

Stimuli and obstacles to the economic and social integration at the border; the MERCOSUR border localities agreement

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Author's biography

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On April 30, 2021, the Planalto Palace published the information that the President of the Republic had forwarded to the National Congress the MERCOSUR agreement on linked border localities, signed on December 5, 2019.¹

As reported, "the agreement aims to provide the legal bases of international law so that Mercosur governments guarantee citizens of linked localities of participating countries the right to obtain a border vicinal transit document, which facilitates circulation between nations and confers benefits in areas of study, work, health and trade in subsistence goods.

Holders of the border document will be able to study and work on both sides of the border. They will also be entitled to transit by exclusive or priority channel, when available, at border posts. The right of service in public border health systems may be granted in conditions of reciprocity and complementarity."

Undoubtedly good news, but the story omits important background from previous decades. Neither does it mention the years consumed by the agreement processed within the scope of MERCOSUR, nor the negotiations in SGT-18, the group in charge of border issues in the regional bloc. For all these reasons, I share with the reader certain experiences acquired in direct contact with the inhabitants of the border and their concerns.

At the outset, however, I would warn. This text is not intended to minimize the permanent national interest in defending the territory and the need to maintain surveillance over Brazil's extensive land border, in an attempt to reduce the ever-present trafficking and criminality. Nor is the author's intention to ignore the importance of government agencies in charge of border controls, in particular the Armed Forces (FFAA), the Federal Revenue, ANVISA, the Federal Police and the Ministries of Agriculture and Health.

What is intended is an approach to the issues related to the border from the point of view of its inhabitants, Brazilians and foreigners.

¹ <https://www.gov.br/planalto/pt-br/acompanhe-o-planalto/noticias/2021/04/presidente-jair-bolsonaro-encaminha-acordo-do-mercosul-sobre-localidades-fronteiricas-vinculadas>

In this respect, the MERCOSUR agreement falls short of the desirable. At first glance, it is noted that the agreement favored a vision of the national state and the central government around those issues. In other words, public law prevailed over private law, the latter in the interest of the border citizen. The agreement should have the citizen and the border communities as the main subjects and give them concrete benefits. On the contrary, it prescribes more abundant rules about documentation, cancellation of rights and government cooperation than concrete rights and benefits. Its Article III, when describing the rights of citizens, does so in a generic way and seeks to value current regulations.

What border inhabitants want is:

- to receive health care in their country and in the neighboring country, without discrimination and aware that the costs will be paid, without impediment, in local currency or in foreign currency, by official bodies or corresponding health plans;
- to consult doctors of any nationality and carry out health exams in their area, freely contracted by the competent public and private agents;
- to be able to enroll themselves and their families in public and private educational establishments in border cities, without bureaucratic excess or unreasonable requirements;
- to get a job on any side of the border, without any document obstacles, and to have their labor and social security rights recognized;
- to drive with private vehicles and have public transportation in the region, without nationality restrictions and exempt from fees and additional vehicle insurance;
- to carry their personal belongings, electronic equipment, appliances and purchases of subsistence goods to any side of the border, without being disturbed by abusive inspection;
- to have their rights and benefits recognized by simply presenting an identifying document as a border inhabitant;
- that all their documents and certificates are valid on both sides of the border where they reside, in the original language.

O Artigo III não concede direitos aos cidadãos da fronteira de maneira adequada, deixando Article III does not adequately grant rights to border citizens, failing to address their basic interests. The annexes to the agreement could clearly detail the benefits, but are limited to issues of transit and emergency assistance. They therefore seem insufficient from the point of view of border communities.

It is possible that many of the agents that negotiated the MERCOSUR agreement are unaware of the reality or the different realities in Brazil's extensive land border. Some may not know that a city like Tabatinga, on the border with Colombia, only has "access to the rest of Brazil" by air or river. It is also possible that someone may think that Uruguaiana, in Rio Grande do Sul, is on the border with Uruguay, a statement that I have already heard from a fellow diplomat.

Furthermore, those who negotiate on behalf of the Brazilian government are often in Brasília, thousands of kilometers from the border, with no opportunity to visit border localities. And they will not know the situation in those distant communities, nor that each of them

has its own peculiarities and that, strictly speaking, it would be necessary to legislate around distinct particular situations. This is a crucial issue: national laws, of course, apply in Brazil and neighboring countries as harmonious units; and the laws do not cover individual situations in border localities. For example: in the absence of specific agreements, in Brazil, to bring in someone who has died “abroad”, a few meters from their home, the same procedures required to bring a deceased from another continent would be necessary. This bureaucratic situation led to the improvisation of residents in Santana do Livramento, who often put the deceased citizen “on the other side” in a vehicle, right there in Rivera, to enter Brazil and declare death “on this side”, avoiding the bureaucracy then required for repatriation.

This and many other situations can only be known in direct contact with the border communities. So we have “different borders”, for example, dry borders, where vicinal circulation is free, making it impossible to implement strict controls. And here, beware, because there will always be those who defend building walls in an attempt to better supervise. The situation is different when there are natural barriers, rivers, mountains and forests. How then to control each border? Will it be possible to supervise and reduce crime drastically in places where the presence of the state is precarious, where delinquency often prevails?

Therefore, it seems to me necessary to add policies for the inclusion of border inhabitants to the indispensable supervision and defense of the territory. And this is possible with the knowledge of the different border realities. It may be necessary to complement the MERCOSUR agreement and the various existing bilateral instruments, with specific regulations or “statutes”, depending on the locality.

In indigenous lands that go beyond national borders, there are situations to be observed. Sometimes they are from the same tribe, family members who live in different countries and for which national boundaries make little or no sense. The Ashaninka, for example, are inhabitants of Acre, with relatives in adjoining lands in Peru. I recall a case presented to the Brazilian Government at the beginning of this century, in which the Ashaninka of Brazil complained that their relatives “on the other side” wanted, as well as “on this side”, to curb logging, which was allowed in Peruvian territory, in the Ashaninka lands. The fact required negotiations with the Peruvian government, in order to establish a specific regime or a “statute” that contemplated the situation.

There is, therefore, the need to associate the indisputable obligation of central governments to defend the national territory and guarantee security with peculiar border situations, with community interests and the rights and obligations of citizens.

As for education, there are important needs in technical and higher education on the border, with the exception of a few urban conglomerates on the Midwest and South borders. The result is an exodus of young people who could contribute to the progress of their home regions, if they remained. Another obvious consequence is that, without proper education, those who are unable to emigrate to study end up being co-opted by criminals, who offer them employment and remuneration in illegal activities. The phenomenon that is well known in the

slums of Brazil is repeated on the border, where children and teenagers get their first job at the hands of drug dealers.

As I have already had the opportunity to say to the president of a neighboring country, central governments, in this case, have to compete with criminals and win the competition, offering border communities opportunities for development and decent employment.

Also in education, governments must offer bilingual education and ensure that students have equivalent benefits in border schools. Here is another curiosity: the “plan ceibal” for digital inclusion, adopted in Uruguay, which grants, among many benefits, a laptop computer to each student in primary education, had a lot of repercussion. Great success across the country. At the border, schools distributed the equipment, but one day the question arose as to whether foreigners could also receive laptops. The bureaucracy said no, but the foreigner, Brazilian for example, was at the Uruguayan school “on the other side”, where was also a Uruguayan relative. With good reason, they claimed the same benefits. So, the central governments, oblivious to the “banalities” of the border, had to pay attention to the laments of the children and their families and try to solve the problem.

We are facing practical, humanitarian issues, where only sensitivity and common sense can replace the rigidity of laws and regulations designed at the national level. For this reason, in many cases, informal understandings between citizens and authorities in border communities end up supplementing the gaps that national laws do not facilitate.

There is a need for creative solutions, in addition to the establishment of “statutes” capable of contemplating the desires and needs of specific communities on each border, in particular the more densely populated ones in the Midwest and South of Brazil.

With regard to “statutes”, it is worth mentioning that, in celebration of the thirtieth anniversary of MERCOSUR, this year, the Citizenship Statute is being disclosed². The Statute derives from decision 64/10 of the Common Market Council (CMC)³, approved when the regional bloc completed 20 years. The decision established an action plan for the elaboration of the Statute in the last 10 years, which should be “fully implemented on the 30th anniversary of MERCOSUR”.

The action plan advocated a set of fundamental rights and common benefits for “mercosurian” citizens, including related to border integration. From the reading of the MERCOSUR Citizenship Statute, it can be verified that it is a compilation of rights or expected benefits, since many of the elements listed are not in force or are not being observed by national authorities.

The Statute stipulates, for example, the exemption from the translation of personal documents to process applications for residence in another state. Despite the strict rule, this is not observed, at least in Uruguay, where official certified translation is required to process residency application.

In the case of border integration, decision 64/10 determined the full implementation and gradual expansion of the integrated control areas, which, as is known, only exist in a few

2 <https://www.mercosur.int/pt-br/estatuto-cidadania-mercosul/>

3 http://www.cartillaciudadania.mercosur.int/oldAssets/uploads/DEC_064-2010_PT_Estatuto%20Cidadania.pdf

localities, due to a number of difficulties. In the implementation of the control areas, all sorts of obstacles arose, from the lack of construction of appropriate sites by some countries, to even the refusal of agents from neighboring countries and from Brazil, such as the Internal Revenue Service and the Federal Police, which even argued that they should be granted per diem to work in another country, “on the other side”, or that they could not adequately carry out their respective tasks if they were not allowed to work unarmed in another country.

Stimuli for the development of depressed regions on the border are necessary and urgent. Much was discussed in MERCOSUR regarding productive integration. There was talk of integration of wood and furniture chains, livestock and leather industry, mining and metallurgy, without any practical result.

Some integration has occurred due to the interest of automotive companies headquartered in Argentina and Brazil, which in the last decade have installed auto parts factories, mainly in Paraguay, taking advantage of the lower cost of energy and labor and the maquila regime in force in the country. For export purposes, inputs can be imported tax-free in Paraguay, where labor-intensive goods are produced, such as electrical cables for vehicles. Paraguay benefited from a greater offer of employment to its nationals, stimulus to the economy and indirect taxes and to the increased exports.

Another sector that has evolved a lot in recent years was that of clothing, which is also motivated by the cost of energy, labor and lower taxes in neighboring countries. For countries such as Paraguay, there are social benefits with labor and labor training. For companies, higher profitability represents the possibility of reducing final costs with cheaper components and less taxes.

But there are those who are against the integrationist process, arguing that companies create jobs in other countries at the expense of the labor market in Brazil. Brazilian politicians have publicly manifested themselves in this regard, including in sessions of the Senate Foreign Relations Committee in questioning the ambassadors. In part, they are right when they seek to defend workers/voters in their respective electoral bases, but they ignore the more than eloquent comparison of the labor market in Brazil with those of the smaller countries in our neighborhood. In other words, establishing a small industry in Paraguay or Uruguay, which employs one or two hundred workers, represents a great benefit, which would not even be felt in the context of the much more powerful Brazilian economy.

Offering employment in border regions also serves to add job opportunities, usually concentrated in trade. Trade in border localities presents important vulnerabilities due to exchange rate fluctuations. In the case of neighboring countries, the sale of all kinds of imported products flourished, mainly from China, which attract Brazilian consumers. Due to high import taxes in Brazil, tourists, importers and Brazilian “sacoleiros” visit the border, some frequently, where they purchase electronics, cigarettes, perfumes, clothing, toys and numerous items for household use. However, when the dollar values or the Brazilian currency loses value, these acquisitions fall drastically.

Another relevant aspect to note is the consumption of daily goods, fuel and food, which move supermarkets and small local businesses. The exchange rate situation is also deci-

sive for these establishments, to the point of conditioning fluctuations, sometimes drastic, in the volume of purchases on one side or the other of the border. Past economic plans, which entailed currency freezing or currency devaluation measures, directly affected border trade. And they even resulted in protests from merchants and incisive government managements. In order to have an idea of the repercussions, just remember that when the real was implemented, with a value higher than the US dollar, in some borders it was possible to observe stores that suddenly disappeared, such as in Chuí/Brazil, where “ghost streets” appeared in places where once flourished a thriving trade.

It is important to emphasize that exchange rate fluctuations have deleterious effects on the offer of employment, especially in stores and transport in border localities. There, once again, criminals win the competition with governments in the recruitment of labor.

I will not comment on the effects of the Covid-19 pandemic on border exchanges, as this is an extraordinary phenomenon. I just recall that it caused the closure of the Friendship Bridge, in Foz do Iguaçu-Ciudad del Este, with disastrous economic consequences on the Paraguayan side.

Itamaraty itself seems averse to updating the treatment of border issues. There remains for decades the same Division of Borders, through which genius diplomats passed, such as the writer Guimarães Rosa. If he were alive, he could take over the Division's head today without any surprises and continue working as he did in his time. In other words, there has been no fundamental change and the Demarcating Commissions for boundaries remain there, the same periodic campaigns to physically check the marks implemented on the border, some for nearly a century.

What I mean is that the Ministry of Relations should have already created a sector of Border Integration. The sector could benefit from permanent communication with the consulates that exist at the borders, with local public administrations in Brazil and neighboring countries, and from visits to localities to contact the communities. This would greatly increase the perception of the distant central government about the concerns of local citizens.

Missions of the border integration sector would allow a better understanding of life in the localities and their economic activities, in order to value small and medium-sized producers and seek to better insert them into the national economy. Border missions could discover curious facts in conversations with farmers who have adjoining properties in two countries. They may abound in practical issues that they consider absurd, insoluble under national law, but which could be circumvented with common sense.

There are cases, little known, of properties in two neighboring countries, where vineyards are cultivated, and the grapes are processed in wineries “abroad”, very close to the plantations. In order not to set up smuggling, the grapes have to travel several kilometers and be exported, with documentation, health certificate and applicable taxes. Hence a question: would it not be possible to allow the holder and holders of adjoining lands to build paths of a few hundred meters, through “their” border, to transport production and benefit it on another property “abroad”? It would be logical, but the answer will probably be negative, if the inquiry is made to the tax and police authorities, in light of the current regimes.

A sector dedicated to border integration in the Ministry of Foreign Affairs could serve to improve understanding between the authorities in the surrounding localities, promoting effective cooperation and reducing mistrust. Improving understanding between security agents would be critical in cities where smuggling and trafficking proliferates. Border integration missions have great potential to improve official assistance to communities and would greatly assist in the formulation of specific policies. Border citizens, often in need of support, would undoubtedly feel better assisted. The border committees that exist today in most localities can act less randomly if stimulated by integration missions. In systematic actions, committees can serve the purpose of bringing authorities closer together and at the same time listening to communities, their complaints and needs.

The issue of border security deserves a separate debate, but I risk a few remarks. Despite the fact that the FFAA have not neglected to defend our territory and the territorial sea, an aggression against Brazil by another country seems highly unlikely today. But threats remain to our natural resources on land and at sea, to the environment and to the security of Brazilians, the latter due to cross-border crime. There are frequent reports of trafficking in goods, people (adults and minors), drugs and weapons that supply criminals in large cities. The fight for the control of trafficking takes place daily between factions, in large cities, within Brazil and at the borders. In the fight against delinquency, successive governments have implemented force modernization programs in Brazil, with training and technology. Large resources were and are spent on programs such as “Calha Norte”, SIVAM-SIPAM and SISFRON.

The investment is high and produces results, with more and more voluminous and frequent seizures, but it is not enough to definitively end trafficking. This is because cross-border crimes are highly profitable, especially in the weapon and drug trade, with enough income to pay lawyers, elect representatives, attract politicians and gather allies in the judiciary.

Surveillance has modernized with unmanned aerial vehicles, cameras, facial recognition systems and scanners. Modern and more sophisticated controls have increased effectiveness, but criminal groups have also improved and it has not been possible to neutralize them. This situation makes clear the need to support controls with longer-term measures, such as the policies we advocate, in order to favor border communities.

In the fight against crime and violence at the border, there is an urgent need to stimulate police cooperation. Moreover, the operations of the Armed Forces would certainly be much more effective if they were always carried out in conjunction with the forces of neighboring countries. And the intelligence services would have to cooperate more closely. Therefore, overcoming mistrust is essential. With this objective, the additions of the Federal Police and the Revenue Attachés, which in recent years were assigned to our embassies in neighboring countries, have been very useful. But it is not always possible to bring collaboration closer, for fears of leaking information that would serve to commit crimes rather than curb them. By the way, it must be recognized that the mistrust that hinders the exchange of intelligence information is present between the intelligence agencies of the same country, and that some politicians and their parties are tempted to establish their own services in parallel, for also mistrusting the official agencies existing in the police and the FFAA.

Another aspect to consider is the regulation for the use of fertilizers and agricultural defensives at the border. The rules applicable to adjoining properties are often different and an effort should be made to make them compatible. What is the use, for example, of banning a chemical in a country if on the property on the other side it can be used and dumped on border lands, rivers and springs?

The description and comments on the cases presented above sought to demonstrate that the MERCOSUR agreement on linked border localities does not satisfactorily address – and it was not expected – the needs and deficiencies experienced in the daily lives of communities bordering Brazil and neighboring countries. The MERCOSUR agreement has, therefore, to be enriched by additional texts, protocols, statutes, whatever is necessary, including practical actions by the government, to better meet the objectives of satisfying citizens, as much as possible, and strengthen security.

Governments, generally relentless in tax collection, should be impeccable in putting quality services in education, health, welfare, work, transport and housing available to the people, in addition to implementing public policies for economic and social integration at the border.