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Trade and development: the rising importance of sustainable development in the Latin American trade agenda

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December 2008

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About the Trade Knowledge Network (TKN)

<http://www.tradeknowledgenetwork.net>



The Trade Knowledge Network is a program of global cooperation among research institutions in Africa, Asia, Europe and the Americas, working on issues of trade and sustainable development. Coordinated by the International Institute for Sustainable Development (IISD), the TKN network connects its members, strengthens capacities and generates new research with the objective to evaluate and respond to the impact of the commercial and investment policies on sustainable development.

The main objective of the TKN network is to ensure that trade and investment will contribute to sustainable development, with trade and investment policies that take into account both the social and environmental development. The network pursues these goals generating studies with policy recommendations and communicate them to decision makers at national, regional and global levels.

The Centro de Estudos de Integração e Desenvolvimento (Center of Integration and Development Studies) is the TKN activity's coordinator in South America.

On the project "Trade and development: the growing importance of sustainable development in the South-American trade agenda"

This project aims to identify priority themes for the development of a research program on the subjects of trade and sustainable development in South America. For a first approach, were selected four countries in the region (Argentina, Brazil, Chile and Peru), for which national studies were carried out.

Assuming that at least three themes (the environmental, social and climate change subjects) related to sustainable development will gain importance in the exports performance and the trade negotiations agenda of the latin-american countries in the next decade, the four national studies have sought to identify the three themes on the negotiation agenda of each country: (i) the most important issues for the country, in terms of opportunities and/or vulnerabilities; (ii) the main domestic sectors and (iii) the governmental position.

This report summarizes the main findings in the national studies. Looking ahead, the report presents and discusses the main themes and challenges of the sustainable development and trade agendas for the four countries and, in addition, suggests some elements for a future South-American research agenda on these subjects.

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1. Introduction

In developed countries, there are clear trends indicating the growing link between the socio-environmental sphere and both the unilateral trade policies of these countries as well as other policies and standards applicable to the goods market. Such trends have earned strong internal legitimacy in these countries, so much so that their consolidation and diffusion is expected over upcoming years. This phenomenon can be observed not only in relation to the environmental and labour agendas, but also more recently in the climate change agenda.

In the trade forums, Latin American countries have historically adopted a defensive stance when it comes to topics related to sustainable development, primarily in terms of the ties between trade and environmental and labour issues. Generally speaking, countries from the region see protectionist intentions behind the efforts to link these topics to trade negotiations.

However, the situation of such countries has changed significantly over recent years. On one hand, several countries in the region accepted the inclusion of chapters dedicated to environmental and labour topics in the free-trade agreements (FTAs) they signed with the United States and Canada. The level of demand

defined by such agreements has increased gradually, as can be confirmed through a comparison between some of the older agreements (NAFTA, for example) and the more recent ones (the agreement between the United States and Peru).

On the other hand, despite the fact that developed countries have introduced such topics into their political and trade negotiation agendas, certain evolutions in the developing countries—such as the growing differentiation of interests between these countries, their perception of environmental and labour topics as sources of opportunity (and not just risks), etc.—have led the actors of these countries to “appropriate” certain topics of the environmental, labour and climate change agendas.¹

Four national case studies² concluded in December 2008. Based on their conclusions and on the hypothesis that these topics have earned importance when it comes to the performance of exports and trade negotiations of Latin American countries, there was an effort to identify within these thematic areas the most important issues for each country in terms of opportunity and/or vulnerability and the forces that prompted the introduction of sustainable development topics into the country’s trade and investment agendas.

The second section of this work presents certain stylized facts about the national trade and the foreign direct investment (FDI) policies of the countries considered in the national studies. The third section discusses the sustainable development

¹ Furthermore, in certain developing countries—Brazil among them—the link between trade and sustainable development has led public and private actors to consider other dimensions of this link, such as the impact that trade and investments have on economic development, inequality and poverty. In contrast to what would be a “Northern” vision of these links, whose axis would be the relationship between trade (and investment) and environmental and labour topics, a “Southern” perspective has developed on the trade-sustainable development relationship. This made the distributive impacts of trade and the topic of “a space for development policies” a central focus.

² Bouzas, R. e Molinari, A. *Comercio, IED y desarrollo sostenible: una revisión de la experiencia argentina*; Motta Veiga, P. e Rios, S.P. *Os temas de desenvolvimento sustentável na agenda brasileira de comércio e investimentos*; Claro, E. *El desarrollo sostenible en las agendas nacionales de comercio e inversiones: el caso de Chile*; Fairlie, A. *Los temas de desarrollo sostenible en la agenda peruana de comercio e inversión*.

topics that earned increased relevance in the trade and investment agenda of the countries, their social actors and economic agents, as well as the force behind the introduction of such topics into the national trade agendas. The fourth section, focusing on the future, presents and discusses the main topics and challenges of the sustainable development and trade agenda for the four countries. It also suggests certain elements that could constitute an agenda for the South American investigation on such topics. The fifth section presents the final comments on the work.

2. Foreign trade and FDI in the four countries: policies, flows and agendas

The four countries covered in this work have experienced, in different rhythms and intensities, the liberalization of their trade and investment regimes over the past decades. In Argentina and Chile, such processes began in the 1970s, gaining ground in both cases in the 1990s. In Brazil and Peru, the liberalization of the trade and investment regimes peaked in the 1990s. The trade liberalization was more intense in Chile and Peru than in the other two countries and the liberalization of the investment regime was particularly intense in Peru and Argentina in the 1990s.

But it was not only the rhythm and intensity of the liberal reforms that varied by country. The economic integration strategies of the four countries were also different.

Chile combined growing unilateral trade liberalization with the negotiation of ambitious free trade and investment agreements with its main trading partners. The negotiations of these agreements with developed countries included sustainable development topics (environment and labour standards). Furthermore, the country signed bilateral investment protection agreements with several different countries.

Peru did not participate in preferential agreements—with the exception of its participation in the Andean Community—while it experienced unilateral trade liberalization and the reform of the international investment regime in the 1990s. During this period, several bilateral investment protection agreements were signed by the country. It was only during the current decade that Peru began to negotiate preferential free trade agreements with developed and developing countries, further implementing (through the preferential path) the liberalization initiated unilaterally in the 1990s. Similarly to what happened in Chile, the negotiation of free trade agreements with developed countries required Peru to address the links between trade on one hand, and the environment and work standards on the other.

Brazil and Argentina implemented unilateral trade openings at the start of the 1990s, and after this period, they became the main partners on a sub-regional integration project—MERCOSUR—but did not sign any relevant preferential agreements with countries that are not members of the block. Argentina signed dozens of bilateral investment protection agreements, while Brazil signed but did not ratify some fifteen of the same. The sustainable development topics were not included in the trade agenda of these two countries and were only addressed on a marginal level within the sphere of MERCOSUR.

More recently, Peru has amplified its opening through preferential agreements and Chile has consolidated its preferential agreement network, which increasingly includes Asian-Pacific countries, while maintaining extremely low tariff levels as most favoured nation.

In Brazil, the liberalization that took place at the start of the 1990s was not expanded. In fact, clear movements of process reversal can be observed, although without compromising the aggregate results of the opening. In Argentina, the reversal of the 1990s liberalization process is much clearer, affecting both the trade policy (application of taxes on exports and the proliferation of trade defence measures) and the international investment regime, subject to regulatory interventions of different types.

During the period in which liberal reforms were implemented into their trade and investment regimes, the four countries experienced strong growth in terms of their exchange with other countries. This exchange was also marked by differences in rhythm and intensity. In Brazil, for example, exports only grew after 2002, following a decade of mediocre growth of its international sales. In the other countries there was also a quite significant expansion in the trade flows primarily in Peru and Argentina over recent years. In Argentina, data from the most recent period indicates that export levels replicated those obtained a decade earlier. In Chile, the 2007 foreign trade flow surpassed US\$110 billion compared to only US\$34 billion in 1996.

All of the region's countries saw their exports benefit from the increased growth of China over recent years. This factor helps explain not only the dynamic nature of the aggregate exports of the four countries, but also the especially positive international sales performance of the agricultural (Brazil and Argentina) and mineral (Chile, Peru and Brazil) commodities. The growing participation of commodities in the export agenda helped power the debate in certain countries about a hypothetical "primarization" of exports and the risks of the so-called *Dutch disease*. However, it seems logical to affirm that there were no significant changes in the sector composition of the exports in the four countries. Argentina kept its standard of specialization heavily focused on the export of products requiring the intensive use of natural resources with a relatively low processing level. Brazil did little to change the sector composition of its exports, which remained significantly diversified with the expressive participation of manufactured products. In the case of Chile and Peru, the strong participation of the main export commodities was not significantly affected by a reasonable diversification of the agenda to include other products requiring the intensive use of natural resources (in this case, agricultural products).

Foreign Direct Investments also grew significantly during this period. Brazil, Argentina and Chile were the main destinations of these flows in South America in the 1990s, receiving a considerable volume of resources. These were mainly associated with privatization and public service concession programs. In Peru, the

growing entry of foreign capital was especially important during the decade. This is in contrast to Argentina where the effects of the 2001/2002 economic crisis and the later reversal of the climate favourable to foreign investments led to a drastic reduction in the entry of FDIs.

3. The forces behind the introduction of sustainable development topics into the trade agenda of the four countries

The four countries analyzed here experienced the liberalization of their trade and national investment regimes during a period in which environmental and labour topics were being increasingly incorporated into the trade policy and negotiation agenda of developed countries. Through different forces, these topics were incorporated into the trade agenda of the relevant social actors and economic agents in the South American countries.

3.1 Brazil

Brazil has traditionally been one of the main critics when it comes to linking trade (and investment) topics with environmental, labour or social issues during trade negotiations. Brazil's official position was notably unshaken, not affected in the least by the trade policy developed by the Lula administration. It has not changed since these topics appeared on the WTO agenda in Singapore as topics that should be the focus of study, nor when they earned precise definitions in different preferential agreements—especially those signed with the United States. It also does not seem to have been affected by the emergence of China as a trading power—and a direct competitor in different sectors—that is hardly concerned about complying with labour and environmental standards.

In spite of Brazil's official resistance to the idea of associating sustainable development topics with the trade agenda, due to the strength of its economic ties with the international market—as is the case of the exporters—or its relations with similar entities in other countries—NGOs and trade unions—different social actors in Brazil had to deal with the issues raised by the link between trade and environmental and labour standards starting in the 1990s.³

During that period, the main force that introduced these topics into the trade agendas of the national actors was the export business sector. In fact, the link between trade and the environment entered the agenda of export companies of different sectors through the introduction of compulsory or voluntary environmental standards into the markets of developed countries. Companies perceived these standards as capable of impacting their competitiveness and conditions of access to their export markets. These issues were primarily of the interest of export companies in the paper and pulp, textile and footwear sectors, which faced the introduction of voluntary certification systems such as the *eco-labels*.

In the business agenda, the association between trade and labour standards emerged in certain sectors of labour-intensive industry when the discussion on child labour and the use of occasional trade measures to sanction countries using this type of work (identified as a “social dumping”) became a focus in developed countries in the mid-1990s.

Therefore, together with certain specific actors strongly associated with the international markets through exports, trade served as a major force for the introduction

³ Studies conducted in the mid-1990s have identified Brazil's significant vulnerabilities if environmental and social standards unilaterally imposed by other countries came to be adopted to define the conditions for trade flows. In the environmental area, Brazil's international specialization in goods that require the intensive use of natural resources and energy and in sectors that present high pollution levels made the country vulnerable to the imposition of more rigorous environmental rules and standards that could generate increased production costs. In the social and labour area, the issues of child and slave labour represented the main source of Brazilian vulnerability. In these cases, as well as in the other areas of application of national social protection laws, the problem was mostly located on serious and persistent shortcomings in the implementation of the national norms as opposed to a lack of rules and national law.

of environmental topics into their agendas. However, already during that period, the growing political relevance and institutional density of topics associated with sustainable development in Brazil was influenced by domestic factors such as government policies and non-governmental initiatives that were not related to trade and the trade negotiation agenda.

In recent times the relationship between trade and sustainable developed has evolved in a heterogeneous fashion in the agenda of different social groups, due to both economic and political variables. It earns importance due to the political priority internationally attributed to the issue of climate change for agro-industrial sectors that were little impacted by the topic until recently. The relationship between the expansion of the Brazilian *agribusiness* and the deforestation of the Amazon—a phenomenon that accounts for approximately two thirds of the carbon emissions in Brazil—transforms several of the country's agro-industrial sectors into the preferred target of public and private initiatives from the Northern countries. These are designed to define standards applicable to the products and production processes and methods adopted along the chain (and not only within the sector itself).

However, primarily during this decade, the link between the international agenda of Brazilian business sectors and sustainable development topics has not necessarily focused on the trade dimension. The forces behind the link between the international agenda of the business sector and sustainable development topics have become more diverse. From a situation—typical of the 1990s—in which trade constituted the main force of such associations, today there is a scenario in which new forces develop in connection with the investment flow to and from Brazil as well as with the financing mechanisms used by companies.⁴

⁴ The recent movement of direct investments abroad by Brazilian transnational companies has generated new challenges in this area. Many of these investments have been directed at South American and African countries, involving sectors requiring the intensive use of natural resources and have significant social and environmental impacts—such as the case of mining, oil and gas exploration and civil construction. In addition to the environmental issues, the need to manage the impacts these investments have on the local communities produces a new agenda for Brazilian companies.

For trade unions, the relationship between trade and sustainable development becomes slightly less important than a decade earlier, when the inclusion of social and environmental clauses in trade agreements was the source of debate in some such entities.⁵ On the other hand, and even more so than during the past decade, the sustainable development agenda of the different actors—including from the business sector—has become more politically and institutionally dense in Brazil due to the evolution of the domestic environment, and not merely due to Brazil's relations with the rest of the world. From this point of view, a clear difference between the start of the 1990s and the current situation lies in the fact that a “political arena” has been consolidated in Brazil, one focused on sustainable development topics. For the majority of society's more organized sectors, these are no longer viewed as “Northern topics.” Over recent years—and here the issue of climate change also appears to exercise an extremely important role—these topics were appropriated by social groups and national economic interests and reflected through private initiatives and public policies.

Even for the export business sectors, motivated to invest in the socio-environmental area primarily due to their connection with international markets (*agribusiness* sectors, but also the forest chain, aluminum and steelmaking), the domestic factors—such as government regulations, pressures from the local communities and NGOs, the image of the companies in the media and with society—appear to play a relevant role in the sense of favouring the internalization of sustainable development objectives in their strategies.⁶ These evolutions reflect the fact that sustainable development topics entered with force into the domestic policy agenda, earning a consolidated position in a currently over-populated political arena, one divided by the voluntary initiatives of companies, several categories of NGO-company-government cooperation, federal and sub-federal regulations, etc.

⁵ The topic re-emerges in the agenda of NGOs and certain rural associations through the defense of small family production and the proposal for a linked agriculture–international market that distances itself from the model proposed by *agribusiness*.

⁶ One of the factors that leads companies to internally promote sustainable development standards is associated with their concerns about predatory competition in the domestic market and in exports generated by low environmental or labour standards.

On the political and regulatory level, there is a clear continuity between the 1990s and the current decade both in the environment and labour areas. Several different programs inaugurated during the past decade were developed and earned increased scope, with continued efforts, notably in the area of the national law enforcement. This continues to be the most vulnerable aspect of Brazilian policies, both in the environmental and labour fields, as well as in the domain of law related to climate change.

3.2 Argentina

Similarly to the Brazilian case, Argentina's official position opposes the link between sustainable development and trade and investment topics. The concern with the use of this link for protectionist purposes is the same as that seen in Brazil's official stance. The relationship between trade and the environment is an especially relevant topic for Argentina due to the country's production and export composition with its ample presence in sectors sensitive to sanitary, phytosanitary and environmental considerations (including concerns with climate change). Besides the agricultural, agro-industrial and mining complexes, the industrial sectors that require the intensive use of energy and natural resources—such as steelmaking and aluminum—also play an important role in Argentina's production and exports.

A main force for introducing the environmental agenda in Argentina was the swift expansion of genetically modified varieties in agricultural activity. Since 1996, when the government approved the sale of genetically modified soybean seeds, the diffusion of these cultivations grew exponentially not only in the production of soy, but also in that of corn and cotton. Argentina became the second largest genetically modified organism (GMO) producer and this fact is closely related to the strong growth of Argentinean agricultural exports during the past decade.

This process involved the transnational companies that owned the technology for producing transgenic seeds and the complementary raw materials, as well as the public regulatory institutions and the Argentinean agro-export sector. The relationship

between these actors evolved into a situation of conflict when Argentinean producers refused to pay patents to the transnational company that owned the technology.

Unlike in Brazil, however, the link between environmental and trade topics did not originate from the unilateral measures of importers who potentially affect exporters of goods that require the intensive use of natural resources. In this case, access to new seed production technology (international)—which was already the object of debates and conflicts between Northern countries in the 1990s— “leverages” the production and export of agricultural goods, but also subjects the agricultural exports of this country to certain procedures and mandatory labelling regimes adopted by European and Asian countries.

At the end of this process, Argentinean agriculture underwent considerable production transformations with major impacts on the country’s economic and social structure. However, it also began to face new risks in terms of gaining access to the markets of developed countries due to their general questioning of GMOs.

Just like in Brazil, the sustainable development agenda has gained political and institutional density within the domestic sphere over recent years. There are debates on the aggregate impacts of agricultural sector modernization—a process partially linked to the diffused use of GMOs in agricultural production. For example, there have been criticisms of the so-called “agriculturization” syndrome, or in other words, the process of expanding the agricultural frontier in which production destined for export and based on GMOs replaces other activities, causes environmental degradation and excludes small producers.⁷ The expansion of major mining through a new regulatory regime favourable to international investments adopted in the 1990s also generates debate: because the new deposits are found in

⁷ Similar criticism is presented in Brazil by certain NGOs that protest against the agribusiness production and export model, which they claim excludes family farmers. This perspective establishes a link between small-scale family production and the objectives of sustainable development and claims that Brazil’s official position in the negotiations reflects the interests of that production segment.

the Andean and Patagonian regions, there has been active mobilization by social organizations against certain projects that would supposedly generate negative environmental impacts.

Therefore, due to the production characteristics and composition of Argentinean exports, there is a high potential for linking trade with the environment. Up to present, however, it has taken shape essentially in the production/export of agriculturally-based GMOs. In the national agenda, environmental topics related to climate change have earned new relevance, but they do not appear to have achieved the political priority observed in the Brazilian case.

There is also a divergence between the Argentinean and Brazilian cases when it comes to a link between trade and labour standards. This is due essentially to the fact that the Argentinean labour market has historically been characterized for its low unemployment rate, relatively high level of formal employment and high labour organization. Furthermore, the structure of the agro-exporter sector in Argentina—organized based on production intensive in technology and capital—attributed a very limited role to non-qualified labour and has little use for informal work. Even though the informal economy has grown in Argentinean cities over recent years, this problem has not had any significant impacts on the industrial export sectors. Accordingly, the link between trade and labour receives low priority in the agenda of the exporting sectors and the other public and private actors in Argentina.

3.3 Chile

Chilean exports are strongly concentrated on natural resources, a characteristic that has changed little over recent decades. According to Borregaard (2004), when compared to different countries in the region, Chile is not only one of the countries with the highest rates of participation in environmentally-sensitive exports, it also presents one of the lowest levels of “clean” exports.

Potentially vulnerable to the unilateral standards applied to the environmental dimension of products and production processes, the country began to incorporate sustainable development topics into its trade agenda during the mid 1990s.

The obvious force behind the introduction of the link between, on one hand, sustainable development topics, and on the other, the trade and investment agenda, are the free trade agreements. To a lesser extent, there are the bilateral investment protection agreements signed by the country during the past and current decade. Of the 18 preferential trade agreements signed by Chile and currently in force, 12 contain environmental obligations and eight contain labour regulations.

In the beginning, the introduction of environmental and labour topics into the trade negotiation agenda essentially reflected a demand by the developed countries with which Chile traded and generated concerns and a certain level of resistance between the Chilean business sector actors. Such individuals saw the introduction of such topics into the trade agenda to be a “protectionist risk.” Their concerns were only assuaged when, during the negotiations, it was defined that the environmental and labour obligations of the agreements would deal primarily with the compliance with national law in these areas (to be sanctioned by the national authorities of each country) and not with the establishment of law “harmonization” goals between each country or the compliance with international standards.

The inclusion of environmental and labour topics in Chile’s trade agenda is perceived by many public and private actors in the country as an important mechanism for prompting the government to improve its management in these policy areas. For those actors associated with the business sector, the inclusion of these topics in Chile’s trade agenda is positive for the country’s competitiveness, since international competition would increasingly incorporate sustainability criteria related to the products and production process into the traditional attributes of price and quality. In this sense, the signing of trade agreements with environmental and labour clauses would leave Chilean products well positioned in those target markets in which such competitiveness criteria are considered relevant.

Due to these perceptions, Chile began to include environmental and labour topics in its preferential trade negotiation agenda, no longer considering them “demands” of developed countries. The introduction, through the signing of a FTA with the United States, of labour obligations associated with the fulfillment of “basic labour rights” defined by the International Labour Organization (ILO) did little to change this perception, especially since the obligation that could be demanded through a mechanism for resolving agreement conflicts refers to the compliance of national law applicable to “basic labour rights.”

Despite the fact that the agreements seem to have effectively put pressure on the Chilean government to guarantee compliance with national law related to environmental and labour issues, the effective impacts of this pressure appear to have been limited. Accordingly, Claro (2008) observed persisting problems when it came to implementing the national laws established in the agreements, both in the environmental and labour areas. In the latter, the problem is the lack of labour protection in several different economic activities geared toward exports, such as pisciculture and agriculture. This is not only due to a lack of compliance with labour standards, but also the insufficiency of the same.

The Chilean case properly illustrates the dilemma related to the effectiveness of environmental and labour obligations in trade agreements. By adopting the compliance with national law as the basic obligation in these areas, the agreements signed by Chile concentrate their efforts on improving the already existing regulating implementation mechanisms. This goal is particularly relevant since policy implementation problems in Latin American countries are the most significant ones.

However, implementation problems primarily affect the non-exporting sectors. Accordingly, incentives for the trade partners of Latin American countries to resort to the provisions of the agreement to effectively implement the corresponding national law are limited. This frequently produces the perception that the provisions of the agreements in the environmental and labour areas are irrelevant, even from the perspective of implementing national law.

Obviously, when the Latin American country has serious problems implementing its national law and this is noticeable in the case of the exporting sectors (or the production chains of which they are part), the effectiveness of such provisions tends to be greater.

3.4 Peru

Among the analyzed countries, Peru is perhaps the one that is potentially most sensitive to the link between sustainable development and trade topics.

This fact has to do with the structural characteristics of the Peruvian economy and society. In terms of the environmental aspects, Peruvian exports are traditionally concentrated on products that make intensive use of natural resources. Having concentrated on mining until the end of the 1990s, over recent years Peruvian exports have begun to include agro-industrial products that help to diversify the portfolio, but they did not serve to diminish the country's exports of its natural resources.

When it comes to labour issues, the country is known for having high levels of sub employment and informal work, both in rural and urban activities, in which small and medium-sized companies enjoy a special labour regime more flexible than that applied to larger companies.

Moreover, in the case of both environmental and labour laws, there is a high deficit when it comes to implementation, making the country a target for contestations by its trade partners, even though the obligations established in trade agreements refer only to the compliance with national law. So much so that in the case of Peru, it may be hard to prove that the deficit in the implementation of national environmental and labour policies is only seen in non-tradable sectors.

The trade liberalization and policies designed to attract foreign investments in the 1990s did little to change this situation. According to Fairlie (2008), these policies would have truly reinforced some of these characteristics by introducing reforms that made the job market more flexible and by giving little relevance to environ-

mental considerations when it came to attracting foreign investments. The more than 30 bilateral investment protection agreements signed by Peru did not have any impact on these characteristics and trends.

During the current decade, Peru adopted an aggressive negotiation strategy for preferential free trade agreements, maintaining at the same time its primary objective of attracting foreign investments. The FTA signed with the United States is the only one of these agreements that includes regulations applicable to environmental and labour topics.

The agreement will enter into force in 2009 and has an ample implementation agenda in Peru. Its scope is defined not only by the level of the obligations assumed, but also through the country's low level of institutional development in the areas covered by that agenda. Especially in the environmental area, the agreement will extend beyond the provisions in the FTAs previously signed by the United States. It includes the requirement to comply with the provisions of the seven multilateral agreements on the environment and an attachment associated with forest sector management that aims to strengthen the legal and institutional framework for managing this sector. The signing of the agreement with the United States also unleashed a process of institutional reorganization in the Peruvian government's environmental areas in the sense of improving the effectiveness in its environmental management and reducing the insufficient implementation of the measures established with the United States.

In this sense, the negotiation of the agreement with the United States was the main force behind the establishment, for a large number of public and private actors in Peru, of the link between trade (and investments) and sustainable development topics that the liberalizing policies of the 1990s sought to avoid. The movement implemented by the Peruvian government—as the negotiator for the agreement—resembles the efforts of the Chilean government in the early 1990s through a positive evaluation of the trade off between guaranteed preferential access to the U.S. market versus the acceptance of the regulations in areas indirectly linked to trade (such as investments, the environment, etc.).

The negotiation and implementation of the agreement raised an ample political debate in Peru and the social sectors that opposed the FTA—trade unions, NGOs and their respective international counterparts—welcomed the establishment of regulations in the environmental and labour areas. On the other hand, the business sector appears to have accepted the new standards, following the government logic that they would be part of the “price to pay” to have access to the agreement benefits.

3.5 Summary of the national experiences

There are certain characteristics of the countries mentioned here that tend to “push” sustainable development topics into their trade and investment agendas, even when the government’s official position refuses to accept such a link.

One of these characteristics is the concentration of exports in those sectors requiring the intensive use of energy and natural resources, joining the environmental and climate change agenda with that of trade and investment. The simple fact that the countries of the region are internationally specialized in sectors with intensive natural resource use makes them vulnerable to the establishment of voluntary or compulsory unilateral rules in the importing countries.

On the other hand, the continued practice of archaic work relations and the weight of informal work in these economies make them vulnerable to the establishment of labour standards, primarily if those forms of work and jobs occur in the exporting sectors (or in the chains in which these participate). Among the countries considered here, this risk mainly affects Brazil and Peru—the first through the agricultural chains (ethanol and orange juice) and the mining-metallurgical sectors that use plant-based raw materials (coal).

Together with the admitted deficit in the implementation of environmental and labour policies in the region, these characteristics served as the basis for a defensive posture by the region’s governments and business sectors when it came to introducing sustainable development topics into the trade and investment agendas.

In the case of Chile and Peru, the government evaluation favourable to a trade off between guaranteed preferential access to the major Northern market (the United States) and the adoption of obligations in these areas reduced the level of public and private sector resistance to the inclusion of such topics in trade negotiations. In Brazil and Argentina, which did not close any trade agreement with developed countries, the government posture did not budge.

As a result of these changes, the main force behind the link between the sustainable development and trade agendas in Chile and Peru were the trade agreements these countries signed with the United States. The link is driven through a government initiative that redefines positions and coalitions in the private sector.

In Brazil, the measures and criteria unilaterally applied by importers for the products exported by the country played a similar role and, over recent years, international investments (including Brazil’s investments abroad) have served a similar function. In the case of this country, however, the topic is essentially private due to the government’s refusal to admit the link between the two agendas.

Another of Brazil’s distinctive traits appears to be the increased number of national policies in the areas of sustainable development over recent years, regardless of any immediate external condition.⁸ In Chile and Peru, this process was closely related to the dynamics of the trade negotiations, while in Argentina the main force behind the association between the two agendas did little to mobilize society and consumers, remaining a topic whose discussion was restricted to only a few major players within the national sphere.

Two final comments: Regardless of their postures in relation to the link between environmental and trade topics, the governments of the region are already dealing, in fact or potentially, with the issues raised by them. Multilateral environmental

⁸ The “immediate” qualification is important, because the improved national agenda involvement in the areas of sustainable development is related to the growing priority internationally attributed to the topics of climate change, the environment and “social responsibility.”

agreements have explicitly trade-centred provisions and the WTO norm addresses this link whether through GATT Article XX or through the provisions of different specific agreements, such as GATS and Agreement on Sanitary and Phytosanitary Measures, among others. With the expansion of the climate change agenda, this interaction will likely become more intense over the years to come.

Three of the four countries considered here are part of sub-regional integration systems. The sub-regional standards in the environmental and labour areas had no importance for any of them as a force behind the link between the sustainable development and trade agendas.

4. Sustainable Development Topics in the Trade Agenda of South American Countries: Perspectives and topics for a work program

The combination of structural characteristics of the four countries considered herein—the concentration of exports in sectors requiring the intensive use of energy and natural resources and the preservation, in varying degrees per country, of archaic work relations—with an international environment that is increasingly sensitive to non-trade concerns tends to increase the pressure for the incorporation of sustainable development topics into these countries' agendas.

Starting in the late 1990s, the increased perception in Organisation for Economic Co-operation and Development (OECD) countries of the growing economic interdependence among countries promoted the shift to minimum environmental and social standards, threatening the cultural values of the societies in these countries.

While in the developing countries—which placed greater importance on trade negotiations—the liberalization agenda became increasingly conditioned by the “development agenda,” the developed countries adopted a negotiation posture that

focused more on all types of “non-trade concerns,” with special emphasis on the environmental and labour areas.

In a recent article, Lawrence Summers (2008) observes that “the correct assumption that trade barriers are harmful to an economy does not necessarily mean that this economy benefits from the economic success of its trade partners.” Summers refers to the growing perception in the United States and other developed countries that the success of other countries, primarily the developing ones, negatively affects the North American economy and its workers.

The developed countries' response to the dissemination of “*non-trade concerns*” has taken the form of new technical standards and regulations—either government-sponsored or private—that involve products and production processes. This response also appears in the form of proposals for increased protection for products from countries that do not adopt legislation on climate change compatible with that implemented in the Northern countries. There is also growing pressure to incorporate increasingly strict social and environmental clauses in the trade agreements negotiated by the United States and European Union.

4.1 New measures affecting trade

As exporters and recipients of direct investments in sectors requiring the intensive use of natural resources, the South American exporters are particularly susceptible to the eventually discriminatory effects of the new instruments designed to address social, environmental and climate change concerns in the Northern countries. Not all of the measures equally affect the four countries under analysis, but they generally bring to light the concern with the need to invest in certification systems and negotiate mutual recognition mechanisms. Furthermore, the negative impacts of such measures on South American exports fuel the debate about the convenience of expanding the WTO agenda to better incorporate these topics.

4.1.1 Biofuels: Environmental and social standards

One example of these new measures is the legislative package that the European Union plans to adopt on energy and climate change by the end of 2008, including a goal for biofuels based on the premise that the current development model for first generation biofuels is unsustainable. In September of 2008, the European Parliament Committee on Industry, External Trade, Research and Energy approved an amendment to energy and climate legislation that maintains the objective of having ten percent of all liquid fuels used in vehicles coming from renewable energy sources by 2020, but specifies that 40 percent of this goal must be met with other options such as hydrogen and second generation biofuels. This would mean that only six percent of the demand would need to be met using biofuels made from grains and other agricultural products.

This primarily affects the perspectives for ethanol exports from Brazil, but also impacts the still budding Argentina biofuel market (with production fundamentally based on oilseeds and that does not use second generation biofuels). The Peruvian plans to stimulate biofuel production using palm and sugarcane have focused on the domestic market and should not be affected by new European law over the short-term.

The European Union is also discussing the creation of an environmental seal to guarantee that ethanol imported by the block is “ecologically correct.” The criteria require that the biofuel contribute to reducing CO₂ emissions and that no harm be done to forests. In the Brazilian case, the criteria would eliminate the possibility of exporting ethanol produced using sugarcane not only in the Amazon but also in areas of *cerrado* and woodland, which in practice would prevent the expansion of the sugarcane production in Brazil.

In the social arena, Europe is studying the possibility of creating a social label that blocks the import of ethanol produced by workers subjected to poor labour conditions, such as those of the sugarcane cutters and the health effects that chemical

fertilizers and pesticides have on them. Among the South Americans, the Brazilian sugarcane ethanol exporters are the most vulnerable to the initiatives focused on the creation of a social label for biofuels, particularly due to the charges of degrading work practices in the sugarcane fields.

This debate has also been fuelled by the report presented to the UN Special Session on the Global Food Crisis,⁹ which concluded that ethanol production using grains and other agricultural products has had a perverse effect on the supply of food around the world, affecting primarily the poorest people. The report evaluates the possibility of negotiating a waiver with the WTO so that countries can discriminate the biofuel imports originating from countries that do not respect environmental and human rights standards, including labour conditions.

4.1.2 Barriers to imports associated with carbon emission intensity

The European Union is also discussing the introduction of a carbon tax on merchandise with high carbon levels imported by the block. One of the proposals under discussion is the application of an “adjustment mechanism at the borders” against imports from countries that refuse to contribute to reducing greenhouse gas emissions starting in 2012, when the new phase of the Kyoto Protocol enters into effect.

In the United States, several proposals associating obligations to reduce greenhouse gas emissions with trade-related measures are being evaluated by Congress. Generally speaking, the proposals have two main approaches: taxes on carbon emissions and “cap-and-trade” systems. The perception that the new regulations involving such approaches will increase costs for North American industries and decrease their competitiveness in relation to foreign producers—who would be subject to less rigorous laws—creates incentive for the introduction of protection mechanisms against imports.

⁹ Please see ICTSD (2008).

Among the mechanisms under discussion is the requirement for permission certificates for foreign producer emissions, designed to balance out competitive conditions and encourage other countries to adopt legislation in line with that of North America.

The eventual implementation of such mechanisms, both in the European Union and the United States, may become an obstacle for South American exports to these markets. Besides the strong participation of agricultural products originating in forests and products from the mining-metallurgical and chemical sectors with high carbon emission levels (steelmaking, aluminum and chemicals, among others) within their main exports, most of the countries from the region have still not incorporated the topic of climate change into their trade agendas.

These countries maintain a defined position in the Kyoto Protocol for developing countries that establishes differentiated obligations in terms of reducing emissions. It means that companies from the region will not be subject to as rigorous obligations in relation to greenhouse gas emissions as those that will eventually affect their competitors in developed countries. The growing pressure they undergo for trade protection mechanisms is thus foreseeable.

4.1.3 REACH: Regulations to protect human health

June 1, 2008 marked the pre-registration phase for REACH, new European legislation designed to control chemical substances produced or exported to European Union countries. REACH is the acronym for Registration, Evaluation, Authorization and Restriction of Chemical Substances.

Although REACH is designed to ensure a high level of protection for human health and the environment, the regulations are so strict that the adjustment process becomes expensive and hinders the export activities of small and medium-sized companies. All of the companies that export preparations and articles containing chemical substances to the European Union, such as candles, fireworks, cleaning products and adhesive tapes, among many others, are subject to the rules

of REACH. The regulations adopted by the European Union thereby transcend the limits of the chemical industry and affect several different production chains, which are more important for Argentina and Brazil than for Chile and Peru.

4.1.4 Forest certification

The growth of the illegal wood trade has incited reactions not only by environmentalists, but also wood importers in developed countries that are concerned about falling behind those producers who do not comply with environmental and labour requirements.

In May 2008, the United States Congress approved a law requiring forest products to have a certificate of legality starting in April 2009. In the European Union, measures announced in October 2008 require importers to make concerted efforts to trace whether the imported products comply with the country of origin's national law. Another measure adopted by the European Union is the negotiation of *voluntary partnership agreements* that require the exporting country to adopt measures guaranteeing that all wood exports sent to the European market were extracted legally. However, such measures are interpreted by some as insufficient and there is pressure to adopt a compulsory requirement for proving legality.

Brazil has recent experience with forest certification, but only two percent of all the lumber produced is covered by the certified producers' association.¹⁰ Accordingly, the amount of wood certified in Brazil still represents a very small portion of the total amount produced. Argentina has developed several different initiatives to stimulate sustainable forest management. However, according to Bouzas and Chudnovsky (2004), forest management has witnessed the fragmentation of the production process. In Peru, the FTA signed with the United States includes a series of measures designed to regulate the production and export of wood prod-

¹⁰ The Brazilian Forest Certification Program (CERFLOR) was created in 2002 and is recognized by main international certifying entities in 2005. Despite being a standard developed together with government agencies, participation in CERFLOR is voluntary.

ucts to the North American market, including the possibility of seizing Peruvian exports under certain conditions.¹¹

The new requirements of the compulsory certificates and the provisions established in the FTA between Peru and the United States for forest products imply significant costs for the production sectors in the region's countries. This may represent significant barriers to exporting such products to markets in developed countries.

4.2 “Security” topics and the trade agenda

The emergence of “food security” and “energy security” topics, in addition to the climate change issues as part of the agenda of the main international trade players and multilateral entities, has important impacts on foreign trade in the region's countries. The high growth in the demand for food in developing countries and the consequent increase in the prices of agricultural commodities has contributed to the large expansion of Argentinean and Brazilian exports over recent years. It has also powered the debate in some of these countries about the hypothetical “primarization” of exports, as mentioned above.

The increase in food prices generated a range of different policies in various countries but in many cases they promoted protectionist postures designed to guarantee self-supply. Another type of measure adopted by certain countries was the application of taxes or restrictions on the amounts of exports. This was the case in Argentina.

The initial evaluation that Brazil could benefit from the growing global demand and increase in food prices was deflated by the different policy reactions of the importing and exporting countries, as well as by the debate about how ethanol production using grains and other agricultural products would impact food price increases.

¹¹ Based on a request made by the United States, Peru will verify whether the exporter or producer of wood products complied with the regulations defined in the FTA Attachment and the North American authorities will be able to request inspection visits and audits. If the inspection is not authorized, North American authorities can prohibit such products from entering their market.

In the case of Argentina, the national impacts of the high increases in food prices—and the risks associated with “food security”—together with the debate on the costs associated with the “soyization” of the country's agriculture, which allegedly displaced other cultures and small and medium farmers, served as the argument for increasing the tax burden on the main exported agricultural products.

A common topic seen in the current internal debate in Argentina and Peru is that of transgenic agriculture. In Argentina, the introduction of genetically modified organisms (GMOs)—which have quickly spread throughout the country's agriculture over the past 15 years—helped accelerate the development of export sectors, affecting the production model, agricultural border and other aspects of environmental and social sustainability.

In Peru, the debate remains focused on the convenience of introducing transgenic technology. On one side there are those who defend the introduction of transgenic products as a way of dealing with the significant growth expected in the country's food consumption. On the other, there are those concerned with the risks of contaminating native genetic resources. These individuals suggest that Peruvian agriculture specialize in the production of organic products and take advantage of the existing biodiversity. In both cases—that of Argentina and Peru—the link between food security and transgenic products must remain a central topic in the debate about agriculture, trade and sustainable development.

The shift in the evolution of agricultural commodity prices has occurred together with the deceleration of the global economy. This has replaced the “food security” topic in the public debate with the agricultural sector's vulnerability to the volatility of international prices. Even so, it is likely that as soon as the international economy settles down after the financial crisis, the demand for food will grow once again as developing economies recover.

The topic of “energy security” emerges together with the debate about “food security.” The sharp increase in international oil prices affected the trade and investment agenda in the region's energy sector, generating both cooperation and con-

licts among countries. The increase in oil prices together with the climate change agenda raised expectations for Brazil to become an important global supplier of ethanol and fostered investments in biofuel production in Argentina and Peru.

The increase in energy prices affected investments as well as the Brazilian government's relations with neighbouring countries. Besides creating conflicts in the bilateral relations between Brazil and its neighbours, the unilateral revision of oil and gas concession or exploration agreements by the Bolivian and Ecuadorian governments prompted the Brazilian public opinion to demand the country's energy self-sufficiency. On the other hand the Brazilian and Argentinean governments established an energy exchange process that allowed Argentina to reduce its supply scarcity problems during the peak of the 2008 winter.

The sharp drop in international oil prices observed over the past months has delayed the investments planned for the Brazilian energy sector involving the production of ethanol and raises doubts as to the feasibility of pre-salt field exploration. This shift in energy prices should also produce significant changes in the relations among South American countries, primarily between Brazil and its neighbours, and opens a vast field of study for research on energy integration models and energy sales in the region.

4.3 Sustainable development topics in FTAs

There is a visible increase in the level of depth and interference in national legislation associated with the FTAs Chile and Peru signed with the United States. While in Chile the obligations adopted are fundamentally tied to compliance with national law, in Peru the obligations extend further and include obligations associated with multilateral agreements on the environment, international conventions in the area of labour (ILO) and obligations related to forest sector management.

These differences in the depths of the negotiated obligations are reflected in the impacts that such agreements have when it comes to managing sustainable devel-

opment topics in the national agendas of the countries. It is still early to evaluate the impacts of the FTA with the United States in Peru, but there are signals that it has already unleashed an important institutional reorganization in the country's environmental area. In Chile, the impacts appear to have been more temporary.

There is a high degree of uncertainty as to whether bilateral or sub-regional FTA negotiations between South American countries and Northern countries will progress over the medium-term. On the other hand it seems clear that any advance in this direction will mean that countries from the region must accept increasingly demanding obligations in the environmental and labour areas.

4.4 The risks associated with FDI in carbon-intensive sectors

A topic emphasized by Claro (2008) affecting the four countries under analysis, refers to the risks associated with the growth of foreign investments in carbon-intensive sectors. As developed countries increase their commitment to reducing greenhouse gas emissions, there will be increased incentive to transfer carbon-intensive production to developing countries that have not committed to the goals in the international agreement to mitigate climate change.

Considering the abundance of natural resources characteristic of the countries in the region, it is possible that these companies will receive growing investments in environmentally-sensitive sectors. This possibility brings to light the issue of introducing mechanisms to "filter" this type of investment which would conflict with the obligations assumed in the bilateral investment protection agreements signed by Argentina, Chile and Peru and by Chile and Peru in their FTAs with developed countries.

5. Final Comments

The four countries analyzed in this project share the common characteristic of an abundance of natural resources as well as the importance of such resources in their trade and foreign direct investment structures. On the other hand they present clear differences when it comes to the rhythms and scope of the economic policies implemented in the 1980s as well as the options for different international insertion models.

Considering the differences but seeking to focus on the similarities, it is possible to identify topics for a work agenda of common interest in the area of trade, investments and sustainable development. The information and analyses gathered from the four national studies indicate a growing concern with global agenda topics that should affect the national and regional international insertion strategies. These topics are organized below into four working areas:

New trade barriers: The definition of new technical standards and regulations for those products sensitive to social, environmental and climate change issues—the case of the most important products in the export agendas of the four countries—implies high adaptation costs for regional producers. The analysis of the impact these standards may have on the export capacity of these countries and the best strategies for negotiating standards, regulations and certification mechanisms in trade agreements is crucial for the future of foreign trade in the region.

The topics of food and energy security: Although varying in intensities, the countries of the region are producers and exporters of agricultural and fuel products. The volatility of international commodity prices that marked the past two years brought to light different topics associated with the specialization of production, “primarization” of the production structure, changes to the energy matrix and the incorporation of new technologies. In the area of energy, the relationship between energy security, trade and investments in the region has become a sensitive topic in the relations between the countries. There is a vast array of issues to be further addressed in this area.

FTAs with Northern countries and sustainable development topics: The growing attention to “*non-trade concerns*” in the Northern countries will imply the incorporation of increasingly demanding obligations for countries in the region when it comes to those topics associated with environmental management and social and labour rights in the free trade agreements that come to be negotiated. The analysis of Chile and Peru’s experiences with previously signed agreements and the evaluation of what the eventual introduction of such topics into the thematic WTO agenda could represent for the region’s countries is also a relevant field of studies for the region.

Transfer of FDI and climate change: The increasingly rigorous obligations by developed countries to reduce greenhouse gas emissions may lead to the transfer of more carbon-intensive industries and sectors to the countries of the region. The growing investments in environmentally-sensitive sectors fosters the debate on the convenience and feasibility of introducing “filters” for the entry of these investments and their compatibility with the obligations established in trade and investment agreements.

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