The Andean Community in Motion: 
A Progress Report

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Executive Summary

This report reviews the evolution of the Andean Community in the 1990s. The Andean Group metamorphosed into the Andean Community in June 1997 when the Cartagena Agreement, signed in 1969, was modified by the Trujillo Protocol. The new protocol introduced some important changes in the institutional framework of the Andean Group. Modeled on the European Community, the Andean institutions have traditionally been highly developed. Many of these institutions have supranational powers, which sets the Andean Community apart from other Latin American trade and integration agreements.

The Trujillo Protocol created a Presidential Council and a Council of Foreign Ministers and gave them a critical role in the decision making process. It also replaced the tripartite body that had been in charge of the technical secretariat-the Junta or Board-with a General Secretariat. Finally, the Trujillo Protocol strengthened the internal cohesion of the Andean integration process by placing all its institutions and mechanisms under a new umbrella, the Andean Integration System.

Although the original Cartagena Agreement envisaged the establishment of a customs union by 1980, the Andean countries had to wait another decade and a half to achieve this objective. This was made possible by the market-oriented reforms that swept the region in the early 1990s, particularly the unilateral trade liberalization measures that most countries implemented, which set the groundwork for a reactivation of Andean integration efforts. Over the past few years, a common external tariff (CET) has been enforced, and duties and other barriers to internal trade have been eliminated. However, the Andean Community is an "incomplete" customs union, as both the CET and the free trade area are still subject to a number of exceptions-of countries, sectors and/or products. Many of these exceptions are in the process of being phased out, and this will enhance the ability of the Andean Community to operate as a fully functioning customs union.
The liberalization of the Andean Community's internal market has had an important effect on trade among its member countries. Trade flows among the Andean countries have reached unprecedented levels, are freer than ever before, and have grown faster than trade with the rest of the world. After a decade of flat or declining growth in the 1980s, intra-Andean trade picked up in 1989 and began to grow steadily after 1990. At the end of 1997, intra-Andean exports amounted to US$ 5.3 billion, more than quadrupling the levels of 1990. Equally important, Andean trade with the rest of the world has also risen, and imports from third countries have consistently increased since the agreement was reactivated in the early 1990s.

The Andean Community has addressed many of the newer trade issues, such as investment, competition policy, services and intellectual property rights, and adopted common policies in most of these areas. A common investment regime is in place-mandated by Decision 291, which replaced the old, restrictive Decision 24. The new regime grants national treatment to foreign investors and eliminates all restrictions on capital and profit remittances. Decision 344, which replaced Decision 85, granted patent rights to pharmaceutical products that had previously been excluded from patentability, extended the duration of patents, and expanded the protection granted by trademarks. Also, Decision 351 was adopted by the Andean Commission to deal with copyrights. It extends copyright protection to software and computer programs. These decisions are now in the process of adjustment to make them fully consistent with the Uruguay Round agreements in this area.

The development of a common foreign policy figures prominently in the Andean Community's top priorities. The Andean Community has set an ambitious external agenda. It includes the establishment of closer links with the Latin American and Caribbean countries, as well as the United States and Canada. It also involves the joint participation of the Andean countries in the World Trade Organization (WTO) and, in particular, the FTAA negotiations. However, it is in the negotiation of a free trade agreement with Mercosur that the Andean Community seeks to achieve results in the short term.

The negotiations between the Andean Community and Mercosur have raised great expectations. They may indeed change the landscape of Latin American economic integration. Once fully implemented, a free trade agreement between the two groups would significantly widen the region's trade liberalization process. It would actually lead to the formation of a South American free trade area in all but name, as Chile already has trade agreements with Mercosur and most Andean countries.

The other priority area of the Andean Community's external agenda is the FTAA. Ever since the Andean presidents resumed their regular meetings, in September of 1995, they have underlined the need for their countries to coordinate and develop joint proposals to deal with the various issues included in hemispheric negotiations. This is a wise choice. The United States is the single most important trading partner for all Andean Community countries but Peru, and the hemispheric market is the largest market for all of them. Thus, the FTAA negotiations are of strategic significance to the Andean countries as a whole.

As the Andean Community continues to evolve, it will face new and pressing demands. The elimination of internal trade tariffs has not prevented countries from using non-tariff barriers. Some sectoral policies need to be revised and updated. Infrastructure-markedly in telecommunications and transportation—remains insufficiently developed to support expanded trade and economic integration. Articulation of a coherent common foreign policy remains difficult, as does joint participation in international fora and negotiations. Recent evidence suggests that, despite the magnitude of these difficulties, the new Andean Community seems to be up to the challenge. It has regained its political support, and the economic achievements of the past few years provide a solid basis for its further strengthening.

I. Introduction
"The Andean Community without Peru is like ceviche without rocoto," said the newly elected Secretary General of the Andean Community, Sebastian Alegrett, in mid-1997 as he was preparing to take office. He was referring to the latest crisis in the group. Peru's withdrawal from the Andean Community had been announced after negotiations with its Andean partners had led nowhere. At issue was Peru's full participation in the trade liberalization efforts undertaken by the Andean countries since the early 1990s. Alegrett's comments proved very timely. Shortly thereafter negotiations resumed and an agreement was forged whereby Peru would gradually join the Andean free trade area. A number of additional measures would also be implemented to strengthen the Andean internal market.

This was just the latest of the Andean Community's crises. In 1992, following the closing of the Peruvian Congress by President Fujimori, Venezuela reacted by freezing diplomatic relations. As a result, the bi-annual meetings of the Andean presidents were suspended, leaving the Andean Community-then the Andean Group-without their much-needed political support. Worse still, in 1995 an old border dispute between Ecuador and Peru in the Amazonia resurfaced, leading to hostilities which so far have not completely ceased. President Perez of Venezuela was forced to resign in 1993; following impeachment procedures, and a political crisis in Ecuador forced President Bucaram out of office in 1997. These are only the most dramatic of the many crises that have confronted the Andean countries throughout the history of their regional arrangement. Still, as serious as these events have been, the Andean Community has endured.

Trouble has not led to paralysis. Significant progress has taken place in Andean economic integration in the 1990s. The Andean Community operates, albeit yet imperfectly, as a customs union. Trade among its members has been significantly liberalized, and has expanded considerably, as has trade with third countries. A common external tariff (CET) has been implemented for most tariff lines, and there is a scheduled timeline for further implementation and for the phasing in of current exemptions. Investment policies have also been liberalized, and investment flows have resumed. The Andean institutions have been streamlined, and a number of common sectoral policies have been adopted, such as, for example, in the case of intellectual property rights. Although some additional measures may need to be taken to consolidate these achievements, the Andean Community can certainly present itself as a modern, updated integration arrangement.

These developments are reviewed in this report. The next section deals with the institutional changes that converted the Andean Group into the Andean Community. The analysis then turns in section III to the Andean Community's internal market, in particular the efforts made by the Andean countries to liberalize their reciprocal trade and implement a common external tariff. Section four examines the evolution of trade within the Andean Community and vis-à-vis third countries. Section five discusses some sectors where common approaches and policies have been defined by the Andean countries. The following section focuses on the Andean Community's external relations, in particular the efforts now under way to negotiate a trade agreement with Mercosur. The final section of the report presents the main conclusions of the preceding analysis.

II. From the Andean Group to the Andean Community

The Andean Group metamorphosed into the Andean Community in June 1997 when the Cartagena Agreement, signed in 1969, was modified by the Trujillo Protocol. The new protocol introduced some important changes in the institutional framework of the Andean Group. It created a Presidential Council and a Council of Foreign Ministers and gave them a critical role in the decision making process. It also replaced the tripartite body that had been in charge of the technical secretariat-the Junta or Board-with a General Secretariat. Finally, the Trujillo Protocol strengthened the internal cohesion of the Andean integration process by placing all its institutions and mechanisms under a new umbrella, the Andean Integration System.
The Trujillo Protocol built upon the already strong institutional framework of the Andean Group. Modeled on the European Community, the Andean institutions have traditionally been highly developed. Many of these institutions have supranational powers, which sets the Andean Community apart from other Latin American trade and integration agreements. The supranational character of the Andean Community is most prominently manifested in its policy-making institutions. These are the Commission and, as mentioned, the Andean Presidential Council and the Council of Foreign Ministers. Other institutions have the responsibility of ensuring that the common integration goals of the Andean countries are carried out in accordance with their agreed decisions and commitments. These are the General Secretariat and the Andean Court of Justice. Some other institutions or bodies, such as the Andean Development Corporation and the Andean Parliament, are also part of the Andean Integration System, and play a supporting role in the whole integration process.

The creation of the Andean Presidential Council was long overdue. The presidents of the Andean countries have taken an active role in the Andean integration process since the late 1980s. In 1989, they began meeting every six months to keep the process under review and to provide the political guidance to move it forward. Although these meetings were interrupted in 1992-following the tensions that developed after President Fujimori closed the Peruvian Congress-they were instrumental in effecting a radical transformation of the Andean approach to economic integration. To a great extent the reactivation of the Andean Group in the early 1990s was a result of the decisions taken during these first presidential gatherings. The meetings resumed in 1995 and have continued to provide critical political support to the Andean Community. The Andean Presidential Council meets once a year and its decisions-in the form of policy guidelines-are to be implemented by the corresponding Andean institutions.

The Trujillo Protocol gave the Council of Foreign Ministers direct responsibility for conducting the Andean Community's external relations. The Council meets twice a year. It was mandated, inter alia, to coordinate the participation of the Andean Community in international fora and negotiations, and to enter into international agreements with third countries or groups of countries. To a large extent, the role of this Council supplements that of the Commission, which was the single policy making institution of the Andean Group. This role is now shared between these two bodies, which in some cases need to meet jointly to address some specific issues. The Commission is made up of plenipotentiary representatives from each member country, normally their trade ministers. It has competence on trade and investment matters, and its decisions are directly enforceable in all member countries. In recent years, the Commission has exercised its legislative powers to set common rules in areas such as intellectual property rights and investment policies. The Commission meets at least three times a year, and when dealing with sectoral issues, i.e. agriculture or telecommunications issues, it is mandated to include government representatives from those sectors.

The Trujillo Protocol replaced the Board with a General Secretariat. The General Secretariat is the technical body of the Andean Community. It has authority to develop and formulate policy proposals to the Commission, and the responsibility to identify actions-or lack of action-by the Andean countries that may be inconsistent with their obligations under the agreement. The functions of the General Secretariat, as well as its role in the implementation of the Andean decisions, makes it unique among its peers in other Latin American integration agreements. The Commission is at present considering some proposals to reinforce the General Secretariat operations by making its annual budget independent of the direct contributions of each Andean country. One such proposal is to link the budget to the value of intra-regional trade, and to collect it through some form of customs arrangement. The General Secretariat is headed by a Secretary General, which replaced the previous tripartite structure of the Board, and is located in Lima, Peru.

Another key institution of the Andean Community is the Andean Court of Justice. It is also unique in the Latin American experience. The treaty establishing the Andean Court of Justice entered
into force in May of 1983. It gave the Court the responsibility to interpret all Andean decisions—in particular those taken by the Council, the Commission and the General Secretariat—and, eventually, to nullify them if it finds that they do not conform to the Andean legal framework. The Court also acts as a dispute settlement mechanism to deal with differences regarding the implementation of these decisions by the member countries. Thus, contrary to other trade and integration agreements, where disputes are settled through inter-governmental consultation or by recourse to arbitration, the Andean Community chose a juridical approach. The Andean countries and their citizens, as well as the Andean institutions, have access to the Court. The members of the Court—five in total—should act independently of their countries of origin. The Court has gained prominence in recent years by exercising its authority in a number of critical cases where differences existed among various Andean countries. As the countries concerned have implemented the Court's decisions in a timely manner, this has reinforced its authority. Some changes were introduced in the functioning of the Andean Court of Justice by the Cochabamba Protocol, which is still awaiting legislative approval by some member countries.

Forming part of the Andean Integration System—as the whole network of Andean institutions is called since the Trujillo Protocol—there is a development fund, the Andean Development Corporation (CAF), which is the financial arm of the Andean Community. It was established in the early 1970s, and its primary goal is to identify, promote and finance projects to strengthen the integration process. The CAF's operations have expanded considerably in recent years. There also exists an Andean Parliament, whose members are in the process of being directly elected in some of the Andean countries, and a myriad of other institutions, which deal with intra-Andean cooperation in fields such as education and health.

There are currently efforts under way to ensure a greater involvement by civil society in the Andean integration process. Some mechanisms for the participation of the labor and the business communities in Andean affairs have existed since the inception of the Andean Group in the late 1960s, but they lacked effectiveness. These were the Business Consultative Council and the Labor Consultative Council. They are now in the process of being reactivated, and the Trujillo Protocol gives them a larger role in the Andean decision making process. Both councils can participate in the meetings of the Commission, and express their views on matters under its consideration. That may not be enough, though. As the Andean Community expands and moves forward in its integration efforts, broader participation by other segments of civil society may be required.

The Trujillo Protocol was not the first, nor the last, to reform the Cartagena Agreement. Shortly after it entered into force, the Andean Community approved another substantive amendment to the agreement—the Sucre Protocol. This expanded the scope of the Andean Community by adding three new chapters, dealing with the Andean Community's external relations, the liberalization of trade in services and a new category of membership—the "associated" member countries. As discussed later in this report, the Andean Community now places a high priority on the development of closer links with other countries or groups of countries, most notably Mercosur, and this is reflected in the new protocol. With respect to trade in services, although the Sucre Protocol has not yet entered into force, the Andean Community has recently agreed to a common framework to promote trade liberalization in the sector.

**III. Consolidating the Internal Market**

Although the original Cartagena Agreement envisaged the establishment of a customs union—that is, the liberalization of internal trade and the setting up of a common external tariff (CET)—by 1980, the Andean countries had to wait another decade and a half to achieve this objective. This was made possible by the market-oriented reforms that swept the region in the early 1990s, particularly the unilateral trade liberalization measures that most countries implemented, which set the groundwork for a reactivation of Andean integration efforts. Over the past few years, a CET has been enforced, and duties and other barriers to internal trade have been eliminated.
However, the Andean Community is an "incomplete" customs union, as both the CET and the free trade area are still subject to a number of exceptions-of countries, sectors and/or products. Many of these exceptions are in the process of being phased out, and this will enhance the ability of the Andean Community to operate as a fully functioning customs union.

The decisions regarding the customs union were adopted by the Andean countries at a presidential meeting in Cartagena, Colombia, in December 1991. These decisions provided for the establishment of the free trade area and the adoption of a common external tariff by January 1, 1992. This deadline was not met. Instead, the Andean countries implemented these decisions in sequential order. With respect to the free trade area, Colombia and Venezuela moved ahead independently, eliminating tariffs and other restrictions to their reciprocal trade in February 1992. Bolivia joined them in September 1992 and Ecuador did so in January 1993. Thus, a free trade area-with no goods exempted-went into effect in 1993 between Bolivia, Colombia, Ecuador and Venezuela. Peru did not, at this time, join the free trade area. Instead, it negotiated bilateral trade arrangements with each of its Andean counterparts that helped to partially liberalize their reciprocal trade flows. These bilateral agreements were in force until mid-1997, when a compromise was reached whereby Peru would gradually join the Andean free trade area by completing its trade liberalization process vis-à-vis the other countries by the year 2000 for most tariff lines, and by 2005 for a few remaining sensitive products.

Implementing the CET proved even more difficult. The Andean CET is determined by the level of processing, with a 5 percent tariff rate applied to raw materials and industrial inputs; 10 and 15 percent to intermediate inputs and capital goods; and 20 percent to final goods. There are exemptions to the CET, which will be eliminated by 1999. Higher rates apply to trade in automobiles, and variable apply to a number of agricultural products. At the time the decisions regarding the establishment of the CET were made, Bolivia was excused from implementing it and allowed to maintain its flat national tariff schedule. Peru, which had already adopted a two-level tariff rate of 15 and 25 percent for most of its tariff schedule, was not prepared to immediately implement the four-level CET. Thus, it was again Colombia and Venezuela that first adopted the Andean CET (also in February 1992, as the two countries liberalized their reciprocal trade), and then Ecuador (in 1995). This situation will remain unchanged for the foreseeable future. At the time Perú agreed to join the Andean free trade area, an understanding was reached to allow Peru not to adopt the CET. Thus, The Andean customs union is made up of three countries, whereas in the Andean free trade area all the Andean Community countries participate-with Perú joining in gradually.

The levels of the CET reflect the policy changes that had previously taken place in the Andean countries' trade regimes. These countries began to unilaterally liberalize their trade in the late 1980s, bringing tariffs to new, lower levels. In 1985 tariffs ranged from Bolivia's relatively low average level of 20 percent to Peru's higher average rate of 63 percent. Bolivia began its trade liberalization process early in 1985, adopting a simplified, flat rate tariff and eliminating nontariff barriers. Starting in the late 1980s, Colombia, Venezuela and Ecuador also reduced and simplified their tariffs. Peru followed later, adopting a two-tiered tariff. As a result, by 1990-1991, tariffs in all the Andean Community countries were lowered significantly, as shown in Figure 1. By 1997, Bolivia's average tariff was 9.7. The average levels in Colombia, Ecuador and Venezuela were 11.53, 11.25 and 12.01 percent, respectively, and Peru's average tariff stood at 16.3.
Another way of looking at the relationship between unilateral and regional trade liberalization, is by comparing the average level of the CET and the average level of the tariff schedules of each Andean country in 1990, before the decisions on the common external tariff were taken. This comparison is illustrated in Figure 2, which shows how the CET was set at a much lower level than that of most Andean countries-the exception being Bolivia, which does not participate in the CET. Actually, Figure 2 gives a measure of the extent to which the Andean Community lower level of protection vis-à-vis the rest of world has helped to reinforce the trade opening of the Andean countries.

Although the elimination of trade barriers and the setting up of a CET have been key elements in redesigning the landscape of Andean integration, further efforts need to be made to strengthen the Andean Community's internal market. Tariffs have been eliminated, but have often been
replaced by less transparent non-tariff barriers. This is the case, in particular, in agricultural trade where sanitary and phytosanitary measures are frequently applied to restrict trade. In the manufacturing sector there is a need for further harmonization of different standards regulations. Also, the trade infrastructure-telecommunications, roads, airports, customs services—requires extensive adjustments to better respond to the greater trade and economic interchange generated by the new Andean Community.

Continue with: IV. Strengthening Trade and Investment

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Endnotes

1. Rocoto is a chili that gives Peruvian ceviche a unique flavor.

2. The Cartagena Agreement went through another major change in the late 1980s when its member countries adopted the Quito Protocol.

3. These bilateral trade agreements were part of an understanding reached in August 1992 which, in fact "suspended" Peru from its obligations regarding the Andean customs union in the process of being established.

4. Decision 414 of the Andean Commission set out the terms for the participation of Peru in the Andean free trade area. According to this decision, approximately 85 per cent of items would be liberalized by the year 2000. The phasing out of tariffs on the remaining items would be completed by the year 2005.

5. The CET formally went into effect on February 1, 1995.

6. See Andean Commission Decision 414