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## THE FACILITATION OF TRADE IN SOME INTEGRATION AGREEMENTS IN THE AMERICAS

This article reviews the main progress observed as regards facilitation of trade in the North American Free Trade Agreement (NAFTA), the Andean Community (CAN), the Central American Common Market (CACM) and the Caribbean Community (CARICOM). The article does not refer to the Southern Common Market (Mercosur) or the Free Trade Area of the Americas (FTAA), these integration agreements being dealt with in FAL Bulletins Nos. [171](#) and [175](#), respectively. For further information or to make comments, please contact the author of this article: Mr Miguel Izam [mizam@eclac.cl](mailto:mizam@eclac.cl), a staff member of the International Trade Unit of ECLAC.

### A. SUMMARY AND CONCLUSIONS

The various agreements examined differ markedly in terms of both the number of years that they have been in place and in their effectiveness. That notwithstanding, it is evident that none of the agreements makes a sufficiently clear and explicit reference to the concept of facilitation of trade in its rules or in its institutional or organic structure. However, in all of the integration schemes reviewed, advances are being made, albeit at vastly different rates, comparatively speaking, in a number of areas related to facilitation of trade in the broad sense, with a particular focus on customs-related matters.

In any event, it needs to be emphasized that all the developments seen up till today in relation to the integration agreements reviewed here are open to further improvement, particularly if we take into account the vigorous demands spurred by the operation of the global economy and the exciting prospects ushered in by new information technologies. While this is valid in a general sense, it is especially so when it comes to customs procedures. In any case, it is important to add that strengthening these developments does not imply downplaying the need to systematically and comprehensively tackle the issue of facilitation of trade in and of itself, not only in each of the bodies examined, but also at the national level in the member

countries.

## **B. THE FACILITATION OF TRADE IN THE NORTH AMERICAN FREE TRADE AGREEMENT**

### 1. Key features of the North American Free Trade Agreement

NAFTA entered into force in 1994, at the conclusion of trade talks conducted over nearly three years between Canada, the United States and Mexico. Its main tenets include national treatment, most favoured nation (MFN) and transparency. The primary aims of the free trade area are to eliminate tariff and non-tariff barriers to mutual trade, a process that is expected to be completed by 2003 for merchandise trade, and to facilitate cross-border movements in goods and services within the territory of the member countries.

### 2. Main developments as regards the facilitation of trade in the North American Free Trade Agreement

The facilitation of trade as a concept in its own right was not dealt with in NAFTA itself or in later internal negotiations. Notwithstanding the above, Chapter V of the Agreement refers to the need to strengthen customs procedures in order to facilitate trade flows to the greatest possible extent. Moreover, it stipulates that national customs administrations will continue to exist as independent bodies and that entry of goods to any of the three members must comply with the laws and regulations of the importing country. In any event, it is a requirement that all movements of goods between member States be subject to inspection. For that reason, NAFTA has produced a Guide to Customs Procedures, which furnishes detailed information, in particular on the country of origin of goods traded and the customs administrations of each of the member countries. This document complements the NAFTA Customs Procedures Manual, which is intended to simplify the work of importers and exporters by providing them with information on entry procedures for products and any subsequent formalities that are required. In addition, a customs subgroup meets four times a year to deal with matters that periodically take on urgency in this area.

At the same time, attention should be drawn to a series of cooperation initiatives being conducted jointly by the respective customs administrations, in a spirit of putting into practice this integration agreement, in which the issue of customs procedures has been taking on growing importance. In point of fact, the need to draw up provisions on customs procedures in NAFTA was discussed in 2000. In this context, there is a definite move for the work programme to incorporate the issue of cross-border facilitation, involving stepped-up efforts to identify places where cross-border movement of goods can be improved and review existing arrangements for the temporary movement of professionals between member countries. The issues relating to customs procedures that have been discussed the most have to do with the need to simplify the information required for a commercial transaction, while at the same time

providing customs with a minimum of information necessary to determine whether the merchandise can be imported, and to know with certainty when a boat must be inspected. Other topics discussed centre on the prospects for generating suitable conditions for successfully setting up a more efficient payment system, to be used not only by large importing firms but more particularly by smaller importers.

Lastly, in the electronic information arena, it is important to note that an initiative entitled “North American Trade Automation Prototype” (NATAP), concerning the carriage of goods between NAFTA trade partners, is currently in its trial phase; the scheme involves the use of a trilaterally agreed-upon set of standardized data elements. In a similar vein, the NAFTA trade partners have set about studying alternative methods of simplifying formalities for urgent shipments, with a view to examining the possibility of harmonizing the different sets of regulations in force in the member countries in this regard.

## **C. THE FACILITATION OF TRADE IN THE ANDEAN COMMUNITY**

### 1. Key features of the Andean Community

The Andean Community was founded in 1997, and the current member States are Bolivia, Colombia, Ecuador, Peru and Venezuela. CAN superseded the Andean Group, which came into existence with the signing of the Cartagena Agreement in 1969. Since its inception, the Andean Group had sought to make rapid progress towards setting up a customs union. Broadly speaking, some headway was made in terms of specific economic and political measures. The results, however, have not lived up to expectations; in spite of this, a customs union was successfully created in 1995, though it has not been without its problems.

### 2. Main developments as regards the facilitation of trade in the Andean Community

The facilitation of trade as a stand-alone issue has not been addressed in negotiations conducted by the Andean Community. In spite of that, this integration scheme has made significant strides as regards rules relating to the facilitation of trade in a general sense; there is still scope for improvement, and a number of countries are still experiencing problems with implementation in certain cases. This has occurred mainly with regard to questions concerning origin, technical standards, integration and border development, telecommunications, air and sea transport, and carriage of passengers and freight by road. There has also been a major drive to make free movement of people a reality. In the business sphere, an official catalogue has been produced which provides excellent guidance on trade and investment within the territory of the Andean Community. Advances in e-commerce have been limited, well short of those achieved in the customs sphere.

Aside from the Council for Customs Matters, the main instruments dealing with customs procedures in CAN are the follows:

a) Nandina (Common Nomenclature). Updated in 2001, Nandina is used to describe, classify and codify goods traded internationally. Nandina is based on the Harmonized Commodity Description and Coding System, administered by the World Customs Organization, whose third version will take effect in the Andean market in 2002. The Nomenclature also takes into account the Multilateral Convention on Mutual Cooperation and Assistance between the National Customs Departments of Latin America, Spain, and Portugal, which was signed in Mexico in 2000.

b) Customs valuation. This was updated in accordance with the rules of the World Trade Organization in 1995. It constitutes a common set of rules which provides countries with the same dutiable base for the imposition of customs duties on goods entering a customs territory, in order to avoid distortions and divergence of trade flows. This code was complemented by the Andean Declaration of Value of 1995, aimed at harmonizing the documentation required to prove the customs value of an item, in compliance with the provisions specified in Article VII of the General Agreement on Tariffs and Trade (GATT) of 1994.

c) Customs transit. This provision was established in 1992 in order to facilitate international trade transactions and ensure the free circulation of merchandise. It sets out customs recommendations in relation to the exit, transit, and destination of goods. The procedure has recently been adapted to cover new methods of transport, including multimodal transport, and rules have been laid down concerning procedures to be followed when goods circulate in two or more countries that belong to the Andean Community.

d) Prevention of, and the fight against, illegal customs activity. In 2000, the instrument was adopted which is known as Mutual Assistance and Cooperation among the Customs Administrations of the Andean Community Member Countries. The aim is to combine efforts to prevent and fight against illegal customs activity, including smuggling. Cooperation entails both the sharing of information in order to enforce precautionary measures in respect of goods or other suspect assets, and the development of programmes for training and exchange of experts. In 2001, this instrument was complemented by the Andean Cooperation Plan for the Control of Illegal Drugs and Related Offenses, which sets out principles, objectives, mechanisms and a programme of action.

It is also important to acknowledge the European Union's contribution to the Andean Community in the area of the facilitation of customs procedures. This cooperation was instrumental in the setting-up in Lima of the office administering the Granadúa Project, which envisages the conduct over three years of programmes to support activities undertaken by CAN countries to simplify, standardize and link up customs operations. Lastly, it is important to note that the Plan of Action of the Cooperation Understanding on Trade and Investment between the Andean Community and Canada, signed in 1999, states that identifying opportunities for technical support in the customs sphere will lead to increased trade ties between the two parties.

## D. THE FACILITATION OF TRADE IN THE CENTRAL AMERICAN COMMON MARKET

### 1. Key features of the Central American Common Market

CACM was founded in 1960 by Guatemala, El Salvador, Honduras and Nicaragua, with the aim of integrating member countries' economies and jointly promoting development in Central America. Costa Rica subsequently joined, though it takes virtually no part in the customs union. In line with the original objectives, the contracting parties agreed to establish a common market within five years. To that end, the parties pledged to set up a customs union among their countries, through the adoption of a common Central American external tariff, and to institute a Central American free trade area. However, up until now, the results hoped for have failed to materialize.

### 2. Main developments as regards the facilitation of trade in the Central American Common Market

The work programme of the CACM still makes no explicit reference to the issue of facilitation of trade, though the common market sets out a number of regulations that deal with the facilitation of trade in a broad sense. However, this set of rules is not necessarily applied by all States members of this integration agreement. The areas where most progress has been made are as follows: origin; technical standardization, metrology, and authorization procedures; sanitary and phytosanitary measures, together with how they are applied; information technologies; and rail, air, sea and road transport, which has received the greatest attention, particularly as regards regulation of passengers and cargo.

Moreover, the countries of Central America have special regulations concerning customs administration procedures. The most important of these relate to the following areas:

a) Common customs code. This instrument has been in place virtually since the inception of the CACM, and was most recently amended in September 2000, with the aim of creating a more modern legal instrument better suited to the current requirements of the new international trading environment. The Central American tariff regime operates in accordance with the third version of the Harmonized Commodity Description and Coding System, in particular, as per the sole version in Spanish.

b) Regulations concerning the international customs transit regime, declaration form and instructions. Designed primarily to expedite the transit of goods in the CACM, this set of regulations contains provisions concerning international transit operations conducted overland, applicable to goods originating in or from member countries, as well as third countries, provided that the operation originates on common territory and meets specified conditions.

c) Legislation on the value of goods. The CACM member countries pledged to implement the provisions of Article VII of GATT of 1994 (Customs Valuation Code). In point of fact,

this regulation has still not been implemented in all the CACM member countries, and where it is in force, national laws adopt very different approaches in relation to provisional and firm bookings, minimum values and requests for extensions. Therefore, as things stand, these criteria differ from one CACM member country to the next, and are also at variance with international regulations.

d) Integrated customs. Integrated customs controls began to be put in place in 2001; to date, two juxtaposed customs services have been set up between El Salvador and Honduras (at the Amatillo and Poy border posts), while a further three are in operation between Guatemala and El Salvador (Pedro de Alvarado, Chinamas and Hachadura). In addition, four peripheral juxtaposed customs services are already in place, three in El Salvador (Puerto Cortés, Puerto Santo Tomás de Castilla and Puerto Barrios) and one in Guatemala (Puerto Quetzal). Apart from these, a number of customs facilities are being built and are set to begin operating. Both the integrated and the peripheral customs services contribute to the tasks of raising tax revenues and goods inspection; this is due especially to major achievements as regards mutual recognition of health inspection records relating to goods manufactured in the CACM. Headway has also been made on introducing greater automation in the functioning of customs and on standardizing customs procedures employed by the various member countries.

Lastly, it should be mentioned that CACM countries still need to do more as regards the present-day implementation of customs modernization programmes, including the linked border clearance system, and initiatives involving analysis and design of IT solutions. In any case, most of the actions implemented by the CACM member countries have received assistance from a variety of international organizations, most notably the European Union. At the internal level, working groups have been set up to examine customs legislation, customs procedures, tariffs, and records.

## **E. THE FACILITATION OF TRADE IN THE CARIBBEAN COMMUNITY**

### 1. Key features of the Caribbean Community

Caricom was founded in 1973 and is comprised of 15 members.<sup>[1]</sup> Caricom replaced the Caribbean Free Trade Association (Carifta), formed in 1968. The goals of Caricom are to set up a common market and to coordinate economic policies vis-à-vis third countries. In fact, in recent years, the Community has stepped up negotiations with third countries, to the point where a range of agreements are now in effect. Nevertheless, the common external tariff is still not fully operational.

### 2. Main developments as regards the facilitation of trade in the Caribbean Community

The internal negotiations of Caricom make no mention of the facilitation of trade, though the

issue is referred to, albeit in a minor and almost indirect way, in the text of the current reform of the provision concerning harmonization of technical regulations and quality standards in the region. Similarly, a discernible degree of progress has been made by this integration scheme with respect to other regulations dealing with the broad concept of facilitation of trade. This has been the case primarily in regard to the issues of origin, double taxation agreements, telecommunications, infrastructure, and air and sea transport. However, there is still some scope for improvement.

The main regulations in place as regards customs matters are as follows:

a) Freedom of transit. This instrument, in existence since the inception of Caricom, states that goods imported or exported between member countries will be able to circulate freely in the common market and that such goods will only incur charges in respect of services used.

b) Cooperation between customs administrations. This provision, also in force since Caricom was set up, provides for member countries to take appropriate measures, including cooperation among administrations, to ensure harmonized compliance of a range of related regulations, chiefly those dealing with origin, customs duties, export drawbacks, and internal taxes. The aim is to reduce formalities as far as possible and to come up with mutually satisfactory solutions in the event of disputes.

c) Establishment. This principle has been a feature of Caricom since its inception. It relates to the granting of national treatment and conditions of entry, residence, professional activity and departure to people from any member State, especially where commercial transactions are concerned.

d) Provision of services. In place since the outset, this provision emphasizes national treatment as regards paid services for manufacturing, commercial and professional activities.

e) Movement of capital. In this regard, it has been agreed to study methods and mechanisms for the introduction of a scheme to regulate the internal movement of capital within the common market. Preliminary work has recently been undertaken with a view to advancing towards integration of the financial sector.

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[1] Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Bahamas, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Saint Lucia, Suriname (Feb. 1996), Trinidad and Tobago, and the dependent territory of Montserrat. Neither the Bahamas nor Haiti are full members of the Common Market.