

In the framework of the WTO Chairs Programme (WCP), the WCP Chairs of Argentina and Chile, on their own initiative, have prepared the publication "20 Years of the WTO: A Latin American Perspective." The document offers an objective and informative account of changes in Latin American countries and their contribution to world trade and to the multilateral agenda since the establishment of the WTO.

## **20 Years of the WTO: A Latin American Perspective**

*Edited by: Valentina Delich (FLACSO Argentina), Dorotea López, Felipe Muñoz (Universidad de Chile), 2015.*

### **Outstanding messages**

*By Carla Vaca-Eyzaguirre*

Although Latin American countries' share of international trade, in percentage terms, is similar to what it was in 1990s (5%), they have significantly expanded their trade. Cyclical changes in the world economy had a positive impact on their share of world trade and on the diversification of products and trading partners.

Over the past decades the region became more open to the world. Between 1995 and 2014 the share of merchandise trade in gross domestic product (GDP) rose from 22.7% to 35.9%.<sup>1</sup> The region's exports throughout the years 2003 to 2011 grew at an annual rate of more than 20% (except in the periods 2006-2007 (6%) and 2008-2009 (-21%)); annual growth was close to zero or negative between 2012 and 2015. Despite this performance, the region's trade balance has been in deficit since early 2000, notably in the periods 1995-2002 and the biennium 2013-2014 – and the situation worsened in 2015 (US\$ -79.6 billion). Although the countries today have a sound and more balanced legal framework than in past decades, owing in large part to their membership and active role in the WTO, the region will not be able to rely on external stimulus such as increased world demand as it did on the past. It will have to find/redefine its strategies for accessing new markets, product niches, and strengthen its economic fundamentals in order to increase local and external business confidence and attract investment.

### **Sectors**

Latin American countries' abandonment of "hard" policies such as import substitution industrialization and the subsequent dismantling of tariff and para-tariff measures, which are characteristic of such policies, contributed to the faster growth of sectors where Latin America has comparative advantage, particularly in natural resources: **agricultural products, minerals and hydrocarbons**. These sectors were also boosted by rising demand reflected in prices, which rose mainly between 2003 and 2008. The price trajectory was interrupted in 2008 and 2009, owing to the financial meltdown, but then recovered –in the case of oil, the highest values were observed in 2012. Although specific factors were at work in the slowdown of each sector, all of them were influenced by international economic trends, such as the slowdown of growth in China, the appreciation of the dollar and uncertainties about the global economy.

The major beneficiaries of the period 1995-2014 were the economies that produced metals and fuels (the Andean countries and, to a lesser extent, Mexico, which exports oil but not metals). At the other extreme, Central America was disadvantaged by its dependence on food and oil imports. The Southern Cone countries occupy an intermediate position, being net exporters of foods and minimally dependent on oil imports.

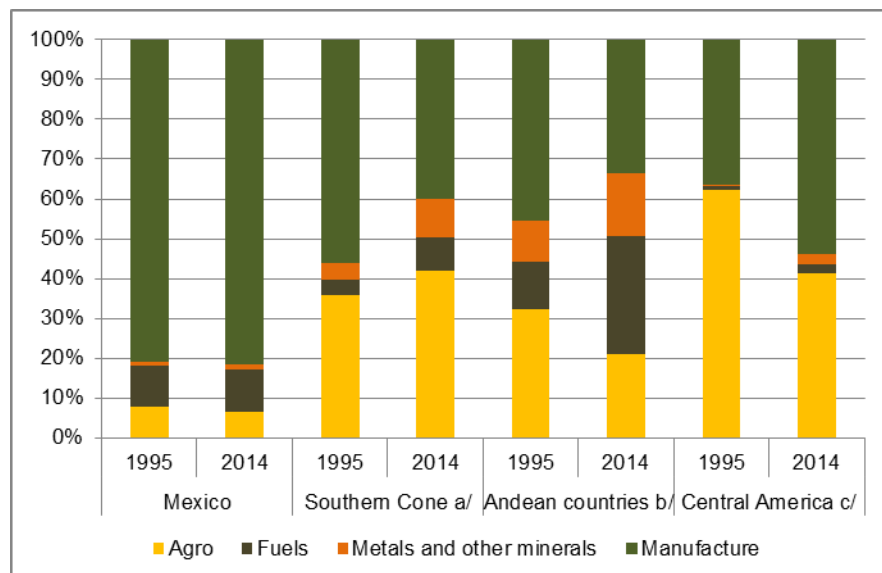
Apart from the boom experienced, in nearly all Latin American countries, during part of the past decades, new trends in the trading structure of many of these countries should be emphasized:

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<sup>1</sup> The openness coefficient increased in all countries of the region, apart from Panama owing to the structure of its economy (its trade policy is one of openness). Panama's economy is predominantly oriented towards services (particularly financial and transport services - it is the seat of the world's largest merchant navy and runs a high deficit on its trade (and current) account (nearly 10% of GDP) which it finances with capital income and foreign investment, and a considerable proportion of its trade in goods is generated from the Colón Free Zone (ZLC) which does not form part of the country's customs territory. It should be noted, however, that Panama has had the highest GDP growth rate from 2000 to the present day.

**Manufacturing** gained in importance, which is particularly significant for direct and indirect job creation and the attraction of investment. However, this sector is relatively heterogeneous in terms of its technological complexity, the size and characteristics of businesses, as well as the important differences between countries and the relative weight of the sector in the countries of the region.

**Chart 1. Composition of Latin American exports by groups of countries**



Note: Figure does not include Venezuela or the Dominican Republic due to incomplete data.

<sup>a</sup> Argentina, Brazil, Paraguay and Uruguay. <sup>b</sup> Bolivia, Colombia, Ecuador and Peru. <sup>c</sup> Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama. Agro: chapters 1-24, Metals and other minerals: chapters 25-26, Fuels: chapter 27, Manufactures: chapters 28-99.

Source: Own compilation using DATAINTAL data.

As can be seen from the above chart, the importance of each sector varies by country/subregion. It depends on the comparative advantages and trading partners of each country/subregion.

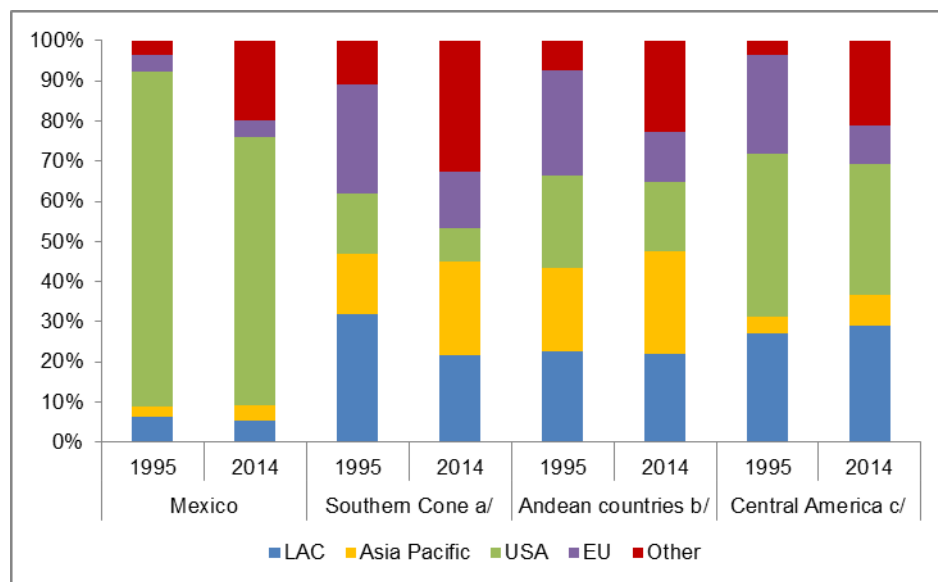
The analysis of manufacturing reveals, indeed, certain patterns in the economies of the region, particularly as regards value added and the dynamism injected by trade partners. In Mexico, for example, maquila activity, even though criticized for the quality of work and limited technology transfer, enabled the region where it is carried out (the north of Mexico) to attract investment, link the production of goods with services and, in general terms, to stimulate economic activity. In the case of value added, the authors cite the example of Brazil and Argentina compared with Mexico and Costa Rica: foreign value added is between 15% and 19% in the case of the former, and between 43% and 39% in the case of the latter.

Another noteworthy sector is **services**. Its annual average growth rate has been 7.7% over the last 18 years. The sector accounts for 13% of Latin America's total exports. The importance of the sector varies widely from country to country, the main exporters being Brazil and Mexico (and to a lesser extent also Argentina), while Uruguay and Costa Rica stand out in per capita terms. Non-traditional services (other than transport and tourism) which are the most dynamic in world trade, have also gained in importance in the region. These exports are, however, concentrated in five Latin American countries: Brazil, Argentina, Chile, Mexico and Costa Rica, which account for 90% of Latin America's non-traditional services exports. Although this "subsector" has the potential of increasing the use of skilled labour and value added, and is a channel to participate in global value chains, it is a highly competitive sector in the international arena. The authors recommend identifying niche markets and focusing on comparative advantages that are not easy to replicate, in order to promote growth in knowledge-based services.

### Trading partners

Latin America's exports to the Asia-Pacific region and "the rest of the world" have increased over the past two decades. China and, to a lesser extent, India, Japan and the Republic of Korea stand out in the first group; while the most important countries in the second group are Canada, Russia, Switzerland and Middle East countries.

**Chart 2. Geographical composition of LAC exports by groups of countries**



Notes: Not including Venezuela or the Dominican Republic on account of incomplete data. <sup>a</sup> Argentina, Brazil, Paraguay and Uruguay. <sup>b</sup> Bolivia, Colombia, Ecuador and Peru. <sup>c</sup> Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama.

Source: Own compilation using DATAINTAL data.

In the above chart, it is important to highlight the case of South America, which now includes China among its main trading partners. The subregion has also been the main scene of China's economic and trade activities in the region, including infrastructure works, fisheries, access to natural resources, nuclear technology, etc.

The import component of trade with China is also important. "In 2014, China supplied more than 13% of Latin American imports, increasing its share by 12 percentage points in 20 years. This higher trade penetration operated to the detriment of the United States and the European Union (EU) which lost ground in similar proportions."

At the same time, integration initiatives remained at the halfway point in relation to the objectives: integration and modernization of the production structure. The proportion of **intra-regional trade** in total Latin American exports remained stable, in the best of cases, between 1996 and 2014. The simple average of exports and imports for 2014 was 19.6% in South America and 22.6% in Central America. The major obstacles to intra-regional trade include: persistent barriers to the internal movement of goods, high transport costs because of a lack of investment in infrastructure, lack of regional public goods, similarity of factor endowments, recurrence of shocks and macroeconomic instability. This last factor was particularly conspicuous among MERCOSUR member countries in 1999 and 2002.

MERCOSUR has also faced recurrent conflicts due to trade barriers and other measures limiting market access among members. It has also suffered from a lack of adequate coordination of economic policies, which is essential for providing certainty to the private sector in order to operate on a regional scale. It should be noted, however, that this bloc exhibits the highest level of intra-industrial trade in the entire region.

## Trade policy

The Latin American countries have been major participants in the WTO negotiations. Under the Doha Round, in the area of agriculture, they have played a leading role in the coalitions of countries aspiring to broaden access to agricultural markets and reduce distortions in the sector, such as the Cairns Group, the Tropical Products Group and the Group of 20. In the negotiations on market access for non-agricultural products, the countries of the Southern Cone were key members of the NAMA-11 Group, while the countries of Central America and the Caribbean exerted considerable influence in the Group of Small, Vulnerable Economies.

With regard to multilateral agreements, mention should be made of the position taken by Latin American countries on the following agreements:

### **Trade Facilitation**

The Trade Facilitation Agreement (TFA) resulting from the 2013 WTO Ministerial Conference, which has been signed by all the Latin American countries, is aimed at providing the multilateral system with greater transparency and predictability, greater legal and economic certainty, in the area of customs clearance, including clearance of goods in transit.<sup>2</sup> In this area an important number of non-tariff measures have been found to be among the main barriers to intra-regional trade and to be cumbersome for landlocked countries of the region (i.e. Bolivia and Paraguay).

The Agreement emphasizes and clarifies three articles of the GATT:

**Article V** (Freedom of transit): mainly important to the landlocked countries, Bolivia and Paraguay. Latin America has made substantial progress in this area through agreements in the LAIA<sup>3</sup> framework, such as the International Road Transport Agreement (ATIT –for its initials in Spanish) which includes MERCOSUR members, Chile, Peru and Bolivia. In Central America, the international goods transit (TIM) project, which is being developed with IDB funding, is intended to be applied to the Mesoamerican region which goes from Colombia to México and includes the Dominican Republic.

**Article VIII** (Fees and formalities connected with importation and exportation): this includes facilitation of formalities for **authorized operators**, a subject on which at least ten countries<sup>4</sup> have been working strenuously in recent years. The degree of progress achieved in the different countries has varied in terms of both number and type of operator. In addition, some are already negotiating among themselves or with administrations in other parts of the world to adopt mutual recognition agreements that enable operators to be recognized in both the country of origin and the country of destination - Mexico is one of the countries that has made the most progress in this area. Another important advance in the region, over the past decade, has been in relation to the **single windows facilities**. Particularly noteworthy are the ten programmes<sup>5</sup> which follow the Asian model (the benchmark in this field) and whose advancement varies in terms of both degree of progress and coverage. The main challenge for the region concerns the need to improve **coordination between agencies** (such as customs, agricultural and health services, migration services), in order to avoid the existing double controls and checks, downtime, etc., which increase costs and time and do not help to ensure compliance with laws and procedures.

**Article X** (Publication of trade regulations): the countries of Latin America have made substantial progress; in the majority of countries most of the information is made available in a timely manner via the webpages of Customs and other agencies that participate in border controls. This is also true with regard to product classification (Article 3 of the TFA). The greatest challenge concerns "prior publication and consultation" of new or amended laws or regulations related to the movement, release and clearance of goods (Article 2). The available information suggests that some customs administrations issue regulations without disseminating them and at the last minute, which not only catches the operator unaware but also has a cost as penalties and fines are

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<sup>2</sup> The Agreement also contains provisions on technical assistance and building capacity for customs purposes, customs clearance and cooperation.

<sup>3</sup> That is, the Latin American Integration Association (LAIA).

<sup>4</sup> Argentina, Brazil, Uruguay, Peru, Ecuador, Colombia, Dominican Republic, Costa Rica, Guatemala and Mexico.

<sup>5</sup> Argentina, Brazil, Uruguay, Paraguay, Chile, Peru, Ecuador, Costa Rica, El Salvador, Nicaragua, Honduras, Dominican Republic and Mexico.

imposed for non-compliance. On the other hand, several countries in the region have different judicial bodies which make it possible to require the intervention of courts, for both judicial and administrative issues –one outstanding example being the case of Chile, which has tax and customs tribunals independent of the customs administration.

Finally, it should be emphasized that, although the region has made significant progress on facilitation issues (its OECD ranking in respect of facilitation indicators is positive for most countries: 1.2 to 1.6 out of 2 — with only Venezuela at 0.9)<sup>6</sup>, the position of the countries in competitive rankings reflects the fact that much remains to be done in that area. For instance, in the World Economic Forum competitiveness rankings: 13 of the 20 countries for which data is available are ranked between 73<sup>rd</sup> and 132<sup>nd</sup> (including Brazil (75) and Argentina (106)); Chile (35), Panama (50), Costa Rica (52) and Mexico (57) have the highest rankings of the region.<sup>7</sup>

### ***Intellectual Property***

Prior to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), signed in Marrakesh in 1994, most countries in the region had historically excluded the protection of pharmaceutical products, or made no provision for the protection of geographical indications, or excluded the patenting of living matter, or did not provide for the reversal of the burden of proof, among other issues that were subsequently regulated by the Agreement.

Notwithstanding that, no Latin American country made full use of the flexibilities, such as longer period of implementation, enshrined in the Agreement. This may be explained by a number of factors, among which: that up to that time the countries applied very old laws (and sometimes did not even amend them because of very strong pressure from the different national entities); the important influence of some developed countries for the granting of patents (especially pharmaceutical patents); etc.

The implementation of TRIPS in Latin America was varied. Although the Agreement establishes distinct standards of protection, each country is free to implement the agreement as it considers best. Generally speaking, it can be said that all the countries implemented significant changes in their legislation in order to meet the different standards — 20 years of protection for patents, non-discriminatory protection in the technological field, etc. In addition, with the signing of trade agreements, post-TRIPS, such as those concluded with the United States and the European Union, several countries went beyond the agreements applied in the region (in terms of flexibilities or greater protection). Annex 1 describes some of the most important changes implemented by the Latin American countries.

### ***Beyond multilateralism: trade liberalization***

Like most countries in the world, the countries of Latin America initiated a process of tariff dismantling and trade liberalization unilaterally, a process which was followed by the proliferation of trade agreements. Although at the outset most such agreements were of a regional nature, in the last two decades all countries have entered into extra-regional discussions/negotiations (with both developed and developing countries). The most active countries in this respect have been Chile, Peru, Colombia and the Central American economies. Bolivia, Ecuador, and the members of MERCOSUR, on the other hand, have signed few and less substantial agreements, and maintain higher levels of protection, particularly the MERCOSUR. One of the main reasons cited for the proliferation of such agreements is the difficulty experienced by WTO Members in advancing the multilateral agenda (the Doha Development Agenda).

More specifically:

The agreements implemented by **MERCOSUR** with extra-regional partners are not as ambitious, nor do they cover the same tariff horizon as the free trade agreements undertaken by most countries in the world. The sub-region currently has several economic partial agreements with Latin American countries, preferential agreements with Israel and India, pending ratification of free

<sup>6</sup> Source: OECD, Trade Facilitation Indicators, <http://www2.compareyourcountry.org/trade-facilitation#>

<sup>7</sup> Source: World Economic Forum, Competitiveness Rankings <http://reports.weforum.org/global-competitiveness-report-2015-2016/competitiveness-rankings>.

trade agreements with Egypt and the Southern African Customs Union (SACU).<sup>8</sup> MERCOSUR's most ambitious objective is the agreement with the EU, but these negotiations have not got off the ground and have stalled on various occasions over the last 20 years. MERCOSUR faces a threefold challenge: (1) its interests and advantages in Latin American markets are being eroded by the presence of new participants; (2) the new trade ties with China place the bloc's manufacturing sector under intense competitive pressure; and (3) it remains to be seen what impact the disciplines resulting from the mega-regionals, when adopted, would have on MERCOSUR existing productive structure.

The **Andean Community** had to deal with disputes between its members with regard to strategies for global integration. The Community relaxed the commitments under the customs union in order to enable its members to negotiate agreements individually with third countries (the most significant being the bilateral agreements signed by Peru and Colombia with the United States and the European Union).

The **countries of the Central American isthmus** have conducted jointly trade negotiations: the CAFTA-DR (between the countries of the Central American Common Market (CACM), the United States and the Dominican Republic) and the Association Agreement with the EU, which involves the CACM and Panama; in addition, four of the five members of the CACM also entered into negotiations with Canada, but eventually only Honduras signed a free trade agreement with that country. The countries of this subregion, together with Mexico, and later with the participation of Colombia, initiated the Mesoamerican Project which aims at the physical integration of its members.

**Mexico**, for its part, has a network of 12 Free Trade Agreements (FTAs) with 46 countries and nine partial scope agreements (Economic Complementation Agreements and Partial Scope Agreements) within the framework of the Latin American Integration Association (LAIA).<sup>9</sup>

A more recent agreement relates to the **Pacific Alliance**, created in 2011 by Colombia, Peru, Chile and Mexico. The primary objective of it is greater participation in global trade. The countries aspire to maximize the use of their existing agreements by "cumulating origin" through their trade exchanges, and to becoming a platform for world trade –with special emphasis on the Asia-Pacific region. Trade between the members is currently low. Upon the entry into force of the Agreement, 92% of tariff lines should be liberalized (it entered into force on 1 May 2016). Tariffs on the remaining product should be eliminated in less than seven years –products considered highly sensitive were placed in special treatment categories.<sup>10</sup>

#### Mega-regional agreements and the future of trade policy in Latin America

Noteworthy among the so-called "mega-agreements" are the Transatlantic Trade and Investment Partnership (TTIP), the Trans-Pacific Partnership (TPP), the Regional Comprehensive Economic Partnership (RCEP), etc.

In the above-mentioned context, the impact of these mega-agreements will differ from one country to another. It is expected that Mexico will seek to improve its integration into the global value chains (it already has a high degree of productive integration with North America) and that Chile and Peru will seek to improve the conditions of access for their exports of natural resources derivatives. Central America could benefit from indirectly exporting to the new markets, through preferential access it receives in some value chains. On the other hand, some of its exports may be displaced by competition from other countries (e.g. competition from Asian countries under the TPP).

MERCOSUR, Bolivia and, to a lesser extent, Ecuador, are in a more vulnerable position in relation to the mega-agreements. Every new agreement of their trading partners raises the disadvantageous position of their exports. This is particularly true in the agricultural sector, since most of the world major exporters of agricultural products participate in all mega-agreements and there are significant barriers against the rest of the world.

<sup>8</sup> Source: Mercosur [http://www.mre.gov.py/tratados/public\\_web/ConsultaMercosur.aspx](http://www.mre.gov.py/tratados/public_web/ConsultaMercosur.aspx)

<sup>9</sup> Source: Ministry of the Economy, Mexico, <http://www.gob.mx/se/acciones-y-programas/comercio-exterior-paises-con-tratados-y-acuerdos-firmados-con-mexico>.

<sup>10</sup> Source: Pacific Alliance <http://alianzapacifico.net/temas-de-trabajo/#!grupo=comercio-e-integracion>.

That having said, the main impact for all countries will be felt, *inter alia*, in the areas of services, investment, government procurement, intellectual property rights and, in particular, regulatory aspects, such as technical standards, sanitary and phytosanitary measures, environmental regulation, and labelling standards. Adaptation to stricter standards, including private sector requirements, may become the norm –particularly in the agricultural and food sector, but also in sectors such as automobiles and chemicals– and costs may surge for exporters throughout the world. Countries that cannot keep pace run the risk of being excluded from the market. Moreover, as many issues do not come within the purview of the WTO, it will not be possible to challenge perceived discriminatory measures in that framework. Once again, the MERCOSUR countries would be the most vulnerable to this situation. In that context, all Latin American countries would benefit of jointly working on trade and investment reciprocity, and in the articulation of their national production systems.

More generally, it can be said that the existence of the mega-agreements and the challenges of the international economic climate are making increasingly clear the need for the region to promote **convergence in diversity**. Although this idea has referred to coordination between MERCOSUR and the Pacific Alliance, it entails an approach of global and regional scope, centred on variable-speed commitments. If those commitments are incorporated in common institutional and policy frameworks, as could be the case for the LAIA at the regional level or the WTO in the global framework, they would serve to neutralize trends towards systemic fragmentation that are currently being observed.

The challenge is to strengthen the collective disciplines relating to preferential trade agreements, in order to avoid contributing to further fragmentation of the world multilateral trading system, which could deteriorate the necessary conditions for global governance. This conception is essential if the mega-agreements that are being negotiated are to stick to the objective of promoting a reasonable framework for global and regional governance. This implies reconciling partial scope approaches, with a global vision essential to boosting world trade, in a context of peace and political stability favourable to the economic and social development of all countries. At the same time, it implies valuing diversity and neutralizing the most negative effects of fragmentation.

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**Annex 1: Some salient TRIPS-related issues in the Latin American countries**

**Pharmaceutical patents.** Most of the Latin American countries began granting such patents before the transitional period expired on 1 January 2005; for example, Argentina did so in 2000, Uruguay in 2001. One of the countries that went beyond granting patents for pharmaceutical products was Brazil, which adopted the "pipeline" mechanism allowing for the retroactive recognition of patents requested before the entry into force of the new legislation.<sup>11</sup>

**Patentable subject matter.** Both the TRIPS Agreement and the patent laws of Latin America in general exclude plants and animals from patentability. In the framework of trade agreements, particularly with the United States, some countries recognize patents on certain types of plants (e.g. Chile, members of CAFTA-DR). The situation is similar with regard to methods of surgical, therapeutic or diagnostic treatment, which are also excluded from patentability. Some exceptions in this case has been observed on "second use", in some countries of the region the granting of such patents depends on the patent office (for example in Argentina and Brazil there were cases of this kind).

**Patenting requirements.** This are determined in the TRIPS Agreement, but the way in which they are implemented (for the purpose of granting or not granting a patent) is subject to the rules of each country. For example, in the case of pharmaceutical inventions, Ecuador appears to apply more rigorous criteria than Colombia and Peru. In addition, the patentability standards are also subject to the interpretations of the courts –Latin American judges have had little experience with this type of dispute. In the case of trade agreements, those with the United States have introduced the concept of a "utility" standard under which it is stipulated that "Each Party shall provide that a claimed invention is industrially applicable if it has a specific, substantial and credible utility."

**Terms of patents.** Latin American legislation provides a period of protection of 20 years (the TRIPS Agreement specifies a minimum of 20 years). Most countries do not grant compensatory periods for any delay on application's evaluation. Brazilian law, however, provides that the period of 20 years may be extended if the procedures for the granting of patents were to last more than 10 years. Likewise, the free trade agreements, such as those between the United States with Chile, Colombia and Peru, as well as the CAFTA-DR, provide that the contracting parties must extend the term of the patent to compensate for unreasonable delays in: (a) obtaining authorization for the marketing of a drug; and (b) the examination of patent applications. Such possible changes create uncertainty for producers of generic medicines and may have significant consequences for public health –particularly for the poorest sectors of the population, since the lack of competition (reflected, for instance, in the price) increases the barrier to access to medicines.

**Exception to exclusive rights.** In Latin America any acts done for *experimental purposes* falls within this category. In some countries, however, the exception is applicable to acts carried out for non-profit purposes. In the context of the exceptions, particular mention should be made of the *principle of exhaustion*. Several Latin American countries, such as Argentina, the members of the Andean Community, the Dominican Republic, Honduras and Panama, have made provision for the principle of international exhaustion, thereby admitting parallel imports –in some cases these are subject to certain limitations. Countries such as Mexico do not include these provisions in their patent legislation, and Brazil does not permit parallel imports except in cases where a compulsory licence has been granted –Brazilian legislation contrasts with its position in international forums).

**Compulsory licensing.** The aim is to mitigate the monopoly rights granted by a patent without denying the right of the patent owner to use his invention and receive remuneration for the use of his invention. The possibility of granting compulsory licences or permitting governmental use to be made of patented inventions is found in Latin American legislation and has different justifications. For example, in 2007, Brazil granted a compulsory licence following failure to reach agreement with the owner of a patent in order to reduce the price of an antiretroviral.

**Copyright and related rights.** With a view to implementing the TRIPS rules in this area, a number of significant changes were introduced in some Latin American countries. For example,

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<sup>11</sup> Subject to the condition that the covered inventions had not previously been placed on any market or that there had been no serious preparation for the exploitation of the invention in Brazil.



with regard to: the term of protection for legal persons' copyrights, rental rights, and software protection. Generally speaking, the copyright laws of Latin America list a set of protected exceptions. Some permit the reproduction of protected works for educational purposes, as well as certain uses by libraries, and more recently on behalf of persons with disabilities. In addition, some countries, in the framework of their trade agreements, have broadened copyright protection to include, for example, the rights of phonogram producers and performers. Moreover, Chile reformed its law in this area to include exceptions and limitations on the use of protected works.

**Industrial designs and utility models.** Though not part of TRIPS, they are considered by various Latin American countries as a tool for promoting local industries –in addition to meeting international obligations and satisfying foreign demand. The number of applications, however, suggests that, with the exception of Brazil, the granting of utility models has fallen short of expectations with regard to stimulating local innovation. In comparison with other countries, the number of applications and grants is very low; in 2013, for example, the number of applications from residents of Latin America<sup>12</sup> was 4,210, compared with 885,226 in China, 11,644 in Germany and 10,463 in South Korea.

**Traditional knowledge.** In most cases, protection is limited to knowledge related to biodiversity or knowledge possessed by indigenous peoples (as in Peru). Panamanian law also provides for a system that covers all forms of cultural expression, as well as knowledge of a technical nature, with respect to physical and nonphysical elements. In addition, the Andean Community provides that protection to elements of industrial property shall be granted safeguarding and respecting the biological and genetic heritage, as well as the traditional knowledge of its indigenous, Afro-American or local communities. Accordingly, the granting of patents on inventions developed from material obtained from the said heritage or knowledge will depend on how the material was acquired as the procedure must be in accordance with international, community and national legal systems. Member countries recognize the right and authority of indigenous, Afro-American and local communities on decisions about their collective knowledge.

**Other areas** of importance are: *Disclosure*: some Latin American countries, particularly Brazil, Colombia, Ecuador, Peru and Venezuela, have undertaken an initiative to introduce the obligation to disclose the origin of biological resources in patent applications. *Geographical indication*: the interest of Latin American countries in this area has grown recently –considerable differences exist among them with regard to the desired level of protection. Most of the countries have followed the *sui generis* model of the European countries.

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<sup>12</sup> Applications for utility models made by residents of Argentina, Brazil, Chile, Colombia, Costa Rica, Cuba, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru, Dominican Republic and Uruguay. This type of model is also protected in Ecuador and Venezuela.