

# GENERAL AGREEMENT ON

## TARIFFS AND TRADE

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### ANDEAN GROUP

#### Report Submitted by the Member States of the Andean Group

The following communication, dated 10 September 1992, has been received from the Board of the Cartagena Agreement on behalf of the member States of the Andean Group.

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I have the pleasure to transmit herewith the report on the activities of the Andean Group to the GATT Committee on Trade and Development.

BOARD OF THE CARTAGENA AGREEMENT

REPORT BY THE ANDEAN GROUP ON ITS ACTIVITIES TO  
THE GATT COMMITTEE ON TRADE AND DEVELOPMENT

September 1992

I. Introduction

The previous report submitted by the member States of the Cartagena Agreement to GATT contained information on the Andean integration process up to 31 July 1990. Since then, extremely important events have taken place in the sub-region, and these have been reflected in significant advances in the implementation of the mechanisms of the Cartagena Agreement.

One of the main driving forces underlying this progress has certainly been the participation of the Andean Presidents in the management of the process. The Presidential Council has met four times since mid-1990 to evaluate the progress of Andean integration and lay down guidelines for deepening it.

The Presidential Council met in the city of Santafé de Bogotá on 7 August 1990 when the President of Colombia formally took office. On that occasion they issued an Andean Declaration on the Initiative for the Americas, in which they responded to President Bush's economic proposals for the Latin American and Caribbean countries.

The Presidential Council met a second time in La Paz, Bolivia, on 29 November 1990. Here they issued the Act of La Paz, in which they agreed to deepen and accelerate the formation of the Andean Common Market as the principal objective of sub-regional integration, and brought forward to 31 December 1995 the creation of the free-trade area, in order to accelerate the formation of the Andean Common Market for 1995.

The Presidential Council subsequently met in Caracas, Venezuela, on 17 May 1991, when they issued the Act of Caracas, in which they reiterated the importance of putting into effect the commitments entered into to create the Andean Common Market by 31 December 1995, as well as stressing co-ordination and joint action of the Andean Group in international affairs.

Finally, the Presidential Council met in Cartagena de Indias, Colombia, on 3 December 1991. Here they signed the Act of Barahona, in which they decided that the Andean free-trade area would come into effect on 1 January 1992 (and on 1 July 1992 for Ecuador and Peru), at the same time as the application of the Common External Tariff, which initially established four tariff levels.

In addition, the Act of Barahona set the dates of 1 January 1993 for the dismantling of the entire list of exceptions, and 31 December 1992 as the deadline for the elimination of exchange, financial and fiscal

direct-tax subsidies. It directed the Ministers responsible for economic affairs and the Presidents of central banks to meet to begin the process of harmonization of macro-economic policies. The Presidents adopted agreements on institutional aspects, the external joint influence of the Andean Group and progress in social and sectoral matters accompanying the process.

On the basis of the Presidential guidelines, the Commission of the Cartagena Agreement, at its Sixty-ninth Extraordinary Session in Lima, Peru, on 25 August 1992, adopted major agreements that placed the Andean Group at the forefront of Latin American integration processes. It agreed to complete by 30 September of this year, for Bolivia, Colombia, Ecuador and Venezuela, the formation of the Andean Free-Trade Area, thus shaping a single economic space in which there will be freedom of movement of goods without duties or restrictions. The Commission also agreed that Peru will not take part in the further development of the Andean Free-Trade Area nor, as concerns harmonization of macro-economic policies, in the definition of the Common External Tariff, nor in the trade negotiations that the other countries conduct with third parties, until 31 December 1993.

Furthermore, the Commission adopted the structure of the Common External Tariff which the above-mentioned four countries will apply. The structure will consist of four tariff levels of 5, 10, 15 and 20 per cent, which will be applied as from 31 October of this year for a significant percentage of Tariff items, and for the entire Tariff by 31 December 1993.

In order to further improve the extended market, the Commission agreed that member countries will eliminate exchange, financial and fiscal subsidies to exports to other countries within the sub-region, establish a high-level Commission to analyse competition issues, and adopt, on that same date, a harmonization programme for incentives to exports within the sub-region. It also agreed to authorize member countries to conduct trade negotiations with other Latin American and Caribbean countries.

The Decisions recently adopted by the Commission bring the Andean Group to a new stage which will require major action on the part of the member countries and the Board of the Cartagena Agreement. The private sector of member countries will have to play its part by identifying business and investment opportunities within a free competition environment in which efficiency and technological innovation will have a fundamental rôle.

## II. Trends in the foreign trade of Andean Group countries in the period 1989-1991

Total exports of goods of the Andean Group picked up significantly between 1989 and 1990, rising from US\$25,314 million in 1989 to US\$31,371 million in 1990. In 1991 they failed to reach the level of the previous year, amounting to only US\$29,589 million.

The political will of the Andean Presidents as displayed in the six Presidential meetings led to major changes in the integration process,

which were reflected in the growth of exports within the sub-region of around 11 per cent in 1989, 27 per cent in 1990 and 38 per cent in 1991, as a result of the progress made in the completion of the expanded market and the dynamism of the Andean Group. These exports rose from US\$1,040 million in 1989 to US\$1,821 million in 1991.

Exports within the sub-region, excluding trade in fuels and fuel products, showed higher growth rates than those of total trade within the sub-region, with rates of about 13 per cent in 1989, 21 in 1990 and 43 per cent in 1991. These exports rose from US\$882 million in 1989 to US\$1,517 million in 1991. Table 1 gives a historical series for the trade of Andean Group member countries for the period 1969-1991.

The products of greatest importance in intrasubregional transactions are listed in table 2.

### III. Legal arrangements of the Cartagena Agreement

#### 3.1 Meetings of the Commission

Since 31 July 1990, five ordinary sessions and nine extraordinary sessions of the Commission have been held.

So far, 57 ordinary sessions and 68 extraordinary sessions of the Commission of the Cartagena Agreement have been held since the Andean integration process was launched.

#### 3.2 Main decisions adopted by the Commission

A short summary of the decisions adopted by the Commission of the Cartagena Agreement since the submission of the report to GATT on 1 October 1990 is given below. The summary does not include Decisions of lesser importance such as those concerning the appointment of Board members, the approval of the budget of the Board and of the Court of Justice of the Cartagena Agreement, or minor modifications to the annexes of Decisions.

Starting-point for tariff-cutting by Ecuador for products not included in the Reserve List (Decision 270). This Decision approves the starting-point for tariff-cutting by Ecuador of products not included in its Reserve List.

Andean Highway System (Decision 271). The member countries commit themselves to joint action to develop an Andean international road transport system. It establishes four border crossings and adopts at sub-regional level the Inter-American Handbook of highway geometric design standards approved by the XIII Pan-American Highway Congress. Finally, it establishes the Andean Committee on Road Infrastructure. This Decision replaces Commission Decision 94.

Accession of Bolivia and Venezuela to the General Agreement on Tariffs and Trade (Decision 272). This Decision provides that Bolivia and Venezuela shall, as regards their tariff commitments arising out of their accession to the General Agreement on Tariffs and Trade, be subject to the conditions laid down in document COM/LIII/di 3 of 1 October 1990.

Modification of the levels of the Common Minimum External Tariff, and approval of the Common Minimum External Tariff (Decision 273). In order to facilitate the adoption of the common external tariff levels, this Decision establishes that governments of member countries may, from the time of application of the duties established in the Decision, reduce the surtaxes and other charges of equivalent effect applied to imports from third countries. For goods not produced in the sub-region, each country may specify the application of the common duties up to a level of 5 per cent until such time as the Board establishes that production of the good in question has begun in the sub-region. This Decision modifies the minimum tariff levels established by Decisions 260 and 268.

Application by Ecuador of the Common Minimum External Tariff for the lists of products of interest of Colombia, Peru and Venezuela (Decision 274). Under this Decision, Ecuador will adopt by 31 December 1990 the levels of the Common Minimum External Tariff established by Decision 273, and for the products included in its List of Exceptions it will adopt the levels of the Common Minimum External Tariff at the date when the corresponding withdrawal occurs.

Suspension of Article 83 of Decision 85 (Decision 275). This Decision suspends the above-mentioned Article for the sole purpose of enabling member countries to help to complete the GATT Uruguay Round negotiations.

Extension of the Second Andean Programme on Roya (Coffee Leaf Rust) and Broca (Coffee Seed Borer) (Decision 276). This Decision extends the Second Andean Programme on Roya and Broca, established in the Annex to Decision 202, for a three-year period from 1 January 1991 to 31 December 1993.

Amendment of Decision 271: Andean Highways System (Decision 277). This Decision adds the following paragraph to the text of Article 10 of Decision 271: "(c) to promote ways of streamlining the study, design and construction of the Mazocruz-Pichupichuni-Desaguadero section in order to improve, as rapidly as possible, the physical interconnection of Bolivia with the sub-region".

Starting-point for tariff-cutting by Bolivia (Decision 278). This Decision adopts as the starting-point for tariff-cutting by Bolivia (PID-BO), for the purposes of the tariff cuts scheduled for the products included in paragraph (d) of Article 100 of the Agreement, the duties expressed in ad valorem percentages listed in Annex I to the Decision. It also establishes that if Bolivia reduces its national tariff below the level that would result from the application of the Liberalization Programme, this will immediately and unconditionally be extended to imports originating in the other member countries.

Action to deepen the Strategic Design in the trade sector (Decision 281). Under this Decision, member countries will complete the Liberalization Programme for all products in their tariffs by 31 December 1991. Bolivia will complete the elimination of duties applied to products in paragraph (d) of Article 100 of the Agreement by a tariff cut of 50 per cent by 31 December 1991 in addition to the 50 per cent reduction provided for in the Act of La Paz by 31 December 1990. The Managed Trade Lists of Colombia, Peru and Venezuela are abolished. The Reserved List mentioned in Article 47 of the Agreement will be eliminated by 30 June 1991. Colombia, Peru and Venezuela will withdraw the products included in the Lists of Exceptions with respect to mutual trade and in favour of Bolivia through a process that will end with a 50 per cent reduction on 31 December 1991 in addition to the 50 per cent provided for in the Act of La Paz for 31 December 1990. Decision 258 is repealed.

Harmonization of duty-free entry (Decision 282). This Decision establishes that, as from 31 March 1991, member countries will not establish new duty exemptions that might jeopardize the sub-regional tariff commitments. In addition, by 31 December 1991, member countries will cease to apply duty exemptions that undermine the sub-regional tariff commitments. The Decision indicates the international instruments under which member countries may grant duty-free entry, as well as the types of duty exemptions member countries may grant.

Rules to prevent or correct distortions in competition arising out of dumping or subsidization (Decision 283). This Decision establishes a set of rules designed to prevent or correct distortions in competition arising from dumping or subsidies. It also specifies the cases in which member countries or enterprises may ask the Board to authorize or order measures to prevent or remedy distortions in competition in the sub-regional market arising out of dumping or subsidies. This Decision replaces Decision 230 as regards the rules for preventing or correcting distortions in competition arising out of dumping or subsidies.

Rules to prevent or correct distortions in competition arising out of export restrictions (Decision 284). This Decision establishes a set of rules to prevent or redress distortions in competition arising out of the application of quantitative and administrative measures by means of which member countries impede, restrict or hamper sales within the sub-region; it also applies to customs duties and other taxes borne solely by exports to another member country. This Decision replaces Decision 230, as regards the rules to prevent or redress distortions in competition arising out of restrictions on exports.

Rules to prevent or correct distortions in competition arising out of restrictions on free competition (Decision 285). This Decision establishes a set of rules enabling member countries or enterprises with a valid interest to request the Board to authorize or order the application of measures to prevent or remedy injury or threat of injury to domestic industry or exports, arising from practices that restrict free competition in the sub-region or in which enterprises operating in a member country are

concerned. This Decision replaces Decision 230, as regards the rules to prevent or redress distortions in competition resulting from practices that limit free competition.

Modifications of the NANDINA (Decision 286). This Decision approves the modifications to the Common Tariff Nomenclature of the member countries - NANDINA. In this regard, it stipulates that these modifications must be incorporated by the member countries in their National Tariffs, by 30 June 1991 at the latest.

Intrasubregional trade and the cholera epidemic (Decision 287). This Decision re-establishes free movement of and trade in hydro-biological and agricultural products among member countries of the sub-region. To this end, the health and quality control criteria of the FAO/WHO CODEX Alimentarius will be applied, as will the specific recommendations on cholera made by the World Health Organization. The Board, in co-ordination with the "Hipólito Unánue" Convention, will undertake a permanent evaluation of the situation with a view to advising, and co-ordinating activities with, the countries in the sub-region.

Freedom of access to sea-borne freight originating in and destined for a location within the sub-region (Decision 288). This Decision establishes freedom of access to sea-borne freight originating in and destined for a location within the sub-region, transported by ships owned, chartered or operated by shipping lines of the member countries and of third countries. In accordance with this Decision, the Board, at the request of any of the member countries and after due assessment, may, for a transitional period and at the sub-regional level, impose - or authorize a member country to impose - restrictions or exclusions on traffic, cargo preferences, or other appropriate measures against enterprises or ships from third countries that apply restrictive or discriminatory rules to ships owned, chartered or operated by shipping lines from member countries.

International transport of passengers by road (Decision 289). This Decision regulates the international transport of passengers by road between member countries, and in transit to third countries. It also governs the issuing of permits to operators: road-worthiness requirements of vehicles; transportation contracts; provisions relating to customs matters; matters concerning migration; and the Andean Committee of Land Transport Authorities and the relevant national organizations.

The Andean civil liability insurance policy for international road transport operators (Decision 290). This Decision approves the Andean civil liability insurance policy for international road transport operators and the Annex which deals with physical injuries to land-based crews.

Common régime for the treatment of foreign capital and trade-marks, patents, licences and royalties (Decision 291). This replaces Decision 220. In five chapters, this Decision outlines the common régime for the treatment of foreign capital and of trade-marks, patents, licences and royalties. Chapter I defines certain terms used in the Decision.

Chapter II refers to the rights and obligations of foreign investors. Chapter III deals with matters relating to the relevant national authorities. Chapter IV contains regulations on the import of technology. Chapter V discusses the treatment of investments made by the Andean Promotion Corporation and by bodies that have the option of the "neutral capital treatment".

Uniform treatment of Andean Multinational Enterprises (Decision 292). This replaces Decision 244, and establishes the treatment of Andean Multinational Enterprises. In Chapter I it outlines the requirements and definitions. Chapter II regulates the constitution and operations of Andean Multinational Enterprises. Chapter III relates to special treatment for Andean Multinational Enterprises. Chapter IV contains concluding provisions.

Special rules for the determination of the origin of goods (Decision 293). This replaces Decision 231 and approves special rules for the determination of the origin of the goods, for the purposes of the liberalization programme.

Industrial Integration Programme for petrochemicals (Decision 296). This Decision approves the programme for the integration of the petrochemical industry in order to promote the sub-regional integration of the industry in a context of international competitiveness, while maintaining current trade and production flows in the sub-region and contributing to the expanded market. The member countries participating in the programme are Bolivia, Colombia, Peru and Venezuela. The Decision makes provisions in relation to the products dealt with in the programme, industrial plants and verification of production, the Liberalization Programme, the Common External Tariff, the origin of goods and additional commitments. It also creates the Petrochemical Committee, comprising representatives of the participating member countries; the main purpose of this Committee will be to promote and direct development in the sub-regional petrochemical sector, and as such repeals Decisions 91 and 130.

Integration of air transport in the Andean sub-region (Decision 297). This stipulates that the member countries shall apply the present Decision in respect of regular and non-regular international air transport services for passengers, cargo and mail, both within the territories of the member countries and between these countries and third countries, without detriment to existing freedoms. The rights of the first and second freedoms of the air are also granted. Additionally, the member countries grant each other the rights relating to the third, fourth and fifth freedoms of the air on regular passenger, cargo and mail flights made within the sub-region, and adopt a policy of deregulation for non-regular cargo flights; also, before 31 December 1992, and subject to bilateral or multilateral negotiations, the rights relating to the fifth freedom of the air traffic will be granted for non-regular passenger flights between countries within the sub-region and third countries; the Decision states that the Andean Committee of Aeronautical Authorities shall be responsible for overseeing the implementation and application of this Decision.



Products affected by the repeal of Decision 120 (Decision 298). This Decision establishes that as from 31 December 1991, member countries shall remove all duties and restrictions of any kind on the importation of products as listed in Decision 120 (repealed), originating in any member country. This Decision also states that until 31 December 1991, the member countries shall apply the rates of the Common External Tariff applicable on imports of these products. Finally, this Decision creates the Sub-regional Committee on the Motor-Vehicle Industry, consisting of three representatives from each member country; the basic aim of this Committee is to promote the development of the industry.

Industrial integration programme for steel-making (Decision 299). This Decision approves the programme for integration of the steel industry, the aim of which is to promote sub-regional integration in the framework of international competitiveness while maintaining current trade and production flows in the sub-region, so as to contribute towards the expanded market, and to strengthen and expand Andean productive capacity and infrastructure. This shall be undertaken as part of the effort to compete in and take a share of the world market. This Decision states that the member countries participating in the programme are Bolivia, Colombia, Peru and Venezuela; the Decision also creates the steel-making Committee, made up of representatives of the participating member countries. Its main purpose will be to promote and direct development within the steel industry of the Andean sub-region, based on full co-operation both in promoting the industry itself and in trade, research and development, training and project development. This Decision repeals Decision 160.

Industrial Integration Programme for the mechanical engineering industry (Decision 300). This Decision approves the industrial integration programme for the mechanical engineering sector. The participating member countries are Bolivia, Colombia, Peru and Venezuela. The object of the programme is to promote sub-regional industrial integration on a basis of international competitiveness, while maintaining current production and trade flows in the sub-region; the aim is to help towards the expansion of the market and to strengthen and expand Andean productive capacity and structure in relation to third countries, as part of the drive to compete and participate in the world market. The Decision covers: the list of products included in the programme; the location of manufacturing plants and verification of production levels; the liberalization programme; the common external tariff; product origin; additional commitments; and technical standardization. It also establishes the Mechanical Engineering Committee to be made up of representatives from the participating member countries, its main aim being to promote and direct development within the industry. This Decision repeals Decision 146.

Measures for deepening Andean integration in the trade sector (Decision 301). This Decision stipulates that member countries should complete the liberalization programme for all products included in their National Tariff, except for the cases mentioned in Articles 3, 7 and 8 of this Decision, by 31 December 1991. Bolivia will remove all duties applicable to products under Section (d) of Article 100 of the Agreement by 31 December at the latest, and Ecuador will remove all duties applicable

to products under Section (d) of Article 100 of the Agreement, by means of two 50-per-cent reductions, the first to be implemented on 31 December 1991 in relation to domestic tariffs in force on this date, and the second on 30 June 1992. The Reserve List referred to in Article 47 of the Agreement is thus eliminated. Bolivia, Colombia, Peru and Venezuela must remove the 50 per-cent duty remaining on products contained in their lists of exceptions by 31 December 1991; certain items, as mentioned in Article 8, are excluded. The Commission shall approve the Common External Tariff bearing in mind criteria of efficiency, competitiveness and uniformity, by 31 December 1991. After this date member countries shall begin the gradual adoption of the common external tariff; Colombia, Peru and Venezuela will implement it fully by 31 December 1993, and Bolivia and Ecuador by 31 December 1995. The programme for the gradual harmonization of export incentives will be drawn up by 31 December 1991, in respect of the special customs régimes and of the fiscal, exchange and credit mechanisms; and member countries will establish an informal and flexible system for solving trade disputes within the sub-region. This Decision repeals Decision 281 of the Commission.

Establishment of the liberalization programme and the common external tariff, for products on the reserve list (Decision 302). This Decision approves the liberalization programme and the common minimum external tariff for products withdrawn from the Reserve List and for products excluded from the Reserve List until the common minimum external tariff is established. Once the Decision becomes effective, member countries shall not apply restrictions of any type to imports of such products originating in another member country. Colombia, Peru and Venezuela shall not impose any duties on imports of the products from another member country and shall adopt the rates of the common minimum external tariff as established in the Annex. The Annex to Decision 273 lists the products and the duties on them under the common minimum external tariff.

Repeal of Decision 162 in respect of products from the fertilizer industry (Decision 303). This Decision lists products that will remain free of duty and restrictions of any sort between Member Countries. This Decision establishes that the Member Countries shall adopt the rates of the Common Minimum External Tariff as given in the Annex, with effect from 1 January 1992. It details these products and the duties on them in accordance with the Common Minimum External Tariff as listed in the Annex attached to the Annex of Decision 273. This repeals Decision 162.

Sectoral meetings of the Commission at ministerial level (Decision 304). This Decision establishes that the meetings of Ministers of Planning, Economy and Finance and Presidents of Central Banks meeting as the Commission will be treated as extraordinary sessions of the Commission. These sessions shall be convened by the President of the Commission at the request of member States or of the Board, and will be attended by representatives appointed as permanent alternates for all meetings of the Commission. The rules of procedure of the Commission, as approved by Decisions 6, 14 and 218, will apply to all extraordinary sessions convened at the level of Ministers of Planning, Economy and Finance.

Modification of the rates of the Common Minimum External Tariff (Decision 309). This Decision modifies the tariff structure contained in Decisions 273 and 274 as follows: the 30 per cent rate is reduced to 20 per cent, and the 20 per cent rate to 15 per cent; the rates of 10 per cent and 5 per cent are maintained, and the rate of 0 per cent is increased to 5 per cent. The Decision also specifies the conditions in which these new tariff rates will be applied.

Common Régime on Industrial Property (Decision 311). This replaces Decision 85 which regulates the Common Régime on Industrial Property in six chapters. Chapter I deals with patents for inventions, in ten sections, namely: patentability requirements; patent holders; applications for patents; procedure for application; rights conferred by patent; obligations of the patent holder; regulations governing licences; legal protection of patents; and lapse of patents. Chapter II deals with utility models; Chapter III covers industrial designs; Chapter IV relates to trade-marks, in the following Sections: registration procedure; nullity of registration; lapse of registration; licences and transfer of trade-marks; trade slogans; and joint trade-marks. Chapter V deals with trade names. Chapter VI contains additional and transitional arrangements.

Common Régime on Industrial Property (Decision 313). This replaces Decision 311, and lays down rules governing patents for inventions: patentability requirements; patent holders; applications for patents; rights conferred by the patent; obligations of the patent holder; rules governing licences; legal protection of the patent; nullity and lapse of patents; use of patents; industrial designs; trade-marks and the requirements for registering a trade-mark; registration procedure; rights conferred by trade-marks; cancellation of registration; nullity and lapse of registration; licences and transfer of trade-marks; trade slogans; joint trade-marks and trade names.

Liberty of access to sea-borne cargo and policies for the development of the Andean Group merchant navy (Decision 314). This establishes liberty of access to the sea cargo arising out of the foreign trade of the countries of the sub-region, in accordance with the requirements and conditions laid down in this Decision. This Decision states that such liberty of access will be based on the principle of reciprocity, so that current restrictions, exclusions or preferences relating to cargo in favour of ships sailing under national flags of the member countries or of associated enterprises, or in favour of ships chartered or operated by shipping enterprises within the sub-region, will be removed in accordance with the given timetable. The Decision also lists the powers and functions of the Andean Committee of Water Transport Authorities (CAATA).

Framework Agreement between the Andean Group and Mexico (Decision 319). Under this Decision the Member Countries resolve to enter into a framework agreement with Mexico with the aim of laying down the foundations for negotiating trade liberalization programmes between Mexico and each of the countries within the Andean Group. It defines the basic principles to be observed by the negotiations on origins, safeguard clauses, competition rules, the treatment of internal taxes, technical standards, transport, dispute settlement, the establishment of guidelines

for economic co-operation, trade and investment promotion, government procurement, and intellectual and industrial property. The Decision also convenes an extraordinary session of the Commission of the Cartagena Agreement, for the purpose of examining the draft framework agreement and agreeing on the terms of the negotiations.

Liberalization of air transport within the Andean sub-region (Decision 320). This Decision states that the Member Countries may designate one or more national air transport enterprises with operating rights to undertake regular international air services for passengers, freight and mail, serving any routes within the sub-region; the Member Countries shall guarantee free access to this market without discrimination of any kind.

Temporary suspension of Peru (Decision 321). This Decision suspends for Peru the obligations relating to the Liberalization Programme and the Common Minimum External Tariff, up to 31 December 1993. In this respect, the Decision establishes that Peru will not take part in the adoption of decisions relating to the harmonization of macroeconomic policies, to the definition of the Common External Tariff, to the completion of the Andean Free-Trade Area, nor in trade negotiations that the remaining countries may conduct with third countries; consequently, the decisions that may be adopted in such matters will not apply to Peru. Peru will have a position equivalent to that of observer status at Commission meetings held to deal with matters related to the above subjects, and maintain its status of active participant in other matters. However, Peru may make trade agreements with any of the Member Countries within the framework of the legal system prevailing within the Andean Group. The other Member Countries may suspend obligations under the Liberalization Programme with respect to Peru within sixty days of the application of the present Decision.

Trade relations with LAIA, Central American and Caribbean countries (Decision 322). This Decision provides that trade negotiations with LAIA, Central American and Caribbean countries should preferably be held at the Community level so that the Andean Group participates as a single entity. During negotiations with countries of the region which are relatively less developed, special consideration may be shown, including agreements on non-reciprocal concessions. When, for whatever reason, it is not possible to negotiate at Community level, the Member Countries may conduct bilateral negotiations with other countries of the region; one or more countries of the Andean Group may participate in these negotiations. In this case, the participating Member Countries shall keep the other countries informed of the progress of the negotiations; the other countries cannot raise objections since the consultations provided for in Article 68 of the Agreement have been conducted. The Member Countries undertake to revise the Partial-Scope Agreements concluded with the LAIA countries, for which purpose the Community-level criteria for the negotiations are to be agreed by 30 September 1992.

High-Level Commission on Competition (Decision 323). This Decision creates a High-Level Commission on Competition, to consist of titular and alternate delegates from the Member Countries and of the Board. The Commission shall identify products or sectors in which intrasubregional industry or trade is formed by practices that distort competition. The High-Level Commission will seek to ensure that governments or enterprises responsible for practices that distort competition undertake to eliminate them or reduce their effects.

The Common External Tariff, the Liberalization Programme and incentives for intrasubregional exports (Decision 324). This Decision approves the structure of the Common External Tariff, based upon four tariff levels of 5 per cent, 10 per cent, 15 per cent and 20 per cent. This structure will be applied by the Member Countries to products that do not originate within the sub-region, with effect from 31 October 1992. There will be a transitional period up to 31 December 1993, during which the Member Countries will bring their national tariffs into line with the rates of the Common External Tariff as set for each item in the Annex to be prepared by 31 October 1992. Bolivia is allowed to keep its rates at 5 per cent and 10 per cent. Colombia, Ecuador and Venezuela will be allowed to apply tariff levels of up to 40 per cent on motor vehicles. In the case of products not produced within the sub-region, member countries may jointly defer the Common External Tariff and apply a duty of 5 per cent. Moves toward the formation of the Free-Trade Area between Bolivia, Colombia, Ecuador and Venezuela are mentioned. By 30 September 1992 at the latest, the Member Countries shall remove currency, financial and fiscal subsidies on intrasubregional exports, and shall approve a harmonization programme for incentives on intrasubregional exports. This Decision repeals Decision 301 and provides for the repeal of Decisions 273, 274 and 309 when the Common External Tariff enters into force.

Restructuring of the Board of the Cartagena Agreement (Decision 325). This Decision provides for moves to restructure the Board of the Cartagena Agreement, so that the Board can meet Member Country needs more efficiently during the current stage of Andean integration. To further the restructuring process, an extraordinary meeting of the Commission will be held before 31 October 1992, with the aim of approving the guide-lines, modalities and timetable for this restructuring. The Decision requests the President of the Commission to negotiate financial facilities with the Andean Development Corporation to enable the Member Countries to pay their debts to the Board as well as make financial contributions towards the studies required by the restructuring process.

#### IV. Consolidation of the economic area: completion of the expanded sub-regional market

##### 4.1 Liberalization programme

The scope of the commitments contained within the Liberalization Programme is defined in Chapter V of the Cartagena Agreement. As mentioned in the report of October 1990 (document GATT L/6731 dated 12 October 1990)

since December 1971 the Andean Group has undertaken a process of elimination of all restrictions, of any kind, on the import of products originating in another Member Country.

As far as tariffs are concerned, 100 per cent of tariff items are now covered by the Liberalization Programme. The structure of the Liberalization Programme as at 31 July 1992 is given in Table 3.

It should be mentioned that in conformity with the provisions of the Andean Presidential Council, the basic instruments of the Andean Free-Trade Area have now been drawn up; consequently, the bulk of intrasubregional trade is now effected free of duty. Bolivia and Ecuador, countries to which the Cartagena Agreement accords preferential treatment in applying the Agreement, have considered becoming immediately involved in sub-regional competition by accelerating tariff reductions. As at 31 July 1992, these two countries and Peru excluded only 10 per cent of their tariff items from the Liberalization Programme, under an instrument for safeguarding or protecting domestic industry. Colombia, meanwhile, is keeping only eight NANDINA sub-headings in this bracket; Venezuela has none, and 100 per cent of its tariff items are duty free.

With the recent approval of Decision 323, Bolivia, Colombia, Ecuador and Venezuela agreed to complete the formation of the Free-Trade Area by 30 September of this year. They will remove duties on products still subject to them in trade between these countries. A result of this Decision is that Bolivia will remove duties on the remaining 50 per cent of its tariff items and eliminate 1,087 tariff sub-headings from its List of Exceptions relating to the Liberalization Programme. Colombia will only have to remove its eight remaining NANDINA sub-headings. Ecuador will have to remove the duties on the remaining 75 per cent of its tariff items and eliminate 774 tariff sub-headings from its List of Exceptions. In this way these four countries will have completed the elimination of duties on goods traded among them.

On the other hand, Peru, through Decision 321, suspended all commitments relating to the Liberalization Programme with effect from 27 August - date of publication of the Official Gazette of the Cartagena Agreement - and this suspension will remain in force until 31 December 1993. The above Decision states, however, that Peru is free to conclude bilateral agreements with other member countries of the Cartagena Agreement in order to maintain existing trade flows.

#### 4.2 Common External Tariff

One of the main purposes of the Cartagena Agreement is the creation of a Customs Union and, consequently, the adoption of a Common External Tariff (AEC), which entails the application of a Common Minimum External Tariff.

By mid-1992, the Common Minimum External Tariff as established by Decision 309 of 6 September 1991 was fully operational, with four rates of 5, 10, 15 and 20 per cent. It should be noted that as applied (to 5,243 of the 6,201 NANDINA sub-headings that make up the Common Nomenclature

System) more than 42 per cent of the items are subject to the 5 per cent rate, 32 per cent to the 10 per cent rate, 17 per cent to the 15 per cent rate and 8 per cent to the 20 per cent rate.

With respect to the Common External Tariff, in early 1992 the Board of the Cartagena Agreement submitted a Proposal to the Andean countries which also involves four basic rates, in conformity with the Directive of the Presidential Meeting held in December 1991 in Cartagena de Indias, Colombia, under which the tariff structure should reflect the degree of processing of the relevant products. This Proposal would lead to an average tariff rate of 14.4 per cent, with rates of 5 per cent, 10 per cent, 15 per cent and 20 per cent applying to, respectively, 8 per cent, 23 per cent, 42 per cent and 27 per cent of tariff items.

Under their open economic policy, the member countries currently impose the following tariff levels: Bolivia has the lowest average tariff (9.8 per cent) with two tariff rates of 5 per cent and 10 per cent. Colombia, Ecuador and Venezuela have similar tariff levels (11.8 per cent, 11.9 per cent and 11.7 per cent, respectively); Colombia's National Tariff has a range of 7 levels, from 0 per cent to 40 per cent. There are six tariff levels in Ecuador, ranging between 0 per cent and 40 per cent. In Venezuela there are six levels varying from 0 per cent to 25 per cent. Peru has the highest tariff level of 17.7 per cent, based on two tariff rates of 15 per cent and 25 per cent.

Taking into account the moves that the various countries - individually and jointly - have made over the tariff system at its last meeting in October the Commission of the Cartagena Agreement approved Decision 324, under which is established the structure of the Common External Tariff: with four tariff rates (5 per cent, 10 per cent, 15 per cent and 20 per cent) it will initially apply from 31 October this year, to be fully implemented by 31 December 1993. The detailed Annex of the tariffs will be approved by 31 October 1992.

The Decision on the Common External Tariff allows for special treatment for Bolivia, given its land-based position, and allows it to continue with its current system of two rates of 5 and 10 per cent. Ecuador has been authorized to use tariffs up to 5 per cent lower than those under the Common External Tariff for certain products within the petrochemical and steel-making sectors. Colombia, Ecuador and Venezuela will be allowed to apply tariffs of up to 40 per cent on motor vehicles. Finally, this Decision states that for goods not produced within the sub-region member countries may jointly defer the Common External Tariff and apply a rate of 5 per cent, and also draw up a small list of products at 0 per cent.

As regards the consolidation of the Customs Union, the Commission adopted Decision 322 which sets out guidelines for trade negotiations with LAIA, Central American and Caribbean countries. These are primarily aimed at ensuring that such negotiations are conducted at the Community level and within the framework of the 1980 Treaty of Montevideo and provisions deriving therefrom.

#### 4.3 Harmonization of policies

With the instruments for the mechanisms that will conclude the establishment of the Andean Free-Trade Area about to be completed, over the last few months the member countries of the Andean Group have been moving forward with the implementation of a range of instruments for improving the expanded market.

To this end, the following have been approved: Community Decisions relating to the harmonization of tariff exemptions; rules to prevent or redress distortions in competition arising from dumping or subsidies, export restrictions, or practices that restrict free competition; modifications both to the common treatment of foreign capital and of trade-marks, patents, licences and royalties, and to the uniform treatment of Andean multinational enterprises; special rules for the determination of the origin of goods; and the common régime on industrial property.

In addition, the Andean Presidential Council, at its meeting in Cartagena de Indias in December 1991, agreed that in order to safeguard fair conditions of competition among member countries, exchange, financial and fiscal subsidies relating to direct taxes would be removed by 31 December 1992. The Andean Presidential Council also stated that by the same date, customs treatment that threatened the sub-regional preference margin should be removed.

The Andean Presidents decided to set up a high-level commission to identify products or sectors whose intrasubregional industrial production or trade might be threatened by practices that distort competition. They consider that the general strategy of macroeconomic policy harmonization should be defined as soon as possible.

In this respect, at its Sixty-ninth extraordinary session the Commission approved Decision 324, by which Bolivia, Colombia, Ecuador and Venezuela shall eliminate exchange, financial and fiscal subsidies on intrasubregional exports by 30 September 1992 at the latest. The Decision also states that by the same date a programme of harmonization of intrasubregional export incentives will be approved. Similarly, through Decision 323, the Commission approved the establishment of the High-Level Commission on Competition, with the aim of identifying products or sectors whose intrasubregional production or trade could be threatened by practices that distort competition; one of the main tasks of this Commission will be to urge governments or enterprises initiating these practices to undertake commitments to remove them or reduce their effects.



Table 1  
Andean Group  
Exports, Imports and Trade Balance  
(millions of dollars)

	Total trade			Excluding fuels		
	1989	1990	1991	1989	1990	1991
<b>Exports</b>						
Bolivia	819	923	927	605	696	650
Colombia	5,739	6,765	7,281	4,340	4,815	5,931
Ecuador	2,354	2,714	2,851	1,206	1,306	1,699
Peru	3,488	3,276	3,307	3,265	3,032	3,138
Venezuela	12,914	17,692	15,222	3,228	3,667	2,983
Andean Group	25,314	31,370	29,588	12,644	13,516	14,401
<b>Imports</b>						
Bolivia	620	703	942	617	699	939
Colombia	5,010	5,589	4,951	4,780	5,263	4,651
Ecuador	1,855	1,862	2,399	1,833	1,828	2,340
Peru	2,121	2,634	3,291	1,920	2,325	3,006
Venezuela	7,733	7,269	10,950	7,640	7,125	10,850
Andean Group	17,339	18,057	22,533	16,790	17,240	21,786
<b>Trade balance</b>						
Bolivia	199	220	-15	-12	-3	-289
Colombia	729	1,176	2,330	-440	-448	1,280
Ecuador	499	852	452	-627	-522	-641
Peru	1,367	642	16	1,345	707	132
Venezuela	5,181	10,423	4,272	-4,412	-3,458	-7,867
Andean Group	7,975	13,313	7,055	-4,146	-3,724	-7,385

Source: Prepared by the Department of Information, JUNAC.

Table 2  
Total Exports Within the Sub-Region  
(millions of dollars)

	1989	1990	1991
Andean Group	1,039.9	1,315.8	1,821.4
Bolivia	50.0	59.9	87.3
Colombia	309.3	372.8	778.2
Ecuador	183.0	188.5	211.4
Peru	197.5	200.9	269.4
Venezuela	300.1	493.7	475.1

Source: Prepared by the Department of Information, JUNAC.

Table 3  
Liberalization Programme as at 31 July 1992  
(by NANDINA items)

Programme list	No. of items	Percentages
<u>Commitments undertaken</u>	<u>6,201</u>	<u>100.0</u>
Automatic tariff reduction and common schedule	<u>4,894</u>	<u>79.9</u>
Tariff reduction	4,736	
Common schedule	158	
Not produced in the sub-region	<u>395</u>	<u>6.4</u>
Industrial integration programmes	<u>912</u>	<u>13.7</u>
Petrochemical	175	
Metallurgical	409	
Steel-making	217	
Automotive sector	99	
Favouring Bolivia	1	
Favouring Ecuador	11	

Source: Prepared by the Department of Information, JUNAC.

Table 4

List of Exceptions to the Liberalization Programme  
as at 31 July 1992  
(by NANDINA items)

Country	No. of items	Percentages
Bolivia	1,087	17.5
Colombia	8	0.1
Ecuador	772	12.4
Peru	616	9.9
Venezuela	0	0
Total number of NANDINA items	6,201	100.0

Source: Prepared by the Department of Information, JUNAC.