

Final Report

- Project:** Negotiating Trade in Services: Implications for the Andean Community
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NEGOTIATING TRADE IN SERVICES: IMPLICATIONS FOR THE ANDEAN COMMUNITY

1) Abstract of the Project

The project was implemented by the Latin American Trade Network (LATN), a network of scholars working on trade, negotiations and development. LATN is directed by Dr. Diana Tussie and its coordination unit is hosted by FLACSO-Argentina. It has been created in 1998 and is financed mainly by the International Development Research Centre (IDRC) of Canada.

Being an engine for the so called “new economy”, trade in services has become a central target for liberalization pressures on developing countries both at the hemispheric (FTAA) and the multilateral (WTO) levels. In handling negotiations, developing countries exhibit two weak flanks. The first is the scarcity of high quality reports on the technical aspects of the negotiations. The second is the lack of studies focusing on the connection and implications of liberalizing trade on services at multiple levels. Underlying these weaknesses are the feeble interactions among scholars and policy circles necessary to focus research and produce evidence-driven policy advice.

The Andean region was identified for this project because of its uniqueness – while other countries have retained national discretion to implement policies, the Andean Community of Nations (ACN) has opted for a supreme body to govern over the four countries of the region. As a by-product, this project was intended to identify the tools needed to better bridge the gap of researchers, negotiators and policy makers in terms of generating policy-relevant knowledge on international trade in services.

According to the project, two research papers were to be commissioned and a meeting including negotiators and researchers had to be convened. A standing characteristic of the research endeavor was the methodology used to fine-tune and focus research (i.e., write shops) in order to make the research closer and relevant to policy needs. Research outputs were to be included in the LATN web site and research findings presented at the LATN Annual Meeting.

The approved budget for this project by PGTF was U\$S 20,000.

2) Results

The results largely exceeded original expectations both in terms of substantive results and policy impact. The papers were commanded and elaborated (following the write-shops methodology as explained in the project); the meetings between researchers and policy makers were carried out ; the presentation of findings at the LATN Plenary meetings was accomplished; the papers are already posted on the web; and, electronic distribution has been fulfilled. In addition, the impact of the papers, if measured by the number of requests, has been larger than expected. Below is a more detailed account of the results of this project.

2 a)*Research findings*

Following the project, two papers were commissioned: “International Trade in Professional Services and the Integration of the Andean Countries” and “Trade Services Negotiations and Investments: Evaluation, Scenarios and Proposals for the Andean Community of Nations”. Both papers were written in Spanish in order to widen its audience and impact among stakeholders and beneficiaries.

The paper “**International Trade in Professional Services and the Integration of the Andean Countries**” was elaborated by Jaime Andrés Niño, who is a recognized economist from the Universidad de los Andes, Colombia. Niño holds a Master in Public Policy from the University of Michigan (1998) and a PhD in Political Economy from the London School of Economics and Political Science (2003). See Annex 2 for a detailed Dr. Niño’s Curriculum Vitae.

The paper had a twofold aim. First, to analyze the professional service market in order to establish its structure and growth’s determinants, including the role and state of art of its regulatory framework. Second, it aimed at highlighting the steps accomplished thorough trade agreements to augment that market and alternatives open to the Andean countries to strengthen and expand it. .

The paper first pointed out the important role that professional services play in terms of development. Professional services account for around 14% of the GDP in developed countries and around 9% of employment. In developing countries, professional services, although they represent less than 4% of GDP, they have extraordinarily been growing in the last decade. Professional services markets and consultancy services are important not only to disseminate knowledge and build up links between the scientific knowledge and the productive process but to promote productive specialization. Also, the development of the professional services market as a consequence of outsourcing has an important impact on the use and development of information technologies. In this sense, the possibility of image and audio digitalization has made possible for the provider and consumer to be in different physical spaces. In addition, the significant reduction of the cost of sending information allows professional providers from isolated or distant countries to overcome geographical barriers.

In sum, technological changes are allowing developing countries to provide professional services to world market. This phenomenon contrasts with the old idea that professional services markets were a by-product of the industrialization process. Countries such as India and Bangladesh in Asia and Mauritius in Africa or Barbados in the Caribbean and many companies’ stories (design, legal consultancy) show that countries are facing a very distinct situation from the one perceived two decades ago.

In this scenario, one of the main political problems to be resolved is that increasing integration of developing countries to the world market of professional services is generating tensions in relations with developed countries. In effect, developed countries fear that this integration will erode domestic employment and salaries. This is why it is so difficult to remove access barriers in developed countries and, in the same vein, why trade negotiations are so important as mechanisms to block the introduction of new restrictive regulations.

The paper also proceeds to examine the Andean integration into the world market of professional services. It remarks that the first step should be to integrate the Andean countries themselves, in order for professional activities and consultancy services to reach economies of scale. This will lead to more specialization and sophistication in the provision of services and will turn the negotiation of agreements more attractive to other countries

After presenting empirical evidence on the link between adequate communication infrastructure (low cost of information transmission in particular) with a competitive supply of professional services, the paper highlights –using an econometric model- that Andean countries are at disadvantage in regards to countries such as India and other South Asian countries (see graph 2 in the paper). Also, the paper signals other variables that have an impact on trade in professional services such as language (English being an advantage), the general level of education of the country, salaries, and the level of foreign direct investment. In fact, salaries are higher in the Andean countries if compared to Asian's and the level of education and internet penetration is lower. What it still more decisive, the telecommunication infrastructure -in terms of population access to speed internet lines- is also lower in the Andean countries. Finally, the rate of both public and private investment in the telecommunication area is also low.

Another variable analyzed is the regulation of professional activities, in terms both of norms around professional practice and norms regulating the provision of a professional service thorough price control, income level controls and publicity requirements. While in developed countries professional associations have been highly successful in regulating its market, in developing countries the State had to intervene more. It is noteworthy that the controversial issue is not the intervention of the State but the fact that instruments tend to be badly applied. In effect, most of the times governments have confused regulatory instruments (instruments to guarantee quality with those aimed at limiting competition). For instance, norms on standards and licenses may provide incentives to upgrade, but at the same time they serve to limit competition.

Among the findings of the paper in respect to the Andean countries is the assessment of the main weaknesses of Andean Decisions 439 and 510 (norms regulating trade on professional services for the Andean Community). According to the paper, they should include more comprehensive norms and rules on investment and migration than they currently do. Also, the paper notes the poor progress achieved in terms of mutual recognition of diplomas and professional licenses. Furthermore, it highlights that there are not common disciplines on competition, which have proved fundamental to limit the power of professional associations to impose practices that may restrict trade and competition.

Finally, the paper shows that public policies have been disorganized. For instance, nationality requirements, residence and diploma recognition included today in some national legislation corps are very exceptional. In practice, such particularistic legislative approach, that regulate some but not many, living aside those professions characterized by grave problems of information asymmetries or higher negative externalities, results so particularistic that it is not enforced.

The paper finally remarks that the main threats to the integration process of professional services in the Andean region are requirements of nationality and residence. These are

the rule in the region rather than the exception and it is due to the weakness of the professional associations to regulate its activities. Therefore, the paper recommends that the first task of the Andean countries should be to review the merits of a myriad of dispersed regulations that have been either drafted or set up, with the aim of eliminating nationality requirements. In the same vein, the mutual recognition of licenses can be furthered through an “inverse” mode (as compared with current policy): by establishing that professions and professional associations that have no plausible arguments to deny recognition, must immediately proceed to recognize. And finally, in cases where special knowledge is required, the countries should establish the procedures to obtain the permit to work as transparently as possible.

In respect to the paper **“Trade Services Negotiations and Investments: Evaluation, Scenarios and Proposals for the Andean Community of Nations”**, its elaboration was the responsibility of Mario Marconini, former Director of the Centro Brasileiro de Relaciones Internacionales (CEBRI) in Brazil. Marconini holds a Masters in Economics from the Institute of Hautes Etudes, Geneva and a Masters on International Law from the Fletcher School of Law and Diplomacy, Harvard/Tufts

This research initiative was carried out on a step by step basis with the final objective of assessing concessions offered in the services and investment area by the Andean Community of Nations in different negotiation fora. First, a table was made including the concessions offered. To do so, concessions were classified by country, by sector and sub sector and by kind of concession. Then, a column was added in order to highlight inconsistencies among them. The final step of the research work consisted in proposing particular solutions to the inconsistencies within countries and establish the degree of convergence and divergence between the offers presented by the ACN in different fora

In particular, the first part of the table included, any measure at the sector and sub sector level committed by country. There is a column for commitments at the Uruguay Round, another for the intra Andean Lists, still another for offers made in the context of the Doha Round at the WTO and finally offers submitted in the Negotiating Groups of the Free Trade Agreement of the Americas.

The second part was to compare individual offers among the Andean countries by sector, sub sector and negotiating forum. Also, to point out convergence’s and divergences across negotiation forum.

The document that resulted from this research proved to be strategic for negotiators and policy makers. In effect, this important information gathering, classification and analysis allows them to have, in a very friendly format, information that is usually dispersed. It then facilitates the drafting of negotiation proposals since it permits to compare concessions and also correct them when divergences between positions arise.

The findings of this paper since specific to every type and kind of item that is being negotiated. We include some in order to illustrate the relevance of the work accomplished.

In the area of communication services, postal services in particular, the researcher found that Bolivia has reserved conventional postal service to the state postal company (Ecobol). The researcher recommended that this reservation should be listed in Bolivia’s

FTAA-investment's list. This is a key recommendation since in the FTAA the negotiation proceeds through negative lists, meaning that if something is not listed, then is subject to liberalization (no restriction to direct foreign investment applies). Also, an important inconsistency was found in the case of environmental services in Bolivia, where the offer made at the FTAA negotiation is wider than the one done in the framework of the Andean Community of Nations. Furthermore, in the case of financial services, banking services in particular, and also for Bolivia, the FTAA-Investment list is more comprehensive than Doha's and so all measures listed for the FTAA should be included in the Doha's not only for transparency issues but for consolidation purposes.

In the case of Colombia, findings were as interesting and useful. For instance, in the section on horizontal commitments, the research work brought about that in FTAA – Services, Colombia tried to combine the Andean regulations with the WTO. However, there are gaps left: what is absent in the lists prepared for Doha turns the offer at the FTAA more restrictive than that at the WTO (for instance, see public services, consultancies, etc.). Also, the reference made in the same section at the FTAA negotiation forum to future regulations creates a problem: privatization and technology transfer commitments not mentioned in the WTO list and the Andean Community -if added in the future- would violate the commitment at the WTO and the Andean Community norms. In terms of inconsistencies, management consultancy services was wrongly classified in the Uruguay Round lists. In terms of consistencies, the research found that in accounting and auditing services, Colombia offers were consistent.

In the case of Ecuador, for professional services such as legal, accounting, tax assistance, architecture, urban planning and engineering there is clear conflict between the consolidation without limitations at the WTO and FTAA-Services and the Andean Community of Nations and the FTAA-Investments. The limitations may be consolidated. If the FTAA Services are revised, commitments made here would be more restrictive than those at the WTO. If not revised, these commitments would be in contradiction with the WTO's. In addition, engineering integrated services were not included in the list of the FTAA-Services but they do not have limitations in the Andean Community or the FTAA-Investment. In computer software, lists are consistent except when dealing with airlines on-line reservation services.

In the case of Peru, in the FTAA list, horizontal commitments part, there is a reference to the promotion of rights, guaranties and obligation. However, it is done in connection to the reservation for the State of natural resources in protected areas. There are conditions for Mode 4 that affect Mode 3 that are more rigid than the list at the Uruguay Round (commitment to form and give capacity to workers). Research work indicated that FTAA-Services and FTAA-Investments cannot be more restrictive than WTO and so there is a need to revise the FTAA offer to maintain the level already committed at the WTO. In distribution services, one of the recommendations was to clarify if there is intention of adding sub-sectors in Doha. In the field of insurance (both life insurance and other insurance) it is not clear the number included in the offer: is the ceiling (40%) applicable to all investment? Actually, is it 40 or 45%?

Finally, Venezuela's commitments were reviewed. Again, in the part of horizontal commitments research found that the reservation made for professional services regulated by national norms needed clarification. Also, it is not clear if national

companies may hire foreign professionals. Or, may companies have foreign capital without restrictions? (and if not, the research work that they were not presented anywhere). In communication services, particularly in postal services, requirements of concessions indicated in the Andean Community should be in FTAA-Services.

As can be seen, this last piece of research was on the one hand very technical and on the other it had very important policy implications since negotiators could fine-tune their proposals according to the information and analysis provided.

Both research initiatives were highly influenced by what the negotiators and policy makers perceived as their greatest needs. Those researches constituted a novel experience in terms of bridging the gap between researchers and policy makers. The methodology of producing research through a close interaction between academics and policy makers has also helped to widen the applicability of research in the real world.

2) The meetings

A first meeting was organized including the two-selected researchers and some of the negotiators in the area of services. The main goal of this meeting was to fine-tune the issues to be tackled by the research document in order to ensure policy relevance.

As a result of that first meeting, Jaime Andres Niño focused on professional services, since the Andean Community selected this issue as an “offensive sector”. An offensive sector, is a sector where the countries may obtain benefits because of high competitiveness. With regards to the second research track, it was decided that Mario Marconini would focus on the challenges posed by multiple negotiation fora. In this sense, Marconini undertook a crucial exercise for Andean countries, namely, to work on the “offers” made in the services sector in relation to commitments on investments (technically, mode 3). More particularly, Marconini was asked to compare commitments taken at the multilateral level with offers in the hemispheric level and then establish its implications for the negotiations (also underway) on investments. The idea was to find out if there was convergence or divergence in the Andean Community’ presentations on services in different fora.

A particular effort was made in order to make available these works to negotiators and academics in their draft stage. Accordingly, research drafts were circulated among Andean trade negotiators because their feedback was important in order to elaborate the final version of the documents.

The preliminary results of Niño’s work were presented at the LATN Annual Meeting that took place in November 2003 in Mexico. The final results were presented at the subsequent LATN Annual Meeting, held in Lima, Peru, November 2004. Marconini presented its work at the LATN Annual Meeting, held in November 2004 in Lima, Peru.

Following the criteria of bridging the gap between researchers and negotiators, the session on services and investments in Lima included Niño and Marconini -who presented their work- and María Esperanza Dangong, responsible of the area on services at the General Secretariat for the Andean Community of Nations, and Juan Falconí, who was the Chief of the Ecuatorian negotiation team in the negotiations of the FTA with the United States. Also, another characteristic of the meeting was the integration of other

institutions closely working on trade and development, such as the Pontificia Universidad Católica of Peru, the Friedrich Ebert Foundation and the General Secretariat of the Andean Community of Nations. The agenda of LATN Annual Meeting is included as an Annex of this report.

2 c) Dissemination of the papers and impact

Dissemination of the research results was ensured from inception by virtue of the work methodology. The write-shops ensured a ready made demand for research outputs. When these were finalized further dissemination proceeded via printed material, conferences and electronically. In the first place, printed version of the papers were distributed and made available for negotiators and policy makers as well as for academics working in the field. Results were subsequently presented at the LATN Annual Meetings, events that gathered between 150 to 200 people. Finally, research papers were sent electronically to the LATN mailing list of interested stakeholders, comprising almost 1000 people including academics, policy makers, negotiators and journalists all dealing with international trade negotiations in Latin America.

In terms of impact, it can be measured by the high level of demand of the paper (56 downloads from the LATN web page) and by the feedback received from stakeholders.

Key instances of the project

- Commanding papers /Discussing terms of reference
- Meeting between researchers and negotiators to fine tune research's focus
- Organization of the session on services in the 2002 LATN Annual Meeting
- Presentation of preliminary findings at the LATN Plenary Meeting held in Mexico in 2003
- Feedback to researchers
- Progress report to the PGTF
- Presentation of the final findings at the LATN Annual Meeting held in Peru in 2004.
- Final editing of the papers
- Distribution of the paper to the LATN mailing list
- Placing the document in the LATN web page
- Final Report to the Perez Guerrero Trust Fund

3) Budget granted, disbursement and execution

3 a) Total budget **granted** by the PGTF: **U\$S 20,000**

3 b) Total **disbursement** by the PGTF **U\$S 18,000**

3 c) **Execution** of the Budget

Item	Details	Amount
Research	✓ Paper on professional services	U\$S 5,000
	✓ Paper on concessions offered by the ACN	U\$S 1,500
Sub-total		U\$S 6,500
Academic and Logistic coordination (Prof. Alan Fairlie)	✓ Elaboration of terms of reference	U\$S 3,200 per year
	✓ Organization of the first meeting	
	✓ Review of papers	
	✓ Organization of the second meeting	
	✓ Final editing of papers	
Sub-total		U\$S 6,400
Meetings	✓ Meeting in Mexico (2003)	U\$S 2,000
	✓ Meeting in Peru (2004)	U\$S 2,000
	✓ Meeting in Buenos Aires (2004)	U\$S 1,100
Sub-total		U\$S 4,000
Overhead FLACSO (10%)		U\$S 2,000
Sub-Total		U\$S 2,000
Total executed		U\$S 20,000

Note 1: Still pending one disbursement by the PGTF of U\$S 2,000 (American dollars, two thousand).

Note 2: Substantial matching funds for papers, meetings and dissemination was provided by LATN, the organization implementing the project.

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