REGIONAL INTEGRATION AND REGULATION: IS MERCOSUR A GOOD STUDY CASE?

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Introduction

Regional integration is a widely studied but poorly understood phenomenon. Its conceptualization is still, mainly , at a descriptive stage, dominated by typologies and definitions. This difficulty is largely due to the complexity of the phenomenon and its continuous mutations over time and political practices.

So far the discussion has mainly revolved around two questions: why do regions emerge and how do they work. As far as the first question is concerned, the answers range from those that define the emergence of regions as a competitive strategy of national states to ensure their economic or military hegemony at the global level; through those which see them as an unintended consequence of globalization, understood as technological and productive progress at the global level; to a third group which, unlike the previous ones, explains integration as a voluntary and rational response to growing economic interdependence (Hurell, 1995).

Regarding the question of how regions work, the literature has focused on the study of the European case and has revolved for long decades around the debate between two visions: that of the so called (neo) inter-governmentalists on the one hand and that of the (neo) functionalists on the other, the bone of contention being who controls whom in the dynamics between supranational institutions and national states. It was not until the nineties that this discussion opened up to other approaches which, unlike the previous ones, have focused on partial aspects of regional integration, and their conclusions, far from contradicting each other, are complementary. These approaches are neo-institutionalism, multilevel governance and Europeization (Dur & Matteo González, 2004).

Some innovative and interesting points about these new theoretical approaches have been rescued recently by experts in public policy and policy transfer theory. The first innovative feature is the inversion of the object/subject of analysis: instead of analyzing the contribution of national states or globalization to regional integration, these new approaches focus on the impact of integration on national states and domestic actors.

The second innovative feature of these new theories is the movement from a rational choice bias in argumentation to a constructivist one. Rather than looking at regions as a reflection of the interests and strategies of their members, these new approaches are based on the idea that the region is a dynamic process, so its rules, identities and practices may not be subsumed to any of its constituent parts.

Also, public policy and regulatory theories have contributed to the understanding of the process of transnational convergence within regional integration, a central point in this work. Of the different contexts that promote convergence among countries (namely: multilateral, regional, and/or unilateral regimes), there appears to be a consensus among scholars around regional agreements as the most solid and institutionalized choice (Bull, 2007).

However, it would seem there is no agreement regarding the factors underpinning this regulatory convergence in any given regional block. Three different types of responses can be identified. First, there is the theory of competitive regulation. For this theory, external incentives—international mobility of goods, labor and capital—are the ones which put pressure on national states and regional blocs for them to rethink their policies, to ultimately eliminate regulatory barriers of domestic institutions which reduce global competitiveness. In this sense, regions are seen as a paradox: while they are an incentive to global regulation, since they tend to prevent domestic protectionism, they might also be an impediment to multilateral regulation (Bhagwati, 1993).

Secondly, there is the theory of economic conditionality. According to this theory, the driver of this convergence is within and not outside the regional bloc. Far from being an impediment, creating barriers outside the zone tends to induce an upward dynamics in terms of national regulations. This theory, unlike the one mentioned before, acknowledges the existence of differences in terms of well-being between the countries within the bloc and points out that this existing asymmetry of power is ultimately what explains regulatory convergence. Indeed, depending on the level of asymmetries within the bloc, the countries with stricter standards are the ones which in fact impose regulations on the weaker ones in exchange for a deepening of their trade relations (Drezner, 2007).

Finally we find the theory of international harmonization. According to this theory, regulatory convergence is the result of international cooperation, in which countries commit to comply with international or supranational obligations. This "voluntary" commitment acts as a leveler between member countries, neutralizing the comparative advantages among them. Because it is a voluntary and non-hierarchical transfer process, its authors prefer to characterize it as a "negotiated transfer" rather than an imposition (Dolowitz and Marsh 2000).

This does not mean that this theory disregards the existence of internal asymmetries and incentives; rather, it focuses more on the process by which convergence emerges than on its results. In the words of its own advocates, this approach contributes to a better understanding of the different possible results of the convergence process in terms of learning and building institutional capacities among different blocs and countries. In fact, this theory is developed based on the premise that one incentive can lead to more than one possible outcome and that this result cannot be foreseen. Indeed, the result of a transfer process varies depending on the institutional goal and the political use of transfer mechanisms (Bruszt & Mc Dermott, 2011).

Depending on these two variables, the process of learning can help create more/ less capacity on domestic actors and build more/less alternative views of globalization. On the other hand, this theory establishes a counterpoint with the school of conditionalities, by proving—based on evidence—that failures in the transfer process are better explained by weaknesses of the demand-side (i.e., receiving actors' being unwilling or unable to take advantage of external stimuli) than by poor performance in the supply-side (i.e., donors' policy design).

The goal of this paper

Case studies on the way in which regulatory convergence develops have focused so far on the experience of the European Union (hereinafter, EU) and on the North American Free Trade Agreement (hereinafter, NAFTA).

The literature offers some interesting features about these cases. The first relates to the existence of strong asymmetries among member countries and a clear leadership. In the case of the EU, the western bloc led by Germany and France transfers its regulations to eastern countries (W-E); in the case of NAFTA, the United States aligns Mexico under its rules and standards (N-S) (Mace , G & Belanger (2007). Secondly, the literature argues that these two regions do not only exert influence intra-bloc; rather, they seek to expand their rules, visions and interests at the global level. Finally, in this bid for "global hegemony", both blocs compete with and complement each other.

The competition between hegemonic blocks also manifests itself in the different ways they relate to developing countries and the use of cooperation, assistance, and bilateral agreements (Jordana et al, 2012). To describe these different modalities, the authors analyze—as noted above—two variables: the transfer's institutional goals and the transfer mechanisms, which are described as being either of assistance or of monitoring (Bruszt & Mc Dermott, 2011).

The European transfer model (W-E) is described as one which seeks to develop new capabilities in the least developed countries. To that end, it has a number of funds and regional resources which are used to develop new technical and political cadres and to create public and private networks at various levels of Government (regional, national and subnational).

The NAFTA, on the other hand, is characterized by the goal of transferring rules and laws between countries (Mace, 2007; Aspinwall, 2009). The transfer in this case is purely normative, and their harmonization is achieved under penalty of sanctions in case of non-compliance. For that reason, it does not require funds or regional resources, but networks comprising national public actors capable of monitoring the compliance of commitments undertaken by the parties.

This article aims to contribute to this discussion through an analysis of MERCOSUR, a regional bloc comprising only developing countries. Like NAFTA, MERCOSUR was created in the nineties and belongs to the so-called neo-regionalist tradition, through its initial goal of promoting trade and foreign investment by means of creating an expanded market.

However, unlike NAFTA, MERCOSUR is a process of integration which aimed since its inception to have an "open agenda" which would go beyond trade liberalization. In this regard, with time, governments added new topics to the regional agenda in which to cooperate to deal with common problems. However, the paradox of this process, as we shall see below, is that none of these new agendas for regional cooperation resulted in the creation of mechanisms that would ensure the implementation of regional norms by governments in the domestic arena, with the sole exception of the Treaty of Asunción, signed by the four member countries upon the creation of MERCOSUR, which forced them to implement liberalization under an automatic and universal schedule.

The majority of the studies carried out from a legal perspective to analyze the binding capacity of MERCOSUR's standards and dispute settlement mechanisms arrive to the same conclusion (Gomez Mera & Andrea Molinari, forthcoming). In this paper, however, we seek to address the problem of normative harmonization using a broader definition of "norms", the one put forward by the theory of public policy and transfer, which includes not only rules but also ideas and experiences, and focuses more on the process than on the outcomes

In terms of its regulatory capacity, the bloc presents three peculiarities that make it different from the regional blocs described above: firstly, member countries are considered to have similar levels of economic development, what makes this a case of

South-South transfer. Secondly, despite the increasing asymmetry among member countries, the main economy, Brazil, refrains from assuming a role of regional leadership. Finally, it is not an autonomous bloc, but it continues to be strongly dependent on hegemonic blocs, to which it represents an area where they could spread their values and normative regimes (Botto, 2009).

We shall now attempt to define the scope of the MERCOSUR's transfer process, with the goal of providing answers to the following questions: What kinds of standards and norms are generated? What are their goals and transfer mechanisms? Who are the rule-makers and the rule-takers in the process? To this end, we choose and analyze three regional policy areas, which have been present since the bloc's inception: productive integration, higher education and environmental policies.

The conclusions identify MERCOSUR as a hybrid transfer process, with exclusive features and features borrowed from other blocs. In terms of goals, for instance, MERCOSUR is similar to NAFTA: it does not seek to create an alternative model of governance going beyond the global model, but to emulate the country with more advanced and globalized norms and regulations within the region. The peculiarity of the case is, however, that there is no transfer of regulations, but only of political practices.

As regards the transfer modality and mechanisms, MERCOSUR is similar to the EU, as it prioritizes the creation of capacities and networks within the region. However, these networks do not include public and private actors at various levels of government; rather, they are solely government networks created at the national level.

I. Regional Industrial Integration Policy

At first, MERCOSUR did not have a shared industrial policy. As noted above, governments only put forward rules—such as the Treaty of Asunción—to promote the universal and automatic liberalization of trade within the bloc. The objective was to level the field and let the free play of supply and demand do the rest.

The only exception to this liberalization programme was the automotive industry, which was and still is protected from internal and external competition through high tariffs. It is not, however, a regional policy: on the one hand, each country—basically Argentina and Brazil—designs its own policy for the industry; on the other hand, it was never a goal to extend the benefits of production to the rest of the countries of the region, especially to the smaller economies.

Only in the year 2002 did MERCOSUR revise its industrial policy and propose an agenda of productive integration focused on small- and medium-sized enterprises (SMEs), including all countries in the region. This initiative came on the heels of another decision which, inspired on European experience, proposed the creation of the MERCOSUR Structural Convergence Fund (FOCEM). The simultaneity of both initiatives and the emphasis placed on the goal of promoting a more egalitarian kind of development in the region led people to think that a substantial part of this fund would be used for the implementation of this regional industrial policy.

However, as the policy implementation advanced, the SMEs' profile became blurred, and FOCEM resources were ultimately used to fund national projects. As regards policies of productive integration, initially, regional governments designed policies to integrate SMEs of equal size from the different countries both sides of the border, in what is referred to in the literature as "horizontal value chains".

Along those lines, in 2002, MERCOSUR launched the "Programme of Competitiveness Forums" and adopted the wood and furniture chain as its pilot case. This industry had two advantages: first, its geographical concentration in the Triple Frontier area; second, the possibility of including SMEs from the four member countries, each contributing its differential capabilities.

The second phase of the policy began in 2006 with the launch of the "Social and productive MERCOSUR", in which MERCOSUR governments announced a "production chains" programme, taking two important industries as pilot cases: the gas and oil chain and the automotive industry. Unlike the previous programme, this one implied vertical links sought to support and promote SME-suppliers of inputs for Brazilian "multi-Latin" companies, such as Petrobrás, Usiminas and Obredecht, with subsidiaries in different countries of the region. In parallel, MERCOSUR announced the creation of a special fund for the sector, called FONDOPYME.

Besides the differences between the two initiatives, institutional goals and cooperation and transfer mechanisms have not changed. The regional MERCOSUR productive integration policy has been characterized so far by its goal of developing and transferring human and institutional capabilities to countries which until then had no experience in articulating public and private actors, both within their own countries and across borders.

In the case of the competitiveness forums for the wood and furniture industry, the transfer of skills and knowledge would be carried out in three stages: in the first stage- preparation, governments would provide a regional space to exchange information about respective national situations . In the second stage -regional analysis and diagnosis- stage, governments would diagnose regional needs and build a joint agenda for action. Finally, the "permanent operation" stage would include regional projects with the participation of public and private actors and a follow-up of said projects by an ad-hoc group comprising government bodies and the productive sector in each country.

The main advances of this agenda were achieved in the first two stages; advances in terms of joint actions were rather limited. At the regional level, governments advanced with the exchange of information in tripartite meetings which helped establish networks of trust and mutual understanding between officials of different national and regional levels.

Technical teams were also developed, through the experience and the expertise of officials and academics from countries that already had experience in these forums, such as Argentina and Brazil.

To coordinate and follow up these discussions *ad-hoc* institutions were created both at the regional and the national level. A wood and furniture management unit was set up at the regional level. At the national level, instead, the main innovations took place in the smaller economies such as Paraguay and Uruguay, who had never before organized national forums of sector competitiveness.

In terms of participation, discussion and exchanges were carried out mainly by government officials of the different areas and national and regional agencies involved in the policy. While governments organized business rounds for businesspeople from different countries and sectors of the chain to get to know each other, the articulation was rather low owing to the strong asymmetry in numbers and funds among partners. Over time, these problems were compounded by disinterest and skepticism from the private sector, which criticized the lack of continuity of the initiative and the substantive financing.

After the negative experience of the wood and furniture forum, MERCOSUR launched the supplier programme in 2006. Differences between the initiatives are not related to goals or transfer mechanisms, but to the growing role as regional leader adopted by Brazil in the policy area. Although Brazil had been the architect of the initiative of the forums of competitiveness which proposed the regionalization of an ongoing national policy, the country sought to share leadership with Argentina and use available institutions and regional resources for the implementation. In this case, however, Brazil emerged as a single protagonist of the initiative and established a bilateral dialogue with each country in the region

In this dynamics of rule-maker/rule-taker, Brazil would be entrusted going forward with the collection of information and the development of a diagnosis of the situation in each country in the region, identifying the strengths and weaknesses of potential SME suppliers. (To that effect, Brazil was to lead a series of bilateral activities, such as public-private business rounds, forums, and visits to factories).

Secondly, Brazil was to be responsible for the training of SMEs in the region as regards foreign trade, innovation and development. At the same time, the country was to carry out awareness campaigns to ensure that its own companies, with subsidiaries in the region, would privilege local suppliers over global competitors. Finally, it was to promote the articulation between private parties from different places in the region in order for them to adjust their regulations to international requirements. The entity in charge of these training and transfer activities was Brazil's own Agency of Industrial Development (ABDI)—a public-private agency which designed and negotiated the policy within the framework of MERCOSUR—to be overseen only by a new regional entity, called Productive Integration Group (GIP), created ad-hoc for this effort.

Thirdly, and as regards financing, Brazil ultimately managed to promote the idea of part of this project being partially funded by the FOCEM and in turn ensure that the rest of the financing would be the responsibility of its National Bank of Economic and Social Development (BNDE).

II. Regional Sustainable Environmental Policy

Environmental policy underwent major changes with time too. Initially, MERCOSUR set out to harmonize national standards through an environmental protocol, which would require countries to raise their own standards, making them similar to Brazil's (Leis and Viola, 2001). However, some governments, such as the Argentine, rejected this regulation because they considered it would be used as a non-tariff barrier. Finally, the protocol was reduced to a mere statement of goodwill among governments, and the issue was removed from the regional agenda until 2002.

In 2002, the regional policy proposal came from the German Agency for International Cooperation (GIZ), which provided financial and technical resources to MERCOSUR. As regards its contents, the initiative was not intended to change the countries' laws, but to include more sustainable production and consumption practices in some countries which had not yet implemented them.

These practices were consistent with the mandates arising from various UN conferences, such as those held in Johannesburg (2002) and Marrakech (2003). These commitments had been assumed formally by all member countries of MERCOSUR, but in most of them they were yet to be implemented in practice. In this regard, MERCOSUR was constituted by the similarity of the language and traditions among countries , in an area of governance more tightly-knitted, credible and legitimate than the global one.

The promotion of these standards in MERCOSUR was aimed at two sectors: the small business sector and the public sector. Large companies, such as the ones called "multi-Latin", were excluded, because many of them had incorporated these practices beforehand, as a part of a policy of corporate social responsibility.

In the case of SMEs, the objective of the Competitiveness and Environment Programme (CYMA) was to promote and guarantee the implementation of mechanisms for a more clean and efficient production, through mechanisms of public-private cooperation. For the public sector, two programmes were launched: the Sustainable Procurement Programme and the System of Environmental Information (SIAM). In both cases, the goal was to include sustainability criteria in procurement processes, through tools that ensure transparency and access to information, such as the obligation to make public all records and official documents of the environment sector in MERCOSUR.

In terms of transfers, this regional policy presents several points of coincidence with industrial policy. As regards its institutional goals, it seeks to create public and private capacities in countries that had no previous experience in this field, such as Paraguay or Uruguay. At the regional level, it seeks to socialize practices and knowledge between officials (Work Subgroup No. 6 and Work Subgroup No. 7) and areas that until then worked separately (Common Market Group, GMC, and Environment Ministers Meeting, REMA).

As regards the transfer mechanisms, workshops and training courses for national and regional officials were the most widely used. There was also an attempt to spread the subject among the private sectors involved at the regional level and through initiatives linked to the subject, as were the competitiveness forums (see "I. Regional industrial integration policy").

The greatest improvements were seen in the exchange of information on the state of affairs in each country and in the building of consensus around the region's future needs. To that end, CYMA newsletters and guides and handbooks were written and disseminated, such as the MERCOSUR Sustainable Procurement Handbook (2008) or the

Guide of analysis of tools for environmental management and cleaner production (2004).

Less successful were the attempts to carry out joint activities and/or implement sustainability criteria in the domestic arena. While governments advanced in the decision to include sustainability criteria in the wood and furniture competitiveness forum's design contest at regional level (see "I. Regional industrial integration policy") and in the Protocol for sustainable procurement, there was no political decision to mainstream the regulation at the national level or to create a regional fund capable, like FONDOPYME, of providing continuity and credibility to the policy at the regional level.

As in the case of the SME policy, the main protagonists of this transfer process were public actors. Among them, the leaders were those with positions at the regional level, such as the national coordinators of the Work Subgroups No. 6 (environment) and 7 (industry). As regards private sector participation, the involvement of entrepreneurs, NGOs and universities was reduced and limited to attendance to briefings, but they failed to create regional networks.

In terms of leadership, environmental policy in MERCOSUR is characterized by the absence of a clear leader within the region. Rather, this is a regulation promoted from the outside, in its contents and in its operational rules. As regards the mandate, there was no interest from regional governments in delving deeper into global parameters of sustainability. Rather, the goal was to contribute to their discussion and implementation at the national level.

In that sense, the biggest impact was seen in the building of capacities and institutions in countries such as Uruguay and Paraguay, which lacked staff trained in the subject. In these countries, policy transfer did not only become visible in terms of jobs, but also in the creation of institutions such as the Councils of Sustainable Production, which emulated the councils of sustainable development which existed in Argentina and Brazil.

In terms of implementation, this policy transfer also shows important contributions from outside of MERCOSUR, such as those from the GIZ and the United Nations Environment Programme (UNEP). Both institutions provided funds for the recruitment of national and foreign experts and the organization of seminars, workshops and courses at the regional and national levels. The fact that the efforts came to an end once those funds were depleted shows the level of dependenc**III. Regional Higher Education Policy**

Of all regional agendas, the educational one, linked with graduate and postgraduate courses, has been that the one with less changes over time. In 1991, regional governments identified the need to cooperate in order to promote the exchange within the educational community and improve its quality to improve regional competitiveness.

Three programmes were designed for that purpose, aimed at two main objectives: the creation of a system of regional accreditation (MERCOSUR seal) to validate degrees and position different universities according to a shared approach. The universities of Chile and Bolivia were also to be included in this goal. The second goal was to promote the exchange of students and teachers through a system of transfer of credits and fellowship programmes, designed in the likeness of the EU's Erasmus Programme.

In terms of institutional objectives, education policy achieved the greatest progress. Apart from looking to socialize experiences and to build capacity through networks both public and private, this policy also advanced in the internalization of regional regulations at the national level. However, it was not an actual regulation, but an optional practice which included only a small group of courses, and the choice was left to universities whether to obtain the MERCOSUR seal, based on resource availability.

The launching of regional institutions, such as the MERCOSUR Education Fund (PEF), faced obstacles. Although the Fund was created in 2004, it has yet to reach its full development, due to reluctance from countries such as Brazil as regards their contributions, and to the lack of internal consensus as to which efforts to fund and how to distribute profits.

The main transfer took place between countries which, like Argentina and Brazil, had a pre-existing university evaluation and accreditation system. However, unlike the case of productive integration, the effort was led by Argentina. The countries which benefitted the most were, once again, Uruguay, Paraguay and Bolivia, in that they received technical and financial resources to overhaul their institutional structure and raise their university standards through differentiated participation in programmes.

Human and material resources came from the national states themselves and from universities interested in acquiring the aforementioned seal, which paid for their own presentations. It was only in initiatives like MERCOSUR Mobility and the creation of an Education Fund that MERCOSUR received technical and financial assistance from the Inter-American Development Bank (IADB) and the EU, which hired international consultants for design purposes and financed travel and training expenses for national officials.

In terms of the actors involved in this process of transfer, the peculiarity of this agenda is that it enjoyed the participation of private actors: universities, scholars and experts who collaborated actively to establish quality criteria between the courses. Secondly, there was from the onset a clear coordination and division of tasks between national and regional institutions involved in the process and those of a technical nature or a political nature.

Conclusions

The literature on policy transfer has tended to focus on the larger hegemonic blocs —NAFTA and EU—and on flows of regulations from more developed to the less developed countries, both within and outside the region. From this point of view, MERCOSUR has been analyzed rather as an object of transfer from hegemonic blocs than as a subject of transfer in itself.

In this sense, the aim of this work has been to draw attention to the transfer processes taking place in MERCOSUR, bearing in mind the bloc's growing internal asymmetries. What kind of transfers does occur inside:? What mechanisms and resources are used for transfers Who are the rule-makers or rule-takers?

On the first question, one of the features of MERCOSUR is the series of important changes seen in the objectives or institutional goals over time, from the first period

(1991-2001) to a second once (2002-today). This is what happened, for example, in the three agendas discussed, in which the original goal was the harmonization of national laws from regional standards.

In the case of the productive integration, governments sought to establish a common external tariff to protect the automotive regional market; in the case of the environment, to enforce standards similar to those in Brazil; and finally, in the case of higher education, governments aspired to create common University accreditation criteria.

Subsequently, the governments proposed to deepen the transfer through the creation of regional institutions, such as regional funds, to ensure the implementation of regional policies and their continuity over time, as in the case of FONDOPYME or FEM.

However, all initiatives, with the exception of those related to higher education, have been ultimately discarded due to the active or passive resistance of member states and their reluctance to delegate sovereignty or resources in pursuit of a community goal.

Regional Policies	*T1 (1991-2001)*	*T2 (2002-2012)*
Industrial Integration	Tariff harmonization	Capacity builing
Sustainable Environment	Standard Harmonization	Capacity builing
Higher Education	Standard Harmonization / students mobility	Standard Harmonization

Many of these agendas were resumed later, but at this new stage of revival, after 2002, MERCOSUR policies were no longer pursuing changes in national regulations, but the socialization of implementation practices and experiences from the more experienced countries to the less developed

Regional Policies	*Regional Activities*	*Regional Networks*
Industrial Integration	Information interchange and collective actions regional/domestic arena	Public networks
Sustainable Environment	Information interchange regional/domestic arena	Public networks
Higher Education	Information interchange and collective actions regional/domestic arena	Public-private networks

The second peculiarity of MERCOSUR emerges when analyzing and comparing the various transfer mechanisms used to spread practices and experiences among member countries. In that case there is a dominance of dialogue and exchange spaces in which the main actors are officials and where participation by private actors and/or academics is almost negligible. Once more the agenda of education shows some differences, as can be seen in the strong participation of academics and universities in the accreditation process

Finally, and in relation to the identification of rule-makers and rule-takers of policy transfers, the peculiarity of the MERCOSUR process lies in the existence of a separation between those who make the rules and the countries that transfer them.

In the first case, the majority of regulations analyzed here come from the global scope or the European bloc. However, these regulations are transferred through the mediation of the countries of the region that have already implemented them with their national specificities, which the rule-takers consider more credible and closer experiences.

Another peculiarity of MERCOSUR is its heavy external dependence in terms of funding and institutional format of these regional policies, either from international agencies, the OAS, the IADB or the GIZ. The only exception to this rule can be seen in the productive integration policy applied in recent years, where Brazil seems to have taken a regional undisputed leadership in the field

Regional Policies	*Rule makers*	*Rule takers*
Industrial Integration	Europa/Brasil	Argentina/Uruguay / Paraguay
Sustainable Environment	Europa/ONU/Brasil-Arg	Uruguay /Paraguay
Higher Education	BM/Europa/Argentina	Brasil/Uruguay/Paraguay

Building on this analysis, we believe that MERCOSUR contributes to a better understanding of the theory of policy transfer, which until now had been reduced to the cases of North-South and West- East transfers. In the case of South-South transfers, the outcome of the process does not always stems from the harmonisation of regulations or regulatory standards, but rather from the transfer of practices and political experiences, in which the goal is to internalise global standards, previously piloted in some of the bloc's countries.

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