

Resilience, projection and innovation: lessons learned from Regional trade agreements to boost the economic reactivation

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Resilience, projection and innovation: lessons learned from Regional trade agreements to boost the economic reactivation

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Abstract

In the context of a globalized world, free trade agreements become high-value instruments that facilitate and strengthen trade ties between the actors in the treaty, with the aim of establishing a series of measures to access their most beneficial markets than with third countries. In this same sense, the spectrum of these negotiations has been subject to change and modifications over time, in order to meet the needs of businesses and specific contexts. COVID-19 and the implications in the economies of its advance around the world, has become a new trigger for change, which allows these types of instruments to take new directions, allowing them to face large-scale disruptive events and establish measures for joint reaction, affecting assertively in the economic reactivation process after the pandemic.

Key Words: Recovery, Building resilience, best practices, Regional Trade Agreements

Since the entry into force of the GATT in 1994, the World Trade Organization (WTO) has been reported of 85% of the existing trade agreements¹, notified under the terms of Article XXIV of said document. In this sense, the contracting parties initially identified a mutual interest, in order to establish concerted preferences and promote practices that facilitate trade between them.

Above mentioned, this allows us to visualize a perspective of consolidation of commercial ties, which have facilitated production interconnections in different corners of the world, under decentralization and diversification practices and strategies, in a puzzle of more than one hundred and ninety pieces. These, through clear rules of the game, have allowed the development of productive chains and cost strategies, and the generation of competitive advantages that constantly drive regional development. An example may be the Association of Southeast Asian Nations (ASEAN), where its average intra-regional trade reached 24% for 2018 (ASEAN, 2019), or the case of the Pacific Alliance² (AP, in spanish) level, which

¹ To date, 305 trade agreements have been notified to the WTO, 269 of which are under GATT Article XXIV; 164 in Article V of the GATS and 61 under the enabling clause, more information:

<http://rtais.wto.org/UI/PublicMaintainRTAHome.aspx>

² La Alianza del Pacífico nació como una iniciativa económica y de desarrollo entre cuatro naciones de América Latina: Chile, Colombia, México y Perú. To see more information: <https://alianzapacifico.net/que-es-la-alianza/>

under the integration of good practices and consolidation of forces, has as one of its main objectives the extension of its market on the Asian coast. (Alianza del Pacifico, 2020)

In the same sense, the consolidation of the globalization of the markets and the establishment of good practices within the international supply chains has continued to grow. However, the terrorist attacks of September 11, 2001, clearly showed the fragility and risks derived from the high degree of complexity in the interconnection of trade. And, in order to (address) and protect the continuity of commercial operations, in the times after these events, the new challenges to which customs are subject were identified, noting also the need to work in concert between customs, companies and government. All of this according to the guidelines of the SAFE Framework of the World Customs Organization (WCO), together with the establishment of the Authorized Economic Operator (AEO) program.

The figure of the AEO turns out to be the main mechanism by which, by fulfilling certain requirements, companies are allowed to be recognized as a highly trusted actor for customs, and therefore, have preferential access in the processes of customs compliance and port inspections, which are also framed within the guidelines of the WTO Trade Facilitation Agreement (AFC), entered in force in the first quarter of 2017.

However, those good practices and commercial promotions have been challenged by the global emergency generated by the high levels of spread and contagion of the SARS-Cov-2 virus, better known as COVID-19, which has triggered a precipitous drop in activity trade at a global level, approaching an estimate of the projected year-on-year reduction of 18.5%, (OMC, 2020) according to the latest evaluations presented by the WTO. In this way, we face constant uncertainty about the recovery period and the start of what we will be able to classify as a new normal, in view of new possible outbreaks, and the consolidation of some restrictive trade practices that have sought to protect internal consumption of the essential goods for the attention of the health contingency.

Likewise, the primary role of trade and the requirement to guarantee its continuity have been identified, in order to meet the needs of supplying basic necessities, medical supplements and food. Even so, the closing of borders as a preventive measure, taken within the framework of this situation, has generated the migration of global value chains or the implementation of local or regional market visions, in an effect known as nearshoring.

This document seeks to identify those good practices that have been negotiated in trade agreements, which allow cataloging the different accurate decisions for the mitigation of disruptive events, such as the advance of a pandemic, and at the same time, to provide clarity on the process of economic recovery that we must face in the new reality.

Perspective of trade agreements

The negotiation model of trade agreements has evolved in line with the new needs of the markets. Thus, three major milestones have marked this evolution as follows: (i) the dynamism of trade in services, (ii) the globalization of production chains and (iii) the digital

transformation along with negotiations, which go further borders, and extensive trade liberalization (Leblond, 2019).

Although, the negotiations of these agreements start from a common interest, generated by the idea of a projected benefit in the medium and long term, which is directly associated with market diversification, cooperation and mutual assistance. If we review the corresponding to good practices, it is identified that these pacts share a common structure that, according to the different characteristics of negotiation between the parties, may vary responding to specific situations and the relations between the two contracting entities, contrasted with the degree of trade liberalization that both economies wish to obtain. In this sense, the structure is focused on the negotiation of aspects such as:

Table 1. Third generation regional trade agreements structure

1	National treatment and access of goods.	8.	General and security exceptions.
2	Rules of origin	9.	Intellectual property.
3	Sanitary and phytosanitary measures.	10.	Sustainability
4	Technical obstacles to trade.	11.	Labor measures.
5	Customs and trade facilitation.	12.	E-commerce.
6	Trade defense measures.	13.	Small and medium businesses.
7	Services.	14.	Dispute settlement.

Source: Own elaboration from (WTO, 2020)

Now, as an example, part of the process of trade liberalization and the consequent positive effects derived from the agreements, is the case of the European Union (EU) which today has thirty-five (35) agreements with more than sixty-two partners (Comision Europea, 2019) , under different commercial opening schemes. Despite the slight mercantile growth of recent years, the negotiations in force in this area leveraged a mostly positive behavior ³, an event derived from a trade policy⁴ built on the application of good practices, knowledge of market needs and a long-term perspective (Comisión Europea, 2015)

Faced with the challenge of a new reality, characterized by being disruptive with regard to an uncertain future, the strengthening of trade facilitation measures, beside to the understanding of good regulatory practices and a new scope of contingency and business continuity measures, are important factors within the economic reactivation process. Furthermore, this is the first step to understand the role of trade agreements in new regional contexts.

Returning to the scope and nature of each negotiation, it is observed that third generation agreements have a wide range, which includes some relevant aspects that, analyzed from the perspective of current circumstances, are now some of the pillars that will allow us to address disruptive events and, simultaneously, will be aspects of main importance in new

³ En 2018, el 33 % de las exportaciones de la UE y el 29 % de las importaciones de la UE estaban cubiertas por acuerdos comerciales preferenciales. Estos acuerdos siguieron produciendo un superávit comercial sólido de 84 600 millones EUR, mientras que el comercio de la UE con el resto del mundo presentó un ligero déficit comercial de 24 600 millones EUR por primera vez desde 2014.

⁴ See: Trade for all Towards a more responsible trade and investment policy.

negotiations that have as their purpose the support of the process of economic reactivation and trade. Therefore, some specific cases are identified such as:

Table II. Good practices on Regional Trade Agreements

Comercial Agreement	Countries	Chapters of the agreement or norm	Observations
UMSCA	Canada Mexico, United States of America.	28. Good regulatory practices	Article 28.2 <ul style="list-style-type: none"> Promote regulatory quality through transparency, objective analysis, accountability and predictability that can facilitate international trade, investment and economic growth.
CAN	Colombia Ecuador Perú Bolivia	Decisión 856 del 29 de mayo de 2020	<ul style="list-style-type: none"> Conditions for issuing and receiving certificates of digital origin.

Source: (Office of the United States Trade Representative, 2020) (Andean Community , 2020)

In addition to the previously discussed examples, there are some measures established in the framework of the European Union trade agreements, which are easily recognized as essential in situations of high uncertainty, some of them are: transparency and anti-corruption practices, aimed at mitigating bribery and corruption in trade and investment operations; the strengthening of trade facilitation policies, such as the promotion of risk management measures and the Authorized Economic Operator programs, or the existence of detailed emergency clauses in the event of risk events. The assertive and responsible answer to the needs arising from the health emergency depends on the appropriate application of the related items. For this reason, they are also considered as topics of high interest in the negotiations required for the process of economic recovery.

Based on the foregoing, we consider some other measures implemented by European Union and notify before the WTO on behalf the TFA agreement such a directly affect tax exemptions on certain goods necessary to assume the current⁵ of member countries. This policy is aligned with similar determinations made by other nations, within the guidelines

⁵ Commission Decision (EU) 2020/491 of 3 April 2020.

established for the management and administration of borders, in order to safeguard health and meet the needs of services and goods of the parties⁶.

One of the latest trade agreements of great ambition to be mentioned, signed in recent years, corresponds to the African Continental Free Trade Area (AfCFTA) launched on May 30, 2019, under the objectives of strengthening the region's trade ties. To date, this treaty has the ratification of more than 50% percent of the signatory countries⁷ (Trade Law Centre, 2020), thus making it the largest trade agreement in the world, in terms of geography and member states (Kuhlmann, 2020). This kick off generates a new air in the face of trade tensions in recent years, in addition to facing the emergence of protectionist policies (Broadman, 2020) and which, in view of its same scope, is postulated as an enhancer of the trade in the process of economic recovery in the region (Ighobor, 2020).

This agreement presents certain types of measures that are easily adjusted to its context, allowing a degree of flexibility, due to having been created from a progressive design that includes determinations such as periodic reviews of its structure, established every five years, making clear the possibility of trade new instruments (Kuhlmann, 2020).

Even so, the current scenario requires an evolution of these agreements towards practices based on resilience, made to allow the continuity of business operations, in its wide spectrum. In such a way that those facilities and benefits adopted in the agreements are not weakened by the appearance of protectionist policies, contrary to the good course of bilateral and plurilateral cooperation. We will illustrate three pillars on which to work, in order to fully address a new post-pandemic reality

Consolidation of the Authorized Economic Operators (AEO) programs

A common element in third-generation trade agreements are the measures envisaged on the role of customs and trade facilitation measures, including the need for the parties to facilitate the implementation and established measures of the SAFE Framework of the WCO with particular emphasis on the Authorized Economic Operator (AEO) classification as the maximum figure of trust and security for it.

In this sense, this actor will become the key to strengthening and engaging in the third pillar "customs and public administration agencies", by evolving into programs that work together with other institutions interrelated with foreign trade operations, hoping that these can offer joint benefits and more efficient operations in port. The Colombian program⁸, which we take as a reference for this topic, offers measures and requirements that are evaluated by the country's sanitary and phytosanitary authorities, a situation that implies the need to address

⁶ European Commission "Guidelines for border management measures to protect health and ensure the availability of goods and essential services".

⁷ The consolidated AfCFTA text was adopted and signed at the 10th Extraordinary Summit of the AU Assembly in Kigali, Rwanda on March 21, 2018 by 44 African Heads of State and Government and entered into force on May 30, 2019.

⁸ Autoridades de control del operador económico autorizado Artículo cuarto (4to) del Decreto 3568 de 2011. Available in: <https://www.dian.gov.co/aduanas/oea/inicio/Paginas/marconormativo.aspx>

good practices on the traceability of the supply chain from point to point, focused on this category of goods, which are subject to a series of strict controls and high degrees of quality.

The consolidation of this provision will be solidified in the continuity of commercial operations with the signing and implementation of the Mutual Recognition Agreements (MRA) with the main commercial partners. Because of this, obtaining access to preferential rates and highly efficient customs processing times, will have a direct impact on the final cost of the final product.

Another perspective on the relevance of this program, applied as a trade facilitation measure, is based on the report of the “Cross Border E-Commerce Framework of Standards”, issued in 2018 by the WCO. This document recognizes the impact and importance of electronic commerce for the time, establishing a series of guidelines and good practices while urging the work and conceptualization of an AEO program that adjusts to a new reality, which contemplates secure compliance policies at the border, applied to sales through this channel.

Investment through the Special Economic Zones

It is estimated that there are 5,400 special economic zones in the world, being the Asian continent as a leader with 75% of these spaces, followed by Latin America and the Caribbean with 8% and North America with 4.86%. (UNCTAD, 2019) Its impact and its conditions differ between regions, in this way, we have the example of Tunisia that expects the creation of 2,000 new jobs derived from a series of investment in eco-friendly projects (WMC, 2020), the transfer pillar of knowledge and technology towards the generation of added value in Costa Rica (Zuñiga, 2020) and, the behavior of the country with the highest investment in this subject, China and its capital Beijing, which has more than thirteen specialized areas in electronic commerce (Ibarra, 2019).

The mutual investment and trade relationship are crucial in the process of understanding the behavior and importance of global value chains, in such a way that chapters dedicated specifically to these issues are detailed in third-generation trade agreements. This, given a positive investment flow, the expansion of large-scale trade is boosted together with the potential of cross-border trade in services (UNCTAD, 1999).

Faced with the current situation, the Organization for Economic Cooperation and Development (OECD) foresees a drop in this index by more than 30%, compared to the results obtained in 2019. Due to this, it is established that one of the measures in the recovery process is linked to the expectation about the behavior of this indicator. All this is issued to a restoration of value chains, emphasizing that sustainable investments are a necessary step towards resilience and must be accompanied by measures of openness, transparency and equity, these being the steps to be followed in the process of economic reactivation (OECD, 2020)^b.

Thus, the role of special economic zones as those places established in a certain geographical point, under the protection of a special regulation on tax and customs matters, are postulated

as a potential instrument in attracting investment, job creation, diversification of markets and as a means of strengthening e-commerce activities.

In this sense, the UNCTAD World Investment Report for 2019 identifies that, in general, these areas are covered by the guidelines negotiated in the free trade agreements, unless there is any specific provision. For this reason, these areas receive the same treatment and conditions as if they were placed in any other part of the land of the regions; on rare occasions it may happen that certain reservations, exceptions or specific adjustments are established in matters of origin for the goods that are produce in these areas (UNCTAD, 2019). Therefore, it is worth highlighting the individual role they take in the framework of the agreement that establishes Africa's continental free trade zone, as follows:

Table III. Special Economic Zones on the African Continental Trade Area

Comrcial Agreement	Countries	Chapter of the agreement	Observations
African Continental Free Trade Area ⁹	44 countries of the African Union.	Part VII-Complementary Policies Special economic arrangements /Zones	<p>Article 23</p> <ul style="list-style-type: none"> • State parties may support the establishment and operation of special economic arrangements or zones for the purpose of accelerating development

Source: (African Union, 2020)

Finally, in the current circumstances, the zones in question are called to establish their operation on best practices and policies that strengthen their activity, which should be linked to: assertive compliance measures, such as the Safe Zone program of the World Organization of Free Zones and the adoption of OECD code of conduct policies for free zones, to strengthen this vehicle for attracting investment on solid bases of good practices and transparency in its operations. All this tied to the proper measures to facilitate its operations, together with an essential component of innovation and sustainability for its implementation

Contingency Plan

The exchange of goods in an international context derived from free trade agreements is not far from those domestic transactions that establish certain levels of preferences. In the circumstance that these operations were carried out by two companies that held the AEO qualification, within the framework of a Mutual Recognition Agreement, it is necessary to interpret that both parties have established a series of good practices throughout their chain of international supply, focused on risk management and business continuity, which also maintain a relationship of trust with the customs authority as a constant exchange of information in order to identify any abnormality or latent risk in the flow of its operation.

Extrapolating this situation in the background of the development of the program in question, establishing a risk analysis and preparing guidelines for a continuity plan within the framework of trade agreements, will become a tool to respond to a framework of previously established action. This whole business, in order to safeguard the needs and continuity of the flow of operations, facilitating cross-border transportation as a right of transit, attending to the needs of specific goods under expedited processes, and establishing communication measures or Ad-hoc committees to carry out a continuous information exchange process, against established measures and policies such as the identification of needs that one of the parties could demand.

In this sense, the joint measures that can be negotiated and agreed upon should seek to meet the main needs that are identified, such as humanitarian measures, donations, information exchange, protection of the civilian population, etc.

This mentioned situation is not averse to reality. Here it is worth emphasizing the initiative of the countries of the Central American Integration System⁹ (SICA, by name in Spanish) in which, on March 26, 2020, a regional contingency plan was presented, within the framework of the Declaration "Central America united against the coronavirus" (Secretaría General del Sistema de la Integración Centroamericana, 2020), plan that develops around three (3) main topics that are

1. Health and risk management
2. Trade and finance
3. Security, justice and migration.

As the development of transversal axes focused on issues of strategic communication and international cooperation management, together with a comprehensive recommendation, aimed at the protection of women's rights, food and nutrition security, and scientific research and development; whose strategic monitoring plan is carried out through a regional committee focused on this.

However, in commercial matters, the need for the proper functioning of intraregional trade is identified and, therefore, measures are promoted such as full freedom of transit for goods through the territories, joint tariff reductions, coordination of the inter-institutional border for an effective coordination and collaboration of border points; as well as establishing regional economic indicators for monitoring the impact of COVID-19. All this will allow us to be a means of support when faced with requests for financial support from international organizations. (SICA , 2020).

Final Remarks

Given the previously described situation, a main finding corresponds to the moment in which free trade agreements were adapted to the needs and the complex and interconnected environment of business, in parallel with a liberalization of the economies of the signatory parties. For this reason, given the presence of this new milestone, the new negotiations that

take place from here on, demand a new sense of responsibility and resilient practices, focused on identifying management models for the continuity of operations, which contemplate both a framework of cooperation and transparency, in favor of the continuity of mercantile movements.

⁹ The country members are: Republica Costa Rica, Belice, Republica Dominicana, Republica de Guatemala, Republica de Honduras, Republica del Salvador, Republica de Panamá, Republica de Nicaragua

In this sense, we could conclude:

- Based on the identification of the latent need of the implementation of good regulatory practices, the UMSCA case works as an ideal example of managing the use of assertive guidelines between the parties, which allows creating a base focused on overcoming non-tariff measures and promote more transparent policies, increasing the degree of inclusion of small and medium-sized companies that want to diversify their markets.
- Given the new budgetary restrictions, the trade facilitation measures negotiated in the free trade agreements, that seek to promote the figure of the AEO among the countries involved, are a source of benefits that should be considered in future agreements. All this, because they provide access to preferential channels for the fulfillment of formalities at the border, which can be optimized by reflecting shorter customs times along with a lesser degree of inspections at ports of entry; The Mexican case illustrates this type of privilege, where we observe a positive relationship between companies certified as AEO and the growth of their exports (Carballo, 2016).
- The strengthening of the third pillar of the SAFE framework in the development of AEO programs, including the sanitary and phytosanitary authorities, as well as any other that participates in compliance processes in port, is a point that will promote transparency and agility. of operations and compliance with new biosecurity control measures.
- In the same sense, the implementation and corresponding evolution of the Mutual Recognition Agreements (MRA) will allow to consolidate the AEO program and improve productivity and response time in fulfilling formalities at the border.
- There is a latent need to adjust and implement new technologies for the issuance of certificates of origin that will allow, in turbulent times, to maintain access to the tariff benefits derived from trade agreements (Blockchain).

- Investment is a central aspect in the process of building a new stable and sustainable economic normality¹⁰, in this order of ideas, free zones as a means of foreign direct investment, under practices of transparency, social responsibility and guidelines for struggle Against illegal activities, they are now a central focus for attracting new investments as one of the integrating actors in new regional value chains.
- In response to the electronic commerce boom, coupled with the benefits determined by governments for special economic zones, these become an important focus for the development and boost of this distribution channel (Ibarra, 2019).
- The establishment of a continuity plan framework in the face of disruptive events should be a new priority in trade agreements, given that to date good practices have been identified in relation to the means of cooperation and information exchange. However, an analysis of new potential risks must be established together, to work on a continuous and joint way of dealing with them, if necessary.

For all these reasons, these plans will seek to establish specific measures to avoid the disruption of trade, facilitate cross-border negotiations, the exchange of information and work within joint goals that mitigate risks and safeguard the integrity of society. As an example, we see the work carried out by SICA which, through a joint work structure, advanced the “Manual of biosafety guidelines before Covid-19, applicable to the Central American land transit transport sector” (SIECA, 2020).

- Now, within the framework of good business practices, as in the case of issues advanced by the European Union, it is worth highlighting some determining items in the scenario of addressing a new reality, among which (i) measures are highlighted for facilitating trade in services, (ii) strengthening intellectual property protection measures in a context and reality of a digitized economy, and (iii) greater access to small and medium-sized enterprises, with the aim of alleviating the cost of access and mitigate the lack of information to identify new business opportunities, taking advantage of trade agreements. (Comisión Europea, 2015)
- Finally, it is important to establish clear measures in the negotiations for trade protection measures in the face of new challenges, which may resurface as governments make the necessary decisions to support the recovery process of certain industries.

¹⁰ See Statement of action by the global investors for sustainable development (GISD) Alliance Covid-19 and beyond: response and recovery.

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