



# Latin American and Caribbean Trade Agreements:

*Keys to a Prosperous  
Community of the Americas*

Thomas Andrew O'Keefe

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of the Americas**

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# **Latin American and Caribbean Trade Agreements**

*In memory of my father, Thomas (1933–2000)  
and my maternal grandmother, Clemencia Ferrari León de la Barra,  
who lived to the ripe old age of 100.*

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I want to express my deepest appreciation to all my colleagues in academia and in public institutions throughout the Western Hemisphere who, over the course of nearly two decades, have generously shared with me their knowledge and experiences with respect to regional economic integration. Many of their written works are cited in this volume, which represents an expression of esteem and respect for their contributions to the struggle to create more equitable societies and provide genuine economic opportunities for a majority of the inhabitants of North and South America. I would be remiss if I did not make particular mention of Luis Castillo, Guillermo Devoto, Adriana Dreyzin de Klor, Marcos Simão Figueiras, Daniel Hargain, Robin King, Barbara Kotschwar, Karen Monaghan, Maryse Robert, Sherry Stephenson, and Carol Wise. Years of fruitful exchange of ideas and encouragement have contributed to the writing of this volume. I am also grateful to my student intern Ana Sheila Victorino for assisting me in pulling together the Table of Contents and Bibliography.

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## ABOUT THE AUTHOR

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**Thomas Andrew O'Keefe** is the president of MERCOSUR Consulting Group, Ltd. (<http://www.mercosurconsulting.net>), a legal and economic consulting firm that assists companies with their strategic business planning for South America and advises Latin American firms exporting to the United States. The firm was founded in New York in 1993 and moved to Washington, DC in 1996.

Mr. O'Keefe is a dual national of the United States and Chile. He is bilingual in English and Spanish, and he is fluent in French and Portuguese. He did his undergraduate work at Columbia University, and received his J.D. from the Villanova University School of Law. In 1986, he worked for the legal departments of the Chilean Human Rights Commission and the Vicaría de la Solidaridad (the human rights office of the Archdiocese of Santiago). He also worked as an associate at the Wall Street law firm of Carter, Ledyard & Milburn and the Boston-based Gadsby & Hannah before returning to study at the University of Oxford, where he received an M.Phil. in Latin American Studies (History and Economics) in 1992. He has taught courses on Western Hemisphere economic integration and the Political Economy of the Southern Cone countries of South America at Johns Hopkins University's School of Advanced International Studies, The George Washington University's Elliott School of International Affairs, George Mason University, and Stanford University. He was chair of the Brazil and Southern Cone course at the Foreign Service Institute between September and December 2005.

Mr. O'Keefe is the author of numerous articles on Latin American economic integration and globalization and has lectured extensively on the topic in the United States and abroad. He has been a frequent guest on television programs on the subject. He has also been invited to brief U.S. government officials and testify before the U.S. Congress on developments within MERCOSUR and the Free Trade Area of the Americas project. He is the former managing editor of *Focus Americas*, an analytical review of business and legal developments throughout the Western Hemisphere. His book, *Latin American Trade Agreements*, is the only comprehensive publication in English that discusses the major Latin American economic integration projects from a practical perspective and addresses related topics such as laws affecting foreign investment and intellectual property rights. He was also a major contributing editor to *FTAA Executive Briefing* published by Orbis Publications, L.L.C. in 1998.

In 1999, Mr. O'Keefe prepared a report entitled *Lessons From the MERCOSUR Experience that Are Relevant for the Negotiations to Create a SADC Free Trade Area* under a U.S. AID/R.C.S.A. funded Southern African Development Community (SADC) Protocol on Trade Project. He also oversaw the preparation of a report under the same project analyzing the costs and benefits to Mozambique in ratifying

the SADC Protocol on Trade. In 2001, he participated in the U.S. AID/RAPID project as an African Growth and Opportunity Act (AGOA) trade specialist based in Gaborone, Botswana. In 2005, he received a Fulbright Scholars Award to lecture on international trade topics at the National Universities of Córdoba and Rosario in Argentina and conduct research on the Argentine energy sector for a chapter in a book published by the Center for Strategic and International Studies (CSIS) in 2007. Between October 2005 and October 2006, Mr. O'Keefe was the Legal and Economic Integration Specialist for the U.S. AID funded Caribbean Open Trade and Support Program based in Antigua that provided trade capacity-building and competitiveness assistance to the governments and private sectors in Antigua and Barbuda as well as Dominica.

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# LIST OF ABBREVIATIONS AND ACRONYMS

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|           |   |
|-----------|---|
| ACE       | Economic Complementation Agreement or <i>Acuerdo de Complementación Económica</i>   |
| ACP       | Africa, the Caribbean, and the Pacific  |
| ACS       | Association of Caribbean States   |
| AGOA      | African Growth and Opportunity Act  |
| ALADI     | Latin American Integration Association or <i>Asociación Latinoamericana de Integración</i>                                  |
| ALALC     | Latin American Free Trade Area or <i>Área Latinoamericana de Libre Comercio</i>   |
| ALBA      | Bolivarian Alternative for the Peoples of Our America or <i>Alternativa Bolivariana para los Pueblos de Nuestra America</i> |
| ALIDES    | Central American Alliance for Sustainable Development   |
| AMN       | MERCOSUR Standardization Association or <i>Asociación MERCOSUR de Normalización</i>   |
| APEC      | Asia-Pacific Economic Cooperation   |
| ATPA      | Andean Trade Promotion Act  |
| ATPDEA    | Andean Trade Preference and Drug Eradication Act  |
| BNDES     | Brazilian National Development Bank   |
| BOAC      | British Overseas Airways Corporation  |
| BWIA      | British West Indian Airlines  |
| CAAAM     | Andean Committee of Environmental Authorities   |
| CABEI     | Central American Bank for Economic Integration  |
| CACM      | Central American Common Market  |
| CAF       | Andean Development Corporation or <i>Corporación Andina de Fomento</i>  |
| CAFTA-DR  | Central America-Dominican Republic and United States Free Trade Agreement   |
| CARIBCAN  | Caribbean-Canada Program  |
| CARICOM   | Caribbean Common Market and Community   |
| CARIFORUM | Caribbean Forum   |
| CARIFTA   | Caribbean Free Trade Area   |
| CAUCA     | Uniform Central American Customs Code or <i>Código Aduanero Uniforme Centroamericano</i>                                    |
| CAUCE     | Argentine-Uruguayan Economic Complementation Agreement or <i>Convenio Argentino-Uruguayo de Complementación Económica</i>   |

|                  |  |
|------------------|--|
| CBERA            | Caribbean Basin Economic Recovery Act  |
| CBN              | Committee on Bilateral Negotiations  |
| CBTPA            | United States-Caribbean Basin Trade Partnership Act  |
| CCAD             | Central American Commission on the Environment and Development                                   |
| CCCC             | Central American Council on Climate Change   |
| CCJ              | Caribbean Court of Justice   |
| CDM              | Clean Development Mechanism  |
| CECC             | Central American Education and Culture Coordinating Commission                                   |
| CET              | Common External Tariff   |
| CICAD            | Central America Inter-Parliamentary Commission on the Environment and Natural Resources          |
| CIF              | Cost, Insurance, and Freight   |
| CIRI             | Regional Integration Committee on Inputs   |
| CMC              | Common Market Council (MERCOSUR)   |
| COFAP            | Council of Finance and Planning  |
| COTED            | Council of Trade and Economic Development  |
| CRAS             | Regional Commission on Social Affairs (SICA)   |
| CRNM             | Caribbean Regional Negotiating Machinery   |
| CRRH             | Regional Committee on Water Resources of the Central American Isthmus                            |
| CSME             | Caribbean Single Market and Economy  |
| CSIS             | Center for Strategic and International Studies   |
| ECLAC            | UN Economic Commission for Latin America and the Caribbean                                       |
| EEC              | European Economic Community  |
| EPA              | Economic Partnership Agreement   |
| EU               | European Union   |
| FOB              | Freight on Board   |
| FOCEM            | Fund for Structural Convergence in MERCOSUR  |
| FTA              | Free Trade Agreement   |
| FTAA             | Free Trade Area of the Americas  |
| GATS             | WTO General Agreement on Trade in Services   |
| GATT             | WTO General Agreement on Tariffs and Trade   |
| GSP              | General System of Preferences  |
| HTS              | Harmonized Tariff Schedule   |
| IADB             | Inter-American Development Bank  |
| ICSID            | International Center for the Settlement of Investment Disputes                                   |
| ICSID Convention | Convention on the Settlement of Investment Disputes between States and Nationals of Other States |

|                   |  |
|-------------------|--|
| IIRSA             | Integration of Regional Infrastructure in South America or <i>Iniciativa para la Infraestructura Regional de Sur América</i>             |
| ILO               | International Labor Organization   |
| IMF               | International Monetary Fund  |
| INTAL             | Institute for the Integration of Latin America and the Caribbean (IADB)  |
| MERCOSUR/MERCOSUL | Common Market of the South or <i>Mercado Común de Sur/Mercado Comum do Sul</i>   |
| MFN               | Most-Favored Nation  |
| MOU               | Memorandum of Understanding  |
| NAFTA             | North American Free Trade Agreement  |
| NALADISA          | ALADI tariff classification system   |
| NCM               | MERCOSUR harmonized tariff classification system   |
| OAS               | Organization of American States  |
| ODECA             | Organizational Letter of the Organization of Central American States of 1962   |
| OECS              | Organization of Eastern Caribbean States   |
| PARLACEN          | Central American Parliament  |
| PEC               | Trade Expansion Protocol (Brazil-Uruguay) or <i>Protocolo de Expansión Comercial</i>   |
| PICAB             | Argentine-Brazilian Program for Integration and Economic Cooperation or <i>Programa de Integración y Cooperación Argentino-Brasileño</i> |
| PTO               | U.S. Patent and Trademark Office   |
| SAC               | Central American Harmonized Tariff Schedule or <i>Sistema Arancelario Centroamericano</i>  |
| SACU              | South African Customs Union  |
| SADC              | Southern African Development Community   |
| SCA               | Secretariat of the Central American Agricultural Council   |
| SICA              | Central American Economic Integration System or <i>Sistema de la Integración Centroamericana</i>   |
| SPP               | Security and Prosperity Partnership (North America)  |
| SICAP             | Central American System of Protected Areas   |
| SIECA             | Old Permanent Secretariat of the General Treaty on Central American Economic Integration   |
| SITCA             | Secretariat for Central American Integration of Tourism  |
| SPS Agreement     | WTO Agreement on the Application of Sanitary and Phytosanitary Measures  |
| SEMCA             | Executive Secretariat of the Central American Monetary Council   |

|               |  |
|---------------|--|
| TBT Agreement | WTO Agreement on Technical Barriers to Trade                           |
| TCP           | Peoples' Trade Treaty or <i>Tratado de Comercio de los Pueblos</i>     |
| TRIMs         | WTO Trade-Related Investment Measures                                  |
| TRIPs         | WTO Agreement on Trade-Related Aspects of Intellectual Property Rights |
| TRQ           | tariff rate quota  |
| UK            | United Kingdom   |
| UN            | United Nations   |
| UNASUR        | Union of South American Nations  |
| UNCITRAL      | UN Commission on International Trade Law                               |
| US            | United States  |
| USAID         | US Agency for International Development                                |
| USTR          | US Trade Representative  |
| UWI           | University of the West Indies  |
| VAT           | value added tax  |
| WIPO          | World Intellectual Property Organization                               |
| WTO           | World Trade Organization   |

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# INTRODUCTION

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*Latin American and Caribbean Trade Agreements: Keys to a Prosperous Community of the Americas* has two purposes: (1) to fill the void in academic texts that can be used to teach courses on economic integration in the Western Hemisphere and (2) to provide a road map for the new administration that moves into the White House in January 2009 to complete the Free Trade Area of the Americas (FTAA) project. Launched in the 1990s with the enthusiastic support of all the elected leaders of the Western Hemisphere, the FTAA has been a victim of the same neglect that has characterized overall U.S. policy to the region under the Bush administration. As this book makes clear, however, a free trade agreement will not be enough. A bolder and more ambitious project that also seeks to redress many of the deep-seated problems that have long plagued Latin America and the Caribbean is required. The Community of the Americas that is proposed in this book and rests upon important pillars such as energy security, migration, economic, and political reform provides a new and cohesive U.S. policy for Latin America and the Caribbean.

*Latin American and Caribbean Trade Agreements: Keys to a Prosperous Community of the Americas* is intended to complement *Latin American Trade Agreements* that was first published by this author in 1997 and has been periodically updated since then. Whereas the earlier book provides more detailed information for exporters to and investors in Latin America and contains hard-to-find or non-existent English translations of the major treaties and trade regulations, companies trading with Latin America and the Caribbean or wishing to use a country in the region as an export platform for neighboring countries or globally will also find the current work an extremely useful reference guide.

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