

Article 4

To carry out this Agreement in the best way possible, Member Countries shall make the necessary efforts to seek adequate solutions to the problems derived from Bolivia's landlocked condition.

CHAPTER II: ON THE ANDEAN COMMUNITY AND THE ANDEAN INTEGRATION SYSTEM

Article 5

The "Andean Community" is hereby created, composed by the sovereign States of Bolivia, Colombia, Ecuador, Peru, and Venezuela, and by the bodies and institutions of the Andean Integration System, which is established by this Agreement.

Article 6

The Andean Integration System is made up of the following bodies and institutions:

The Andean Presidential Council;

The Andean Council of Ministers of Foreign Affairs;

The Commission of the Andean Community;

The General Secretariat of the Andean Community;

The Court of Justice of the Andean Community;

The Andean Parliament;

The Business Advisory Council;

The Labor Advisory Council;

The Andean Development Corporation;

The Latin American Reserve Fund;

The Simón Rodríguez Agreement, the Social Agreements which join the Andean Integration System, and those that are created within its framework;

The Simón Bolívar Andean University;

The Advisory Councils established by the Commission; and,

The rest of the bodies and institutions created within the framework of Andean subregional integration.

Article 7

The purpose of the System is to allow an effective coordination between the bodies and institutions that compose it, in order to deepen Andean subregional integration, to promote its external presence and to consolidate and strengthen actions related to the integration process.

Article 8

The bodies and institutions of the Andean Integration System are governed by this Agreement, by their respective charters, and their modifying protocols.

Article 9

With the purpose of achieving the best coordination within the Andean Integration System, the Chairman of the Andean Council of Ministers of Foreign Affairs will call and chair the Meeting of Representatives of the institutions that make up the System.

The main purposes of the Meeting shall be:

- a. To exchange information about the actions taken by the respective institutions to carry out the Guidelines issued by the Andean Presidential Council;
- b. To study the possibility and convenience of agreeing, among all the institutions or among some of them, to carry out coordinated actions, with the purpose of contributing to the achievement of the objectives of the Andean Integration System; and,
- c. To present to the Andean Council of Ministers of Foreign Affairs in enlarged meetings, reports about the actions carried out in fulfillment of the received Guidelines;

Article 10

The Meetings of Representatives of the institutions which make up the Andean Integration System shall be held in regular sessions at least once a year and, in special sessions, every time that any of the institutions that comprise it requests so, and it shall be held at the place agreed upon before the meeting is called.

The General Secretariat of the Andean Community shall act as the Secretariat of the Meeting.

Section A

On The Andean Presidential Council

Article 11

The Andean Presidential Council is the highest-level body of the Andean Integration System and it is made up of the Heads of State of the Member Countries of the Cartagena Agreement. It issues Guidelines about the different areas of Andean subregional integration, which are carried out by the System's bodies and institutions, that the Council determines, according to the responsibilities and mechanisms established in their respective Treaties or Charters.

The bodies and institutions of the System shall carry out the political orientations included in the Guidelines issued by the Andean Presidential Council.

Article 12

It is the Andean Presidential Council's responsibility:

- a. To define Andean subregional integration policy;
- b. To orient and promote actions on matters of interest for the Subregion as a whole, as well as those related to the coordination among the bodies and institutions of the Andean Integration System;
- c. To evaluate the development and results of the process of Andean subregional integration;
- d. To consider and issue opinions about reports, initiatives, and recommendations submitted by the bodies and institutions of the Andean Integration System; and,
- e. To study all the subjects and matters concerning the development of the process of the Andean subregional integration and its external projection.

Article 13

The Andean Presidential Council shall meet regularly once a year, preferably in the country that chairs it. In this meeting it will review the actions executed by the bodies and institutions of the Andean Integration System, as well as of their projects, programs, and suggestions. The members of the Andean Council of Ministers of Foreign Affairs, the Commission, and representatives of the bodies and institutions of the System shall be able to attend the meetings of the Andean Presidential Council, as observers.

The Andean Presidential Council shall be able to call a special meeting, whenever it considers it advisable, at the place agreed upon before the meeting is called.

Article 14

The Andean Presidential Council shall have a Chairman who will be the Andean Community's top political representative, and who shall hold office for a period of one calendar year. That position shall be filled, successively and in alphabetical order, by each one of the Member Countries.

The responsibilities of the Chairman of the Andean Presidential Council shall be:

- a. To call and chair the regular and special meetings of the Council;
- b. To represent the Council and the Andean Community;
- c. To supervise that the Guidelines issued by the Council are carried out by the other bodies and institutions of the Andean Integration System; and,
- d. To carry out the tasks requested by the Council.

Section B

The Andean Council of Ministers of Foreign Affairs

Article 15

The Andean Council of Ministers of Foreign Affairs is comprised by the Ministers of Foreign Affairs of the Member Countries of the Cartagena Agreement.

Article 16

The responsibilities of the Andean Council of Ministers of Foreign Affairs shall be:

- a. To formulate the Member Countries' foreign policy in matters of subregional interest, as well as to orient and coordinate the external actions of the different bodies and institutions of the Andean Integration System;
- b. To formulate, carry out, and evaluate, in coordination with the Commission, the general policy of the process of Andean subregional integration;
- c. To carry out the Guidelines given to it by the Andean Presidential Council and to ensure that those given to the other bodies and institutions of the Andean Integration System are carried out;
- d. To sign Covenants and Agreements with third countries or groups of countries or with international organizations in regard to issues of global foreign policy and cooperation;
- e. To coordinate the joint position of the Member Countries in international fora and negotiations, within its areas of responsibility;
- f. To represent the Andean Community in matters and activities of common interest, within the framework of its responsibilities, in accordance with the rules and objectives of the Agreement;
- g. To recommend or adopt the measures that ensure the accomplishment of the purposes and objectives of the Cartagena Agreement, within its area of responsibility;
- h. To ensure harmonious compliance with the obligations set out in this Agreement and in the Treaty of Montevideo of 1980;
- i. To approve and modify its own regulations;
- j. To approve the Regulations of the General Secretariat and all amendments thereto upon the Commission's proposal; and,
- k. To hear and resolve all the other matters of common interest, within its area of responsibility.

Article 17

The Andean Council of Ministers of Foreign Affairs shall express itself through Declarations and Decisions, adopted by consensus. The latter shall be part of the Andean Community Law.

Article 18

The Andean Council of Ministers of Foreign Affairs shall meet in regular session twice a year, preferably in the country that holds its chair. Likewise, it shall be able to meet in special session, whenever deemed advisable, at the request of any of its members, in the place agreed upon before the meeting is called.

Article 19

The Andean Council of Ministers of Foreign Affairs shall be presided by the Minister of Foreign Affairs of the country that chairs the Andean Presidential Council, who shall hold office for one calendar year.

The task of coordination that corresponds to the Chairman of this Council shall be fulfilled by the Ministry of Foreign Affairs of the country whose Head of State chairs the Andean Presidential Council, acting as the Pro Tempore Secretariat of both bodies and having the technical support of the General Secretariat of the Andean Community.

Article 20

The Andean Council of Ministers of Foreign Affairs shall meet in enlarged sessions with the heads of the delegations to the Commission, at least once a year and, at the deputy level, every time it considers necessary, so as to discuss matters related to the Cartagena Agreement that are of interest to both bodies, such as:

- a. To prepare the meetings of the Andean Presidential Council;
- b. To choose and, when suitable, to remove the General Secretary of the Andean Community;
- c. To propose any modifications to this Agreement to the Andean Presidential Council;
- d. To evaluate the performance of the General Secretariat;
- e. To consider the initiatives and proposals submitted for its consideration by the Member Countries or the General Secretariat; and,
- f. All other subjects that both bodies by consent decide to address jointly.

Section C

The Commission of the Andean Community

Article 21

The Commission of the Andean Community shall be comprised by a plenipotentiary representative from each one of the governments of the Member Countries. Each Government shall accredit a head of delegation and a deputy.

The Commission shall express its will through Decisions.

Article 22

It is the Commission of the Andean Community's responsibility:

- a. To prepare, carry out, and evaluate Andean subregional integration policy in the area of trade and investment and when required, in coordination with the Andean Council of Ministers of Foreign Affairs;
- b. To take the necessary measures to accomplish the objectives of the Cartagena Agreement, and to carry out the Guidelines of the Andean Presidential Council;
- c. To coordinate the joint position of the Member Countries in international fora and negotiations, in its area of responsibility;
- d. To ensure harmonious compliance with the obligations set out in this Agreement and in the Treaty of Montevideo of 1980;
- e. To approve and modify its own regulations;
- f. To approve, reject or amend the proposals submitted to it by the Member Countries, individually or collectively, or by the General Secretariat;
- g. To maintain ongoing relations with the bodies and institutions that make up the Andean Integration System, aimed at making possible the coordination of programs and policies directed to the achievement of their common objectives;
- h. To represent the Andean Community in matters and activities of common interest, within the framework of its responsibilities, in accordance with the rules and objectives of this Agreement;
- i. To approve the annual budget and evaluate the budgetary performance of the General Secretariat and that of the Court of Justice of the Andean Community, and to set the contributions of each one of the Member Countries; and,
- j. To submit for consideration to the Andean Council of Ministers of Foreign Affairs the proposed Regulations of the General Secretariat.

In carrying out its responsibilities, the Commission shall give special consideration to the situation of Bolivia and Ecuador in terms of the objectives of this Agreement, the preferential treatments provided in their favor, and the landlocked situation of the former.

Article 23

The Commission shall have a Chairman who shall hold office for one calendar year. Said office shall be held by the representative of the country that chairs the Andean Presidential Council.

Article 24

The Commission shall meet on a regular basis three times a year and in special session whenever such a meeting is called by its Chairman at the request of any of the Member Countries or of the General Secretariat.

Its sessions shall be held at the headquarters of the General Secretariat, but they can also take place outside of it. The Commission shall meet with the presence of an absolute majority of the Member Countries.

Attendance to Commission meetings shall be compulsory and failure to attend shall be considered an abstention.

Article 25

At the request of one or more of the Member Countries or of the General Secretariat, the Commission's Chairman shall call upon the Commission to meet as an Enlarged Commission, in order to address sectorial issues, to consider regulations for the coordination of development plans, and to harmonize the economic policies of the Member Countries, as well as to hear and resolve all other matters of common interest.

Such meetings shall be presided by the Commission's Chairman and shall be jointly comprised by the heads of delegation before the Commission and by the Ministers or Secretaries of State of the respective area. Each country shall exercise one vote in regard to the approval of Decisions, that shall be part of the Andean Community Law.

Article 26

The Commission shall adopt its Decisions by affirmative vote of the absolute majority of the Member Countries. The exceptions to this general rule are:

- a. The matters included in Annex 1 to this Agreement, in which the Commission shall adopt its Decisions by the affirmative vote of the Member Countries and with no negative votes being cast.

The Commission shall be able to add new matters to said Annex with the affirmative vote of the absolute majority of the Member Countries;

- b. In the cases listed in Annex II, the proposals of the General Secretariat shall be approved with the affirmative vote of the absolute majority of the Member Countries provided that no negative vote is cast. Proposals receiving the affirmative vote of the absolute majority

- of the Member Countries, but also a negative vote shall be returned to the General Secretariat for consideration of the grounds for said negative vote. Within a period of time not shorter than two months and not longer than six, the General Secretariat shall present the proposal again for consideration by the Commission with the modifications which it considers appropriate. And in that case, the proposal as modified shall be considered approved if it receives the affirmative vote of the absolute majority of the Member Countries, with no negative vote. The vote of the country that dissented in the previous opportunity shall not be computed as a negative vote;
- c. Matters related to the special regime for Bolivia and Ecuador, that are listed in Annex III. In this case, the Commission's Decisions shall be adopted by the affirmative vote of the absolute majority provided that one of them is cast by Bolivia or Ecuador; and,
 - d. Industrial Development Programs and Projects shall be approved with the affirmative vote of the absolute majority of the Member Countries provided that no negative vote is cast.

Article 27

The General Secretariat or the Member Countries shall present their proposals at least fifteen days prior to the corresponding meeting of the Andean Council of Ministers of Foreign Affairs or of the Commission. Only in exceptional cases that are duly justified, and in accordance with the Andean Community Law, shall the required deadlines be ignored, provided that both the proponent and the other Member Countries agree to do so.

Proposals receiving the affirmative vote of the absolute majority of the Member Countries, but also a negative vote, shall be returned to the proponent for consideration of the grounds that gave rise to the negative vote.

In a period of time not shorter than a month and not longer than three, the proponent shall present the proposal again for consideration by the corresponding body with the modifications which it should consider appropriate and, in that case, the modified proposal shall be considered approved if it has the affirmative vote of the absolute majority of the Member Countries.

Article 28

The Member Country that is behind more than four quarters in regard to the payment of its contributions to the General Secretariat or to the Court of Justice of the Andean Community, shall not be able to exercise the right to vote in the Commission until it solves its situation.

In such a case the quorum for attendance and voting shall be computed according to the number of contributing countries.

Section D

The General Secretariat of the Andean Community

Article 29

The General Secretariat is the executive body of the Andean Community and as such it acts solely in accordance with the interests of the Subregion. The General Secretariat shall give

technical support, when suitable, to the other bodies and institutions of the Andean Integration System.

The General Secretariat shall be headed by the General Secretary. For the fulfillment of his duties, the General Secretary shall rely on the Directors General, according to the respective regulation. Furthermore, the General Secretary shall have the technical and administrative staff required for the accomplishment of his duties. The General Secretariat shall express itself through Resolutions.

Article 30

The Andean Community General Secretariat's responsibilities are:

- a. To ensure application of this Agreement and compliance with the rules that make up the Andean Community Law;
- b. To carry out the tasks assigned to it by the Andean Council of Ministers of Foreign Affairs and the Commission;
- c. To present to the Andean Council of Ministers of Foreign Affairs and to the Commission, drafts of Decisions, according to their respective responsibilities, as well as initiatives and suggestions to the enlarged meeting of the Andean Council of Ministers of Foreign Affairs, aimed at facilitating or hastening the fulfillment of this Agreement, with the purpose of achieving its objectives in the shortest possible time frame;
- d. To carry out studies and propose the necessary measures for the application of the special treatments favoring Bolivia and Ecuador and, in general, those regarding the participation of the two countries in this Agreement;
- e. To study and report annually to the Andean Council of Ministers of Foreign Affairs and to the Commission, the results of the application of this Agreement and the achievement of its objectives, paying special attention to the fulfillment of the principle of fair distribution of the benefits of integration, and to propose pertinent corrective measures;
- f. To carry out technical studies and the coordination entrusted to it by the other bodies of the Andean Integration System and those studies that it considers necessary;
- g. To maintain permanent working relationships with the Member Countries, in coordination with the national integration body indicated by each country for such purpose;
- h. To prepare its annual work program, in which it shall give preference to the tasks entrusted to it by the other bodies of the System;
- i. To promote periodic meetings of the national organizations in charge of the formulation or the carrying out of economic policy and, specially, of those charged with economic planning;
- j. To maintain working relationships with the executive bodies of the other regional integration and cooperation organizations, in order to strengthen their relationship and their reciprocal cooperation;

- k. To maintain the records of the enlarged meetings of the Andean Council of Ministers of Foreign Affairs and those of the Commission, and to prepare a tentative agenda of their meetings, in coordination with the chairmen of said bodies;
- l. To be depository of the records of the meetings and other documents of the Andean Integration System's bodies and to certify their authenticity;
- m. To edit the Official Gazette of the Cartagena Agreement;
- n. To act as the Secretariat of the Meeting of Representatives of the institutions making up the Andean Integration System; and,

To carry out the other responsibilities expressly given to it by the Andean Community Law.

Article 31

The General Secretariat shall operate on a permanent basis and its headquarters shall be in the city of Lima, Peru.

Article 32

The General Secretariat shall be headed by a General Secretary who will be chosen by consensus for a five-year period by the Andean Council of Ministers of Foreign Affairs, and he may be reelected once.

The General Secretary shall be a person with broad representation, acknowledged prestige, and must be a national of one of the Member Countries. He will only act in the interest of the Subregion as a whole.

During his term in office, the General Secretary shall not be able to carry out any other activity; nor will he seek or accept instructions from any government, national entity or international body.

In case of vacancy, the Andean Council of Ministers of Foreign Affairs in an enlarged meeting shall immediately proceed to name a new Secretary General by consensus. Until such time, the Director-General with the most seniority shall temporarily head the General Secretariat.

Article 33

The General Secretary can be removed, by consensus, at the request of a Member Country, only after committing a serious fault foreseen in the General Secretariat's Regulations, while exercising his duties.

Article 34

The responsibilities of the Andean Community's General Secretary are:

- a. To be the General Secretariat's legal representative;

- b. To propose to the Commission or to the Andean Council of Ministers of Foreign Affairs initiatives in relation to the General Secretariat's Regulations;
- c. To hire and remove, according to the General Secretariat's Regulations, technical and administrative staff;
- d. To participate with the right to be heard in the sessions of the Andean Council of Ministers of Foreign Affairs, the Commission, respective enlarged meetings, and, when invited, in the meetings of the other bodies of the System;
- e. To present the annual budget estimate to the Commission, for its approval; and,
- f. To present an annual report of the General Secretariat's activities to the Andean Council of Ministers of Foreign Affairs in an enlarged meeting.

Article 35

The General Secretary shall appoint the Directors-General, with the advice of the Member Countries and according to the General Secretariat's functional-organic structure. The Directors-General shall be top-level professionals, appointed strictly due to their academic background, ability, reputation, and experience, and they shall be responsible for a determined technical area.

The Directors-General shall be nationals of one of the Member Countries and in their appointment the General Secretary shall ensure a balanced subregional geographic distribution. The appointment and removal of the Directors-General shall proceed according to the General Secretariat's Regulations.

Article 36

In carrying out proceedings involving the interests of two or more Member Countries, the General Secretary shall have technical support from special experts, whose appointment and method of participation shall be determined according to the General Secretariat's Regulations.

Article 37

The General Secretary, when hiring technical and administrative staff, who may be of any nationality, shall strictly bear in mind the ability, competence, and reputation of the candidates and shall ensure that, provided that it is compatible with the prior criteria, there should be a balanced subregional geographic distribution.

The appointment and removal of the staff shall take place according to the criteria and grounds established in the Regulations of the General Secretariat, without prejudice for what is provided for such purpose by the Charter of the Court of Justice and its modifying protocols.

Article 38

The staff of the General Secretariat, shall refrain from any action which may be incompatible with the nature of its duties, and shall neither seek nor accept any instructions from a Government, national entity or international body.

Article 39

In the case of proceedings that must culminate with the adoption of a Resolution or Opinion, the individuals, legal entities, public or private persons from the Member Countries, shall cooperate with the investigations performed by the General Secretariat in carrying out its duties and in this sense must supply the information they are requested for this purpose.

The General Secretariat shall keep the confidentiality of the documents and information furnished, according to the rules established about the matter.

Section E

On Court of Justice of the Andean Community

Article 40

The Court of Justice is the judicial body of the Andean Community.

Article 41

The Court of Justice of the Andean Community is governed by its Charter, its modifying protocols and this Agreement.

The Court has its headquarters in the city of Quito, Ecuador.

Section F

On The Andean Parliament

Article 42

The Andean Parliament is the deliberative body of the System. It has a community nature, it represents the peoples of the Andean Community and it shall be made up of representatives chosen by universal and direct suffrage, according to the procedure that shall be adopted through an Additional Protocol that shall include adequate criteria for national representation.

Until the Additional Protocol establishing direct elections is in force, the Andean Parliament shall be comprised of representatives of the National Congresses, according to their internal regulations and to the General Regulations of the Andean Parliament.

The headquarters of the Andean Parliament shall be in the city of Santafé de Bogotá, Colombia.

Article 43

The Andean Parliament's responsibilities are:

- a. To participate in the promotion and direction of the Andean Subregional integration process, with the aim of consolidating Latin American integration;

- b. To study the progress of the Andean subregional integration process and the fulfillment of its objectives, requesting for that purpose, periodic information from the bodies and institutions of the System;
- c. To formulate recommendations regarding the annual budget estimates of the bodies and institutions of the System, that are financed through direct contributions of the Member Countries;
- d. To suggest to the bodies and institutions of the System actions or decisions, having as a goal or effect, the adoption of modifications, adjustments, or new general guidelines in relation to the programmed objectives and the institutional structure of the System;
- e. To participate in the law-making process by suggesting to the bodies of the System draft rules and regulations on subjects of common interest, for incorporation to the Andean Community Law;
- f. To promote the harmonization of Member Countries' legislation; and,
- g. To promote relationships for cooperation and coordination with the Parliaments of Member Countries, the bodies and institutions of the System, as well as with integration or cooperation parliamentary bodies from third countries.

Section G

On the Advisory Institutions

Article 44

The Business Advisory Council and the Labor Advisory Council are the advisory institutions of the Andean Integration System. They are comprised by high-level delegates, who shall be directly chosen by the representative bodies in the business and labor sectors of each one of the Member Countries, according to their respective regulations, and officially accredited by them.

The responsibilities of the Advisory Councils shall be to express opinions before the Andean Council of Ministers of Foreign Affairs, the Commission or the General Secretariat, at the request of these bodies or upon their own initiative, with regard to programs or activities of the Andean subregional integration process that may be of interest to their respective sectors.

They can also be called to meetings of working groups and of government experts, participate in the preparation of draft Decisions, and they shall be able to participate with a right to be heard in the meetings of the Commission.

Section H

On the Financial Institutions

Article 45

The Andean Development Corporation and the Latin American Reserve Fund are the financial institutions of the System whose purpose is to promote the process of Andean subregional integration.

Article 46

The General Secretariat and the executive bodies of the Andean Development Corporation and the Latin American Reserve Fund, shall keep working relationships, with the purpose of establishing an adequate coordination of activities and to facilitate, thereby, the achievement of the objectives of this Agreement.

Section I

On Dispute Resolution

Article 47

The resolution of disputes that may arise due to the application of the Andean Community Law, shall be subject to the provisions of the Charter of the Court of Justice.

Section J

On the International Legal Capacity and the Privileges and Immunities

Article 48

The Andean Community is a subregional organization with international legal capacity or international legal status

Article 49

The General Secretariat, the Court of Justice, the Andean Parliament, the Andean Development Corporation, the Latin American Reserve Fund, and the Social Agreements which are part of the System, shall enjoy, within the territory of each one of the Member Countries, the privileges and immunities required for the fulfillment of their objectives.

Their representatives and international staff shall have, likewise, the privileges and immunities required to carry out their duties, in relation to this agreement, with independence. Their premises are inviolable and their goods and property are immune to all judicial proceedings, unless expressly waived. Nevertheless, such a waiver shall not apply to any judicial executory measure.