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TEXTO PARA DISCUSSÃO

N° 184

Compatibility with the Andean Community integration of some of its members' free trade agreement negotiations with the United States: some preliminary notes

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Novembro de 2007

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Compatibility with the Andean Community Integration of some of its members' free trade agreement negotiations with the United States: some preliminary notes

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November 2007

Ref.: *Paper* elaborado para o Monitor of Regional Integration da Rede Obreal – Observatório das Relações Europa-América Latina.

The free trade agreement (FTA) negotiations with the United States (US) made by some Andean Community (AC) members, are they compatible with the AC integration process? This brief addresses such a complex question merely from two angles, namely: (i) the extent to which some AC members decided to establish FTA negotiations with the US acting in accordance to AC foreign policy rules on trade negotiations with third countries; and (ii) the possible economic rationale of those negotiations taking into consideration the state of the AC integration agenda and of its trade and investment outcomes in particular.

Due to this brief's length constraints and time availability, not addressed here are other angles of the said compatibility question, such as for instance the extent to which the two AC members that have concluded such negotiations – Colombia and Peru – have made FTA commitments with the US that may play as either stumbling blocs or building blocs to deeper integration at the AC subregional level – a very important matter indeed, but a one implying a detailed and lengthy comparative examination of the main FTA provisions and of the AC rules on similar issues.

For the sake of avoiding misunderstandings, the reader deserves to be alerted from the very beginning about the approach taken here in order to express the views contained in this brief. It is a realistic approach, that opts for advancing the remarks on the Andean FTA negotiations with the US in the light of what the AC foreign policy and rules on trade negotiations do actually order or authorize (Section I, below), and in the light of a possible economic rationale bridging those negotiations with the state and foreseeable prospects of the AC integration agenda and particularly of its trade and investment outcomes (Section II).

The views on both counts have as a common denominator a realistic perception about to where the AC is seemingly heading on, as revealed by its deeds. Such perception also has to be made explicit in these introductory paragraphs, since the whole compatibility issue cannot be duly addressed without having clear enough the subregional integration goal being actually pursued by the AC member countries and giving a particular meaning to their revealed prospects for 'deeper integration' at the AC level.

The latter, broadly stated, means the achievement of the still in place AC goal of becoming a sub regional Common Market.[1] But, even though the AC remains as the subregional grouping in Latin America most inspired in the European model of integration, its failure in arriving to a Common External Tariff (CET) adopted by all of its members makes nowadays highly unlikely that the AC may achieve its Common Market goal in an 'orthodox' way – i.e. by completing first the Customs Union, which is the previous stage according to the EU model.

Under current circumstances, it seems more realistic to assume that the AC would rather pursue an 'hybrid' way consisting in implementing a sort of 'heterodox' Common Market, such as the one implicit in the US-inspired new model of integration emerged since NAFTA – proposing a 'full' free trade area, in goods and services trade and movement of capitals, yet without a Customs Union – while trying to keep its EU-

[1] Original goal of the Andean integration process since its inception in 1969, which was reaffirmed by the IX Andean Presidential Council –APC (Sucre, April 1997) as valid for its contemporary epoch.

inspired supranational institutions and ruling and judiciary mechanisms.[2] Thus, it is in the light of such likely 'hybrid' approach, giving a particular meaning to 'deeper integration' prospects in the AC, that views on the compatibility between it and the FTA negotiations with the US will be advanced throughout this brief.

I. Andean Foreign Policy and Rules on Trade Negotiations

The general rules on the AC relationships with third parties are contained in the 'Common Foreign Policy' (CFP) chapter III of the text in force of the Cartagena Agreement.[3] According to its Article 53, member countries are mandated to coordinate their joint negotiations with other integration processes or with third countries or group of countries. From which due note has to be taken that what it is mandatory is not that the said negotiations be all joint, but that those conducted jointly must be coordinated.

The accent placed in coordination at the 2003 text of the AC's supreme law – i.e. the Cartagena Agreement, can be interpreted as reflecting a conciliatory effort of keeping joint negotiations as a modality more desirable in principle, without obstructing the AC countries' tendency to converting them into a modality rather optional in practice, particularly in regard to trade negotiations. Actually, the first step in that direction had been made eleven years before the said text, when Decision 322 (August 1992) authorized bilateral trade negotiations with third countries or group of countries in the Latin American and Caribbean region.

The next – and decisive - step came with Decision 598 (July 2005), issued when the FTA negotiations with the US were already in place, and which authorizes bilateral trade negotiations with third countries in general. Given that such an authorization had been given implicitly in the aforementioned CFP chapter of the Cartagena Agreement, Decision 598 was issued with the explicit purpose of 'unifying in a single Decision' the AC rules on trade negotiations with third countries. It does so, however, introducing quite a number of key flexibilities on the matter. Specifically, the flexibilities refer to the allowed modalities of trade negotiation with any third country (Art. 1 and beginning of Art. 2), to the terms AC members involved in bilateral trade negotiations must comply with in order to preserve the AC integration (rest of Art. 2 and Arts. 3 to 5), and to the deepness and thematic coverage of the authorized trade negotiations (Art. 6).

Looking first at the latter, Decision 598's Art. 6 green light is for trade negotiations aimed at establishing free trade areas, and for they to include themes other than trade in goods. Thus, it authorizes the forming of 'full' free trade areas as the ones committed in the Colombia-US and Peru-US FTAs, thereby reflecting the movement towards a 'heterodox' Common Market that was assumed at the start of this brief. While it is true that the comprehensive coverage authorized in principle increases the risks of possible incompatibilities with the AC integration, it is also true that such a wide authorization increases the potential for positive externalities on the AC integration, by triggering an stimulus for updating some existing AC rules or for establishing them in subjects not yet subregionally ruled, in both cases with the possibility of adopting the best practices internationally available on each matter.

[2] For a previous elaboration on the matter, see: González Vigil, Fernando, "*Logros y Límites de la Integración Andina",* Papers of the Seminar "Perspectivas de la Integración en América Latina y el Caribe – Los 40 años del INTAL" (August 24th, 2005), published in a CD released with *Integración y Comercio* N° 24, January-February 2006, BID-INTAL, Buenos Aires.

[3] Text codified in Decision 563 (June 2003). In the AC, the term 'Decision' refers to a binding commitment forming part of the subregional legal body, issued by the Andean Council of Foreign Ministers or by the AC Commission (of Trade Ministers or other sector ministers) depending on the legislated matter.

In respect to the allowed modalities of trade negotiation with any third country, three are the key flexibilities. Two of them are in Decision 598's Art. 1, where the AC's traditional top priority to the community modality is reaffirmed but at the same time is extended to the joint modality by means of an 'or' conjunction that equates the second with the former, and then it is immediately added that AC countries can 'exceptionally' proceed individually. Then, the third flexibility is at the beginning of Art. 2, when AC countries are allowed to proceed bilaterally if the priority modalities were not possible 'for any reason' – an extremely elastic justification, indeed.

The equivalence established between community negotiations – i.e. as AC in strict terms, its member countries acting not as distinct entities but as a single entity – and joint negotiations – where member countries act as distinct entities and the outcome does not have to be a single agreement necessarily – can be interpreted as a concession to reality forced by the AC's lack of a complete Customs Union, and also as a way of aligning Decision 598 with the accent put in coordination by the CFP as stated in the Cartagena Agreement's Art. 53.

Not less important are the second and third flexibilities. Since concessions of market access – in goods and services- do always have some bilateral specifications – even in multilateral and regional or group trade negotiations,[4] the exceptionality allowance can easily apply to joint negotiations ending up in bilateral agreements due in part to differences in such concessions, as it has been the case with the US. Additionally, the 'for any reason' justification fits very well in regard to the US, because this country's long-standing preference to deal separately with the oil-plentiful Venezuela provided an exogenous reason -to the other AC members' will – explaining the exclusion of community trade negotiations with the US, and at the same time justifying their incursion not only into joint trade negotiations but also into bilateral trade negotiations with that country.[5]

It is time to look now at the terms AC members involved in bilateral trade negotiations must comply with, which are the following six according to Decision 598[6]: 1) To preserve the AC legal and judiciary system on relations among AC members [Art. 2 a)]; 2) To 'take into consideration' the trade sensibilities 'presented' by the other AC members, in the trade liberalization 'offers' [Art. 2 b)]; 3) To maintain an 'appropriate' exchange of information and consultations during the negotiations process, 'in a framework' of transparency and solidarity [Art. 2 c)]; 4) To promptly notify the AC Commission of the trade negotiations forthcoming 'or already initiated', and to keep it permanently informed all along them (Art. 3); 5) To notify the AC Commission of the negotiation results before signing the agreement, 'and these shall not be objected were fulfilled the prior consultations stipulated in the Cartagena Agreement's Art. 86 and in Art. 2 of this Decision' (Art. 4); and 6) To make effective the AC's most-favoured-nation principle, 'once concluded the negotiation' (Art. 5).

[4] An imaginary exception would be the case of a FTA negotiation between two perfect Customs Unions formed by countries having exactly the same reciprocal sensitiveness, which without doubt is a case very unlikely to happen.

[5] As well known, on November 2003 the US Executive branch announced through the USTR its intention of starting FTA negotiations with the four Andean countries –Bolivia, Colombia, Ecuador and Peru- beneficiaries of the US's Andean Trade Promotion and Drug Eradication Act –ATPDEA (August, 2002). Venezuela is not included in ATPDEA, nor was it neither in the previous US's Andean Trade Preferences Act –ATPA (1991), in spite of the pleas in favor of its inclusion made in both occasions by the other AC members. See the following study elaborated by this brief's author: BID-INTAL, *Informe Andino N°2: Desarrollos del Período 2002-2004,* Juan José Taccone y Uziel Nogueira (Eds.), March 2005, Buenos Aires.

[6] The ensuing translation to English of ours is reliable though obviously unofficial. Of this brief author's sole responsibility are also the for abbreviation purposes résumés of some articles' content, and particularly the inverted comas inserted in order to highlight the different flexibilities there conveyed. These qualifications are of course valid as well for all the other translations of AC texts in this brief, except for the different specific purposes our eventually following inverted comas may serve to.

It is clear that in those terms wording there are many flexibilities more or less subtly conveyed. To try going through each of them in detail would take too much of this brief's scarce space, and for our analytical purposes it makes more sense to stylize the terms by grouping them in two broad categories. On one side, the terms more directly referring to the preservation of the AC integration system – i.e. those above numbered 1), 6), and 2) in part. On the other side, the terms about coordination and related consultations and exchange of information matters – i.e. those above numbered 3), 4), 5), and 2) again in part. Given that a proper discussion of the former would imply a beyond of this brief's scope detailed examination of the relevant Colombia-US FTA and Peru-US FTA provisions plus their checking with the pertinent AC rules, what follows deals only with the second category of terms due to its close link with the coordination mandate of the Cartagena Agreement CFP's Art. 53.

In regard to the coordination-related category of terms, it must be underlined that Decision 598 extends to bilateral trade negotiations the coordination mandate meant for joint negotiations in Art. 53. In this way, it validates the bilateral modality of trade negotiation provided the AC countries using it fulfil the terms established in that Decision. On doing so, it relaxes (in its Art. 4) the compliance with the prior consultations and approval procedure settled in Art. 86 of the Cartagena Agreement, which have in mind the community modality of trade negotiations mainly[7], by placing alongside them the less exigent terms of its Art. 2. Evidently, Decision 598 does all that for the sake of preserving at least some level of subregional discipline, in the context of an imperfect and unstable Customs Union and of an unstoppable search for bilateral trade negotiations with third countries.

Judging by deeds, the conciliatory efforts expressed in the coordination-centred mandate of Art. 53 and its flexible enlargement through Decision 598 have paid off in the case of the FTA negotiations with the US. In fact, the three ATPDEA beneficiary countries that entered into such negotiations –Colombia, Ecuador and Peru- conducted them jointly from Round I (May 2004) until Round XIII (November 2005),[8] and during this period had among them up to XV Andean Coordination formal meetings plus numerous consultation communications at distance. Even Bolivia, the ATPDEA beneficiary that opted for being an Observer only, did participate in all the fifteen Andean Coordination meetings and it was invited to attend to all of the grapping-up Chief Negotiators sessions at the end of each one of the thirteen rounds, besides that it did attend to all of the different negotiating tables that it chose to do it so.

All along such process, therefore, the terms established in the pertinent articles [2b), 2c) and 3] of Decision 598 were effectively honoured in multiple occasions. Moreover, since all along the same process regular AC Commission sessions and other AC meetings took place, there were also many occasions for

[7] Art. 86 states that AC members are committed to do not alter the Common External Tariff duties unilaterally as well as to make the necessary consultations within the AC Commission 'before' assuming tariff commitments with third countries, and stipulates the procedure consisting in that the AC Commission 'shall pronounce itself, in the light of a AC General Secretariat's Proposal and through a Decision', on the said consultations and fixing the terms those tariff commitments must comply with.

[8] After Round XIII, negotiations with the US adopted a bilateral format, mainly due to some differences in market access sensitiveness. Peru and the US concluded their negotiations on December 7th, 2005 and for some pending agricultural issues on January 31st, 2006 and signed their FTA on April 12th, 2006 which was approved by the Peru's Congress on June 28th, 2006 and it is now on the eve of being ratified by the US Congress at the closing of this brief. On the other hand, Colombia and the US concluded their negotiations on February 27th, 2006 and signed their FTA on November 21st, 2006, which the Colombia's Congress approved in June 14th, 2007 but it does not have yet a certain schedule for its ratification by the US Congress. As for Ecuador, its bilateral negotiation was suspended by the US on May 16th, 2006, claiming that Ecuador's withdrawal of oil concessions to Occidental Petroleum Co was an act of expropriation.

consultations and information exchanges with Venezuela, the AC country non-party in the FTA negotiations with the US. Its political decision of leaving the AC, communicated on April 2006, cannot be substantiated with a basis on Decision 598 neither on the Cartagena Agreement's Art. 53. It did succeed, however, in generating a political crisis that prevented the adoption of a Decision on the FTA negotiations with the US concluded by Peru and by Colombia. Yet these, in the light of the aforementioned, 'shall not be objected' because fulfilled the coordination terms stipulated in Decision 598 (Art. 4).

From all the above it can be concluded that the bulk of the FTA negotiations with the US was a joint negotiation conducted in accordance to the AC foreign policy rules on trade negotiations with third countries stipulated in the Cartagena Agreement (Art. 53) and Decision 598, whose coordination mandate and related terms were fulfilled by the three negotiating ATPDEA beneficiaries –Colombia, Ecuador and Peru- both among them and regarding not only the observer player –Bolivia- but the AC member excluded by the US –Venezuela- as well. It can also be concluded that the bilateral final parts of such negotiations, and their insofar two outcomes –the Peru-US FTA and the Colombia-US FTA, are admitted by the exceptionality allowance in Decision 598's Art.1.

II. The AC Integration State and Prospects in the Early 2000s

This section's purpose is to approach the compatibility issue addressed in this brief from the angle of the AC integration reality – with its balance of achievements and limits- prevailing when the FTA negotiations with the US were prepared and engaged, in order to explore the extent to which that reality helps to understand the happening and different outcomes of those negotiations. Since the said AC reality has been already examined in detail at the studies quoted in footnotes 2 and 5, and their main findings cannot be summarized here due to this brief's length constraints, they are simply hinted generically in the following remarks rather focused in the aforementioned purpose.

By the early 2000s, the renewed AC integration process was already contributing, mainly through its two foremost trade mechanisms –the subregional free trade area and the CET, the phased out implementation of the former and the partial and imperfect adoption of the latter notwithstanding,[9] to a couple of key trade achievements. First, the diversification and industrialization of the AC members' exports, as expressed in the high proportion (60.6%) of manufactures in their intra-AC exports, against the traditional huge proportion (84.7%) of commodities in their extra-AC exports. Second, the 'platform effect' played by the AC's subregional market, serving to the building-up of scale and specialization economies for a competitive incursion into more exigent third markets[10]. But, on the other hand, the AC integration was at the same time

[9] The renewal of the Andean integration started with the 'open regionalism' approach adopted in the first Strategic Design approved by the APC in Galapagos (December 1989), and it was consolidated through the institutional reforms approved by the APC in Trujillo (March 1996). That Strategic Design included a detailed work program for implementing the Andean Free Trade Area –which was first completed by Bolivia, Colombia and Venezuela (September 1992) and soon after by Ecuador (January 1993)- as well for preparing the CET that the said four countries imperfectly adopted –i.e. plaguing it with many exceptions tailored to their individual needs- through Decision 370 (November 1994). Peru was self-excluded from both mechanisms from August 1992 until July 1997, when it was agreed (Decision 414) a long program for its gradual reincorporation to the subregional free trade area, which was completed on December 2005 –but it has not joined the CET.

[10] As expressed by a representative sample of export products which, at the same time that their intra-AC exports were growing between 1993 and 2002, their extra-AC exports arrived to represent 62% of their total exports in 2002 against only 12% in 1993. See: Secretaría General de la Comunidad Andina, *Evaluación de la Dimensión Económica del Proceso de Integración Andino: comercio, inversión y cooperación financiera*, April, 2004, Lima.

showing itself as a still too modest contributor to the pooling of the Foreign Direct Investment (FDI) needed[11] for sustained further progress on both welcomed trade performances.

Those three facts combined help to understand the possible economic rationale of the AC members search for new and closer links with developed countries such as the US, which by the early 2000s was the main destination market for Andean manufacture exports (buying a 28.7% of them) and that during the 1994-2002 period had also been the single-country main source of FDI inflows into the Andean subregion (accounting for 19% of them, while the EU was the regional main source with a 26.9% share). The ATPA tariff preferences had contributed to the former and its successor ATPDEA is doing it even better, but these preferences' inherent uncertainty – because given unilaterally and temporarily- makes them unsuitable for stimulating a significant investment wave. Additionally, if considered that the bulk of the US FDI existing in the AC subregion was in hydrocarbons, the needed investment wave had to be better balanced by sectors in order for it to produce an even more diversified Andean export basket, especially at the extra-AC export level.

According to such a possible economic rationale, therefore, something else than an inertial 'business as usual' was needed to project the Andean countries' trade and investments arrangements with developed countries such as the US up to superior levels, which would be more mutually beneficial not only to the countries involved but to the pro manufacturing role played by the AC subregional market as well. Something involving binding trade preferences plus reciprocal commitments on the wide range of factors affecting the climate for doing business that are carefully assessed by prospective investors in higher value-added or technology-intensive activities especially. Something, in short, like a comprehensive FTA as the bilateral ones that the US had showed itself inclined to set up with Latin American countries, with Mexico first and then, after the FTAA negotiations stagnated, with Chile and with Central American countries.[12]

At the same time, given that the AC subregional market was delivering a 'platform effect' of high qualitative significance, and that it was also a destination market for Andean manufacture exports of quantitative importance practically equal (28.5%) to the one of the US market, the same economic rationale implied that it would be non sense to pose the search for a FTA with the US as a looking forward to go without the AC integration. Clearly, in order to achieve the goal of powering the industrialization and diversification of the AC countries export basket, the 'something else task' had to be designed not in terms of a FTA with the US 'or' AC excluding choice, but rather in terms of an AC *and* FTA with the US integral strategy.

A diametrically opposed economic rationale – of the 'business as usual' led by the traditional rent-seeking strategy based on natural resource primary or low-manufactured exports plus import trading, is the one that ends up being consciously or unintentionally supported by those that dismiss the AC integration as economically insignificant, and also by many of those that do not see the need of having an FTA with the US. In fact, the said dismissal is often made on the grounds of the AC subregional market's small relative weight (9.6%) when measured in terms of Andean countries' total exports, a measuring ruse hiding the largely

[11] During 1994-2002, intra-AC FDI represented a mere 1.3% of the world FDI inflows received by the AC countries taken as a whole.
[12] The attraction of FDI, particularly to non-primary activities, is often mentioned as one of the overriding motives of the 'new regionalism', which has the US model of FTAs among its most advanced exponents. See, for instance: Devlin, Robert and Antoni Estevadeordal, *What's New in the New Regionalism in the Americas?,* Working Paper 6, IDB-INTAL, ITD-STA, May 2001, Buenos Aires.

dominant commodity composition of that total, which finds an accomplice in the ensuing claims for getting rid of the AC or for converting it into a political and social cooperation exercise. As for having an FTA with the US – or for the matter with any other developed country –, there is certainly no need for it if the idea is to continue selling them mostly commodities and receiving from them FDI mainly natural resource seeker.

Since the beneficiaries of such traditional rent-seeking strategy are very powerful in most Andean countries, the AC integration has always had hard times in its efforts to consolidate itself irreversibly. Conversely, the superior vision of the modern pro industrializing export strategy explains the AC birth, its renovation in the 1990s and its already mentioned trade successes insofar achieved in spite of the opposing forces. Even though the frictional interplay between those two different strategies has made the AC's road plenty of ups and downs, if it not were for its EU-inspired subregional institutions, strong yet realistic enough to device the flexibilities needed along the way, it is likely that the AC would not have been able of keeping alive its main integration tasks and bringing many of them to significant results, with the partial exception of the Customs Union – an exception only partial, because four AC members had since 1994 their CET, sure imperfect but useful for them as it will be seen below.

When having duly in mind the said two strategies frictional interplay, it is not impossible to understand the state of the AC integration agenda by the early 2000s, in the eve and onset of the FTA negotiations with the US. It is so that, on the internal side of the agenda, the AC was well heading on towards the full completion of its subregional free trade zone in goods (see footnote 9), was making considerable progress in some services trade issues as well as in some free factor movements and macroeconomic coordination matters, and it had also significant financial cooperation mechanisms through CAF – the Andean Development Corporation- and FLAR – the former Andean Reserve Fund, upgraded to a Latin American level.

But the AC was failing, once again, in delivering a CET adopted by all of its country members, and it was seriously considering to replace that pending task by a then still imprecisely called 'common tariff policy'.[13]

At the same time, on the external side of the agenda, the Andean countries have succeed in obtaining from the US the approval of ATPDEA (August 2002) renovating and widening the product coverage of the unilateral tariff preferences initially accorded through ATPA. In the South American front, Andean countries were completing the formation of their bi-subregional free trade area with MERCOSUR, and were also entering into the execution phase of the main arteries of physical integration planned under the framework of IIRSA – the South American Regional Infrastructure Initiative. Regarding the EU, the AC countries had succeed in getting from it the approval of a 'GSP Plus' program improving and renovating for a long period –ten years – the unilateral trade preferences coming from the 'GSP Drugs', had upgraded their cooperative arrangements with the signing of a Political Dialogue and Cooperation Agreement (December 2003), and were in the eve of initiating the joint assessment of their integration level that led to the negotiations of a AC-EU Association Agreement – including and FTA- which have already started at the closing of this brief.

[13] A five-members CET at 62% of the tariff-lines universe was agreed in Annex I of Decision 535 (October 2002), but its adoption was postponed up to in five consecutive times during the following three years, until Decision 620 (July 2005) brought about the 'common tariff policy' new exercise.

But only in the dealings with the EU was the AC acting as a group, and given the AC foreign policy and rules on trade negotiations examined above in Section I, it is likely that in this particular case the AC was acting as a group very much because the EU put it as a condition.

It seems, therefore, that supporters of each of the two strategies coincidently felt that their respective chances of prevailing at the subregional level crucially depended on the fate of the AC Customs Union project, taking into consideration the potentially irreversible effect that the completion of such integration stage would have in the consolidation and next steps of the whole sub regional integration process. In the meantime, however, a US-led integration model – less exigent than the EU one and free from Customs Union requirements – had started to spread across the Americas – from its first concretion in NAFTA to the Chile-US FTA and the by then ongoing CAFTA negotiations. Even less exigent appeared as likely the sort of FTAs that would prefer to sign some of the major East Asian economies, at that time starting to show readiness to joint the preferential trade agreements wave. As for the EU, it had already shown itself disposed to accept important flexibilities in its FTAs not only with Central European and Mediterranean countries, but with Latin American countries – Mexico and Chile – as well.

Under such circumstances, it seems reasonable enough that the AC subregional institutions, acting congruently with their duty of preserving the AC integration, had started to implement the measures deemed necessary to avoid deadlocks and to make viable the moving ahead of the AC integration, in order to allow for its important manufacturer export achievements to continue expanding. Under the same circumstances, a requisite for growing manufacture export prospects was becoming the signing of FTAs with developed countries having the largest markets and/or being the major sources of FDI flows, with further reason if those countries FTAs with other Latin American countries entailed negative consequences in terms of trade and investment deviations against the Andean subregion.

Under all these circumstances, therefore, it is understandable the flexibilities introduced in the AC foreign policy and rules on trade negotiations examined in Section I. It is also understandable that, since the last months of 2003, the AC General Secretariat had started to formulate a new strategic design of an Andean integration for development and globalization, less focused in tariff matters at times that these are seemingly loosing importance by comparison with other trade policy instruments, and more involved in behind-the-border and competitiveness tasks.[14] This new strategic design, approved by the XV CPA (Quito, July 2004), together with Chapter III of the Cartagena Agreement – and its derived Decision 598- and with the Decision 620's launching of the 'common tariff policy' process, are the clearest signs of the AC flexible avoiding of being stuck in the CET fight by realistically taking an 'hybrid way' towards its deeper integration through the implementation of its own version of an 'heterodox' Common Market.

Thus, from all the above it can be interpreted that the some AC members' search for FTA negotiations with the US was compatible with the current realities of the AC integration, as manifested in the state of its agenda and real prospects for deeper integration in the foreseeable future. More specifically, there is

[14] As explained by Allan Wagner Tizon, who was the AC Secretary General at that time, in *Integración para el Desarrollo y la Globalización: Hacia un Nuevo Diseño Estratégico de la Integración Andina,* February 2004, Secretaría General de la Comunidad Andina, Lima.

compatibility with the modern, pro industrializing export diversification strategy the AC represents and the need of propelling its manufactures trade achievements with the help of comprehensive binding commitments with major developed countries such as the US, aimed at ensuring an advantageous access of Andean manufactures to their large markets and at getting from them a more diversified pattern of FDI inflows. And there is compatibility also with the AC's need of assimilating some elements of the 'heterodox' integration model promoted by the US, in order to be able of doing further progress in the deepening of its free trade area beyond goods and in the updating of its rules on different common market areas, without risking of succumbing in the quest for an 'orthodox' Customs Union.

As for the differences among the ATPDEA beneficiaries in the ways they dealt with the FTA negotiations with the US, these can be explained in part by the differences among them in the extent that each one had been able of taking advantage of the AC's two most significant manufactures trade achievements –which were mentioned at the beginning of this Section. The latter differences reflect in turn their unequal national capabilities in trade policy and business matters as expressed, at the subregional level, in their unequal policies regarding the AC's core trade mechanisms –the free trade zone and the CET- and their also unequal business skills to profit from the opportunities open by the AC's two core trade mechanisms. Since the said differences are already examined in detail at the IDB-INTAL document before quoted (see footnote 5 below) and at its Chapter V in particular, the following paragraph's very compact synthesis will suffice for the purposes of this brief.

It is so that, among the four ATPDEA beneficiaries, the three – Bolivia, Colombia and Ecuador- that promptly adopted both of the AC's core mechanisms of trade integration (see footnote 9 below) took better benefit from the AC's main manufactures trade achievements. Colombia above all, which had become the leading exporter of manufactures to the AC and rest of the world markets, the main recipient of the manufacturing FDI inflows from the world to the sub region, the leading player in intra-AC FDI both as an investor and as a recipient, and the main beneficiary of the AC market's 'platform effect'. About Bolivia and Ecuador, an important qualification being that part of their good reaping was explained by the AC's asymmetries acknowledging preferential treatment to them, which in the case of Bolivia included the accordance by its AC partners of the highest level of protection to its intra-AC exports through agriculture price bands. As for Peru, by reasons of its own fault –i.e. its absurd self-exclusion from the AC's two core trade mechanisms during 1992-1997 and its intriguing permanent exclusion from the CET, this country did benefit from the AC manufacturing opportunities poorly when compared to what it might have been expected in view of its economic size and past performances in the subregion.

Thus, given that in the FTA negotiations the US did not accept to accord a preferential treatment as a general regime founded in overall asymmetries, and it also did not accept the functioning of price bands in its agriculture trade with the ATPDEA beneficiaries convoked to such negotiations, it is not difficult to understand the economic reasons why Bolivia may have opted for limiting its participation to an Observer status only, and why Ecuador may have preferred to leave unfinished the bilateral phase of its trade negotiations with the US.

On the other hand, in the light of the AC *and* FTA with the US logic inherent to the modern economic rationale presented in this Section, it can be understood why Peru may have felt that it had less to lose in the AC front where anyway it was having comparatively poor results due to its strange trade policy choices. In addition, Peru is the AC country having the more liberal investment and services regimes, which made for it less problematic to negotiate with the US on those matters. All of which may explain why the Peru-US FTA negotiations were the smoothest and concluded first.

Finally, in the light of the same AC *and* FTA with the US logic can also be understood why Colombia may have felt that it would be the big winner from that FTA's potential stimulus to exports and FDI in manufactures, but that it was taking risks higher – than Peru's – due to its strong presence in the AC market for manufactures. At the same time, Colombia was not as open as Peru in some important service sectors and regarding non-tariff and investment measures. On top of it, between Colombia and the US there was more agriculture trade sensitiveness. All of which helps to understand why the Colombia-US FTA negotiations were more difficult and took longer to conclude.

Closing Remarks

This brief has addressed the compatibility question expressed in its title from two angles only. Namely, the extent to which some AC members decided to establish FTA negotiations with the US acting in accordance to AC foreign policy rules on trade negotiations with third countries, and the possible economic rationale of those negotiations, taking into consideration the state of the AC integration agenda – of its trade and investment outcomes, in particular – and the real prospects for deeper integration in the foreseeable future.

The analysis made from the first angle in Section I has led to conclude that the bulk of the FTA negotiations with the US was a joint negotiation conducted in accordance to the AC foreign policy rules on trade negotiations with third countries, and that the bilateral final parts of such negotiations –and their insofar two outcomes: the Peru-US FTA and the Colombia-US FTA- are also admitted by the said AC rules.

The analysis made from the second angle in Section II has led to conclude that some AC members' search for FTA negotiations with the US was compatible with the realities of the AC integration, as manifested in the state of its agenda and real prospects for deeper integration in the foreseeable future.

More specifically, there is compatibility with the modern, pro industrializing export diversification strategy the AC represents and the need of propelling its manufactures trade achievements with the help of comprehensive binding commitments with major developed countries such as the US, aimed at ensuring an advantageous access of Andean manufactures to their large markets and at getting from countries as the US a pattern of FDI inflows more diversified by sectors. There is compatibility also with the AC's need of assimilating some elements of the 'heterodox' integration model promoted by the US, in order to be able of doing further progress in the deepening of its free trade area beyond goods and in the updating of its rules on different common market areas, without risking of succumbing in the quest for an 'orthodox' Customs Union.

Even though such conclusions are duly substantiated, they should be taken as provisional pending a more complete compatibility assessment. Other important angles remain to be addressed in further works, such as for instance the extent to which there are commitments in the Colombia-US FTA and/or in the Peru-US FTA that may play as either stumbling blocs or building blocs to deeper integration at the AC subregional level.

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