therefore, requires a very high degree of political commitment among the contracting parties. This cooperation implies the acceptance of a certain loss of national autonomy in the management of areas such as tariffs and nontariff barriers.

In addition to the problems related to the loss of sovereignty in the implementation of the tariff policy, a minimum level of coherence among countries in the application of macroeconomic policy (especially fiscal and exchange rate matters) must be achieved. Beyond that there also exist other problems related to the presence of fiscal and institutional constraints among member countries and divergent domestic policies in areas of industrial promotion and competition.

Unfortunately, because of the different levels of development among the countries, the demands for compatibility regarding policies of protection and the need for the observance of a minimum level of coherence at the macroeconomic policy level, do not augur well for the achievement, in the near future, of an advanced integration

scheme in the Americas, such as a customs union.

Nevertheless, this should not be an obstacle to pursuing a deepening of economic integration among the countries of the Hemisphere, particularly in view of the importance of integration in today's increasingly globalized markets. In this context, the creation of a free-trade area can be viewed as a vital first step toward the goal of economic integration in the Americas.

It should be noted that, in the Hemisphere, the process of preferential tariff elimination has advanced at a varied pace, but with a distinct trend toward widening regional markets. The most recent advances are:

- The "new generation" agreements (NAFTA, the Group of Three, and the bilateral agreements of Mexico with Costa Rica and Bolivia) encompass 86 percent of intra-hemispheric exports (based on 1994 data); they will eliminate virtually all tariffs on trade among member countries for about 95 percent of the items by the year 2004 and the rest will be eliminated shortly thereafter. This will occur under the new generation of rules of origin.
- The "first generation" agreements (bilateral accords signed by Chile with Colombia, Ecuador, Mexico and Venezuela) promote full tariff removal --with relatively standardized, simple, yet often ambiguous, rules of origin-- for practically all intrazonal trade before the end of the 1990s.
- Customs unions in different stages of development (CACM, Caricom, Andean Group, and Mercosur) are promoting the formalization of a preferential market among some groups of countries in the region over the next five years with a reduced number of goods being excepted from the CET. The potential for some of these arrangements seems considerable given the recent high growth rates for intrazonal trade flows and their important participation in trade among countries of the Hemisphere.⁽⁴⁷⁾

43. For much more detailed statistical information, see Garay and Estevadeordal(1995), op. cit.

44. For more detailed information, see Garay and Estevadeordal (1995), *ibid*.

45. For example in 1994, the coefficient of variation of the tariffs was greater than 70 percent in 5 Latin American countries. The variation coefficient is an indicator of the dispersion of the individual tariffs at the item level around its corresponding average tariff(of the item universe).

46. It should be noted that the United States still applies specific tariffs for a significant number of items, especially in agriculture. A similar situation exists in Canada

47. Customs union trade represents about 12 percent of the commercial trade flows were made up of intra-hemispheric exports (based on 1994 data).

Rules of Origin and Preferential Markets

General Considerations

The establishment of a hemispheric free trade area is not without serious challenges and difficulties as one tries to guarantee the greatest effectiveness and transparency in the process of expanding the preferential market. Its success depends fundamentally on the establishment of a system of rules and disciplines, like those that govern origin, which reflect relatively precise objectives, coherent criteria, and clear administrative procedures.

The purpose of a rule of origin is to regulate the conditions of access to the preferential market area due to the lack of a common external tariff among the parties. In effect, rules of origin are used to avoid what is called "trade deflection": the preferential importation of goods from non-member countries through the member country with the lowest tariff.

The success in expanding preferential markets depends heavily on the way rules are established in terms of rigor, transparency, selectivity and administrative simplicity because they can alter the level and structure of preferences established in the tariff elimination program itself.

The application of rules of origin suffers from various problems. One of these problems stems from the fact that their impact on the degree of protection can be variable due to, among other things, technological change; in the case of value content rules, a degree of unpredictability emerges because of movements of exogenous

factors like exchange rates and interest rates. Other problems relate to the possible creation of distortions in competition, inefficiencies in resource allocation, biases in the selection of production techniques, and inequalities in the distribution of benefits among countries and among types of producers.(48)

Furthermore, the significance of the operational and administrative costs incurred in the certification and verification of at least some rules of origin, at both the producer level and national customs level, must be stressed. Regarding these costs, the regional-content rules of origin are particularly noteworthy, since the companies need to gather sufficiently substantiated data on costs, distribution, and sales. In addition, there are costs associated with processing the corresponding certifications before the customs authorities.(49) Only a few empirical studies on these issues exist, perhaps because of the difficulties inherent in making even a rough estimate of the administrative costs associated with mechanisms such as rules of origin.(50)

When evaluating the different options for adopting rules of origin, consideration should be given not only to their potential problems, but also to their undeniable ability to fulfill certain policy objectives such as the expansion of preferential markets.

Rules of Origin in the Americas

At present, the Western Hemisphere has two main generic regimes for qualifying origin-- namely a "first generation" scheme instituted within the framework of LAIA and a "second generation" scheme that emerged within NAFTA. The rules of origin under the LAIA are characterized by their simplicity and their uniformity across the entire tariff schedule. This is in contrast to the origin systems established in the "new generation" agreements such as NAFTA, with their considerable number of rules of origin.

The LAIA regime applies a generic requirement for the determination of origin: a change in the tariff heading between the good and the third party inputs used in fabrication, or alternatively, an extraregional content of no more than 50 percent of value (FOB), although in practice there is a degree of ambiguity in this latter requirement. This rule applies to almost all items of the tariff schedule, except for a few cases where a specific rule of origin exists.

Apart from the general principle of determining origin based on the concept of wholly produced goods, the second generation regime establishes specific rules using three criteria: i) change of tariff classification, which could be a chapter to chapter change, heading to heading change, subheading to subheading change or tariff item to tariff item change, with the possibility of exceptions; ii) regional content requirement, which can be higher than 50 percent, and iii) technical requirements for manufacturing processes. The different possible requirements associated with each one of the three criteria in practice give rise to families of rules of origin; for example, a good could comply by change in chapter classification, or by a change in heading classification with a value added content, or by a value added requirement plus a technical test. Another basic difference, which is related to the one just described, is the administrative cost of the new generation of rules of origin.

The new generation of rules clearly contrasts with the simplicity of LAIA's system. However, it also must be said that the vagueness of the LAIA's regime in terms of its criteria and methodology for certification of origin have been decisive factors in that system's relative lack of effectiveness in practice.

The principal characteristics of the system of rules of origin applied in the "new generation" of agreements can be summarized as follows:(51)

- A multiplicity of combinations of rules of origin, due not only to the diversity and specificity of the basic criteria for classification of origin, but also the presence of diverse alternative rules for determining that origin.
- The relative importance of the criterion for regional content cannot be overemphasized, as it is incorporated into a relatively high percentage of the families of rules of origin.(52)
- In general terms, the evidence suggests a clear trend in the ordering of the relative stringency of the rules of origin between the new generation accords and the LAIA regime. In effect, the general rule of origin of LAIA would be more restrictive than those rules in the three "new generation" agreements for at least one-sixth of the tariff items, which account for about 22 percent of the value of goods imported by Mexico from its partner countries in 1993. It can be seen that rules of origin applied in the Group of Three and the agreement between Mexico and Costa Rica (AMCR) would imply a more stringent regime than its complement in LAIA for one-third of the tariff items. In the case of NAFTA, this percentage could be as great as 50 percent.
- Regarding NAFTA, the most stringent rules of origin are not necessarily associated with the most accelerated process of tariff elimination, at least with respect to the general average. In this way, comparing items subject to the more stringent rules of origin with those items subject to rules similar to

LAI, one notices no substantial differences regarding the proportion subject to immediate tariff elimination.

48. The effects of rules of origin in NAFTA and the Group of Three on industrial sectors in Canada and Colombia, respectively, are being studied in an ongoing project of the Integration, Trade and Hemispheric Issues Division of the IDB cited in the first footnote of this chapter

49. Notwithstanding these requirements, in certain circumstances and for certain goods NAFTA does provide for streamlined procedures with respect to complying with regional content and corresponding certification.

50. One case study on West Germany in the early 1980s, regarding its participation in the European Community and the European Free-Trade Association, estimated the cost of the determination of origin to be between 2 and 3 percent of the value of the good examined. See Taylor, R., W. Werner and O. Horowitz, EC and EFTA in the 1980's (Brussels: European Research Associates, 1984).

51. For a more complete analysis and statistical presentation, see Garay and Estevadeordal(1995), *ibid*.

52. For example, in reference to Mexico, families of rules of origin with the regional content criteria are applied to 42 percent of tariff items in the case of NAFTA, and 38 percent in the Group of Three and the agreement with Costa Rica.

Towards a Common Policy on Rules of Origin



Flawed implementation of rules of origin can constitute a serious obstacle for the effective creation of a Free Trade Area of the Americas, especially regarding their administrative complexity as well as the incoherences and distortions that can be derived from the simultaneous existence of different generic regimes in the Hemisphere.

Given the experience observed in the Hemisphere with regard to the application of rules of origin; the disparate perceptions in the countries with respect to the virtues of alternative regimes, and in view of the decisive role that rules of origin can play in the creation of an expanded preferential market, great emphasis should be given to the need to adopt common principles determining origin of goods.

It must be considered that despite some advantages, a general regime characterized by uniformity is not the ideal one for regulating the market when the objectives of trade policy have a strategic nature. In this case, the determination of origin should incorporate criteria which reflect selectivity. The challenge lies in specifying desirable rules that, while conserving as much as possible the virtues of simplicity and clarity, can still rigorously reflect the objectives of policy.

Due to the impossibility of counting on a single criterion to determine the regional origin of each and every existing good, it is desirable to select the minimum number of criteria that will guarantee the maximum effectiveness and clarity possible for a particular rule.

Given the distinctive characteristics of the basic criteria utilized until now, and based on the experiences observed with the rigorous application of the value-added criteria, it would be clearly justifiable to concentrate efforts on perfecting a system of origin based fundamentally on change of tariff classification. In this way, by employing the latter criterion as the basic tool for determining origin, one could use complementary criteria such as the regional content or technical requirements, only for those exceptional cases that clearly merit it.

A requirement for advancing in said direction is the definition of a relatively coherent system relating the changes of tariff classification to the degree of transformation in the production of goods. In other words, a coherent pattern of equivalencies must be established between the levels of change in the tariff classification (e.g., a change at the level of chapter, heading or subheading) and the requirement of the degree of transformation during production.

While admitting the difficulty of such a task, it should be emphasized that the specification of a coherent definition as suggested above would

i) substantially facilitate the administration of the rules of origin;

ii) contribute decisively so that the rules of origin are less sensitive to the evolution of variables exogenous to the

processes of production; and,

iii) provide a proper balance between the transparency and simplicity of the regime. Moreover, a definition of this type would allow governments to select and apply different rules of origin, not uniform among types of goods, as would correspond to a commercial trade policy with strategic components.

Precisely for reasons such as these it would seem that there is growing support for proposals along the lines suggested here to define a methodology for non-preferential rules of origin. Indeed, there is a technical committee in the World Trade Organization (WTO) dedicated to the study of non-preferential rules of origin.

In any event, one can perceive benefits from choosing a system that incorporates principles similar to the following:

- Clearly define the objective assigned to rules of origin in their role as a policy instrument of preferential tariff elimination schemes;
- minimize the number of criteria to be applied in determining a product's origin, giving preference to a change in the tariff classification;
- where a choice between origin criteria exists, ensure that the alternatives require an equivalent degree of transformation;
- guarantee to the greatest extent possible simplicity and transparency in the accounting procedures required for the application of the origin criteria and for the verification of their observance;
- in the face of the option of using a complex rule of origin to protect sensitive products, more transparent alternative policy instruments might be explored, such as providing especially protracted time periods for tariff elimination, or the reduction of differences among parties on third country tariffs;
- seek a consensus about a methodology for qualifying for origin in the Hemisphere that could be applied in trade agreements; and
- promote a multilateral agreement within the framework of the WTO that creates the basis for a common methodology in the specification of rules of origin in preferential trade agreements.

Toward Free Trade in the Americas

Regionalism and the Multilateral Trading System

The future Free Trade Area of the Americas (FTAA) has to be consistent with the multilateral trading system. This is an important goal set by the leaders of the Hemisphere, who stated in the Plan of Action their "strong commitment to multilateral rules and disciplines," and their endorsement of "bilateral and subregional trade agreements, and other trade arrangements that are consistent with the provisions of the GATT/WTO and that do not raise barriers to other nations."

The need to ensure this compatibility applies not only to the prospective FTAA, but also to existing regional and subregional arrangements in the Hemisphere. Indeed, "compatibility" is an objective as well as a necessity, due to the fact that almost all countries in the region are members of the WTO, [\(53\)](#) and their participation in different sets of arrangements must be built upon coherent and mutually reinforcing trade policies.

53. Ecuador and Panama are currently negotiating their accession to the GATT/WTO, while Grenada, Guatemala, Nicaragua and St. Kitts and Nevis have accepted the WTO agreements but have not yet ratified them.

The Nature of the Problem

The relationship between regionalism and the multilateral trading system has been debated for a long time. From an economic perspective, a key issue is trade diversion (i.e., the tendency of trade agreements to divert some trade that would otherwise take place between the participants in the agreement and third countries). Some observers believe that regionalism runs the risk of becoming inward-looking, discriminatory, and protectionist, and therefore poses a serious threat to an open multilateral regime based on non-discriminatory trade. The general verdict, however, tends to be that these agreements are an acceptable approach to the overall goal of liberalization, provided that they are on the whole trade creating. Supporters tend to point out that regional arrangements enable interested participants to move more closely and quickly to trade liberalization than is possible at the multilateral level. A further supporting argument can be found in the suggestion that the quality of liberalization (i.e., the range of issues) is at least as important as the quantity of liberalization (i.e., the extent of reductions in tariffs and other border measures).

Regionalism in the GATT/WTO System

From a legal and diplomatic perspective, the key issue concerns the place of regional agreements within the framework of multilateral pacts. Regionalism was one of the most controversial issues at the Havana Conference of 1947, when the ill-fated Charter of the International Trade Organization (ITO) was drafted. It continued to be an issue of concern throughout GATT history. Most recently, concerns regarding the effects of regionalism on the multilateral trading system have intensified as the number of regional agreements being enforced continues to increase. The participation of the United States, traditionally the strongest opponent of "regionalism," in some of those agreements has added to these concerns.

The key question within the GATT/WTO system concerns the adequacy of existing rules to ensure compatibility between regional agreements and the multilateral trading system. GATT contracting parties have the obligation to notify GATT of all trade agreements to which they are party. To this end, traditionally two mechanisms have been used: Article XXIV, which outlines the conditions under which GATT contracting parties can establish customs unions or free trade agreements, and the Enabling Clause, a Tokyo Round decision designed, inter alia, to facilitate the conclusion of preferential trade agreements among developing countries. More recently, GATS Article V on economic integration essentially duplicates the requirements of Article XXIV (including the Marrakesh Understanding on the Interpretation of that article) with respect to trade in services.

WTO/GATT Article XXIV and Article V of GATS (General Agreement on Tariffs and Services) provide that the

purpose of customs unions or free trade areas must be to facilitate trade between the constituent countries and not to raise barriers to their trade with other WTO members. Duties and other regulations of commerce should not be made more restrictive vis-à-vis non-members than they were prior to the formation of a customs union or a free trade area, and must be eliminated with respect to "substantially all trade" between or originating in the constituent countries. In the case of GATS Article V, economic integration agreements should have "substantial sectoral coverage",⁽⁵⁴⁾ should provide for the elimination of existing discriminatory measures, prohibit the adoption of new discriminatory measures and, like Article XXIV, provide for a liberalization schedule should liberalization not be possible on entry into force of the agreement. Notification and information requirements are contained in both articles.

The standards of the Enabling Clause have generally been less rigorous. They require that agreements concluded among developing countries be designed to facilitate and promote their mutual trade, and not to raise barriers to or create undue difficulties for the trade of other contracting parties. Agreements among developing countries should be notified when they are introduced, modified, or withdrawn, but in this case it is the Committee on Trade and Development instead of the GATT Council that is in charge of monitoring the implementation of those agreements.

General dissatisfaction with the functioning of Article XXIV led to the negotiation during the Uruguay Round of an Understanding concerning its application. The Understanding clarifies member obligations with respect to notification, transparency and information provision and the examination of such notifications. The Understanding further stated that interim arrangements should not normally extend beyond 10 years and the members shall provide a full explanation to the Council in cases where 10 years is exceeded. Also clarified were members views in respect to increases in bound tariffs in the creation of customs unions and other matters such as the obligation of members of free trade areas or customs unions to report periodically on the operation of their agreements.

The issue of regionalism and its adequacy to Article XXIV is further complicated with respect to trade agreements among developing countries, including most countries in the Hemisphere, in so far as these agreements are generally considered by participating countries as falling within the purview of the GATT Enabling Clause. This is an issue which has led to some controversy between GATT members, and the recent debate on Mercosur illustrates the extent to which old perceptions continue to influence the views of different countries on this issue.⁽⁵⁵⁾

54. Defined in an accompanying footnote to refer to the "number of sectors, volume of trade affected and modes of supply". To meet the condition established, no mode of supply may be excluded a priori.

55. Initially the four member countries of Mercosur sought to notify this agreement under the Enabling Clause. This was strongly opposed by some countries, and the discussions led to the establishment of a working party under the Committee on Trade and Development with the mandate to examine Mercosur "in the light of the relevant provisions of the Enabling Clause of the General Agreement, including Article XXIV." UNCTAD, Trade and Development Report, Supporting Papers, 1994, Box 2, 30.



Regionalism in the Western Hemisphere

According to a recent report by the WTO Secretariat, only seven trade agreements concluded among the countries of the Hemisphere have been notified to the GATT. These are the Canada-U.S. Free Trade Agreement (FTA), the North American Free Trade Agreement (NAFTA), the Caribbean Community and Common Market (Caricom), the Central American Common Market (CACM), the Latin American Integration Association (LAIA), the Andean Group, and the Southern Cone Common Market (Mercosur). The first four agreements have been notified under GATT Article XXIV, whereas LAIA, the Andean Group, and Mercosur were notified according to the Enabling Clause.⁽⁵⁶⁾ It is understood that NAFTA has also been notified under the terms of GATT 94. Notable absences from this list are the Group of Three Agreement, the free trade agreements entered into by Chile with Mexico, Venezuela, Colombia and Ecuador, respectively, the non-reciprocal trade agreements between Venezuela and Caricom and between Colombia and Caricom, and the Mexico-Costa Rica and Mexico-Bolivia free trade agreements. In some cases, parties to these agreements have announced their agreement to notify them in accordance with Article XXIV, but so far nothing has been done to this effect.⁽⁵⁷⁾

The general view that trade agreements among developing countries need only to conform to the GATT Enabling Clause may be reexamined in light of the nature and wide scope of the new trade and integration agreements in the region. In fact, almost all existing agreements in the region could meet the requirements of Article XXIV. This would not have been so just a few years ago, when most trade and integration agreements covered a limited percentage of

the participants' total trade and were designed more to exclude other countries' imports than to liberalize mutual trade.

Although the Andean Group was originally notified under the Enabling Clause, prima facie evidence suggests that subsequent changes in the rules of this agreement have brought it more into conformity with the requirements of Article XXIV. The Andean Group's Common External Tariff, which came into effect in early 1995, is not higher than the tariff rates previously applied by individual Andean Group countries, while all tariffs and non-tariff barriers have been eliminated with respect to "substantially all trade" originating in the Andean countries. The same can be said of Mercosur, particularly after the decisions taken at Ouro Preto last December to set up a common external tariff for 85 percent of tariff lines, and to initiate a free trade area among member countries covering 90 percent of all trade with a specified schedule for complete free trade. Comparable conclusions could be reached with regard to the Group of Three Agreement and the free trade agreements between Chile and various Latin American countries.

Thus, most of the customs unions and free trade areas that exist or are being created in the region probably meet the requirements of Article XXIV. They cover most of the trade of the member countries, and have not raised barriers to the trade of other countries. The remaining agreements designed to grant a limited number of trade preferences, such as the LAIA agreements mentioned in Chapter II, still fall within the purview of the Enabling Clause. In both cases, however, there is a strong case for notifying these agreements to the WTO. This step could help all the countries of the region, developed as well as developing, to evaluate the impact on their trade of other countries' agreements. All countries stand to gain from greater transparency in the functioning of regional agreements.

In addition, it seems to be necessary, within the Western Hemisphere, to go beyond the limited approach envisaged in Article XXIV and the Enabling Clause, and to move towards a new attitude concerning the compatibility of subregional arrangements with multilateral obligations. Both the Hemisphere and the multilateral trading system, in general, would benefit from compatibility examinations that take into account the policy areas now incorporated into the trade policy arena. It is now necessary to view regional trade agreements not so much as a derogation from multilateral rules and disciplines, but more as instruments which complement the agreements adopted in the Uruguay Round.

Moreover, regional agreements can constitute "building blocks" for multilateralism when regional disciplines are multilateralized or are used as a basis for multilateral agreements. Multilateral disciplines can also become building blocks for regional agreements when used as a basis for liberalizing trade among a limited number of countries. Within the Americas, establishment of the proposed FTAA can benefit from using multilateral disciplines as a foundation for hemispheric free trade, the adoption of hemispheric agreements on areas not covered by multilateral rules and disciplines can help promote consensus-building in these issues at the international level.

56. World Trade Organization, Regionalism and the World Trading System

57. That was in particular the case of the countries parties to the Group of Three Agreement which decided to notify the agreement under GATT Article XXIV, but have not yet given any indication in this respect.

Chapter VI: Hemispheric Free Trade and the Less Developed Countries

One of the greatest challenges posed by the FTAA is to craft rules that apply both to large, developed, and highly competitive economies such as the United States and Canada, as well as to smaller developing countries, in particular those in Central America and the Caribbean. The Heads of State and Government of the countries in the Hemisphere recognized these problems in the Declaration of Principles adopted at the Summit of the Americas, in which they stated that "the economic integration and the creation of free trade will be complex endeavors, particularly in view of the wide differences in the levels of development and size of economies in our Hemisphere," and that "we remain cognisant of these differences as we work toward economic integration in the Hemisphere."

The Plan of Action adopted at the Summit of the Americas makes reference to the provision of technical assistance in order to "facilitate the integration of the smaller economies and increase their level of development." In this regard, it will be necessary to analyze the best way to give effect to the decisions taken at the Summit of the Americas, taking into account differences in countries' levels of development.

Reciprocal trade liberalization between countries at different stages of development has always posed special problems. From the perspective of smaller countries, this problem has often been viewed as a question of fairness; equal treatment of unequal partners, according to some observers, is neither feasible nor just. From the perspective of larger and more developed countries, the problem takes on different dimensions since they tend to emphasize the positive effects of trade liberalization irrespective of the level of development.

The conflict between these two perspectives has thus far been handled, if not entirely resolved, through the creation of special measures in favor of the developing countries. Examples of one-way preferential arrangements include: the Generalized System of Preferences (GSP), the Lomé Convention, the Caribbean Basin Initiative (CBI) and Caribbean; in Latin America, LAIA and the Colombian-Venezuelan-Central American negotiations.⁽⁵⁸⁾ In addition, developing countries have been generally treated more favorably with respect to their obligations in multilateral trade negotiations through the "special and differential" treatment contained in Part IV of the General Agreement on Tariffs and Trade (GATT). Moreover, developing countries themselves have put into effect schemes to take into account the special needs of "relatively less developed countries." In Latin America, LAIA, the Andean Group, and Mercosur, as well as a number of individual countries, have provided special treatment to countries such as Bolivia, Ecuador, Paraguay and Uruguay. As a result, developing countries, and especially the least developed countries, have until recently faced relatively few obligations within the international trading system.

The attitudes of both developed and developing countries to one-way preferential trade have changed. The severe economic crisis of the 1980s compelled a reexamination of economic policy in Latin American and Caribbean countries, and a shift towards outward-oriented, market-driven approaches. This led to the implementation of structural reform programs and a drastic modification of the region's trade policy through the reduction of tariffs and non-tariff barriers and the removal of quantitative restrictions. As a result, an open trade policy is now perceived by all Latin American and Caribbean countries as being part and parcel of good development strategy, while the new trade commitments taken in multilateral negotiations are seen more as challenges to be embraced than threats to be evaded.

The industrialized countries, for their part, have placed ever-greater emphasis on "reciprocity" in a new international trading environment. In this regard, unilateral preferential schemes applied by some industrialized countries have become more restricted, and subject to an increasing number of conditions (some of which have little to do with trade per se). Many preference-giving countries have practiced "graduation" by disqualifying certain developing countries from the GSP, and have eliminated products from the scheme once the import share of that particular product has reached a specific level.

Special and differential treatment in Latin America and the Caribbean has also changed, and is now viewed not so much as open-ended derogations from commitments, but as time-limited exceptions to full compliance with obligations under regional integration schemes. For instance, the Venezuela-Caricom agreement offers one-way duty-free treatment to imports from the Caribbean countries (tariffs will be phased out over a five-year period). After five years, however, it is expected that negotiations will begin for reciprocal tariff concessions by the Caribbean countries on Venezuelan products.

The time has passed when "more favorable and differential treatment" for developing countries in multilateral trade negotiations was equated to obligations. In the Uruguay Round, for example, not only did Latin American and Caribbean countries not try to "free ride" their way in the negotiations, but offered major concessions in market-access negotiations. In that instance, developing countries made a case for a different and more favorable treatment not through a special derogation or dispensation from generally-applicable rules, but through specific, negotiated provisions addressing their special development, financial and trade needs. The Issue Today

The old dilemma of trade relations between rich and poor thus remains in place, but in a new perspective. For less developed countries in Latin America and the Caribbean, enhanced participation in hemispheric trade is essential for rapid and sustained growth and development. However, the acknowledged need for a more open trading system and for hemispheric free trade does not change the fact that these countries remain in a vulnerable position.

A few descriptive statistics underline the great discrepancies of countries in the region:

- The United States represents nearly 80 percent of the combined hemispheric GDP;
- While exports to the United States make up 52 percent of Latin America's total exports, they represent only 13 percent of total U.S. imports (half of which come from Mexico). On the other hand, only 14 percent of U.S. exports go to Latin America;
- This asymmetry is much greater in the case of the small Caribbean and Central American economies, which send over half their exports to the United States but account for only 1.5 percent of total US imports; and,

- In spite of the unilateral liberalization efforts undertaken by Latin American countries, tariffs are much higher in Latin America and the Caribbean than in the United States, as a result of which the burden of adjustment posed by trade liberalization will fall more on the former than on the latter.

These disparities greatly complicate the acknowledged need to accomplish a closer integration of developing countries in the global trade regime. While the global benefits of trade liberalization are generally recognized, the realization of these benefits by small and less developed countries will depend greatly on their capacity to adjust to shifts in market opportunities and to increased competition. When these countries cannot adjust appropriately and quickly enough, more often than not due to underlying structural weaknesses, their trade and economic prospects may worsen.

Trade liberalization in the FTAA should complement and not obstruct the efforts of less developed countries to implement structural reforms. The smaller countries of the region have already reduced import tariffs and other barriers substantially. What they now seek is recognition of these initiatives and a negotiating framework in which their ability to achieve access to hemispheric markets is enhanced while their economic and financial restructuring can take place in a manner and timeframe appropriate to their special circumstances.

58. A special issue, that needs urgent attention, is the situation of some countries that carry MFN obligations contained in the Lomé Convention agreements.



The Issue Today

The old dilemma of trade relations between rich and poor thus remains in place, but in a new perspective. For less developed countries in Latin America and the Caribbean, enhanced participation in hemispheric trade is essential for rapid and sustained growth and development. However, the acknowledged need for a more open trading system and for hemispheric free trade does not change the fact that these countries remain in a vulnerable position.

A few descriptive statistics underline the great discrepancies of countries in the region:

- The United States represents nearly 80 percent of the combined hemispheric GDP;
- While exports to the United States make up 52 percent of Latin America's total exports, they represent only 13 percent of total U.S. imports (half of which come from Mexico). On the other hand, only 14 percent of U.S. exports go to Latin America;
- This asymmetry is much greater in the case of the small Caribbean and Central American economies, which send over half their exports to the United States but account for only 1.5 percent of total US imports; and,
- In spite of the unilateral liberalization efforts undertaken by Latin American countries, tariffs are much higher in Latin America and the Caribbean than in the United States, as a result of which the burden of adjustment posed by trade liberalization will fall more on the former than on the latter.

These disparities greatly complicate the acknowledged need to accomplish a closer integration of developing countries in the global trade regime. While the global benefits of trade liberalization are generally recognized, the realization of these benefits by small and less developed countries will depend greatly on their capacity to adjust to shifts in market opportunities and to increased competition. When these countries cannot adjust appropriately and quickly enough, more often than not due to underlying structural weaknesses, their trade and economic prospects may worsen.

Trade liberalization in the FTAA should complement and not obstruct the efforts of less developed countries to implement structural reforms. The smaller countries of the region have already reduced import tariffs and other barriers substantially. What they now seek is recognition of these initiatives and a negotiating framework in which their ability to achieve access to hemispheric markets is enhanced while their economic and financial restructuring can take place in a manner and timeframe appropriate to their special circumstances.

The Need for a Fresh Approach

It is widely accepted that special and differential treatment cannot continue in perpetuity. It is also widely accepted that the special needs of the relatively less developed countries must be taken into account. The challenge therefore is how to design a satisfactory reciprocal arrangement among unequal partners that will promote prosperity through

free trade and integration in the Americas without endangering the economic viability of some countries in the process.

That process should proceed from the understanding that while access to larger, and richer markets, may be difficult for the smaller countries in the Hemisphere, due to quantitative restrictions on their most important export products, it is not the only problem.⁽⁵⁹⁾ Both the Central American and Caricom countries have performed badly in the European Union, probably because their exports are commodity-based and therefore income inelastic in a context where commodity terms of trade have depreciated. Distance from the European Union is no doubt a factor limiting the competitiveness of these exports. With regard to the nearby U.S. market, Central American exports have performed well, while Caricom's have not performed as well. The same can be said for Caricom's exports to the Canadian market.

The problem, therefore, is not only one of market access. It is also one of supply-side constraints, whether related to scale and scope, quality, price, or some other consideration or combination thereof. Thus, while there is a need to improve market access conditions for these countries, the major challenge is to create domestic capabilities that will enhance their capacity to draw benefits from trade liberalization and will lighten the burden of adjustment to the new requirements of hemispheric free trade. Measures designed to enhance their productive and investment opportunities would contribute to their ability to participate fully in hemispheric liberalization efforts.

59. While a number of countries extend preferential access, it must be understood that items of export interest to the developing countries are often subject to exclusion or other restrictions imposed by the importing countries.

Chapter VII: The Road Ahead

A number of considerations should be taken into account when deciding on the program leading to the formation of a Free Trade Area of the Americas. Specifically, such a program should reflect the goals established in the Summit Declaration and its accompanying Plan of Action. On this basis, a foundation for the work to be undertaken in the future can be elaborated.

Two broad issues merit discussion. The first touches upon the relationship between GATT/WTO rules, regional agreements and the establishment of the FTAA, and recognizes the commitment to "build on existing subregional and bilateral arrangements in order to broaden and deepen hemispheric economic integration and to bring the agreements together."⁽⁶⁰⁾ The second issue relates to the timeframe of the establishment of the FTAA in which a broadly defined two-stage approach was agreed to in the Summit Plan of Action, according to which negotiations would conclude no later than 2005 with "concrete progress" to be made by the end of the century.

60. Declaration of Principles, Summit of the Americas.

The FTAA Building Blocks

Free trade among the countries of the Americas should be constructed upon two basic building blocks: the multilateral disciplines of the GATT/WTO, and existing commitments contained in the various bilateral and regional trade and integration agreements.

As regards the GATT/WTO disciplines, the fact that most of the countries in the Western Hemisphere are, or are in the process of becoming, WTO members provides a convenient and disciplined foundation for further trade liberalization in the region. Two main implications for the establishment of the FTAA should be highlighted. First, where adequate multilateral disciplines and mechanisms exist they could be incorporated in the FTAA by reference, i.e., they would not need to be duplicated or renegotiated at the hemispheric level.⁽⁶¹⁾

Second, the countries could focus their negotiating energies in areas where a "WTO-plus" outcome might be achieved: the focus should be on areas where further liberalization, building upon the concessions and commitments of the WTO, is required, and those areas falling outside the WTO where disciplines are crucial for intensified liberalization within the Americas.⁽⁶²⁾

With regard to regional arrangements, it should be noted that virtually every country in the region is a member of at least one subregional or regional trade agreement. Some are members of several groups. In addition, direct negotiations between different groupings are beginning, such as between Mercosur and the Andean Group. The main challenge for the building of the FTAA is to define how these subregional and bilateral agreements would facilitate the negotiation of a free trade agreement at the hemispheric level.

As pointed out in Chapter I, the recent evolution of trade and integration agreements in the Americas points out that these agreements are fostering intra-subregional trade, thus helping to deepen and expand the general process of trade liberalization in the Americas. Membership in such arrangements has allowed participating countries to move forward into new areas where unilateral reform had proved difficult domestically. This, for example, is the case in respect of rules on intellectual property rights and copyrights in the Andean Group and in the Group of Three. Membership in regional arrangements can play a vital supportive role with respect to governments' abilities to pursue and maintain internal market reforms. The evolution of regional arrangements has been such that membership, generally, is no longer an impediment to any country in the region that is interested in negotiating agreements with other countries.⁽⁶³⁾

In analyzing the relationship between the FTAA and the regional and bilateral arrangements, three distinct but related issues are critical. First, the liberalization process has exposed countries in the region to increased competition and adjustment pressures. This exposure comes from regional as well as multilateral sources. Countries are better placed to participate in a meaningful way and to draw concrete commercial benefits from such participation. Second, the intensification of trade liberalization brought on by the expansion of such agreements should be considered as steps toward hemispheric free trade, and could be organized to facilitate that process.⁽⁶⁴⁾ Third, existing agreements in the Hemisphere could be used as a basis for a hemispheric-wide agreement in certain critical areas or sectors such as rules of origin, customs procedures, investment measures and transportation.

Thus, negotiation of the FTAA would be facilitated by a clear and common understanding among the countries in the region as to the relationship between the FTAA and GATT/WTO rules and disciplines and their relationship to existing subregional and bilateral arrangements in the Americas. The preliminary work done in this area points out that little such study has been initiated to date and that our collective understanding of the situation is fragmented at best. The ability of commercial interests in the Hemisphere to take such arrangements into account when developing their strategic corporate planning is similarly made more difficult. There is thus a need for enhanced transparency and communication as it relates to this area.

61. Examples, among others, might include: rules respecting trade in goods (although progress could be made on a regional basis in subsidies and related measures including subsidized agricultural trade), technical barriers to trade, sanitary and phyto-sanitary related measures, trade related intellectual property measures, dispute avoidance and settlement (other than the need to adapt panel lists to regional needs), trade in services (although commitments could be expanded significantly at the regional level) and emergency measures.

62. Examples might include: establishment and protection agreements in respect of investment, anti-trust or competition issues, including possible reciprocal freedom from antidumping actions and institutional issues.

63. Membership in the Andean Group, for example, did not prevent Colombia and Venezuela from negotiating a free trade arrangement with Mexico.

64. For example, efforts such as Chile's accession to NAFTA, negotiations between the Andean Group and Mercosur and numerous bilateral negotiations could be considered in this light.

The Negotiating Approach



The above considerations would confirm the logic of the staged approach foreseen in the Summit of the Americas. The next few years could be seen as both a preparatory process of the negotiations on the FTAA, and a time for countries to concentrate on measures essential for deeper trade liberalization and expansion, so that concrete progress can be achieved by the end of the decade.

The First Stage

The establishment of the FTAA started with the agreements reached at the Summit of the Americas in December, 1994. It will receive further momentum in the ministerial meetings scheduled for June 1995 and March 1996, where it is expected that countries in the Hemisphere set up specific goals for moving toward the

FTAA. There are a number of measures whose implementation would have an immediate impact in hemispheric trade, laying the groundwork for negotiations in the second stage. Among these measures, three are particularly important.

A Framework for Hemispheric Liberalization in Goods and Services. Trade liberalization is the "core" of any free trade agreement, and to this end, a plan and timetable should be defined as soon as possible. It would encompass industrial and agricultural tariffs, and restrictions to trade in services.⁽⁶⁵⁾ While hemispheric liberalization of trade in goods could build upon the high degree of liberalization achieved at the multilateral as well as the subregional and bilateral levels, liberalization of trade in services may require a fresh approach. In both cases, information is needed on measures affecting hemispheric trade before a framework for trade liberalization could be agreed by the participating countries. At the outset, the participating countries might agree not to introduce new discriminatory measures ("standstill"), except as may be required in the fulfillment of their existing, or modified, obligations vis-a-vis agreements to which they are signatories.

Trade Action in Areas That Could Facilitate Trade Between the Countries in the Hemisphere. In most cases, these measures are related to the WTO agreements, as many of these agreements are designed to increase transparency and facilitate international trade (e.g., customs procedures and customs valuation). At this stage it is important to ensure that all the countries in the region are in a position to implement the WTO agreements and, where appropriate, to accelerate their implementation. Indeed, although such early implementation would have to conform to the MFN principle, the process of hemispheric trade liberalization could also be reinforced, provided that the acceleration of commitments be directed at areas of primary interest to the trade of the countries in the region (e.g., in agriculture, textiles and clothing). This could also be complemented by a hemispheric understanding to refrain from applying transitional and special safeguard measures as they relate to those sectors.

Identify Issues Not Covered by the WTO: such as investment and competition policy, which were included in the Summit of the Americas Plan of Action, in which hemispheric discussions can put the Americas at the forefront of multilateral consensus-building. Initiatives are already being taken to introduce these issues into the multilateral trade agenda. Countries in the region should start looking at those issues and be prepared to promote understanding at the hemispheric level. To this end, the examination of the instruments contained in subregional and bilateral agreements dealing with policy measures not covered by the WTO agreements could be a starting point.

The Second Stage

It is expected that progress on the above mentioned areas would lay down the foundations on which negotiations on the FTAA would be launched with a view to concluding them "not later than 2005." The second stage would then be a period in which the FTAA would take shape and free trade in goods and services, as well as disciplines on new issues, are finally negotiated. One of the outstanding issues would be whether free trade in the Americas will be arrived at by accession to one of the existing agreements, or by negotiating an "umbrella" agreement which may allow for the continued existence of existing regional agreements, and indeed for their strengthening. It would be premature to identify specific proposals as to how to deal with this issue, but it is certainly something that has to be kept in mind as countries move in the direction of free trade in the Americas.

65. It might be decided, for example, that non-tariff measures are covered by the WTO agreements.

The Role of the OAS

The OAS can assist the countries of the region in their search for trade liberalization through two key mechanisms: the Special Committee on Trade (and its Advisory Group) and the Trade Section.

Special Committee on Trade and its Advisory Group

The Special Committee on Trade (SCT) offers a multilateral forum where trade and trade-related issues can be examined by the countries of the region with a view to taking action on hemispheric trade liberalization and expansion. Specifically, the SCT can provide a forum where alternative strategies and actions regarding the FTAA could be analyzed and recommendations formulated. Such a role would complement the responsibility of the SCT as the most senior forum within the OAS, at the level of officials dealing with trade and trade-related issues.

The specific work program of the SCT would depend upon the decisions taken by Ministers, in Denver, on June 30, 1995, in particular with respect to the establishment of working groups and committees. Aside from this, the SCT would propose to continue work already initiated, such as the further elaboration of the compendium and other studies and would report back to Ministers at their meeting in March 1996. In its work, the SCT would be supported by its Advisory Group and by the OAS Trade Unit.

The OAS Trade Section

The Trade Section could provide technical support to the negotiating process, since its basic purpose is to support countries in the area of trade and to be responsive to their needs and concerns, including the tasks assigned to the OAS by the Summit of the Americas in relation to the establishment of the FTAA. The functions of the Trade Section are to: provide technical support to the countries of the Hemisphere in the trade field; ensure effective coordination with regional and subregional integration organizations; strengthen trade information systems; and study the various aspects of hemispheric trade relations. In carrying out its activities, the Trade Section has a responsibility to pay special attention to the needs of the region's small and less developed countries. The Trade Section is in a position to cooperate with the countries of the Hemisphere in the following areas:

Trade Liberalization: As mentioned above, a core element in the negotiation of the FTAA will be the elimination of tariff and non-tariff measures. To conduct these negotiations much information is needed. However, within the region, no centralized source of information exists covering all of the countries of the Hemisphere, with respect to, inter alia, tariff and non-tariff measures, bound and applied tariff rates, and levels of common external tariffs in different customs unions. In these areas, much detailed information will have to be collected in a systematic manner in a very short period of time if the trade liberalization negotiations are to proceed on a sound basis. Unfortunately, most countries do not have sufficient resources to collect and analyze such quantities of information on an independent basis. A concern has also been expressed on the part of some countries about their ability to conduct a comprehensive analysis of the existing information without the benefit of expert technical assistance. To this end, and in accordance with the terms of reference provided by the Advisory Group, efforts will be made to adapt the OAS Foreign Trade Information Service (SICE) to be used as a negotiating resource (in addition to existing functions) by making available information on trade flows and trade policy related information.

Trade Facilitation: There are a number of areas where immediate action is possible and indeed where countries are proposing to start negotiating. Many of these agreements are designed to facilitate trade within the Hemisphere. Various countries have identified a number of areas in which Ministers may instruct further work be done when they meet in Denver on June 30, 1995. In certain specific cases, the establishment of working groups has been suggested as in the case of technical standards, sanitary and phyto-sanitary measures and customs procedures. Other proposals have been offered in respect to transparency of national regimes regarding subsidies and dumping, agricultural subsidies, rules of origin and certificates of origin. A number of proposals deal with implementation of WTO obligations by countries in the Hemisphere.

The Trade Section could be directed by Ministers to conduct research and analysis on the countries' laws, regulations and practices concerning those specific issues with a view to providing a comparative analysis that could be essential for the pursuit of negotiations. It should be pointed out that while some useful progress has been achieved at the sub-regional level (i.e., within Caricom) on the harmonization of customs procedures, there still exists a significant degree of diversity in this area within the Hemisphere as a whole. Under the OAS initiative, regional integration secretariats are planning to address the issue of differences in customs nomenclature.

Policy Issues: The Trade Section is also prepared to conduct comparative studies of various policy issues that have or might have a bearing on the negotiation of a FTAA. The Trade Section, for example, has agreed with the United Nations Conference on Trade and Development (UNCTAD) to build a Western Hemisphere data base on trade in services measures. Building upon existing facilities such as the SICE, the Trade Section could cooperate and provide technical assistance to the countries of the Hemisphere. An illustrative list of policy areas in which the Trade Section would propose to pursue studies, may include: investment, government procurement, services, intellectual property rights and trade remedies.

The Small and Less Developed Countries: Hemispheric integration will, of necessity, be complex when the wide disparity in size and per-capita income of the various economies is taken into account. In this context, the Trade Section will pay special attention to the needs of the small and less developed countries in order to work towards a strategy that minimizes their adjustment costs and identifies the implications of integrating economies of different sizes and levels of development.



Institutional cooperation will be essential to promote the trade initiatives undertaken by countries of the region. The OAS-IDB-ECLAC Tripartite Cooperation Mechanism could play an important supportive role as the countries in the Americas move toward free trade. The same can be said of the secretariats of the regional and subregional integration agreements. Indeed all available resources and capabilities in these institutions could be used to help in the construction of a more prosperous Hemisphere.

The Role of the IDB

In the recent Eighth Replenishment of Capital of the Inter-American Development Bank it was reiterated that the topic of regional integration is one of the key areas where the Bank should concentrate its support. To facilitate this mandate from governments, a new, reinforced Integration and Trade Division was created in September of 1994 as part of the Bank's Department of Integration and Regional Programs.

The Plan of Action of the Presidential Summit of the Americas instructed the Bank to provide technical support to the OAS's Special Committee on Trade(SCT) and its work related to the construction of a Free Trade Area of the Americas. To this end, the Bank's Division of Integration, Trade and Hemispheric Issues has prepared a report for the SCT comparing third party tariffs, preferential tariffs and rules of origin in all the free trade arrangements of the Hemisphere.

The Division of Integration plans to deepen the rules of origin and tariff study at the sectoral and country levels, as well as examine their effects on preferential liberalization and trade flows and their differential impact on firms according to size. It will also develop a delivery system to make the study's data base(66) publicly available through Internet to negotiators, other government officials and the private sector.

The Division is prepared to undertake other technical studies in support of the hemispheric process that may be requested by Ministers in their deliberation over a Free Trade Area of the Americas. This work would emerge out of coordination with the OAS and ECLAC through a Tripartite Committee that the three institutions already have in place, as well as a Steering Committee recently established between the OAS and the IDB in a new Cooperative Agreement signed on June 1, 1995.

The Division has other ways to support the hemispheric process. It is responsible for the programming of the Bank's financial support of subregional trade accords and thus Latin American and Caribbean members of such agreements can request regional technical cooperation projects that assist their groups' participation in the hemispheric or subregional processes.

The Institute for Latin American Integration (INTAL) in Buenos Aires is also part of the IDB's Division of Integration, Trade and Hemispheric Issues. INTAL has a data base on trade flows for all Latin American and Caribbean countries disaggregated to the 8-digit product level; the system is installed in government offices of twelve Latin American countries. The Bank is also scheduled to approve a new work program for INTAL which will allow it to finance regional technical cooperation projects in support of integration, as well as sponsor integration fora for the study and discussion of hemispheric and subregional issues by experts and policy makers.

The Role of ECLAC

In addition to the activities that it undertakes in the area of trade,--including monitoring and providing technical support in the areas of economic integration and cooperation among the countries of the region, and focusing on the design of policies and mechanisms to permit the continued expansion of the commercial linkages of Latin America and the Caribbean in the changing context of the world economy--, ECLAC has been collaborating with the OAS-IDB-ECLAC Cooperation Committee in matters of mutual interest.

While assuming the coordination of the Tripartite Cooperation Mechanism from July 1994 to December 1994, ECLAC, jointly with the OAS and the IDB, drafted the documents "Toward Free Trade in the Western Hemisphere"(September 15, 1994) and "The Fight against Poverty in the Hemisphere Agenda" (November 30,1994), with a view to contributing to the formulation of an hemispheric agenda in light of the Summit of the Americas.

During the current period of OAS coordination, ECLAC has continued to provide support to the OAS Special Committee on Trade. It also contributed a document entitled "Reflections on Ways to Approach the Topic of the Free Trade Area of the Americas"as a think piece to help clarify issues relevant to the process of

hemispheric trade liberalization.

ECLAC stands ready to continue working with the OAS-IDB-ECLAC Cooperation Committee and undertake the mandates that could emanate from the governments, in particular those of the Trade Ministers at the Denver Ministerial.

66. This data base is constructed at the 8-digit product level for all the countries in the Hemisphere.
