Mercosur
European Union
Dialogue

Mercosur European Union Dialogue

ApexBrasil
BRAZILIAN TRADE AND INVESTMENT PROMOTION AGENCY

Ministry of
Development, Industry and Foreign Trade

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The Brazilian Trade and Investment Promotion Agency (Apex-Brasil) promotes Brazilian products and services abroad and attracts foreign investments to strategic sectors of the Brazilian economy.

Mission	**To develop the competitiveness of Brazilian companies, promoting the internationalization of their business and the attraction of Foreign Direct Investments.**
Vision	**Brazil in the world: Innovative, Competitive and Sustainable.**

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Summary

Presentation

The diversity of views can enrich debates, and with this in mind this publication was conceived. Also in line with its strategic objective of influencing public policies formulation, and the establishment of international agreements that promote the internationalization of businesses and the attraction of foreign direct investment, Apex-Brasil – the Brazilian Trade and Investment Promotion Agency – engages in discussions involving international negotiations.

The historical ties that bind us together with the European Union, and the significant role of this bloc in bilateral trade and investment bring special relevance to these negotiations.

We believe that an open academic debate about the association agreement between the EU and Mercosur - assessing the historical development of the discussion, its political aspects, challenges to its effectiveness, and prospects - could provide interesting subsidies for the topic.

With that in mind, we invited scholars with notorious knowledge on the subject, associated with educational institutions both from Mercosur and the European Union, thus seeking a plurality of ideas and a democratic view of these affairs. In this sense, the articles express the views of their individual authors and do not reflect the position of Apex-Brasil on the negotiation.

It is a pleasure to herewith present the results of the project, we wish all a good reading.

Mauricio Borges

Understanding

Understanding the Association Agreement between the EU and Mercosur: its structure, course of negotiations and the involvement of the business sector

Rosana Tomazini

Rosana Tomazini holds a Ph.D. in International Relations from the University of Brasilia UnB) and a Master's Degree in International Economics from the Technical University in Lisbon (UTL – ISEG). She currently works as Cooperation Task Manager at the European Union Delegation to Brazil.

1. Introduction[1]

The aim of this article is to shed light on certain aspects of the Association Agreement (AA or Agreement) under negotiation between the European Union (EU) and Mercosur. The article focuses mainly on the structure of the Agreement, the course of the negotiations (mostly in the period from 2001 to 2004, which is considered to be the most active one), and the interest of the business sector and its representatives vis-à-vis these negotiations.

It happens quite often that the terminology normally used in the world of diplomacy is not well interpreted in the every-day use by media, causing misunderstanding and/or distortion of information. In this context, for example, the Association Agreement between the two blocs is quite often referred to only as a free trade agreement (FTA), even though its scope is much broader than that, since it includes relevant political and cooperation aspects, as analyzed in this article.

1 This article expresses personal opinion of the author.

Although this article will not deal with all the agreements established by the EU, it is worth highlighting that the EU has already established several initiatives in the region, such as: bilateral cooperation agreements with Brazil as well as with other Mercosur Member States; Agreement with Mercosur signed in 1995 (Interregional Framework Cooperation **Agreement**); Strategic Partnership with Latin America and the Caribbean; and Strategic Partnership with Brazil, established in 2007. The common goal of all these instruments is to ensure better approach of the EU towards the region, but readers less familiar with this particular subject and its diversity may get easily confused by the number of existing instruments.

2. Structure of the Association Agreement

In order to offer further clarifications about the diversity of definitions in use for the same purposes – even inside the European institutions – it is worth recalling that the EU negotiates and celebrates different types of international agreements, depending on the nature of interlocutors and regional interests. One could even say that for each case there is a different type of agreement. The three most common types of Agreements celebrated by the EU are: **(i) Trade:** normally these agreements set a time-frame for the elimination of the trade barriers to imports from third countries that are then gradually removed in the EU. However, nowadays this type of agreement is practically not negotiated anymore; **(ii.) Cooperation Agreement** includes measures for cooperation in economic and trade issues and can include actions leading towards trade liberalization. At the same time, it sets basic rules for the political dialog of the EU with the third countries where ministers, government and parliament officials meet regularly. It has to be stressed that the EU and Mercosur already hold such Agreement that was signed in 1995; **(iii.) Association Agreement (AA or Agreement):** establishes a closer and more institutionalized relation. Along with trade measures, it provides for cooperation in numerous sectors, and usually contains protocols that specify an aid package to be received from the EU. This type of agreement can also broaden the customs union or domestic market – for instance, the several EU association agreements concluded with the Eastern European countries before they actually joined the EU. Here, the rules for ministerial, official and parliamentary meetings are also provided (SMITH, 2003).

In fact, the association agreement guarantees a privileged partnership and that is precisely the nature of the Agreement between the EU and Mercosur, whose negotiations were launched in 1999. That is why the AA cannot be conceived only as Free Trade Agreement, despite the fact that this is its main goal. Its scope is much broader and it tackles many issues that have wider political and cooperation impact. This type of comprehensive agreement is also known as "Umbrella Agreement" and can be concluded only when all its chapters are negotiated and finalized, which means that partial conclusion is not possible.[2] This kind of agreement is considered as an invention of the EU, as it deals with distinct aspects in one single agreement, on the contrary to most of the international agreements that usually focus only on one single issue, for example, on trade.

Generally speaking, the trade aspect is the most referenced by the media and by scholars on the issue, and it is indeed the most difficult and complex one to be settled. As will be examined

2 This requirement is known as Single undertaking approach.

in the next part, the Achilles' heel of this Agreement lies in the reluctance of the EU towards trade liberalization of agriculture products, given the high degree of competitiveness of the agriculture products of the Mercosur countries and the EU protectionism in this sector. There are also some sensitive issues for the EU on the Mercosur side, such as liberalization of the industrial and services sectors and lack of offers in the area of government procurement by Mercosur – principal claims of the EU.

On the other hand, the topics related to the cooperation can be seen as "soft issues" and, therefore, easier to be negotiated. In this matter, there are two situations to be pointed out: (i) There is the *current cooperation,* sheltered by the 1995 Framework Agreement, which develops itself under three aspects identified as priorities: continue to support the strengthening of Mercosur institutions; development of economic and trade structures in the region, in order to better prepare it for the establishment of the AA; and support to the civil society;[3] (ii) and the *future cooperation,* that should be implemented after the signature of the Association Agreement, whose main objective should be to support the establishment of the free trade area between both parties, therefore focusing on trade and economic issues such as: government procurement, intellectual property rights, competition policies and dispute settlement mechanism – but equally providing for cooperation in other areas, such as continuing to reinforce the institutional capacity of Mercosur, sustainable development, cooperation in the areas of justice and security, among others.

As for the political dialog, the EU/Mercosur Framework Agreement in force already sets rules for regular dialog between both blocs, in order to accompany and consolidate the approximation between them, which is still provided for under the AA. The issues to be discussed are various, such as conflict prevention, promotion and protection of human rights, sustainable development, joint actions against drug trafficking and organized crime, science and technology cooperation, infrastructure and renewable energy.

3. Course of Negotiations

The negotiations of the Association Agreement between the EU and Mercosur were launched in June 1999, as already mentioned, on the occasion of the first European Union-Latin America and the Caribbean (EU-LAC) summit, held in Rio de Janeiro. In the very same year, the Cooperation Council[4] met for the first time to define the structure, methodology, and time-frame for the negotiations. An initial work plan was established, divided into three distinct areas: political dialog, cooperation and trade liberalization. In order to advance the

3 To access the full-text of the Framework Agreement between the EU and Mercosur please go to the link: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:21996A0319(02):PT:HTML>. Accessed on: 14/05/2012.

4 The establishment of the Cooperation Council was stipulated by the Framework Agreement from 1995 and its responsibility is to supervise and execute this agreement. The Cooperation Council would be made up of the European Council members, members of the European Commission and members of the Common Market Council and Common Market Group of the Mercosur.

negotiations the Cooperation Council also created: (i) the Bi-regional Negotiations Committee (BNC), which would constitute the main forum for negotiations between the two blocs, also having under its responsibility the creation of technical groups to implement activities related to trade negotiations[5]; (ii) a Sub-committee to conduct negotiations relating to the topic of cooperation; (iii) and a Coordination Department, composed of representatives of the European Commission and Mercosur's Presidency.

The initial period of negotiations can be divided into three distinct stages: the first one (2000 e 2001) being marked by the exchange of information and identification of the Non-Tariff Barriers (NTBs); the second one (2001-2003), which indeed marked the beginning of the negotiations, with the first exchange of proposals in the area of goods; and the third stage (2003-2004), when proposals in the areas of services, government procurement and investments were exchanged.

However, in 2004, year when the Agreement was "almost concluded", expectations of both blocs were frustrated and the negotiations were frozen till May 2010. Various factors caused its non-conclusion, among which can be highlighted the dissatisfaction with the exchange of offers between the Mercosur, and the EU and WTO Doha Development Round negotiations. In regards to the latter, several issues that were sensitive for both blocs, such as tariff concessions to the industry, services and agriculture sectors were at the same time negotiated at the multilateral level (i.e. within the Doha Round). As a consequence, the EU/Mercosur bilateral negotiations were put at a secondary level. In regards to the exchange of offers, the Mercosur was not satisfied with the EU offer on agriculture, that still depended on tariff quotas (a gradual opening of the market would happen in 10-years' time), and due to the fact that the question of export subsidies that the EU agriculture producers receive within the framework of the Common Agriculture Policy (CAP) were left out of the negotiations. From the EU point of view, the dissatisfaction was with the Mercosur's offer for industrial products and a lack of offer in the area of government procurement – this issue turned out to be the most problematic at the end of negotiations. Mercosur offer on services was also seen as unsatisfactory by the EU, keeping the discussions focused on the telecommunications and financial services sectors (PORTO e FLÔRES, 2006, p.319).

According to a high level official of the European Commission, the failure to close the Agreement in 2004 was perceived as a "cold shower" by both sides, including the business sector, mainly Brazilian, which was closely following the negotiations.[6] With the non-conclusion of the Agreement on that year, negotiations were stalled and the attention turned towards other developments on the international scene, such as China's rise as a new *global player* in the international economy, the enlargement of the EU, multilateral trade negotiations and, most recently, to the world financial crisis triggered in 2008.

5 Working Group GT1: trading goods, including tariff and non-tariff measures, technical regulations, compliance check, anti-dumping, compensatory measures, rules of origin and customs procedures; GT2: Services, Intellectual Property and Investments; GT3: Government Procurement, competition and solution of controversies.

6 Interview carried out by the author in 2008.

The suspension of the EU/Mercosur negotiations did not bring loss of the EU interest in the region, on the contrary. In the context of the 2004-2010 hiatus in the negotiations, the EU and Brazil established a Strategic Partnership in 2007 - an instrument that the EU keeps for its partners that are seen as strategic, aiming at setting up “special relations” (i.e. regular consultations) in its political, economic and trade dimensions (PELANT, 2011).[7] Still, there is a need to stress that this partnership represents rather a set of signs of good political will of the EU to establish closer relations with Brazil than a practical agreement with results and concrete actions, especially in the trade domain. Despite the existence of the Joint Action Plan (JAP), that identify and deepens many areas of mutual cooperation, such as information society, science and technology, environment, culture, regional policy, human rights, education, macroeconomic issues, among others, there are no concrete results besides strengthening and deepening diplomatic relations between Brazil and the EU – and one of the problems is that the JAP does not anticipate financial resources to be implemented.[8]

From the EU point of view, at least on the level of political discourse, the Strategic Partnership with Brazil should represent a tool for the negotiations with Mercosur, based on the assumption that by establishing a closer dialog with the main member of this bloc, this country would have better conditions to support Mercosur in creating the common market and political union. However, the fact that the Strategic Partnership has been established with only one of Mercosur’s members caused certain annoyance, mostly from Argentina. Furthermore, as stated by a high level official of the Embassy of Argentina in Brasília, Mercosur is not a priority for Argentina, only for Brazil. [9]

When the Doha Round reached its impasse in 2010, after 10 years of negotiations without any possibility of reaching an agreement in a short term, the teams gathered back to negotiate the EU/Mercosur Association Agreement. Relaunch of the negotiations brought once again positive mood about the conclusion of the Agreement, mostly at the level of political discourse. In the time of the editorial deadline of this article, the negotiators hoped that a new round of negotiations, which would take place in July 2012, would bring some progress, so that the final version of the Agreement could be made public in October 2012. However, this seems to be highly unlikely, given, among other factors, the economic and financial crisis in several economies of the EU member states and the endless crisis of the Mercosur itself, led by Argentina’s recent protectionist attitudes, pointing in the opposite direction, i.e. the non-conclusion of the Agreement.

7 Currently the EU also has Strategic P artnerships with the US, Canada, Japan, Russian Federation, China, India, South Africa and Mexico.

8 What currently exists is a bilateral cooperation project named “Support to the Sectoral Dialogs”, with a defined budget, which objective is to give support to the several dialogs that exist between Brazil and the EU, in many areas, through supporting concrete actions, such as technical missions, studies, research, among others. Thus, through this project, it is possible to reinforce cooperation areas defined by the Strategic Partnership. However, as already mentioned, the Strategic Partnership itself, up until now, does not have its own budget.

9 On the other side, according to a high level official of the European Commission, it is Brazil who is a strategic partner for the EU, not Mercosur – although official discourse does not acknowledge this position openly - Interviews carried out by the author in 2008.

4. The involvement of the business sector

The negotiations of the Association Agreement between the EU and Mercosur were not restricted to the diplomacy. On the contrary, there was a clear interest of the business sector in them, mostly from the Brazilian business community. In fact, the business representatives from both blocs created, in 1998, the *Mercosur Euro pean Business Forum* (MEBF), aiming at allowing entrepreneurs from both regions to identify barriers to the free movement of trade, services and investment flows between the EU and Mercosur, as well as preparing joint recommendations to the decision makers on how to eliminate trade restrictions, giving the business community a "single voice" in the negotiations (HOFFMAN, 2004).[10]

Nevertheless, it has to be said that the voice of the business sector was not always united: neither from the bi-regional point of view, nor from the point of view of the member states of both blocs. There were countries whose entrepreneurs were more engaged in the negotiations (as it is the case of Brazil), and within the entrepreneurs themselves the interests diverged along the lines of different sectors. On the Mercosur side, for example, particular interest was given to the Argentinean and Brazilian automotive sectors (even though they also had divergences among themselves), given the European demand to open up this sector. Agriculture sector on both sides was following the negotiations very closely because of constant demand of the Mercosur to gain access to the European agriculture market, and fears of the EU producers from the competition from the Mercosur agriculture products. On the European side, it can be said that the entrepreneurs were more engaged in other negotiations, such as World Trade Organization (WTO) or with other trade partners – new EU member states or China – than negotiations with Mercosur, in the period between 2001 and 2004.

There are other obstacles to the conclusion of the Agreement identified by the business sector, besides the already mentioned agriculture and industrial issues. For example, according to Mr. Ingo Plöger, former president of the MEBF, who was actively involved into negotiations, the lack of political will made the entrepreneurs loose the motivation for greater engagement after 2004. Plöger added that the Brazilian business had little faith in the political capacity to unblock barriers to the trade in current economic situation and get beyond diplomatic intentions.[11]

On the other hand, the Strategic Partnership established between the EU and Brazil in 2007 gave a new impetus to the interest of the business sector, mainly Brazilian[12], that hoped that the increment of EU/Brazil relations can bring the long awaited impulse to the relaunch of the negotiations leading to the conclusion of the Agreement (at least at the level of discourse).

10 There were seven plenary sessions of the Forum untill October 2007, and six major documents were published. See: <http://ec.europa.eu/enterprise/policies/international/listening-stakeholders/round-tables/#h2-6> Accessed: on 14/05/2012. The MEBF had its own internet site till 2008, which is no longer active.

11 Interview carried out by the author in 2008.

12 Represented by Bussinesseurope, Brazilian Confederation of Industry (Confederação Nacional da Indústria - CNI) and Eurochambres.

5. Conclusion

One of the major instruments of the EU external policy is the establishment of international agreements concluded with almost every single region and country. Each of these agreements has a specific purpose and different content and Strategic Partnerships are established with regions of special interest to the EU. This myriad of instruments can often confuse readers, specialists and media. The aim of this article was to elucidate some basic notions related to the Association Agreement between the EU and Mercosur, whose negotiations were launched in 1999, and that is quite often referred to only in the context of its trade liberalization aspect (although it is its mains goal). It was demonstrated that the Agreement that is currently under negotiation consists of several distinct areas from the cooperation and political dialogues besides the trade aspect. The main obstacles to its conclusion were identified, such as the agriculture question, and was also demonstrated the interest of the business sector in the negotiations, especially from Brazil, between 2001 and 2004.

Even though negotiations have been re-launched in 2010 and new topics incorporated to the agenda, such as science and technology, infrastructure and renewable energy, the problems are old and now include an international scenario which is not very favorable to the conclusion of this comprehensive and ambitious type of Agreement. Nevertheless, despite this unpromising scenario, political statements have been positive, postponing, as usual in the world of diplomacy, the “details” of the Agreement’s conclusion for the next meeting.

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New and Old Challenges of the Trade Agreement between the European Union and Mercosur

José Augusto Guilhon Albuquerque

Fellow, Center for Advanced Studies, Unicamp, Full Professor of International Relations at USP and Director of the Society for the Study of Transnational Corporations and Economic Globalization.

Christian Lohbauer

Ph.D. in Political Science from USP; member of the USP's Group of International Survey Analysis (GACINT/USP). Served as Executive Director of the Brazilian Chicken Producers and Exporters Association (ABEF) and currently serves as Executive President of the Brazilian Association of Citrus Exporters (CitrusBR).

1. Introduction

This article discusses different challenges of a political, economic and commercial nature to be tackled along the path the European Union and Mercosur have agreed to resume. First, we will examine the challenges posed by the negotiation practice adopted by the EU in the various international trade forums. Then, we will address the issues directly related to trade relations between Mercosur and the EU, highlighting the challenges associated with what we call the agricultural hurdle. Finally, we will discuss the political challenges of the negotiation, based on a retrospective view of the evolution of the inter-regional agreement, concluding with a brief appraisal of the present challenges.

2. A brief review of the EU's trade practice

The European Union is the world's largest export market and second largest importer. In 2007, the expansion of the pioneering process of regional integration incorporated Romania and Bulgaria, reaching a total of 27 member countries and nearly 500 million people in the European Common Market, an immense market unified under the economic union established since the Maastricht Treaty in 1992.

Around 20% of world trade is now conducted with the European Union – 17% in the trade of goods and 27% in the trade in services[13]. Virtually all countries in the world trade goods and/or services with the European Union. The biggest importers are the United States (19%), Russia (8%), Switzerland (8%), China (6%), Turkey (4%), Norway (3%), Japan (3%), United Arab Emirates (2%), India (2%) and Brazil (2%). The EU's biggest suppliers of products and services are China (16%), the United States (12%), Russia (11%), Norway (6%), Switzerland (5%), Japan (5%), Turkey (3%), South Korea (3%), and Brazil (2%)[14].

The EU's trade negotiations take place in three dimensions: unilateral negotiations - for example: the Generalized System of Preferences (GSP) or programs such as Everything But Arms (EBA); bilateral negotiations with Mercosur, ASEAN, Andean Community, Mediterranean Countries, Central America, Persian Gulf countries, Ukraine, South Korea, China, India and Libya, as well as with developing countries (particularly African, Caribbean and Pacific countries – ACP); and multilateral negotiations (WTO).

The negotiation strategies of the European Union follow the traditional combination between the interests of market access for European goods and services, trade defense policies (often in an explicitly protectionist way), and promotion of certain values. The European vision on world trade is a curious one. It uses the fact of being the world's most sophisticated import market and the fact of having developed preferential trade structures for around 50 poor and developing countries as an excuse for protectionist practices. As with any legitimate effort of a nation in search of enrichment through trade, the Europeans seek to access markets and to remove barriers to European companies, in an attempt to create new opportunities for exporters. Besides, they hold a sophisticated partnership among the Commission, the Member States and business entities to identify trade barriers, also counting on an extensive and comprehensive database that helps define the ways to combat such barriers.

European bureaucrats feel offended whenever they incur criticism from foreign partners when adopting defensive strategies that greatly burden the European taxpayer and consumer. However, the difference between the way they express their principles and the way they practice them is widely acknowledged. Officially, defensive instruments are supposed to assure fair trade and to defend the interests of European companies. These instruments are currently defined in compliance with specific WTO agreements that recognize the right of its members to react against unfair practices through rules of anti-dumping, anti-subsidies, and safeguards.

However, when acting in trade disputes, European negotiators are experts in making use of bureaucratic instruments to guarantee their margins through non-tariff barriers such as new health standards, or social and environmental rules that become barriers against imported goods and services. EU countries are the WTO members that most frequently resort to "review" rights such

13 Link: <http://europa.eu/pol/comm/index_pt.htm>.

14 Link: <http://ec.europa.eu/trade/about/eu-trade-profile/>.

as the application of GATT's Article XXVIII, which allows for renegotiation of a consolidated import tariff under the condition of compensation for losses of the partners involved.

The origin of this ambivalent behavior in relation to trade stands in the Common Agricultural Policy (CAP). The basis of all resistance and trade protectionism in Europe is founded in the Common Agricultural Policy. The Article 33 of the Treaty that established the European Community sets out the objective of assuring reasonable[15] prices to European consumers and fair income for European farmers. This goal was achieved through the organization of agricultural markets in accordance with the principles adopted in the 1958 Stresa Conference, in Italy, which assured uniform prices, financial solidarity and preference to EC products.

Its original objective – to achieve EC's food self-sufficiency - was accomplished in the 1980s, but the CAP expenditures are still about 50% of the EC budget (roughly €50 billion per year). Although changes have been made in recent years, especially in 1992 (McSharry Reform), in 1999 (Agenda 2000), and in 2003, aimed at correcting imbalances and preventing overproduction of food, the CAP is still perceived by most countries that export food and agricultural products as a cause for distortions in world trade. Several innovations have been introduced by the 2003 reform, motivated primarily by the European fiscal and budgetary crisis and also by fears caused by the future accession of ten new members in 2004. These innovations include the single payment to farmers regardless of production (decoupling); linkage of payments to compliance with environmental standards, animal health and food security; reduction of direct payments to large farms to finance the new policy; and a mechanism of fiscal discipline with limitations on market support spending and direct aid until 2013.

European bureaucrats are aware that trade is synonymous with the creation of wealth. Consumers can have at their disposal a greater number of goods, and competition with imported products enables lower prices and increased quality. Trade liberalization would ensure that European companies acted in conditions that are isonomic with foreign competitors on the global market, and the reduction or elimination of trade barriers in Europe would thus contribute to the increase of its prosperity. The convergence of customs duties among all 27 members, reduced to an average level of less than 4%, is proof of this commitment. However, one cannot forget the tariff peaks and the application of tariff escalation that affects hundreds of imported products, which are important to countries like those of the Mercosur.

3. The agricultural hurdle: A central challenge for EU-Mercosur negotiations

Brazil is among the top ten trading partners of the European Union. In the last decade, bilateral trade with EU countries was concentrated only in roughly a dozen products, mostly primary and semi-manufactured products. The products that range from the soy complex (soybeans, soybean meal and soybean oil), iron ore, petroleum, coffee, corn, ethanol and tobacco are the main primary commodities exported to the EU. Wood pulp and cellulose, frozen concentrated orange juice,

15 Link: <http://europa.eu/agriculture/index_en.htm>.

beef and poultry are among the agribusiness products that have undergone some sophisticated manufacturing. Finally, aircraft, trucks, tractors and automobiles, plus coachworks and spare parts, comprise the main products of higher added value.

A few countries concentrate all the imports from Brazil. Germany, France, United Kingdom, Italy and Spain are major economic partners of Brazil among the 27 members, whereas the Netherlands are the biggest receptor of Brazilian exports that use Rotterdam as a port of landing. The picture is not very different when evaluating commodity exports from Argentina, Paraguay and Uruguay to the EU. The soy complex, corn, and oil, in addition to livestock and oils/waxes of animal origin, form the basis of these countries' trade with the EU. In terms of manufactured goods, only Argentina has some prominence in chemicals and transportation equipment.

In defense of its trade practices concerning agricultural products, the EU highlights the truly remarkable fact that around 70% of agricultural products can enter the EU without tariff barriers. Nevertheless, all the products of interest to Mercosur exporters are to be found in the remaining 30%, and this is where the EU defensive practices toward products they consider sensitive generate trade distortions. This debate has been the origin of ongoing deadlock in negotiations between Mercosur and the European Union, in the context of the broader trade integration negotiations between the two regions.[16]

On the way to completing 20 years of the Framework Agreement, technical negotiations to exchange positions of market access for agricultural and non-agricultural goods, investments and trade in services between the two parties only began in 2002 and, since then, have been dealing with an impasse. The South Americans argue that the positions of interest of access to agricultural goods face subsidies, tariffs, quotas and technical barriers that prevent any creation of relevant trade flow between the two regions. The Europeans insist that their agricultural policy is liberal, and claim that they have commitments that must follow the CAP policy. They also offer modifications to the CAP, including intermediate medium-term deadlines, and bargain with increases of quotas for sensitive products. They demand from the South Americans an ambitious rollback including a reduction of tariffs for industrial goods, and an aggressive change in the legislation of the Mercosur countries to open up the services sector.

What has been observed since 2002 is that there is a large range of internal resistance from member countries and from European economic groups who would never be willing to deal with lowering the barriers to a number of agricultural products. They prefer to maintain their privileges based on the argument of alleged reduction of European jobs in the countryside rather than assuring cheaper food to European consumers in urban areas. Since 2002, and parallel to the trade negotiations, we have witnessed the systematic creation of new concepts of trade defense, which certainly won't contribute to increase the international trade if a free trade agreement is ever signed. Introducing concepts such as "multifunctionality" of agriculture or new rules for animal welfare, or measures environmentally or socially related, in addition to new phytosanitary standards, creates a smokescreen that distorts the perception of real trade liberalization between the two regions.

16 See Lohbauer, Christian: "Oportunidades de uma relação complementar entre Brasil e Europa", Europa-América Latina. Análises e Informações, Number 5, Fundação Konrad Adenauer/PEE-UFRJ, Rio de Janeiro, January 2002.

And last but not the least, the world has profoundly changed in the last decade. In particular, the crisis caused by the housing bubble burst in the United States in 2008 pervaded the entire international financial system and didn't spare Europe. Peripheral countries like Greece, Ireland and Portugal, and even other more central countries such as Spain and Italy, found themselves dealing with enormous and hard-to-manage public deficits within the Euro zone, preventing fulfillment of the European Union Stability Pact.

In 2010, for the first time, the European Union went to the IMF seeking resources to pay its obligations. And rumors persist about its ability to resume the stability of its financial system. In light of such a scenario, it becomes harder to believe that there may be some sort of genuine movement toward trade liberalization. Among the foremost sources of the EU's budgetary revenue are precisely import tariffs, the European CET and the special import tariffs. Would Europe be willing to reduce them or partially eliminate them to avoid a situation of solvency crisis?

Negotiations with the European Union will probably require several more years to reach a truly impactful degree of openness in bi-regional trade, even if some progress is attained by 2014. In fact, the interests of reduction in tariffs and elimination of barriers should run parallel, driven by organized sectors on both sides of the table. That would be the case of a Brazilian exporting sector and a group of European importers who come to plead together, in Brussels, some benefit common to both sides, with a possible measure to reduce or eliminate tariffs on a particular product or service.

4. The political challenges

Madrid, December 1995: on this date, amidst one of the summits of the newly-rechristened European Union, its heads of state and of government signed with the heads of state of Mercosur, the first inter-regional Framework Agreement for integration, calling for – among other forms of cooperation such as economic, political, cultural etc. – a free trade agreement between the two entities. Prior to that, its predecessor, the European Economic Community, had already signed various kinds of cooperation agreements with Brazil, but was reluctant to adopt a bilateral trade agreement with the nation, claiming that its priority in the case of South America was to establish agreements with regions as a way to promote their integration.

The current negotiations, with a view to adopting a Mercosur-European Union trade liberalization agreement have the merit of preserving this inter-regional yearning over time - even though they have been maintaining a stop-and-go pace since then. But having elapsed nearly 20 years, it becomes evident that the agreement is not high up on the list of priorities of either party.

Indeed, the European option was present from the inception of Mercosur, as an alternative to unilateral trade liberalization or integration in the American economy[17]. After 1995, the signing of the Framework Agreement was seen as the culmination of a long effort to give credibility to an

17 Albuquerque, J. A. Guilhon, "Mercosur: South America's Economic Regional Integration after the Cold War", in Proceedings of the Colloquium "Regional Economic Integration", Programa de Política Internacional e Comparada, Departamento de Ciência Política, Universidade de São Paulo, São Paulo, 1992, p. 167-183.

alternative to Brazil's joining a Free Trade Area of the Americas (FTAA) under the leadership of the United States,[18] thus reinforcing what was called the "strategic-commercial triad." [19]

Two circumstances, even at that time, denoted a project with no assumed paternity. In his keynote speech at the preparatory seminar that usually precedes these summits, the Commissioner for Agriculture of the European Union, who was from Spain, alerted attendees more or less as follows: "The European Union has a Common Agricultural Policy. Don't think that the European Union will change its Common Agricultural Policy to make a trade agreement with Mercosur." He did not add "because of its beautiful eyes," but the phrase could be heard in the silent audience.[20]

The other circumstance was the absence of President Fernando Henrique Cardoso, who had traveled to China at the same time and was represented at the formal signing of the treaty by his Planning Minister, José Serra. Since China represented, at that time, a small fraction of the flow of trade and investment with Brazil, and the EU's economic area provided – and still provides – the largest and most diversified market for our exports, we can say that the attitude of the Brazilian government was, to say the least, skeptical about expectations for success of the agreement. This was coupled with the fact of having been represented by a minister who was widely recognized for being opposed to Mercosur and lukewarm to free trade.

On the part of the EU – in addition to the far-from-subtle warning from its Commissioner for Agricultural Affairs – there was a question of paternity of the project. Ambassador Jório Dauster made no secret that the initiative was his. While serving on the Brazilian Mission to the EU in Brussels, he received from the European Commissioner for External Relations, who was from Portugal, consent to include the discussion of the Agreement on the European agenda.[21] A project created by a Brazilian diplomat and representatives from the two Iberian countries is unlikely to make it alive into the EU decision-making circle. Much less when taking into account the harsh opposition of France.

There is a saying in the EU which translates the imbalance of power among member countries, based on the differentiation among the Big Four (Germany, France, United Kingdom and Italy), the Big Two (Germany and France), and all the rest. No minimally important initiative has a chance to thrive if it does not come from one of the Big Four, and will only be approved if it is not vetoed by one of the Big Two.

If such is indeed the case, the project of trade liberalization with Mercosur would only prosper based on the Iberian initiative if it had no importance. Otherwise it would succumb to the veto by

18 Albuquerque, J. A. Guilhon "A ALCA na Política Externa Brasileira", in Alberto do Amaral Junior & Michelle Ratton Sanchez (Orgs.),O Brasil e a ALCA. Os Desafios da Integração, São Paulo, Aduaneiras, 2003, pp. 49-50, 53.

19 Albuquerque, J. A. Guilhon, "O Brasil e os Chamados Blocos Regionais", São Paulo em Perspectiva, vol. 16, no. 1, Jan.-Mar. 2002, p. 32ss.

20 One of the authors of this article participated in the seminar representing the Brazilian Minister of Planning and Budget.

21 In an informal meeting with organizers and other guests of the 3rd NAFTA–Mercosur Forum, organized by Nupri, USP in 1997, Mr. Dauster linked his initiative to the need to create a margin for maneuvering that would allow Brazil to resist the enormous pressure (according to him) by the USA to adopt the FTAA.

France. Therefore, it would be left up to Brazil to assume paternity of the project as *demandeur*, which would deprive it of its alleged status as the most coveted market for trade and investments, thus entitled to choose among several alternatives for trade negotiations, such as the WTO, the EU, the USA, South America, and more recently, China.

Choosing not to take the initiative of proposing free trade to the EU, Brazil – since the 1990s until the Lula administration's veto of the FTAA – managed to make "the EU/Mercosur integration serve the purpose for which it was designed, that is, to show to the United States that Brazil has alternatives."[22] With this, "five years [elapsed] in which there has been no progress, from the signing of the Framework Agreement in 1995 to the Rio Summit in 2000, without the EU having authorized a negotiating mandate with Mercosur."[23] After the relative success of the 2001 Summit of the Americas in Quebec, which reintroduced the FTAA negotiating process, the EU also reacted quickly by resuming negotiations with Mercosur, until the definitive burial of the FTAA in 2004, from which time it advanced no further.

5. The negotiations are technical, the decisions are political

The complexity of issues involving bilateral negotiations is not trivial. As with any trade negotiation, the issues are grouped into "modalities" and "basic rules of trade." There are many differences between the parties still present in the resulting text of the meeting in Asunción when negotiations were suspended in 2004 and which addressed not only market access but also trade facilitation, government procurement, trade protection, rules of origin, trade in services, health and phytosanitary measures, technical barriers, protection of competition and definition of dispute settlement mechanisms. The movement to resume negotiations in 2011, which motivates Apex-Brazil to discuss obstacles to the advancement of the process, faced the same chronic difficulties in defining the lists of market access that will be attached to the statutory text. It is expected that some advances in the statutory text, regarding several of the foregoing issues, will allow improvement in the composition of the lists of offers.

Some of the differences between the positions of the parties are noteworthy. In the chapter on the Elimination of Customs Duties, one can clearly see, for example, the European desire that the timetables for removing import duties be the same for both parties and valid for export taxes as well. Mercosur claims "differential treatment" of the tariff reduction timetables in addition to requesting that tariff reduction be applied to the preferential tariff of the General System of Preferences (GSP) for those products that already enjoy the benefit. This is a politically complex issue, considering that Mercosur stands unapologetically as less competitive and thereby seeks longer-term protection for manufactured goods, which the Europeans are not willing to grant.

The parties also disagree when it comes to establishing a base rate for tariff elimination. The Europeans evidently don't want to take into account exceptions to the Common External Tariff and

22 Albuquerque 2002, p. 4

23 Idem, p. 34

want to start from a single rate. Mercosur members clashed over whether to determine whether this rate should be the highest applied by each country on each product, respecting the CET, or an average of the tariffs applied by the four countries per product. An internal discussion among Mercosur members would be difficult to solve considering that the organized sectors of the economies in many cases have diametrically opposed interests.

Mercosur has a special concern with the abolition of export subsidies or measures having the same effect, which is a basic principle of international trade. It proposed suspension of tariff reduction in cases of products identified by any possible actions of this sort. The EU makes no explicit reference on this issue. The same thing occurs in relation to Mercosur's demand concerning the "Infant Industry Clause," that is, permission for exceptional measures to increase tariffs for a limited period of time when a new production line is installed or a subsidiary of the same industry is established. The Europeans argue a lack of predictability and transparency in any such clause.

The question of rules of origin is also an obstacle in the negotiations. The challenge is to avoid triangulation of products and contemplate the input-output matrices in each one of the parties' productive sectors. The largest differences occur in the definition of "specific criteria of origin" (for textiles and the automotive industry), origin of fishery products, and the European position of excluding from the agreement those products that benefit from the tax exemption scheme for inputs in export products (drawback).[24]

In several other topics of negotiations, the texts are only in the incipient stages (government procurement, services) or there have been no advancements at all (intellectual property, technical barriers, trade facilitation, dispute settlement). The texts on health and phytosanitary measures haven't advanced either, and particularly noteworthy is the European insistence on treating the issue of animal welfare in this chapter. This is a non-negotiable point for Mercosur, considering its possible detrimental effect on access to the European market for animal protein (beef, pork and poultry) originating from Mercosur. The texts on antitrust measures and trade protection are at an advanced stage, considering that they follow the pattern of WTO agreements.

6. The new political landscape: Argentina here, Spain and France there

If the technical difficulties per se present challenges to progress in a bi-regional trade agreement precisely because of political barriers, the current political and economic landscape of Argentina in the second term of President Cristina Kirchner contributes nothing to the process. Recent populist and resounding measures of nationalization and breach of contracts, in addition to a rigid control of trade through import licenses and restrictions of all sorts, are the source of all kinds of mistrust among Mercosur partners and external negotiators, with an emphasis on European and particular Spanish negotiators. Those who believe that the mandate of European Commission President Durão Barroso is a "window of opportunity" to materialize the agreement must face reality. As

24 XXI CNB (Bi-Regional Negotiations Committee) – Analysis. EU-Mercosur Association Agreement – Brazilian Business Coalition (CEB). CNI/International Negotiations Unit, June 2011.

we saw earlier, it wasn't and still isn't the willingness of one or both the Iberian countries that will enable the process of integration. Considering the state of shock of the Spanish in relation to the unilateral and unpredictable actions of Argentina, not even Spain has shown an interest in promoting Mercosur.

And from France comes the latest political change that makes the process of trade negotiations between Mercosur and the EU an even less relevant issue in the bloc's agenda. The election of the new French president, François Hollande, and his commitment to resume development of the country without exactly following the model of austerity proposed by Germany (its largest and most relevant trading partner) means more constraints to the bi-regional free trade agreement. France is the biggest beneficiary of European agricultural subsidies.

Reducing unemployment and fortifying French companies and products are the priority items of the French Socialist Party's program. The French will not devote their time and energy to move forward with a trade agreement that does not bring them economic – and much less political – benefits in the very short term. The appointment of Laurent Fabius as Foreign Minister and Bernard Cazeneuve as Minister for European Affairs, both of whom are notorious opponents of the Treaty of Europe, which they considered too biased toward economic liberalism and favorable to competition and to the market,[25] bodes nothing good in terms of bi-regional trade liberalization.

The Mercosur countries must reflect on how much time and energy should be spent on this negotiation, and particularly on the fate of Mercosur itself. Many of the technical issues briefly described here encounter divergence among the Mercosur members themselves. The political issues are not an exception. Perhaps it's time to take a step back to see if, in the future, it will be possible to take two steps forward.

25 Gilles Lapouge, "Hollande e o Socialismo", Estadão, 18/05/2012, p. 25.

Private Sector Ties between Latin America and Europe [26]

Lourdes Casanova

A Lecturer in the Strategy Department at INSEAD specializes in international business with a focus on Latin America and multinationals from emerging markets.

1. Europe and Latin America, a historical tie

There is a long history of successful partnerships between the European Union and the Latin American and Caribbean (LAC) regions, which started more than 500 years. Since the colonial era, private firms have exploited the mutual commercial synergies of these two regions. These economic bonds were strengthened and facilitated by close cooperation on the social and political arenas. For example, many of the leaders of the independence movements in Latin America went to France to study the principles of the French revolution. There have also been significant migrations of populations in both directions. Latin American Napoleon Civic Code comes from France and is more familiar to European firms than the British Common Law system followed in United States of America and many parts of Asia. Both sides of the Atlantic view each other as their 'natural market'. This common view should be leveraged and concrete measures should be taken to further enhance bi-regional partnerships in a moment in which Europe is looking for different ways out of the crisis.

26 The article is based on a previous one on Private Sector Networks: Casanova, L. 2004. Bi-Regional Private Sector Networks. Harnessing the Potential of the Private Sector in European Union and Latin America. Working papers. Euro-Asia Centre. INSEAD.

2. Investments and trade in Latin America: from Europe to Asia

The decade of 1990s was marked by the transformation of Latin American economies through trade liberalization, privatization of the public sector, market deregulation and fiscal reform. As a consequence, the region became during that period much more attractive to Multinational Corporations (MNCs), and the net Foreign Direct Investment (FDI) inflows in Latin America grew from US$ 18 billion at the beginning of the 90s to US$108 billion in 1999. In 2011, Latin America reached US$153 billion in 2011 of FDI, which represented 10% of the total FDI in the world[27]. Thus it is not surprising to note that Europe overtook the United States as the most important source of Foreign Direct Investments (FDI) in Latin America in 1998 and has remained the most important investor since then. According to ECLAC (2012), in the last decade 40% of the investments came from the EU. The European Union remains today the leading source of FDI and official development assistance and the second biggest trade partner for the LAC region. Per countries, the investment leader is the United States (18%), followed by Spain (14%) and Japan (8%).

The tide is changing and Asia, and China in particular, is increasing its role as the main trade partner of Brazil, Chile and Peru among other countries. The United Kingdom represented 5% of the total investments in the region in 2011. Trade between Latin America and the Caribbean and China stood at US$ 183 billion in 2010 and now accounts for half of all trade with the Asia-Pacific region. China's important role in the region was shown in 2004 when China overtook Japan as the region's leading Asia-Pacific trading partner. Around the same time, China replaced Mexico as US's second trade partner after Canada. While on average Asia accounts for slightly over 16% of the region's exports, it receives 50% of Chilean exports, 30% of Cuban exports and over 25% of Brazilian and Peruvian exports.

Governments have been a major catalyst and enabler of trade and investment between both continents. The European-Latin American and the Caribbean Summit of Heads of State and Government, which was launched in Rio in 1999 as a biannual summit, has the purpose to advance in the consolidation of a strategic partnership of a political, economic, cultural, social and co-operative character between both regions. Starting in 1991, Ibero-American Summits have provided a mechanism for consultation and concerted political action in matters of common interest to Spain, Portugal and Latin American countries. It constitutes the mechanism of Spanish and Portuguese to speak with America that most resembles the British Commonwealth, through which Great Britain and its former colonies keep their historical ties alive, providing significant benefits to the countries of the English speaking Caribbean. In Cádiz the 22nd summit (November 2012) commemorated the 200 anniversary of the Spanish Constitution of 1812.

More recently we have seen a number of other initiatives, which reflect the emerging powers of the so-called 'South'. On the one hand the CLACS (CELAC in Spanish), the organization of the Presidents of all Latin American and Caribbean countries which met for the first

27 ECLAC. 2012. Foreign Direct Investment. ECLAC.

time in Mexico in February 2010 and the following year in December in Venezuela. Other interregional summits like the BRICS (Brazil, Russia, India, China and South Africa) reflect this new balance of power. In its last summit in March 2012, all countries signed on to a plan to study during the creation of a joint development bank to finance infrastructure and sustainable development in emerging and developing countries. As a reflection of the new multipolar world emerging in this big crisis Europe and the US have been excluded from those meetings. The G20 meetings, which started in 2008 after the fall of Lehman Brothers, constitute a gathering where the major economies convene from West and East, North and South as they did in the summit in Los Cabos, Mexico in June 2012. This summit saw the meeting of the so-called B20, the business leaders who will be given the private sector view to the government leaders.

As for the private sector, Emerging Multinationals from Latin America are looking at the European Union with interest given the size of the market and much more so now when, due to the crisis, European companies are forced to sell assets to survive. These forays were led by the initial European purchases of Cemex in Spain in 1992. Cemex wished to diversify risk and lower the price of capital through what it saw as its 'natural market' - Spain. Since then Cemex was able to finance its international expansion through the Spanish subsidiary, which had access to cheaper loans because of the better rating of Spain than Mexico. All major multinationals from the Latin America region today have significant European activities. For example, Brazilian steel giant Vale has offices in Switzerland and the leading Brazilian plane manufacturer Embraer has offices in Le Bourget (France) and manufacturing facilities in Portugal. Brazilian Banco Itaú-Unibanco has its European headquarters in Portugal. It is worth mentioning the recent acquisitions by América Móvil of the telecom operators in Holland and Austria.

3. A Framework for Mapping Bi-Regional Networks

There are many definitions of private sector networks in the literature. For example, Rosenfeld defines a business network as "*a group of firms with restricted membership and specific, and often contractual, business objectives likely to result in mutual financial gains. The members of a network choose each other, for a variety of reasons; they agree explicitly to cooperate in some way and to depend on each other to some extent. Networks develop more readily within clusters, particularly where multiple business transactions have created familiarity and built trust*" (Rosenfeld 1995, p.13).

For the purposes of this chapter, we define a bi-regional Private Sector network (PSN) as "a formal or informal agreement between private sector actors, both firms and individuals, which aims to enhance the achievement of relevant mutual goals, comprising both for profit and social objectives". To aid our understanding of bi-regional PSNs, it is useful to build a simple framework for classifying these networks, which focuses on two dimensions:

> **I. Enablers** are factors in the geo-political contexts, which aid the creation and sustain the development of effective PSNs such as trade agreements, which facilitate the creation of private sector partnerships and networks.

II. Purpose refers to the overarching goal for the creation and existence of the PSN. From the literature and existing networks, we see three different purposes:

a. Market: These PSNs exist for the primary purpose of enhancing the market access for the actors in the network. This would lead to increased sales of products and services to customers for the network actors.

b. Supply chain: These PSNs exist to complete and enhance the supply chains of the network actors. This would include activities such as sourcing raw materials from a region or the setting up of production plants, which leads to an ability to produce goods and services more efficiently for the network actors.

c. Knowledge: These PSNs exist with the primary goal to share knowledge amongst the network actors. The importance of knowledge sharing in today's competitive environment is recognized by all.

4. Examples of Bi-Regional Private Sector Networks

The following sections provide examples of PSNs between Europe and the LAC region in each of the categories mentioned in the previous section.

4.1 Enablers

Trade agreements provide a wide range of tax, tariff and trade pacts to enhance trade between the signatory countries and, at the same time a more efficient, stable institutional and legal framework for business to operate within. The European Commission outlined in a 1995 communication the general policy regarding relations between the European Union and Latin America. Since then, Association Agreements have included free trade area agreements with Mexico (2000), Chile (2002), Central America, Peru and Colombia (2012). Political Dialogue and Cooperation Agreements were concluded with the Andean Community and Central America in 2003. Negotiations with Mercosur have been very slow, not easy and are at a standstill for a number of internal reasons and conflicting demands[28].

In the same vein, the investment promotion AL-Invest Program was launched in 1993 and is the largest European Commission program to foster cooperation between small and medium size companies (SMEs) of the European and LAC regions. The program is a network of actors from Europe and Latin America who co-operate in organizing bi-regional meetings (called 'sectoral meetings') between companies active in the same sector. The program has successfully supported thousands of SMEs and business organizations in all sectors of the economy by facilitating trade and investment between the two regions. Eurochambers and Mexican promotion bank Bancomext are full members of AL-INVEST.

28 Analyzing the reasons of the current negotiations is beyond the scope of this paper. For a deeper review of the issue please see Freres, Christian and José Antonio Sanahuja. November 2005.

AL-Invest is considered a success according to opinions from both regions. According to the Brazilian National Confederation of Industry (Confederação Nacional da Indústria, CNI)[29] AL-Invest has worked well as a PSN. The strength of AL-Invest resides in the network of 57 Eurocentres and more than 15,000 Coopecos[30] which have a positive facilitation effect amongst SMEs. Bureaucracy is kept to a minimum and the network allows the development and execution of projects catering directly to SMEs needs[31]. Some European organizations, however, have expressed their reservations about the success of the program due to a lack of interest among European SMEs (who are more interested in other regions like Eastern Europe or Asia) and at times a lack of responsiveness from the Latin American Eurocentres.

Apex-Brasil, the Brazilian governmental agency to support the international expansion of Brazilian trade and investment opened offices in Brussels in 2011.

There are a number of other bi-regional forums initiated by Eurochambers (Association of European Chamber of Commerce and Industry), which represents 44 national associations of Chambers of Commerce and Industry - a European network of 2000 regional and local chambers with over 18 million member enterprises in Europe. Eurochambers has partnered with AICO (Ibero-American Association of Chambers of Commerce), AILA (Latin American Industrial Association) and CAIC (Caribbean Association of Industry and Commerce) for matters related to trade and business opportunities.

4.2 Market Oriented

An example of a market orientated PSN is Latibex, the only international market for Latin American securities. The market's creation, in December 1999, was approved by the Spanish government and is regulated by the Spanish Securities Market Law. Latibex is an ideal way to channel European investment efficiently towards Latin America. European investors can buy and sell shares and securities in leading Latin American companies through a single market, with a single operating system for trading and settlement and a single currency, the euro. The market is based on the trading and settlement platform of the Spanish stock market, in such a way that the Latin American securities listed on Latibex are traded and

29 The National Confederation of Industry System has as its mission the representation of Brazilian industry, in tandem with regional Federations and nationwide associations. It promotes and supports the Country's efforts to attain sustainable and balanced development in both the geographical and socio-economic dimensions.

30 COOPECO stands for Network of European Organizations Supporting Industrial Cooperation and the Promotion of Investments in Latin America. COOPECO is a Euroepan network of bodies, which promotes industrial cooperation and investments by European companies in Latin America. It functions under the AL-Invest. Members are: Chambers of Commerce, professional Associations, industrial federations, regional development agencies and consultants specializing in specific industrial sectors. The members contribute to the improvement of industrial cooperation between the EU and Latin America.

31 CNI contrasts this success with the difficulties in implementing other bilateral projects such as Pyapyme for internationalization of SMEs signed between EU and Brazil and between the EU and Mexico. Governmental entities are in charge of implementing this project and significant effort and time are needed for the bureaucracies to work.

settled like any other Spanish security. Meanwhile, Latibex gives Latin American companies access to the European capital market. In short, it brings European investors close to one of the world's most economically attractive regions, streamlining the operational and legal complexity. A total of thirty-two companies are currently issuers at Latibex, almost half the number of Latin American companies quoted at the New York Stock Exchange Euronext where there are 75.

Traditionally, many European firms have gone to the Latin America region in search of new markets to grow in. A good example is Telefónica, the pioneer for Spanish investments in the region. Starting with a controlling stake in Chile's fixed line operator, Compañía de Telecomunicaciones de Chile (CTC) in 1990; Telefónica rapidly followed this up with the control of Telefónica de Argentina. In 1991, Telefónica participated in a GTE-led consortium that purchased CANTV, the national telecom company of Venezuela. In 1994, it paid US$ 1.8 billion for a controlling 31.5% stake in Telefónica de Perú. Telefónica's Latin American strategy began to crystallize two years later when it used its Chilean and Argentine subsidiaries in a successful US$ 655 million bid for the control of Brazil's Companhia Riograndense de Telecomunicações (CRT). The crown jewel was Telefónica's successful US$ 5.3 billion[32] bid in July 1998 to buy fixed-line operator Telesp, cellular operators Tele Sudeste Celular and Tele Leste Celular. Acquisitions have continued and Telefónica paid €4.7 billion in cash for the acquisition of BellSouth's Latin American assets and operations in 2004. Latin America has thus played a critical role in Telefónica's rise from a local Spanish incumbent to the third biggest telecom company in the world[33]. Latin America has very much been a "natural" market for Telefónica where cultural similarities facilitated its PSN in the region.

Leading Latin America Multinationals have also come to Europe and formed their own PSNs. While Telefónica has started to sell some of its assets to balance the difficult situation in Europe, its main rival América Móvil is aggressively expanding in Europe, increasing its stakes in telecom operators in Austria and Holland. The Mexican Grupo Bimbo bought in 2011 the brand Bimbo in Spain from the American Sara Lee.

4.3 Supply-chain Orientated

The 'Maquila[34]' program of Mexico is a good example of supply chain orientated PSNs. The success of the North American Free Trade Agreement (NAFTA) has led to the emergence of Mexico as a manufacturing center for the US market. Many companies have set up manufacturing operations in Mexico to supply the North American market. Many European companies (sometimes through their US subsidiaries) in the automotive and electronics sectors have invested significantly in the 'Maquila' program. Dutch (Philips Electronics, and

32 After the real devaluation of the Brazilian currency, the Real, (Jan. 13, 1999), Telefónica paid US$ 4.1 billion for Telebras.

33 Source: Financial Times. 28 May 2003.

34 The 'Maquila' program of Mexico provides in-bond assembly for re-export, and allows firms to temporarily export parts manufactured in the US for assembly in Mexico. Re-exports to the United States were done with a tariff on the overseas value added component.

Advance Transformer Co.), German (Siemens), Swedish (Autoliv, Inc.), Finnish (El Coteq Network Corporation and Nokia) and French (Thomson Displays Mexicana, S.A. de C.V. and Bacou-Dalloz, S.A. de C.V.) companies have all invested in the Mexican Maquilas. Volkswagen owns the ninth biggest maquila in Mexico with 14,000 employees[35].

The LAC region not only provides a lower cost environment than Europe, but also has large educated populations, especially in countries such as Brazil, Chile, Argentina and Mexico. Thus it has many characteristics that make it attractive for the location of technology services, call centers and business process off shoring units. French company Peugeot and Spanish company Repsol have outsourced website design and software development to Argentina. Unilever has set up in-house outsourcing centers for software development, back-office services and call centers in Chile. This is a trend in PSNs which will mushroom further in the future.

4.4 Knowledge Oriented

Networks for knowledge shared between network actors - private, public and civil society - from Europe and LAC are very common. For example, OBREAL/EULARO is a network set up by 23 academic institutions and research centers in Europe and Latin America with the financial support of the European Commission. OBREAL/EULARO has set as its main goal "to identify and develop all the opportunities offered by the partnership between the two regions to create a better understanding of the regional and sectorial problems which shape policymaking". To reach this goal, OBREAL/EULARO not only depends on the work of its members, but also aims to become a platform for the promotion of and a meeting place for the dissemination and research activities carried out in both regions. Similarly, it aims to create synergies between policy formulators and decision makers, researchers and civil society actors, to reach a critical mass that can provide answers to common problems.

The Euro-Latin Study Network of Integration and Trade (ELSNIT) was launched by the Inter-American Development Bank (IDB) and aims to be an expert forum to reflect on issues and recommendations on integration and trade between both regions. The IDB launched the first private sector advisory Council in the Annual Assembly meeting in Milan in 2002.

The Mercosur–European Union Business Forum (MEBF) constitutes a business driven initiative, pursuing the enhancement of trade and business relations between the European Union and the Mercosur countries. Leading European and Mercosur companies and the main business associations develop joint trade policy recommendations.

Since 2000, the 'Foro de Biarritz' is an annual meeting in Biarritz or in a Latin American country with the goal to enhance the cultural and commercial activities between Europe and Latin America.

35 Source: www.maquilaportal.com accessed by 1st of June 2012.

5. Looking ahead: We need to deepen our ties

As evidence, there are multiple successful networks between private sector actors from Europe and LAC. Governments in the LAC have become more assertive in the international arena. According to ECLAC, since 2003 the growth in sales of multinationals has lagged behind the growth in sales for the leading local companies. Firms from Europe have to approach the LAC in a true sense of partnership, increase their contacts and capabilities to work with the government and go for win-win outcomes in their partnerships.

Taking into account the Rio+20 Summit held in Brazil in 2012, Association Agreements should also consider non-trade issues of common interests for both regions such as sustainable development and environmental issues. UNICA, the association of sugarcane growers in Brazil has opened offices in Brussels as a way to market ethanol technology from Brazil.

There is a strong potential for growth in supply chain networks between the two regions – such as in off-shored software development and business process outsourcing. These domains are of interest as governments in the region have prioritized investments in the technology sector trying to move beyond commodities based economies. Brasscom the association of Brazilian IT companies has opened offices in London to market Brazil as IT destination.

Bi-regional knowledge PSNs need to also be expanded. Supra-regional institutions such as the European Investment Bank (EIB) and the Inter-American Development Bank (IADB) and the Andean Development Corporation (Spanish Acronym CAF) would benefit from more coordinated action plans. Multinational firms from both regions would gain from an expansion of the IADB's ELSNET network with a specific Private Sector Study Center to focus on common challenges.

In this 'new reality' while Europe is getting closer to the abyss, more than ever partnerships with Latin America should be seen as a way out of the crisis. European companies are being forced to sell assets in Latin America and beyond to compensate for losses in their home turf. Economic risk, inflation, volatility and currency swings are not anymore the trademark of emerging markets and have moved to the western world. While European and American companies are paralyzed in front of the current crisis, one of the abilities of these new Global Latinas is to navigate in turbulent waters. Globalization is a two-way road and this opportunity has not been missed by the Emerging Multinationals from the other side of the Atlantic who are buying cheap assets in Europe as we have seen by the giant Mexican América Móvil's latest moves in Europe. This competitive advantage is coming handy in today's world. If they want to survive and be part of the solution, traditional multinationals should recover their strength and look at the long-term strategies in partnerships with emerging multinationals.

If the Spanish companies had their golden era in the 90's in Latin America the new millennium is the diamond era of the Global Latinas. The private sector has to be part of the solution and the private sector networks created in the last 20 years have to come handy and work closer together to find a viable road out of the crisis in a way which benefits both sides of the Atlantic.

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Politics

Political Aspects of the EU-Mercosur Agreement

Janina Onuki

Professor of the Institute of International Relations of University of São Paulo (USP) and researcher of the Center for International Negotiations Studies (CAENI).

1. Introduction

Since the signing of the Framework Agreement between the European Union (EU) and Mercosur in 1994, relations between the two blocs have suffered periodic setbacks, either because of difficulties in finding points of agreement between the parties or because of internal crises that the blocs have faced over nearly 20 years. The overriding theme over all these years has been the lack of consensus between the blocs on various agenda items, in particular issues related to agriculture (particularly the high agricultural subsidies that European producers receive) that still remain a "sticking point" for any possible agreement.

Negotiations between the two blocs were frozen when the World Trade Organization's (WTO's) Doha Round negotiations stalled. The attempt to restart negotiations at the end of Lula's government, in early 2010, focused not on sensitive points but on several other less controversial items, including not only the resumption of cooperation but also aid to Haiti and other important international matters on which there would not be disagreement.

However, there was an expectation that proposals made earlier, before the end of Lula's term, to finalize a sectorial trade agreement, as well as a political agreement, would be taken up again, because Europe was watching with interest the role of Brazil at the G-20. In other words, bi-regional negotiations in 2010 gained a new dimension and the prospect of a deal that was more limited, but viable.

Differences have not disappeared, but if the most controversial points – i.e., agricultural subsidies – were to be left out, perhaps the parties could arrive at a least common denominator. Despite frustration from the high expectations at the beginning of a relationship, an agreement with the EU would strengthen Brazil's international and regional position (since the country represents Mercosur), would respond to critics of Brazil's foreign policy of those who question the current lack of agreements with "major" partners – Europe and the United States – and would enhance the prospects for a partnership that could have important consequences for Brazil in other multilateral arenas, such as the United Nations (UN), where Brazil is still pursuing a permanent seat on the Security Council.

Despite the interruption of the EU-Mercosur negotiations over the last two years stems primarily from the difficulties faced at the WTO (where agriculture issues have always generated controversies between developed and developing nations), the barriers can also be attributed to other factors that have conspired to cool the relationship in recent years.

The purpose of this paper is to evaluate the evolution of these negotiations, with an emphasis on priorities and changes in Brazilian foreign policy, by evaluating three variables that were directly involved in the advances and setbacks of the bi-regional negotiations: the priority of South-South relations in Brazilian foreign policy, especially in Lula's second term; the lack of consensus within Mercosur; and Brazil's relationship with the United States in the context of hemispheric negotiations that proceeded in parallel with the EU discussions. In the last section, this article analyzes what conditions would facilitate resumption of negotiations, and how such an initiative could benefit Brazil.

2. The EU-Mercosur Framework Agreement

Like any negotiation process, what first drew Mercosur and the European Union together were proposals and speeches filled with lofty expectations, like the consolidation of a "free-trade area" between the two blocs and the establishment of a bi-regional Mercosur-EU association that would be marked by unprecedented cooperation. However, the result was not all that cooperative, or even all that free with respect to trade. Exploring the positive aspects of integration was not enough to overcome the domestic difficulties that both blocs would face to close the deal.

In December 1995, when the EU-Mercosur Framework Agreement was signed (at the time it was considered a good idea not to set deadlines, so as to reduce commitment), it was a propitious moment for both parties from an international perspective. The EU was launching the euro implementation process, and Mercosur was experiencing a period of stability and visibility, attracting interest from other countries like Chile, and creating the Common External Tariff (CET), which helped move the customs union forward (albeit imperfectly, given the extensive list of exceptions left in place). Both blocs sought international visibility for their efforts. Moreover, bringing Mercosur and the EU closer opened the door further to Latin America (with which

Europe, in general terms, has economic interests and historical relations), and, in a certain sense, "challenged" the United States, which was also interested in broadening the agenda for hemispheric negotiations.

The economic stability experienced by the Southern Cone countries (Argentina and Brazil in particular) and the vast opportunity to expand investments in the region were other points of attraction for the Europeans. For Brazil, embracing a foreign-policy agenda marked by both "multilateralism" (at the major international and regional forums) and discussion of "emerging leadership" was an advantage of initiatives like this agreement.

But negotiations were not as smooth as expected, or as easy as the diplomatic discourse may have indicated. In fact, the perception that negotiations with the EU would be easy always stood in contrast to the difficulties posed by the hemispheric agreement with the United States. Still, for some reason – and this, to some extent, also benefitted the Europeans – there was a greater spirit of cooperation, and a greater willingness to negotiate with Europe.

Even so, the Joint Committee, the negotiating team created by the Framework Agreement in 1995 to move talks forward, began to encounter obstacles, particularly in relation to the EU's unwillingness to put the Common Agriculture Policy (CAP) on the negotiating agenda, which had been Brazil's main request. Still, there were several moments of partial progress, such as in 1999, when both parties spoke of a process of "progressive liberalization" (but not a free-trade area), and in 2001, at the Fifth Meeting of the Negotiations Committee, when the EU presented an offer to reduce tariffs. However, the timing was not favorable for Mercosur, which had already suffered the impact of the Real's devaluation and was feeling the effects of the crisis in Argentina, which was only getting worse.

Now, fifteen years after the first formal overture, it is important to assess where matters stand, given the political will that was on display at the February 2012 meeting, and also to consider the structural conditions that could contribute to finalizing a deal. Before analyzing these positive factors, it is necessary to note three variables that directly influenced the dialog, with all its ebbs and flows, between the two continents: a) Brazil's own consolidated foreign policy agenda over the past ten years, especially in the second term of President Lula, who tended to focus on South-South relations; b) the difficulties of intra-Mercosur negotiations; and, finally, c) the dilution of the proposed Free Trade Area of the Americas (FTAA) that counterbalanced negotiations with the EU.

3. The recent changes of Brazilian Foreign Policy

First to be discussed are the changes in orientation of Brazilian foreign policy, which in recent years has focused on developing countries, especially within the G-20 coalition, while in the regional context, Brazil's leadership – despite Brazil's attempts to establish closer ties with its neighbors and to lead the UNASUR integration process – is still viewed with some suspicion. In any case, all the initiatives taken by Brazil, whether regionally (including in Central America) or multilaterally, have had one focus: to consolidate the country's position of leadership among the world's poorest nations. That strategy, in turn, has diminished the importance of a more intense dialog with the major powers (at least in terms of negotiating longer-term agreements).

Brazil's leadership has always been understood as a quest for international respect and responsibility, with the expectation of a greater capacity to influence decision-making. If one element of leadership is prestige, Brazil can be said to have achieved its goal. Despite various criticisms, the agenda (fortunately) guided by Minister Celso Amorim, that combined diplomatic competence and leftist ideology persists in the current government, albeit in a form that is tempered by pragmatism.

Brazil's foreign-policy agenda was marked by several bilateral initiatives, trade agreements with questionable economic results (compared to the trade flow that the agreements could have generated), and political actions in countries like Haiti and Honduras – high-visibility measures to project the country's image internationally and gain support from a larger number of countries, either in small coalitions or at international organizations like the WTO or the UN (where Brazil still aspires to a permanent seat on the Security Council). But the fact is that Brazil – under the leadership of President Luís Inácio Lula da Silva and Minister Celso Amorim – knew how to take advantage of the best opportunities at major summits, took risks in foreign policy (all leadership assumes a certain risk), and succeeded in projecting its image abroad (so much so that the EU came to be interested in Brazil again, a matter to be discussed below).

Still, as noted above, this strategy of asserting leadership meant deemphasizing negotiations with major powers like the United States and the European Union. By taking on unanticipated costs, Brazil invested in the G-20 coalition in a way that earned Brazil visibility and helped sustain collective action. Even with interests markedly divergent from those of the other coalition members, including India, the G-20's second-most visible leader, and even on matters as central to the coalition as agriculture, Brazil managed to maintain the G-20's cohesion through an approach that emphasized compromise on individual issues in order to maintain agreement. In addition to discussion of overlapping concerns and common Southern identity, there were clear shared interests relating to trade, security, and aspirations of international prominence.

The prospect of regional leadership may have been replaced by international leadership during this period. At the regional level, consolidating leadership necessarily means dealing with neighbors' domestic problems and crises, which somewhat raises the cost of leadership. Not that exercising leadership outside the regional environment is easier, but on the continent it means Brazil has to live permanently with the economic and political instability of its partners – integrating so many different interests becomes more than just a challenge. At the regional level, in particular in Mercosur, Brazil's foreign policy can be said to have been one of maintenance.

The excellent results from the G-20 may derive from the fact that the member countries perceived Brazil to be a leader willing to bear the costs of negotiation on a matter in which all were interested – agricultural liberalization, an issue over which member countries would have to negotiate with much more powerful countries, which would be somewhat daunting for nations like Guatemala, Tanzania, or Peru (G-20 members). Thus, member countries saw the opportunity to benefit from Brazilian action as free riders.

For Brazil's part, its focus on the G-20 and its willingness to accommodate free riders resulted in other benefits, with Brazil projecting itself in other arenas and becoming an interlocutor with major countries. Much of Europe's renewed interest derives from this fact. If the resumption of relations with the Europeans is examined from this perspective, Brazil's investment in other arenas during this period will have been quite worthwhile, if the priority given to other "less relevant" relations can now strengthen ties with the larger players. The fact is that the price of Europe's withdrawal, due to its own difficulties mentioned above and, later, to Brazil's change in international strategy, is now offset by a more mature relationship.

The second point related to the freezing of negotiations with the European Union in the late 1990s derives from Mercosur's internal difficulties. Since the start of negotiations, the bloc has always had difficulty making decisions, regarding not only the EU but also various other topics, from internal trade to external agreements and common positions in multilateral affairs. The absence of a greater degree of institutionalization has always meant that countries have had to negotiate on a permanent basis, and the requirement of consensus in decision-making has caused Mercosur to suffer multiple moments of decision-making paralysis.

Moreover, the bloc's history, though highly successful and imbued with enormous expectations during its initial period (1991-1995), was marked by contrasting foreign-policy approaches between Argentina and Brazil during the 1990s, as well as conflicts stemming from domestic crises. While Brazil advocated a posture of "autonomy through participation," seeking to expand its international credibility by participating in international regimes – through which it could act more autonomously – Argentina maintained a policy of "alignment" with the United States, which generated a degree of distrust from its neighbors.

The conflict over approaches to foreign policy was eventually eclipsed by a renewed focus on regional trade integration, but the divergent interests of Brazil and Argentina were also reflected in negotiations with the EU. From the EU's point of view, apart from Europe's structural problems like French agricultural protectionism and the integration of Eastern European countries, Mercosur's inconsistencies served to undermine the Europeans' willingness to put forward more generous offers.

Mercosur, for its part, experienced severe crises in the late 1990s, with the devaluation of the Real and then the economic and social crisis in Argentina, along with a structural deficit that combined underperformance with diminished expectations about the bloc's future. Still, the main obstacles toward progress, which actually arose in Mercosur's first phase, were divergent expectations for the model of integration and each country's goals for the bloc.

What sustained the bloc was the "theoretical Mercosur" a work in progress that nevertheless showed excellent prospects for economic consolidation. This attracted the attention of countries like Chile and of the European Union in the mid-1990s. This external visibility for the bloc – in spite of internal differences – was what sustained Mercosur. Two factors converged in its favor: Brazil's economic stability in the post-Real period and economic openness in Argentina. Building on this moment, Mercosur launched in 1994 its common external tariff and became a customs union.

What should be emphasized here is that, at first, Mercosur was viewed by its two main members, Brazil and Argentina, as a bargaining tool. For Argentina – which throughout the Menem government embraced a foreign policy of political alignment with the United States –, Mercosur served as a way to become closer to America by taking advantage of the partnership with Brazil. Thus, the bloc represented an opportunity to increase Argentina's foreign trade and even to enhance its international prominence by highlighting its leadership of the bloc. One can say that Mercosur's initial period was marked by a mixture of cooperation and distrust.

The word *cooperation* generally refers to a positive perception of what can result from a relationship between two or more actors. However, this does not always mean that those involved have the same interests or goals. In the early 1990s, it became common to point out the cooperation between Brazil and Argentina – and, above all, regional integration in South America – as the leading alternative to the risks of isolation that Latin American countries had endured during the Cold War, and as a solution to any negative impacts arising from deepening interdependence.

The emphasis on the inevitability of cooperation was encouraged by the partial resumption of a normative agenda favorable to the creation and adherence to international regimes, and by the return of democracy in most countries in the region. However, these countries seemed to be unaware of the costs involved in the process of integration – such as the difficulty of building consensus and creating common policies, potential economic losses, and increased social demands.

In a context where uncertainty prevailed, joining a bloc represented an attractive option for these countries. For this reason Mercosur was created. The problem that began to become apparent in later years was that the project did not have a purpose per se, and its actions were limited mostly to domestic crises. Therefore, all other negotiations, including those with the EU, were also paralyzed.

The third point to be considered, and one of the major factors – if not the main one – in starting negotiations with the European Union, was also the progress in negotiations over the Free Trade Area of the Americas (FTAA). It was at the start of the FTAA negotiations that negotiations with the EU were also moving ahead as a way to counterbalance the weight of the United States.

Among diplomats, the Mercosur-EU agreement seemed to be more palatable than what was being negotiated for the FTAA. This is why there was greater political willingness to negotiate with the Europeans. Moreover, the mutual goodwill and the supposed shared identity between the two blocs helped facilitate the relationship. There initially seemed to be real harmony between the two parties, supported by the "friendliness" of a civil society (i.e., business community) that saw no threat from European countries, which was not the case with the United States.

Both negotiations were taking place practically in parallel, with the EU being used as a bargaining chip in the dialog with the Americans, in an attempt to intensify competition between what were then the world's two largest economies, in the hopes of extracting better offers and constraining the United States. However, with the failure of the FTAA negotiations, for reasons that are beyond the scope of this article, building a relationship with the EU seemed less worthwhile, given that the main external factor driving discussions with the EU no longer existed.

4. Conclusion Remarks

These three episodes serve to show the advances and setbacks of negotiations between Mercosur and the European Union, shaped both by external limitations and internal constraints rooted in the process itself. The interruption of the negotiations stemmed from structural factors, due mainly to Mercosur's lack of consensus and its inability to make strong offers (and sometimes its difficulty in responding to offers) but also to situational challenges, such as negotiations with the United States, Brazil's foreign-policy reorientation, and the Europeans' unwillingness to address the issue of agricultural tariffs.

The decision to cooperate (or not) is made based on rational calculations. That is, actors calculate costs and benefits, with each side seeking the best net outcome. Therefore, the greatest challenge for a process of integration is the willingness of the countries involved to accept the costs that inevitably arise in the short term, and to have the patience to wait for the benefits, which may not always appear immediately. The calculation involves not just material gains but also political risks and benefits that can be difficult to measure.

In this case, it seems that Brazil has decided to cooperate at a more mature stage of negotiations that present a greater chance for positive results. Brazil's agenda, already quite sweeping at the multilateral level and expanded due to the G-20, is causing the country go back to the major powers as an interlocutor for developing countries, a dialog which has brought international prestige in many arenas, especially in Latin America.

Now Brazil must seize the momentum and take advantage of its positive image abroad to diversify its relations more consistently. Insofar as Brazil's leadership role helps the country engage with the major powers, this role must be used as a bargaining chip. As for the European Union, renewed political may be a positive factor. The EU has looked favorably on Brazil's role in the G-20. Solid credibility accumulated over the years shows a country that has gained legitimacy with its trading partners. A more certain, and perhaps more mature, agenda can now be pursued, not necessarily to create a free-trade agreement but at least to initiate a program of realistic, pragmatic cooperation, without the soaring ambitions of the 1990s.

In an interview in early 2010, Celso Amorim, then External Relations Minister of Brazil, declared, "Disagreements over the system of agricultural subsidies continue to exist, but we can reach an agreement by setting aside issues like this one, which must be resolved through the WTO." Clearly, without addressing farm subsidies, any agreement would lose much of its appeal, but perhaps there is nevertheless an opportunity to strengthen the ties between the two blocs at a time when both are experiencing difficulties.

Europe remains an important priority for Brazilian foreign policy and for Mercosur member countries.

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EU-Mercosur Negotiations: the History of a Strategy by Default?

Ramon Torrent

Director of the International Chair WTO/Regional Integration and the DREI – IELPO Project on International Economic Law and Policy of the University of Barcelona (UB). Former Director of External Economic Relations in the Legal Service of the EU Council (1988 – 1998).

1. Introduction[36]

It is often asserted that EU–Mercosur negotiations began in 1999. This is inaccurate. They began much earlier and, in fact, it is their early history before 1999 that is more helpful in order to understand the (lack of) policy behind them. Therefore, this paper will focus particularly in that early history.

Its title uses the comparison[37] between the hardware and the software of a computer and the institutional arrangements (the hardware) and the policies (the software) of political systems, in particular in the area of international relations. If there is no adequacy between hardware and software, the computer (the system of international relations) gets blocked or, at most, operates by default. The comparison applies particularly well to the system of international relations of the EU and its Member States, at the same time very complex and not very powerful. If this hardware is not provided with well-designed and adequate policies, it tends to work by default using built-in software. The comparison can be interpreted as a re-elaboration of the well-known concept of "path-dependency" in political science or of the common-sense idea that policies depend a lot on the institutional setting in which they are defined and implemented.

36 This chapter re-elaborates and updates ideas already developed in "Hacia una nueva etapa en las relaciones Unión Europea – América Latina. Un diagnóstico inicial", R. Torrent and N. Espitalier eds., OBREAL-Publicaciones Universidad de Barcelona, 2005.

37 The comparison is not a new one. I have used it quite often, in different contexts, in the past four years.

2. Late 1980's and early 1990's: the European Commission's initiative to open bilateral negotiations with almost all regions and countries in the world (and also with those of Latin America)

The chronology

In the 1990's, the European Commission recommended to the Council opening negotiations with Mercosur, Chile (one year later) and Mexico (another year later). It is difficult to determine the exact date of origin of these proposals, *i.e.,* the exact moment when the Commission's services began to develop them. But it is common knowledge that these services put pressure on the governments of Mercosur countries to modify the 1991 Treaty of Asuncion in order to grant legal personality to Mercosur and, as a result, to open the possibility of envisaging an interregional agreement "from organization to organization". As this change was made in the Protocol of Ouro Preto in December 1994, the origin of the Commission's initiative for an agreement with Mercosur should be quite prior to this date.

What were the motivations of the Commission's initiative to negotiate a new series of agreements with countries and sub-regions in Latin America?

During the 1990's , the European Community – EC - (alone or jointly with its Member States) embarks on a frenetic race to negotiate bilateral agreements with all countries and regions of the globe: with the countries of Central and Eastern Europe, with countries that emerged from the disintegration of the Soviet Union, with the Mediterranean countries, with countries in Africa, Caribbean and Pacific, with South Africa, with South Korea and with Australia (the only negotiation that was not concluded due to the reluctance of Australia regarding the human rights clause and its possible effects on the regime of its aboriginal population); Commissioner Brittan went so far as to propose a EC-USA free trade area. In some cases, the purpose was to review existing agreements, in others, to reach radically new agreements. What would have been surprising, therefore, is that Latin America would have been left out of this negotiating frenzy. In other words: not too many specific reasons must be sought to explain that Latin America was also included in this wave of new agreements. What would have required a specific explanation is that it had not been that way (and what requires explanation is why Central America and the Andean Community were excluded: both because of their internal regional or national conflicts).

It is an undisputed fact for all connoisseurs of the European dynamics that this negotiating frenzy matches (not to use the expression, more debatable, of "is to be attributed largely to") a progressive loss of coherence in the action of the Commission, especially in matters of international relations. This loss of coherence even increased when, in the new Commission headed by J. Santer, the responsibilities for external relations are distributed to four (sic) commissioners, but already existed in the early 90's, when the new initiatives of the Commission for Latin America emerged.

It was an open secret for those who know the reality of Brussels that all these initiatives in the areas of new international agreements were not taken on the basis of economic considerations but solely on the basis of "geo-strategic considerations" (the reader is freely reading the term ironically or not) of the type "reaction to the fall of the Berlin Wall", "reaction to the disintegration of the Soviet Union", "we must have a new Mediterranean policy", "how are we going to forget Latin America". The adoption of this approach had two main causes: a) the difficulties encountered by Member States to respond, in particular collectively, to an international situation undergoing profound change, difficulties favoring the welcomed initiatives of the Commission, which enable at least the launch of a "political signal in the right direction" (i.e. negotiating trade and cooperation agreements as "politics by proxy", an expression also used in Brussels' inner circles); b) the corporatist and political interest of the Commissioners and the services depending on them, whose prominence was enhanced both domestically and internationally by these initiatives (the prominence that Commissioner Marin reached in Latin America in those years may be recalled, for example).

This whispered secret has at least two empirical proofs: a) in 1996, in the course of the discussion of the negotiating mandate for an agreement with South Africa, the Commission had to recognize, within the Permanent Representatives Committee – COREPER - which prepares the decisions of the Council, that it had not a single page of economic analysis justifying the appropriateness of such an agreement; b) when Commissioner Lamy took office in 1999 as Trade Commissioner, his first request was the compilation of economic justifications for all this extensive network of bilateral agreements negotiated in the 90's; as the compilation was impossible due to the lack of material, this was one of the reasons for his decision to establish an Analysis Unit.

The initiative of the Commission to negotiate a new round of agreements with countries and regions of Latin America began with Mercosur; we should never forget this when considering the fact that these are the negotiations that have led nowhere in terms of economic content of a potential agreement. The essential motivation that existed in the minds of the people who devised the agreement with Mercosur was not, to be true, economic but political and institutional. It was intended to provide, to the new wave of agreements with all countries of the world, a specific contribution: the first "inter-regional" agreement between two regional integration organizations, an agreement that would be the best demonstration of "open regionalism", in a way an "open regionalism squared". This statement can be tested with all those who participated in Brussels in the genesis of the idea (some of them have unfortunately passed away); but can also be tested with all those who, in the Mercosur States, received the pressure of the Commission to confer legal personality to Mercosur.

3. The 1995 EU-Mercosur agreement

The precise meaning of the EU-Mercosur agreement as a "bi-regional" agreement. The initiative of the Commission.

The agreement with Mercosur is not the first bi-regional agreement of the Community either with Latin America or the rest of the world: since the 1980's there already existed the agreement with all countries of Central America (including Panama) and the agreement with the Cartagena Agreement (today Andean Community) and its Member States, as well as the agreement with the ASEAN countries in 1980 (art. 4.4 of which, for instance, is particularly ambitious as it envisages the possibility of coordinating, in its framework, the bilateral cooperation policies of the member States of the Community, even if it has not had an actual implementation).

As conceived initially by the Commission, the novelty of the agreement with Mercosur did not lie in its “bi-regional” character (which, as we have seen, was not new at all) but in the fact that it was the first agreement “from organization to organization” (i.e. without participation of Member States), more specifically, the first agreement between two customs unions, each of which has an international legal personality. Due to the aforementioned, the Commission made conditional the submission to the Council of its recommendation to open negotiations to the granting of international legal personality to Mercosur.

With this obsession in their heads, the services in the Commission made an extremely naive reading of Article 38 of the Protocol of Ouro Preto, which gives legal personality to Mercosur. They thought that the going into force of that provision, following the ratification of the protocol, already transformed Mercosur, as an organization, into an entity like the European Community, capable of signing alone, without being accompanied by its member States, an international agreement full of economic content. Consequently, it recommended to the EU Council the opening of negotiations for the conclusion of an agreement establishing a Free Trade Area (FTA) between the European Community (alone, without its Member States) and Mercosur (alone, without its Member States).

The development of the negotiations

When the recommendation of the Commission began to be discussed within the Council, it was immediately clear that absolutely no EU government (not even the Spanish) supported the initiative to negotiate a FTA with Mercosur. Accordingly, a typical process in the Community decision-making mechanism (especially when decisions must be adopted unanimously by the Council) began to develop: to accept the proposals (or recommendations) of the Commission by emptying them of content up to a point in which all members of the Council can live with the proposal (because, having been emptied of content, it does not disturb or harm anyone). In the specific case of the negotiations with Mercosur, this process led to the postponement of the discussion on the economic content to a second phase (without any predetermined time schedule) and to reduce the first one to the setting-up of an institutional structure (but containing no legal commitment or financial obligation).

Parallel to this emptying of economic content, a second process developed, strictly legal, political and institutional. The Legal Service of the Council (and, in particular its director responsible for international economic relations and for Latin America) raised the issue of who should be party to the agreement: only the Community and Mercosur as organizations with international legal personality? With the question came the answer: the Community and Mercosur should both go accompanied by its Member States. Three main reasons motivated this answer, two of which were legal and one political:

a) The first legal reason referred to Mercosur. It was not necessary to be a legal expert on Mercosur to understand that, at most, Article 28 of the Protocol of Ouro Preto conferred only an embryonic legal personality to Mercosur and, therefore, its four Member States should also sign (and not only “also” but “mainly”) the agreement issued from the negotiations recommended by the Commission.

b) The second legal argument concerned the distribution of powers between the European Community and its Member States. Opinion 1/94 of the Court of Justice of the European Communities on the limits of the exclusive competence of the Community in relation to the WTO agreements (a binding Opinion) had rejected, a few months ago (November, 1994), the argument of the Commission, and had accepted in substance the Council's thesis, setting relatively clear limits to such exclusive competence (and recognizing that Member States were able to sign the WTO agreement). Applying the criteria established by the Court, the thematic content of the recommendation of the Commission to open negotiations with Mercosur exceeded the limits of the EC's exclusive competence. Consequently, the participation of Member States with the Community in these negotiations and the agreement that resulted from them was also justified.

c) The third reason was political. If the agreement on the opening of negotiations, as recommended by the Commission, needed to be emptied of economic content (had to have zero "depth"), it made sense to "broaden" it in terms of the areas that could be at least discussed within their institutional framework. If Member States also signed the agreement and were integrated as such within its institutional framework, the possibility of future developments (or simple contacts) was not confined to areas of Community competence but also extended to those of States' competence.

This argument of the Council's Legal Service was accepted first by the Spanish authorities (who were to hold the Presidency of the Council in the second half of 1995, a period in which, as it was, the negotiations were to be closed), then by the late Carlos Camino, responsible for the issue in the cabinet of Commissioner Marin, and finally by the Director for Latin America in the Commission and his general Director. The difficulties came in the final joint meeting with the Commission's Legal Service, which was very reluctant to accept the idea that Member States accompany the Community in the agreement. It was at this meeting where it was decided to include in the agreement the area of political dialogue (area where the competence of Member States was not discussed and which at first had to be the object of a separate Declaration) in order to facilitate the acceptance, by the Commission's Legal Service, of the fact that Member States would also be Party to the agreement, together with the Community.

It is thus clear that the 1995 "EU-Mercosur" agreement is quite different from the one intended by the Commission:

a) First, instead of being an agreement full of economic substance, it is an agreement absolutely empty of it.

b) Second, rather than an agreement "from organization to organization", it is an agreement with Member States on both sides, the European and the American; it is an agreement between the European Community <u>and its Member States</u> and Mercosur <u>and its Member States</u>.

c) Therefore, if a policy behind the Commission's initial proposal existed, it disappeared in the course of the discussion within the Council and in the course of negotiations.

Two pieces of additional information may be helpful in order to understand the (lack of) policy behind the Mercosur – EC agreement of December, 1995:

a) As already reported, the agreement was actually negotiated between the EU Council and the Commission. The Mercosur governments passively waited for the outcome of this negotiation and simply signed the agreement. In fact, the only point that was emphasized was the one on the date of signature. As Brazil's President Cardoso could not be present in the collective signature in Madrid, but was enthusiastic about the signature of the agreement, instead of following the usual practice in bilateral agreements consisting of all signatures taking place at the same time, a signature period was established in order to allow him to sign the agreement on behalf of Brazil later than the rest of the countries in the course of a trip to Madrid.

b) The second piece of information is even more significant because it shows the degree of passivity of governments and institutions of Mercosur in the negotiations of the agreement: there is no decision of the Common Market Council (CMC) of Mercosur approving the agreement, although Mercosur as such (*i.e.* as an international legal entity) is also Party to the agreement (together with its Member States) and the interim agreement (which allowed to anticipate the implementation of certain institutional provisions of the framework agreement) is an agreement between the European Community and Mercosur (with no Member States on either side). This shows that, in fact, both the framework agreement and the interim agreement were finalized in Brussels and passed directly to the signature of the Mercosur governments (which did not even bother to comply with the formality of adopting a CMC decision in order to approve it as Mercosur).

Isn't this the history of an agreement by default?

4. The re-launching of the EU-Mercosur negotiations in 1999 and the evolution since then: has the strategy by default become a conscious and well-designed strategy?

A couple of years after the signature of the first EU–Mercosur agreement, a series of official visits by European Heads of State and Government to Mercosur countries, in particular the French President Chirac and the Spanish Prime Minister Aznar, gave a new dynamism to the EU–Mercosur relations. However, the dynamism is more institutional than full of economic and political content: the two main parallel outcomes are the organization of bioregional EU-Latin America Summits (the first one held in Rio de Janeiro in June, 1999) and the re-launching of negotiations with Mercosur.

In the parallel case of Mexico, the negotiations in order to "fill up" the empty-of-content 1997 framework agreement could be developed "within" that agreement, because it gave powers to the Joint Council to adopt a decision with legal effects and full of economic content (adopted eventually in 2001). This was not the case for Mercosur: similar powers had not been conferred to the Joint Council. Therefore, negotiations for a full-fledged new and additional agreement had to be launched.

The negotiations developed but their finalization seemed always elusive. A decisive moment came after the summer of 2004. Commissioner Lamy, in spite of his reluctance for bilateral agreements and the preference he accorded to multilateral negotiations in the WTO's framework, was willing to "finalize the homework" and bring to an end the negotiations with a deal not very ambitious but that would have had some effective content[38]. The Government of Brazil rejected the envisaged deal (and that of Argentina would also have done so, in all likelihood): in its opinion, it was better to face what could be a decisive point in the WTO Doha Round Negotiations with "free hands" and without a previous EU–Mercosur deal[39].

In the fall of 2006, the European Commission submits to the Council its Communication "Global Europe: Competing in the world". It attempts to redefine the European Community's trade policy making it a) more offensive; b) more selective, in particular in terms of partners, and c) definitively "legitimizing" bilateral/bioregional negotiations as a trade policy tool, even if the "primacy of the multilateral system" continued to be asserted.

In 2010, EU–Mercosur negotiations were re-launched. According to the European Commission's own presentation,

"During 2009 and 2010, the EU and Mercosur conducted a process of informal contacts to take stock of the situations and assess if the conditions for a successful re-launch of the negotiations were now present. Taking into account the results of this informal dialogue,…the Commission decided in May 2010 that it should be possible to re-launch the negotiations.

The 2010 EU-LAC Summit took place on 18 May 2010 in Madrid …. The Summit… resulted in a decision to re-launch negotiations for an EU-Mercosur Free Trade Agreement, political approval to the conclusion of a comprehensive trade agreement between the EU and the Andean Countries (Peru and Colombia) as well as the endorsement of the conclusion of the negotiations between the EU and Central America.

The negotiations are based on a region-to-region approach and aims at an ambitious and balanced result, going beyond the respective WTO obligations of both sides. The agreement will have an extensive coverage, although product and sectorial sensitivities on both sides will be taken into account. It will cover not just goods, but issues such as services, investment, government procurement or trade and sustainable development.

The EU-Mercosur FTA will also aim at ensuring adequate protection of intellectual property rights and geographical indications, effective competition policies and will include a special chapter on sanitary and

38 For the meaning to be attributed to the notion of "effective content", see R. Torrent, "Regional Integration Instruments and Dimensions" in Bridges for Development. Policies and Instruments for Trade and Integration, R. Devlin and A. Estevadeordal eds., Inter-American Development Bank, 2003

39 Therefore, the misappraisal by Brazil of the state of the WTO Doha Round negotiations and the wrong belief that they could have a positive outcome had very negative effects on the possible finalization, in 2004, of the EU – MERCOSUR negotiations.

phytosanitary standards. It will also establish an effective and binding dispute settlement mechanism to help resolve trade differences over in the EU-Mercosur relationship".[40]

Does this re-launching of negotiations transform the strategy by default into a conscious strategy? It does not seem so if we look at the developments since, both from the overall Latin American and the specific Mercosur perspectives. Again, it is better to look at the facts: a) the agreement with Central America, reached in the May 2010 EU – LAC Summit, has not yet been concluded (in November, 2012) in what is certainly a proof of the "interest" that exists in its application (something that should not be a surprise when one considers that the Bi-regional Agreement with Central America on Political Dialogue and Cooperation solemnly signed in Rome in December, 2003 has never gone into force… -sic-); b) the EU's "pro-regional" approach to Latin America will never again be credible after the transformation of the ongoing negotiations with the Andean Community into an agreement with only Peru and Colombia (on the contrary: now, many in Argentina, for example, think "when will the EU do the same and attempt to turn the negotiations with Mercosur into negotiations only with Brazil?); c) the negotiating positions and offers in the EU–Mercosur negotiations after their re-launching remain essentially the same that existed when the negotiations were suspended; d) nobody has a clear idea of how to accommodate into the negotiations the entry of Venezuela in Mercosur (a problem quite unmanageable in itself, as proven by the fact that the entry has become effective in August 2012 without Venezuela having adopted internally Mercosur's *acquis* in the pre-established deadline and with no clear prospect of ever adopting it).

The problem with the strategies by default is not so much that they exist and are implemented, but the fact that they are the excuse for not defining new, well-conceived, alternative strategies that could succeed. The EU–Mercosur negotiations seem a perfect example of this.

40 See the link:
<http://ec.europa.eu/trade/creating-opportunities/bilateral-relations/regions/MERCOSUR/>.

Much more than trade and investments: Is the future Mercosur-European Union bi-regional agreement a contribution toward effective global governance?

Félix Peña

Director of the Institute of International Trade, Standard Bank Foundation and Director of the European Studies Centre at the National University of Tres de Febrero.

1. Some preliminary remarks about the relevance of a strategic idea

Since its origin, the idea of a bi-regional negotiation between Mercosur and the European Union has been conceived as part of a broader global strategy of both regions with strong political and economic dimensions. The main idea was to develop a building block for global governance upon the cooperation of two regions with significant links and common interests between them and, at the same time, with clear democratic values and social concerns. Promoting trade and investments was important, obviously. It was even seen as crucial, but not necessarily as the only reason to undertake such complex negotiations - nor even the main one.

With new global and regional trends shaping up the international landscape, the original idea seems to be valid, yet. Even with the deep changes that we are observing in both sides of the Atlantic, including the metamorphosis that is evolving in the European Union, as well as in the Mercosur integration processes, the idea of sharing efforts to build sustainable conditions for a regional governance that could strengthen the so required global governance efforts, is today as valid as it was more than twenty years ago.

The recent Summits that took place in Brussels, Belgium and Mendoza, Argentina, on the same dates (June 28 and 29, 2012) could be perceived on their own as the beginning of new phases – and very different processes - of this joint work to ensure a reasonable degree of regional governance, in each case according to their unique realities.

In that context, the conclusion of the bi-regional Mercosur-EU agreement should allow both regions to engage in an ambitious and equilibrated win-win common process. The result of this long-term process would be to multiply all kinds of economic and social networks between these two regions which have many interests in common, deeply rooted in the past. As such, this inter-regional connection will imply a significant contribution to the development of a more rational global order.

2. Conditions for a successful bi-regional negotiation

Political will and strategic vision that reflect the concrete national interests; external conditions that generate the perception of economic and political challenges, even of threats; and a network of cross-interests in the economic and social levels are some of the basic conditions that explain the origin of the integration agreements between countries and, eventually, between regions.

These are agreements that, regardless of their modalities and of the market integration techniques employed - for which there are no single models -, are subscribed voluntarily with the idea of building a permanent relation among sovereign nations. They are multidimensional in scope since at the same time they have political, economic, and even social implications due to their effect on the level of welfare and on the expectations of the respective populations.

At least, this is indicated by five decades of experiences developed not only in Europe - so far the most successful integration process in terms of sustainability and depth - even with its current well-known strong difficulties - but, also, in other regions including South America and the Mercosur regional space.

The presence or the lack of such conditions, as well as their respective weight, may account for the successes or failures in the history of integration processes.

However, it should also be noted that the above-mentioned conditions have a dynamic character and tend to change with time. This is the reason why the enthusiasm and energy present at the conclusion and signature of an integration agreement are weakened by changes in the original circumstances, as well as by the perception - in one or all of the partners, especially in the citizenship - of the actual or expected future results.

Additionally, other personal facts become relevant to explain the origin and strength of the respective agreements. Political leaders and negotiators with different interests, priorities and qualities may help to explain the founding moment of an integration process - or of an institutionalized strategic association between these two regions - as well as the capacity to overcome changes, those other moments when inertia prevails or when the necessary drive to continue building what was originally imagined begins to wane.

The previous thought seems to apply in the case of negotiations for the establishment of a bi-regional strategic association between Mercosur and the European Union. One of its main instruments would manifest, precisely at the level of the economic and commercial integration between both regional geographic spaces, in the shape of a free trade area, as established in article XXIV of the GATT-1994.

After almost twenty years since the initial steps were taken for the advancement of a special bi-regional strategic relation, and after ten years of the inception of the formal negotiation process, in practice, the situation reached a standstill in October 2004, which has lasted until the negotiations were re-launched at the Madrid EU-LAC Summit (May 2010).

Since then, some facts and especially political pronouncement could be considered as indicators of the presence of the above-mentioned conditions (political will and strategic vision), which are necessary to create a stable strategic association with an economic integration objective, in this case between two institutionalized regional geographic spaces. It is yet to be seen if they carry the necessary weight to produce the expected results.

There are various tracks that will enable to continue building on the idea of a bi-regional Mercosur-EU association as a key component of a broader strategic alliance between Europe and Latin America.

A first course of joint action relates to the great challenges originated by deep changes that are taking place worldwide. In this sense, it is to be expected that the future bi-regional agenda (EU-LAC, as well as Mercosur-EU) focuses the joint work on the main issues that have a bearing on global governance. Due to the number of countries involved, the nations from both regions may play a relevant role, provided they are able to coordinate their positions in accordance with their diverse national and regional interests. A top priority, among others, is the bi-regional cooperation for the creation of conditions that guarantee peace and international security. This would imply strengthening the multilateral system, within the scope of the UN, and the yet to be confirmed effectiveness of the G20 mechanism. However, this implies, also, that both regions can play an active role to ensure the conclusion of the Doha Round, as well as to achieve a reasonable outcome from the negotiations on climate change. A third relevant issue of the bi-regional agenda relates to the role played by both regions in the fight against organized crime and the different modalities of international terrorism.

A second track relates to specific issues of the reciprocal relations and, in particular, to the idea of a bi-regional strategic partnership conceived as a gradual, long-term process that will require the conciliation of multiple diversities through variable geometry and multi-speed flexible working methods and instruments. Among them, the priority is the creation of a network of multiple association agreements of a preferential nature and with a deep strategic purport. The EU has signed, already, preferential agreements with Chile, Mexico, Peru, Colombia and the Central American countries. Those are the same countries that have concluded the FTA with the United States and some of them, more recently also with China, among others.

In the specific case of the European Union and Mercosur, reaching a bi-regional agreement will not be an easy task. It will require much political determination - on this regard the signals given off two years ago in the Madrid Summit should be considered as very positive - as well as creativity in the technical level to achieve commitments that imply a reasonable balance between interests that appear quite different at times. The knots that need to be untied are well known and have been thoroughly diagnosed on both sides. Some of them were manifested in the negotiations for the Doha Round, a fact that generated links between the bi-regional and the global multi-lateral negotiations. The issue of agricultural products - including the processed ones- is not the only one. However, frequent declarations in EU member countries with strong agricultural interests indicate that, still, it is necessary to overcome many resistances – real or apparent - will be necessary to overcome many resistances -real or apparent- in order to reach an agreement.

Furthermore, it should be noted that this is not an isolated negotiation, neither would be the preferential trade agreement that is eventually achieved. On the contrary, to understand the Mercosur-EU negotiation in its full dimension it would be necessary to link it - from the perspective of both regions and of its respective member countries - to the network of agreements being promoted by the European Union with several countries and those that could be also negotiated in the future by Mercosur.

For example, the idea of a Mercosur-China FTA has been proposed by Wen Jiabao, the Chinese Premier on his recent videoconference with Mercosur Presidents (Buenos Aires, June 25, 2012). This is not a surprising proposal. Keeping in mind the deep changes of the map of the global economic competition and the actual financial crisis, whose effects still continue to unfold, China's economic prominence will eventually grow in the world in general and in Latin America in particular. This is perceived as a great challenge by several companies doing business in the region - certainly by the European ones but, also, by those of the region itself. A sector particularly vulnerable to the effects of future Chinese competition is the automotive one, which in Mercosur has been characterized by a strong European presence. The investments and the demand for equipment and capital goods that will result from the discovery of hydrocarbon sources in the South Atlantic may be another driving force behind the interest on the European side to re-launch the negotiations with Mercosur and to conclude them, promptly.

3. Some specific issues

An aspect that will require particular attention is how to approach in this bi-regional negotiations the requirement that the scope of a free trade agreement should comprise what is "substantially all the trade" (article XXIV - inc.8 of GATT-1994). It was a delicate matter in the Mercosur-EU negotiating stage that ended in 2004. It is, perhaps, the specification of such requirement - i.e., the definition of what is considered to be "substantial trade" - that may offer a key for the degree of flexibility that the commitments and instruments agreed in the bi-regional agreement may have if there is an intention of achieving a reasonable balance of the different interests at stake . Such flexibility might be even more necessary if we take into account that if the bi-regional negotiation were to be concluded soon it will happen before the eventual end of the Doha Round.

It is crucial to bear in mind that there is no legally binding definition as to what should be understood by “substantially all the trade”, to appreciate the consistency of an agreement that establishes a free trade area within the GATT rules. Qualitative and quantitative criteria may be used. In fact, several proposals have been advanced on this issue both by countries which are now members of the WTO and by experts. However, no concrete definition exists to bind those countries or customs union negotiating a free trade zone. It is also a known fact that the efficiency of the procedures established by the GATT-WTO system to ensure the consistency of the different modalities of preferential trade agreements with the commitments in the multilateral plane is far from ideal. This is the reason why in the case of the negotiations between India and the EU some specialists argued that the concern for the requirement of what is understood as “substantially all the trade” should not be exaggerated. They even suggested that in such agreement some relevant sectors should be excluded, specifically the agricultural and the automotive sectors.

The creation of a preferential trade and economic space between different countries or regions does not necessarily need to be concluded in one stage, as would be the case if it was required for example to guarantee in a period of time the liberation of 90% of the trade of originating products. It would be possible thus to imagine such creation as a gradual long term process –i.e. more than ten years- in which the first preferential stock -that may be qualified as “significant” in a valid interpretation of the term “substantial”- is gradually increased through the application, for example, of different modalities of evolutionary clauses. Or the more sensitive sectors or products to be included in the liberation schedule could have special escape clauses.

In the case of an agreement Mercosur-EU, a gradual process of creation of a bi-regional preferential space consistent with GATT rules could be bolstered by including clauses aimed at linking the different agreements that form part of the network that the EU is creating in the region, based on the agreements signed in due time with several Latin American countries, as mentioned before.

This would enable to provide European firms and businesses networks operating in different countries -for example Mercosur plus Chile and Peru- more appropriate conditions to develop productive integration strategies. Additionally they could benefit from the reduction of duties and of any future improvements on the quality of the physical connectivity between the different markets. It would also help to articulate the preferential trade strategies with the other issues of bi-regional cooperation that were included in the action plan approved at the Madrid Summit including, among others, those pertaining innovation and technological advancement, social cohesiveness, climate change, energy and bio-diversity.

In the investment field the agreement could be also innovative. First giving priority to the idea of development of bi-regional value chains oriented toward third markets. Innovation, technical progress, small and medium size firms, should be three key elements of a strategy of bi-regional cooperation to promote production networks in some sector in which it is possible to identify common interests, especially if the global markets opportunities are taken in consideration. And second, through the introduction of innovative approaches for investment protection policies and mechanisms.

One way to do it could be to relate the access to investment protection rules –for example, those that could be included in the bi-regional agreement- to the acceptance by interested firms of the prescriptions of a code of conduct with norms related to social responsibility, among other points.

4. The risks of a failure in the negotiations

Is it possible that once that the Mercosur-EU negotiations after been re-launched after the Madrid Summit could eventually suffer more delays, become stagnant once again or simply fail? Having in mind what happened since May 2010, all these are plausible scenarios, either because of insufficient political incentives, or the technical difficulties to untie the knots that are still pending, or because of a lack of consensus regarding new approaches to commitments and instruments that could be –as mentioned before- flexible enough and at the same time are consistent with WTO requirements.

The costs of not concluding the negotiations could be very high this time. If there is sufficient political determination and technical creativity it would be difficult for a country -or region- or sector to be willing to assume the consequences of a failure. One outcome could be that instead of a bi-regional agreement the final result is something similar to what happened with the Andean Community of Nations. Due to the inability to move forward in the joint negotiation, the EU opted to conclude agreements with two countries, Colombia and Peru, even without excluding the possibility that the other countries might be incorporated at a later date.

If this eventually happened in the case of Mercosur, it would imply a strong blow to the fundamental idea of building among its members, a common regional space with a deep strategic and political purport and to its natural consequence, which is precisely to negotiate with one single customs territory, with no harm to the flexibilities that it may have, taking advantage of the opportunities provided by article XXIV, clause 8, a, of GATT-1994. A failure in the negotiation that could not be attributed to the EU would imply a fracture within Mercosur between those countries that are willing to negotiate and those who are not, whatever the validity of the arguments used to justify this position. It is a fracture that eventually could have political implications having in mind the main strategic ideas –including the nuclear field- that lead in the 80's to the launching of the Argentina-Brazil cooperation and integration process, that was then enlarged to what is today known as Mercosur.

In a certain way, the high political costs of an eventual failure of the Mercosur-EU negotiations would indicate that the moment of truth has arrived for both the bi-regional relation, after such a prolonged "courtship", and for Mercosur's own integration process.

5. Some conclusions about a possible and optimistic scenario

It would be reasonable to imagine as a possible and probable scenario the full conclusion of a bi-regional agreement in which both parties have invested much political capital, as was reflected by the results of the Madrid Summit. But this scenario will require a lot of flexibility in the instruments that will be used. And also it will require a strong political determination on both sides of the Atlantic.

Such scenario - obviously an optimistic but possible one - would allow to creatively tackling other unresolved issues of the bi-regional relation or that involve countries from both regions, including those issues of great complexity or that have been dragging on for a long time. A bi-regional strategic partnership agreement such as the one being sought may contribute a common ground and an opportunity for an imaginative approach to all those pending issues, even the most politically sensitive and complex ones.

In any case, these negotiations will entail a remarkable coordination effort both among Mercosur member countries and also among EU members, including the Commission and its various internal areas. An efficient articulation of strategic visions within each one of the countries on both sides will be required as well. One example, among others, is the diversity of interests on the European side in relation to, among other sectors, agriculture, automotive industry, capital goods and services.

Additionally their firms would benefit from the reduction of duties and any future improvements on the quality of the physical connectivity between the different markets. It would also help to articulate the preferential trade strategies with the other issues of bi-regional cooperation that were included in the action plan approved at the Madrid Summit including, among others, those pertaining innovation and technological advancement, social cohesiveness, climate change, energy and bio-diversity.

It would be a scenario that could imply a positive contribution to the more difficult task of assuring a reasonable level of global governance, through the gradual construction of positive cases of regional and inter-regional governance.

Perhaps this would be the most important contribution of an eventual EU-Mercosur bi-regional agreement to the idea of building the conditions for a more stable global order, even if it doesn't comply, at least in its first period of implementation, with all the requirements of text book definitions about what ought to be a free trade area or with a more orthodox interpretation of the ambiguous article XXIV of GATT-1994.

More than trade

The possibility of a win-win: the liberalization of services between the Mercosur and the European Union

Welber Barral

Professor of Trade Negotiations at the Rio Branco Institute (Diplomats' Institute) and Senior Partner at the Barral M Jorge Consultancy.

1. Introduction

The negotiations for an economic cooperation agreement between the Mercosur and the European Union (EU) were initiated in the mid-1990s. Apart from the traditional foreign trade of goods, negotiations comprise, among their main themes, the trade of services, responsible for over 50% of the GDP of both regions, as well as investments, government procurement and intellectual property.

The first market access offer was made in July, 2001. In October, 2004 negotiations were almost concluded, but a consensus could not be reached on certain aspects central to the negotiation, among which automotive and service sectors stand out. Since then, the two blocks have maintained an open channel for negotiations, and in May, 2010 talks on the subject were resumed. In the last meeting between Mercosur and the EU, in March, 2012, the working groups made progress on the texts about rules – competition, trade remedies, solution of controversies, government procurement, investment, rules of origin, technical barriers, sanitary measures - but the exchange of specific, concrete offers remains pending.

The difficulties faced in these negotiations derive from various factors, among which the complexity of both blocks involved in the initiative and of all the countries that compose them is noteworthy. Yet, both regions have equally significant factors to motivate such an agreement. In the Mercosur case, a relevant factor of incentive to pursue the negotiations is the fact that the EU constitutes one of the main trading partners of the block. Whereas for the EU, the incentives lie on the greater access to the consumer market of Mercosur, especially the Brazilian market, for its industrial products, services, direct investments and government procurement.[41]

Among the main obstacles to the negotiations lies agriculture. The Mercosur's requests in this area were not met, while the EU requests on services, particularly banking, telecommunications, transports and insurance, as well as investments, government procurement and intellectual property were also not fulfilled.

This article is going to analyze the proposals and prospects of the negotiations between the blocks in the services sector, as well as the benefits that could arise from greater trade openness in this sector.

2. International Trade of Services

In the last years both modern and less advanced economies have observed the growing relevance of services in the international trade transactions and its impact on development. According to the World Trade Organization (WTO), services trade today represents 60% of the global production, 30% of job creations and 20% of global trade. In the last five years, the international trade of services rose by an average annual rate of 9%.

World Exports of Goods and Services, 2005-2010 (US$ Billion and annual variation)

	Total Value	Annual Variation (%)			
	2010	2008	2009	2010	2005-2010
Goods	15,238	15	-22	22	8
Commercial Services	3,665	13	-12	8	8
Transports	783	16	-23	14	7
Travels	936	10	-9	8	6
Other Commercial Services	1,945	13	-8	6	9

Source: World Trade Report 2011, WTO

In 2010 the global exports of goods increased by 22%, going from USD 12.5 trillion to USD 15.2 trillion, while the world trade of services generated USD 3.67 trillion in 2010, representing an increase of 8% in 2010 after dropping 12% in the 2009 crisis. About 80% of the USA and the EU GDP come from the

41 Regarding services negotiations, some aspects should be noted: i) services trade offers are made by member-countries; thus, there is no single harmonized commitment for the Mercosur as a whole; ii) there are no schedules of "erasure" in the offers, which are focused on the elimination of restrictive measures; iii) the offers comprise a series of measures applied to each sector, for which there is an indication of some level of commitment; iv) the negotiations are based on the methodology (and text from the agreement board) of the GATS, which implies that the involved parts can commit partially in terms of sectors, and that there is no formal obligation, so the parts commit in all the services sectors included in the negotiation; v) each part will be able to negotiate the sectors in which it can make a commitment, and for each sector or sub-sector included in its offer, the other parts can also commit partially; vi) the greater emphasis of the commitments is on consolidating a regulatory situation, compromising to maintain the regulatory status quo. In: Marconini, 2007.

services sector and together they represent more than 60% of the world exports. The European block is the main exporter of services, totaling 684 billion dollars, which represent 25% of the world services trade, followed by the USA (18%), China (6%), Japan (5%) and Singapore (4%).

The services exports from Latin America grew 11% in the same period, reaching USD 111 billion, but the imports grew twice as fast (23%), reaching USD 135 billion. In the case of Brazil, both imports and exports grew faster than the average for the region (15% and 35% respectively), with a particularly fast growth in the imports of transport services (42%) and travelling (52%), partially due to the Real appreciation.[42] The exports of services from India, Brazil and China grew more than 10% per year in the last decade.[43]

3. Liberalization of Services

The services sector is important both to the European and the Brazilian economies, as well as other Mercosur's members.

Brazil has become, in the last decades, an economy in which the services sector represents almost 75% of the formal employment and accounts for over half of the GDP. According to data from the Ministry of Work and Employment and the Trade and Services Secretariat, the services sector absorbs more than half of the total registered workers of the country and accounted for 68.5% of the GDP in 2008. The Brazilian Institute of Geography and Statistics (IBGE) - managing agency of the National Classification of Economic Activities (CNAE) - published in 2009 the latest version of the Services Annual Research (PAS),[44] which estimated that the sector created a R$ 745.4 billion revenue and was the sector that received most of the foreign direct investments: almost 45% of foreign investment in the Brazilian productive sector.

As it occurs in other Mercosur member countries, the services sector plays an important role in the Argentinian economy. In 2005, the sector was already responsible for 56% of the Argentine GDP, a quota that increases to 62% if the sub-sectors of energy, water, gas and constructions are taken into account. The sector's growth is one of the main reasons for the outset of economic stability after the crisis initiated in that country in the beginning of the last decade. In 2009, peak of the international financial crisis, the sector grew 3.2% - against a 3.5% recession in the goods sector - which maintained the Argentine GDP growing.

In the case of Uruguay, currently the services sector represents 65% of the GDP, with a significant increase of its importance since 2005. According to the National Chamber of Trade and Services of Uruguay, the sector is responsible for the creation of more than 60% of the private jobs in the country, and the sector's workers have, on average, the highest payment rates of the economy.

As for Paraguay, the services sector is responsible for about 50% of the GDP and employs around 53% of formal labor.[45] During the last decade the participation of the sector in the GDP remained

42 World Trade Report, 2011.

43 Gootiiz & Mattoo, 2009.

44 The financial services are not considered in these statistics.

45 Data from 2004, presented in the Trade Policy Review Paraguay, WTO.

constant, while the participation of the secondary sector has been reduced and the primary sector's participation have increased.

In the European case - with the exclusion of the financial sector - the remaining services sectors comprised the main activity of 24.5 million firms in the EU in 2005, generating a business turnover of around € 11.974 billion. These companies produced an aggregated value of € 2.991 billion and employed 74 million people, constituting the main employer of the block.[46] In 2007, the sector accounted for 70.7 % of the European GDP. In the same year, the EU held the largest individual portion of the international trade of services, and the services sector accounted for 86% of the FDI flows to the block.

Several studies, conducted mainly within the EU sphere - due to the progresses in the liberalization of services trade in this block recently - show the amplitude and the depth of the effects that such liberalization can have on the national economies. The results show, for example, that an expected consequence of the greater liberalization of services is an increase in the average European consumption of between 0.5 and 1.2% (De Bruijn et al. 2006),[47] possibly reaching 1.5% if the FDI increase is included. These macroeconomic effects may seem relatively modest. However, expressed in terms of the European GDP in 2004, these measures would add 35-95 billion euros to the GDP of the region.

Breuss and Badinger (2005)[48], on the other hand, concluded that the liberalization would not directly affect productivity, but competitiveness, which in turn has positive impacts on job creation, investments and, consequently, productivity.

In general, the legal changes intensify competition and force companies to reduce prices - which benefits consumers, governments and companies, both within and out of the services sector. The competitiveness reduces the costs and increases productivity. In other words, the economic effects are generated by the greater intensity of competition and by the reduction of costs in the EU's services sector.

But liberalizing a labor intensive sector is not easy. When the liberalization of services was taken to the agenda of multilateral trade debates, developing countries - especially Brazil and India - opposed the initiative, fearing to lose competitiveness.

Indeed, the matter is not an easy one to solve within the regional sphere. That is because the complexity involves not only the reduction of tariff barriers, but also changes in the legislation and domestic policies of each country. Policies in the services trade many times play the role of non-tariff barriers and include prohibitions, quotas and discriminatory regulations.

In the next item, the proposals made in the Mercosur-EU sphere of negotiations for the liberalization of services between the two blocks will be analyzed, seeking to identify their key aspects.

46 Eurostat. Statistic in focus. 78/2008.

47 Citado em Munich Personal RePEc Archive, 2006.

48 Citados em Munich Personal RePEc Archive, 2006.

4. The Services Sector in the Mercosur-EU Negotiations

Regarding the services theme, both the Mercosur and the EU presented offers for negotiations in 2004.

The Brazilian offer differed substantially from that of the other Mercosur members, in that Argentina, Uruguay and Paraguay had already more liberal offers, consolidated in the WTO since the Uruguay Round ten years prior to these. Brazil made an offer that was better in very few aspects than what was already made in 1994, at the WTO.

The following are among the main elements of the Brazilian offer in services, from October 2004: i) in the horizontal commitments Brazil maintained the same restrictions that were made in the Uruguay Round: the movement of people remained restricted by the provisions of the Brazilian traditional legislations; ii) the commercial presence and investments also remained unchanged from the offer made ten years before at the WTO: the necessity of any investment or presence passing through the Central Bank, the requirement of accomplishing the norms of the Civil Code, the possibility of joint ventures and consortia in the provision of services, iii) in professional services, Brazil maintained the same offer in great measure, and aggregated the computer industry and related sectors; iv) in communications services, Brazil aggregated postal services; however, the offer made reference to the current legislation, without clarifying what happens to the monopoly of the Brazilian Post and Telegraph Company (ECT); in telecommunications, Brazil reflected the national regulations which is relatively liberal; vi) in construction and engineering, Brazil improved the 1994 offer and committed without restrictions; vii) in the distribution services, Brazil added services by commission agents – without restrictions on the commercial presence of foreign companies, distributions services on wholesale and retail, as franchising services – all without restrictions for the establishment, but, without commitment to the provision, as long as it happens outside the country; viii) environment services, which were not included in the 1994 agenda, were added; ix) in tourism, Brazil added items that have been excluded in the last offer: services of travel agencies and tour guides; however, a reference to subsidies to national firms operating in the North and Northeast regions of the country remained; x) in recreational services, Brazil only added sports, which were not included in the previous offer; xi) in the maritime transport services, Brazil included an offer equal to the one presented in the negotiations that took place after the Uruguay Round.[49]

Brazil has not included education services, other types of transportation, health and social services in its offer. Regarding financial services, the main aspects of the offer were: i) there is no consolidation without restrictions of commercial presence of banks and financial institutions; ii) regarding the consumption abroad, the horizontal norms remain, which indicate that a consumer of Brazilian financial services may 'consume' abroad if the funds are also gained abroad or legally transferred there, provided it is regarded to individuals or non-financial corporations; iii) regarding the insurances sector, the contraction of insurances abroad was allowed on certain cases, for risks which cannot be covered by the country or that are not convenient for the country; iv) regarding the trans-border banking trade, the final offer did not contemplate the consolidation of the possibility of loans and leases provided they are people not affiliated with financial corporations.[50]

49 Marconini, 2007.

50 Marconini, 2007.

The EU's offer is also divided in two parts: a horizontal part, with measures applied to all services sectors, and a sectorial part, with specific measures. The horizontal share of the offer (investments, movement of people etc.) is virtually equal to the list consolidated at the WTO in 1994, only a few technical details were improved, more restrictions added and regulatory measures established – most of which are related to the entrance of new members to the EU.

In terms of public services, the EU indicates that these services "may already be or may become subject to monopolist rights or to the rights of exclusive service providers" and are related to several sectors; it is also indicated that this may occur on a state, municipal or provincial levels, but without giving further details. Regarding the movement of people, the EU made the distinction between categories clearer, with the possibility of the movement of independent professionals who comply with the basic regulations for any professional (certificates, contracts, etc.). However, there is nothing exceptional for Mercosur, nothing that is not also being offered to other countries.

On the sectorial share of the offer, the following points should be noted: i) professional services: almost half of the offer refers to professional services, but there are restrictions, besides the usual requirements related to certificates, titles, formation, etc.; ii) communication services: the EU added postal services since 1994, however full of restrictions and with no preferential treatment for Mercosur; iii) constructions and engineering: Malta and Hungary did not commit to absolutely anything and older members, such as France, included clarifications that can indeed be seen as new restrictions (it would not be possible to add restrictions); iv) in the financial services category, the EU offer presents a wide range of restrictions, starting with the insurances sector, in which the provision is, in many cases, limited to companies with commercial presence in the EU.

These were the last proposals by the two sides in the services theme. Since the beginning of negotiations, there have not been other attempts to improve the offers or to present new ones. In the following item, considerations concerning the aforementioned offers and the perspective for a liberalization of services within the Mercosur-EU dialogue shall take place, leading to a conclusion on the theme.

5. Conclusion

As it can be seen, the trade in services has been increasing in importance not only within domestic economies, but also in the international trade, be it multilateral or regional. The very characteristics of the sector impose some difficulties to the process of liberalization; however, many benefits are expected to be generated.

Among the difficulties, the lack of homogeneity between the economic sectors – or even within them - can be pointed out. This is due mainly to the differences in terms of competitiveness among the sectors. Therefore, there is more than one perception of the risks and opportunities involved in the negotiations and of the public policies which can weaken or strengthen them, both within the Mercosur as well as within the EU.

In the Brazilian case, for example, the agricultural sector, which is actually more competitive in various levels, has been more privileged in the Brazilian trade negotiations, seeking to increase its markets. Meanwhile, the industrial and services sectors are more heterogeneous in terms of composition and levels of competitiveness. Because of this, there is no consensus on trade liberalization.

Besides these issues, negotiations on the trade in services between the Mercosur and the EU comprise the consolidation of the regulatory status inside each block. It is necessary to negotiate with caution, because it is not only about liberalizing, but also about avoiding a commitment to undesirable regulatory regimes. That is why the negotiation in a specific sector must take into account whether its regulations are still in transaction or have not been reviewed or improved yet. In any other way, this may create problems in the future.

It is possible to make some comparisons between the offers made by the Mercosur and by the EU. As Marconini (2007) claimed, the EU proposal, in spite of including all the sectors of the WTO official list is in fact a catalogue of restrictions, and all sectors present important restrictions. The European offer is more detailed - which was expected, given the degree of maturity of this block's regulatory system - and that leads to a higher degree of restrictions than in the Mercosur case.

Even if each point of the proposals by the two blocks is not analyzed, it is possible to believe that Brazil and the Mercosur can negotiate the terms of services better, instead of taking a defensive stance.

At the same time, the relevance of the services sector to all the economies involved – be it in the Mercosur or in the EU – must be taken into account when negotiating the liberalization of the sector. The services sector cannot be faced as a mere bargaining chip to reach agreements in other sectors, such as agriculture, especially by the Mercosur members.

Even though the agricultural and industrial sectors have a greater weight on the Mercosur exports, the liberalization of services can bring important benefits to the economy of a country as a whole. This must be considered when assessing future proposals of liberalization in the sector, both in the Mercosur side as in the EU side.

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The European Union Strategies on Environment within Regional Trade Agreements and their Impacts on the Negotiations with Mercosur[51]

Michelle Ratton Sanchez Badin

Michelle Ratton Sanchez Badin is a professor at GV Law School, employee of CEBRAP and an IPEA researcher engaged by means of public notice (IPEA Call 105/2010).

Milena da Fonseca Azevedo

Milena da Fonseca Azevedo is a student at GV Law School and receives a scientific initiation scholarship from FAPESP

1. Introduction: challenges posed by the major role played by the EU

Out of 511 notifications related to regional and preferential trade agreements forwarded to the World Trade Organization (WTO) up to January 2012, the European Union (EU) accounts for 311 agreements alone[52]. This places the latter - amongst the Organization's 157 members - as the most active WTO member in terms of execution of bilateral or multilateral trade agreements. The EU is not only a major player in this movement, but was also the member which pioneered , as from the 1970s, this type of initiative by means of the execution of regional agreements, which

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52 According to the WTO's database, Available at: <http://www.wto.org/english/tratop_e/region_e/region_e.htm>. Accessed in June 2012.

gained momentum in the early 1990s[53], when the regional agreement movement got in the spotlight. These are significant reasons to acknowledge the experience of the EU in international negotiations, and the strengthening of practices adopted by the EU, including regulatory ones – situation which poses a great challenge to any negotiations that may take place in the future with Southern Common Market (hereinafter referred to as Mercosur or the Bloc).

With respect to environment, the EU's major role has also been proven. The intention of this article is to outline five of the primary strategies identified in the trade agreement entered into by the EU in the field of environment[54], to consider possible proposals by this economic bloc, and the possible challenges that might be presented in the bi-regional negotiations to be carried out in the future between the EU and the Mercosur[55].

Strategy 1: from negative to positive regulation

The incorporation of provisions on environment protection in international trade agreements, i.e., its positive regulation, is recent[56]. Positive regulation counters trade agreements, which established that measures related to the environment would be exclusively discussed by the states' public policy spaces. Based on this type of regulation, the states could allege exceptions in these fields with respect to the general principles of transparency, national treatment, and most favored nation established in the trade agreements. An illustrative paradigmatic case in this sense is the Article XX(b)(g)(e) of GATT. Specialized literature defines the "right of regulating" formerly ensured to the states individually simply as negative regulation[57].

53 For a list of the agreements entered into by the EU, as well as for the full version of each agreement, please visit the bloc's official database at <http://ec.europa.eu/trade/creating-opportunities/bilateral-relations/agreements/>. Accessed in June 2012. A thorough analysis of the stages of this agreement negotiation strategy adopted by the EU, in comparison with the US, Chinese and Indian experiences was presented in SANCHEZ BADIN, M. R. Compromissos assumidos por grandes e médias economias em acordos preferenciais de comércio: o contraponto entre a União Européia e Estados Unidos e China e Índia. Text for Discussion (IPEA. Brasília), v. 1700, p. 1-42, 2012.

54 According to SANCHEZ BADIN, M. R. A regulação de "novos temas" em acordos preferenciais de comércio celebrados por União Europeia, Estados Unidos, China e Índia: pontos relevantes para o Brasil. Text for discussion (IPEA. Rio de Janeiro), p. 1-121, 2012.

55 In a recent publication of the World Bank aimed at mapping the rules negotiated in regional and preferential trade agreements, Anuradha makes his diagnosis: "2. Increasing use of environmental provisions in PTAs. Environmental provisions are increasingly being incorporated into [...] Preferential Trade Agreements[...] PTAs. Developing countries should plan for negotiations accordingly (...)". (p. 419) (italics of the original text), please see ANURADHA R.V. Environment. In: CHAUFFOUR, J.P.; MAUR, J.C. Preferential trade agreement policies for development: a handbook. Washington: World Bank, 2011, p. 407-425.

56 To learn more on the historical resumption of the relationship between trade and the theme of environment, please see NORDSTRÖM, H.; VAUGHAN, S. Trade and Environment, Special Study n. 4. Geneva: WTO, 1999; JANSEN, M; KECK, A. National environmental policies and multilateral trade rules. Staff Working Paper ERSD-2004-01. Geneva: WTO, 2004.

57 On these concepts, please see BARTELS, L. Social issues: Labour, environment and human rights. In: LESTER, S.; MERCURIO, Bryan (Ed.). Bilateral and Regional Trade Agreements: Commentary and Analysis. New York: Cambridge University Press, 2009, p. 342-366.

The establishment of a positive regulation aims, basically, to the definition of minimum commitments between parties with respect to transparency and non-discrimination, to align local regulatory standards for the access to foreign markets. In this sense, one of the great milestones was the NAFTA Agreement, of 1994. In addition, the US, EU, and New Zealand, nowadays are identified as the principal proponents of provisions on environment in regional trade agreements[58]. In the other direction, developing countries have been more resistant to negotiate and regulate international agreements in this gray area between trade and environment – this is the case, for example, of the member-states comprising Mercosur[59].

Strategy 2: One chapter dedicated to the environment

The positive regulation on the theme of environment is grounded on three paths, according to the level of depth and details of the commitments undertaken by the parties[60], as follows:

a) Based on the execution of memoranda establishing commitments involving closer ties and information exchange between the competent authorities of each party so they might learn more about it and acknowledge each other's legal framework in terms of environmental affairs that could have a potential impact on their trade relations; or

b) By means of the incorporation of the theme of environment in cooperation commitments entered into between the parties, establishing goals regarding minimum regulation for environmental affairs and determining corresponding policies. The commitment to cooperation is specified, also, in respect to the possibility of inquiries of the other party, and information exchange regarding environment policies and regulations; or

c) Within specific chapters of the agreements, including the accurate and more thorough description of commitments and (existing) binding obligations between the parties. Based on this regulatory framework, the parties intend to outline a minimum regulatory pattern, which does not favor recourse to regulatory flexibilities to generate competitive edge between public or private entities that operate in overseas trade.

As previously noted herein, the trend of Free Trade Agreements (FTAs) regulating environment affairs, in an increasingly more substantive and binding manner, has been a noticeable process in the case of the EU. Based on the three aforementioned categories, when the set of agreements entered into by the EU is analyzed, what stands out is that as of the execution of first ones by the latter, up to those signed by it in the early 2000s. Agreements entered into between the EU and Mexico, and between the EU and South Africa – the EU bloc adopted as a standard the determination of a commitment to cooperate within the chapters of its bilateral or multilateral trade agreements that regulated the overall cooperation.

The suggestion of cooperation as a common wish, demonstrated between the parties in these first and second-generation EU agreements, primarily established:

a) The promotion of dialogue and consultation between the parties;

58 According to ANURADHA, R. V., Op. cit, p. 409.

59 Exception cited by the author in the case of Chile, which is a Mercosur's associate member.

60 On this classification, please see SANCHEZ BADIN, M. R. A regulação de "novos temas" em acordos preferenciais de comércio, Op cit., p. 69-70.

b) The exchange of information between counterpart local entities;

c) The possibility of technical assistance, attention paid to training and education, and the development of researches in common;

d) The mere oversight by a bilateral committee.

These characteristics stand out in the majority of EU agreements, and the one entered into between the EU and Chile (2003) may be pointed out as the most comprehensive example of these ways of cooperation. It is worth noting that in the EU agreements, the requirement of a guarantee ensuring that there are mechanisms enabling participation of the public on the occasion in which the environmental policies and regulations are made is a recurrent reference. It may be understood that this is the consequence, largely, of the adherence of domestic political support and lobbying groups to the bloc's provisions relating to the environment, included the EU trade agreements with respect to environmental affairs.

Some of the aforementioned characteristics focusing on cooperation continued to exist in subsequent agreements (particularly in those with respect to exchange of information); however, it can be noted that as of the agreement entered into between the EU and South Korea (2010), the EU willingness to allocate financial and human resources and mobilize efforts to enhance the relationship between the parties with respect to environmental affairs (item iii) simply vanishes. Thus, this issue becomes a sensitive one for those negotiators who start to think of agreements that may be established with countries that are still in a developing path[61] .

The new standard of commitments established in the agreements entered into by the EU – set up at the third level of regulatory depth – brings in provisions that fit into local legislation of the parties to the agreement and, as a result of the establishment of more precise obligations, seek to determine mechanisms for their oversight and implementation. The new agreements started to signal under a more comprehensive title - "Trade and Environment," the parties' commitments specifically with respect to:

a) The adoption of environment protection policies, as well as compliance with regulatory standards already established locally, without the parties being permitted to create *ad hoc* exceptions to benefit the competitiveness of certain enterprises;

b) The impossibility of recourse to environmental regulations with protectionist effects limiting the flow of trade and/or investment between the parties;

c) The compliance with local legislation, ensuring to each of the parties to the agreement sovereignty to determine their priorities in terms of environmental regulations, based on minimum commitments pointed out in the agreement;

d) The binding of the parties bound to commitments already established in multilateral environment agreements in relation to predetermined goals within action plans and future negotiations related to specific fields, such as in the issue of climate negotiations; and

e) The specific mechanisms for implementation and oversight of substantive commitments, indicated in the aforementioned items.

61 ANURADHA, R. V., Op. cit, p. 412.

The agreement entered into between the EU and South Korea was the one that launched this new agreement's benchmark, which seems to have been adopted in the EU foreign affairs policy since the final drafting of the agreements entered into between the EU, Peru and Colombia (2011). Some particularities of the key parts comprising this new agreement profile are shown as follows.

Strategy 3: Leveling the playing field

The election of key principles for the chapters on environment in the agreements entered into by the EU reveals some interesting underlying elements to the political objectives, and political tension in their choice as a theme to be regulated in the agreements.

The first one is the relation between the enforcement of the states' sovereignty in the regulation and the determination of their policies in the environmental field (also known as the "enforce-your-own-laws" concept) and the observation that there cannot be enforcement of laws beyond the country's territory, in an attempt to export regulatory parameters. This continues to be a common feature in multilateral agreements on environment: the strengthening of the states' autonomy to regulate and establish the basic parameters of their local policies, without permitting the full sharing of an international standard[62]. Therefore, the principle of non-enforcement of laws beyond the countries' borders aims at meeting the objective of compliance with, and implementation of, local legislation present in the aforementioned agreements.

Secondly, the concern for ensuring access to information, under the principle of transparency, for non-discrimination against foreigners of the other party, or against their equivalent on fair and equitable treatment, may also be pointed out. If, on the one hand, the principle of transparency strengthens the "sovereignty" of local legislation, it also favors the implementation of the non-flexibility character of the local legislation benefiting the enforcement of certain *ad hoc* policies, and the effective possibility of participation by civil society's groups in participation mechanisms. They are, therefore, means of acknowledging the autonomy of each party, although within certain predetermined parameters, which ensure minimum regulatory procedures and standards. All these principles meet, to some extent, (the requirements of) the domestic pressure groups in developed countries willingness to ensure the respect for the environment, and for their trade partners, whether due to ideological convictions, which drive the works of civil society groups, or due to concerns for the competitiveness shown by the private sector.

In addition to the principles that seek to guide the implementation of the local legislation and its standards, EU trade agreements, also, incorporate provisions on specific themes that mirror the domestic regulatory agenda of the EU itself. Illustrative of the described above are the proposals for specific measures on land use for farming purposes and urban planning, management of forest preserves and control of seashore pollution, as well as the articles on better efforts to promote policies including labeling, and the base criteria regarding scientific information for the establishment of environmental policies that do not embody a protectionist nature. These provisions vary, however, according to the trade partner with which the EU bloc enters into its agreement.

62 According to BRUNNEE, J. The United States and international environmental law: living with an elephant. European Journal of International Law, v. 15, 2004, p. 617-649.

Strategy 4: Guarantees for the implementation

One of the key issues permeating debates on the incorporation of the question of the environment within regional and preferential trade agreements pertains to the binding level of the commitments that the agreements are able to establish between the parties, based on the designation: binding or non-binding?[63] Among the primary instruments to determine the binding level of the commitments, there are the institutional provisions allocated for the implementation of commitments undertaken in the agreements, i.e.: Oversight Boards and Committees, and mechanisms aimed at resolving controversy between the parties.

In the case of EU agreements we note that, to some extent, the provisions are subject to oversight mechanisms. The first EU agreements relied on the submission of commitments to general mechanisms (Bilateral Committees, Association Boards, Committees for Cooperation). The new EU model, in turn, relies on mechanisms with the specific role of managing certain commitments defined in the chapter on environment (Committees on Sustainable Trade and Development).

With respect to mechanisms aimed at resolving controversies – considered as the most effective way of implementing obligations undertaken by the parties in international agreements - the submission of the chapter or article on environment to this type of procedures has varied considerably in the agreements entered into by the EU so far. Over the last few years, the chapters on environment in the EU bilateral and multilateral trade agreements have been incorporated, progressively, into the controversy's resolution mechanisms: from an explicit ruling out of the possibility of appeal in the EU-Mexico agreement (1997) to the full incorporation of its own system for the chapter on environment aiming at resolving controversies in accordance with the EU-South Korea agreement (2010) (Articles 13.14 to13.16).

In addition to the institutional mechanisms, the EU latest agreements have tried to rely on a series of other supplementary resources to benefit the implementation of the commitments undertaken by the parties. Among these resources, we could cite: i) provisions that establish the commitment of the parties to provide administrative-nature local mechanisms, quasi-legal and legal, so private entities might request the implementation of commitments present in the agreements; and ii) incorporation of the possibility of acknowledgment by the parties of local voluntary mechanisms seeking to verify the respect for the environment.

In some of its agreements, the EU prescribes that institutional bilateral mechanisms also operate with due transparency, and that they should be able to ensure effective participation of the civil society. The most advanced agreement in this sense is the latest one, in its final draft version, entered into among the EU, Peru, and Colombia.

Strategy 5: Binding positions and future negotiations

The references to future international negotiations and other multilateral commitments already undertaken by the parties in the field of environment have been present since the oldest agreements entered into by the EU. One thing that stands out, based on (the analysis of) these provisions, is that the first objective is to ensure the parties' commitment to regulatory obligations and standards already

63 According to ANURADHA, R. V., Op. cit.

undertaken by the parties within the multilateral scope. For additional objectives, the EU has adopted the latest practice of listing the most significant commitments in its trade relations with the counterparties.

If we take into consideration that the agreement entered into between the EU and South Korea (2010) specifically pointed out only the negotiations in the climate field – in a clear reference to The United Nations Framework Convention on Climate Change, the Kyoto Protocol and Bali's Action Plan (Art. 13.5) - we note the increase in the complexity of this reference in the subsequent agreements (entered into) among the EU, Peru and Colombia (2011). The latter agreement makes a one-off reference to at least eight agreements and protocols[64], some of which had established specific provisions about what the parties should prioritize, and how they should cooperate within this scope (Arts. 270 and segments of the final draft).

2. Challenges (posed) to Mercosur

To broadly understand the opposed points of view between the EU strategies adopted in its bilateral and multilateral trade agreements and the Mercosur positions, it is necessary to distinguish the three fronts on which Mercosur positions itself with respect to the climate and trade themes: i) its position in multilateral negotiations that combine trade and environment regulation; ii) the negotiation in the field of bilateral and multilateral negotiations by Mercosur; and iii) the conduction of discussions on the theme within the Bloc. The first two fronts may indicate the possible directions the negotiations with the EU may take, based on the political guidance assumed internationally by the bloc; whereas the bloc's domestic regulation may act as a "lever" or "brake" to the regulatory arrangements required for trade and environment regulation in a possible agreement between Mercosur and the EU.

The Mercosur member states' position, in view of the multilateral trade negotiations, has always been one of resistance to a positive regulation in the field of trade and environment. This position has been stressed since the preliminary discussions of GATT's Work Group on Trade and Environment, which was strengthened throughout the Uruguay Round, and remained the same at the resumption of discussions on the theme on the multilateral trade agenda. The main argument driving these positions states that the environment field already counts on specialized flora, and that this is where environmental themes should be analyzed[65]. Brazil, in particular, has been identified as one of the leaders at the multilateral level in the group of developing countries that are resistant to this agenda[66].

64 In this group of agreements and protocols, the following may be found: i) the Montreal Protocol on Substances that Deplete the Ozone Layer; ii) the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal; iii) the Stockholm Convention on Persistent Organic Pollutants; iv) the Convention on International Trade in Endangered Species of Wild Fauna and Flora – CITES; v) the Convention on Biodiversity - CBD; vi) the Cartagena Protocol on Biosafety to the CBD; vii) the Kyoto Protocol to the United Nations Framework Convention on Climate Change; viii) the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade. In the agreement itself, there is an indication in the footnote that all these agreements and protocols, and their final versions incorporated in the parties' local legislation should be understood under the title "Multilateral agreements on the environment."

65 According to SANCHEZ BADIN, M. R. A regulação de "novos tem as" em acordos preferenciais de comércio celebrados por União Europeia, Estados Unidos, China e Índia: pontos relevantes para o Brasil. Text for Discussion (IPEA). Rio de Janeiro), p. 1-121, 20 12.

66 KANAS, V.; NASSER, S.; LIMA, R. Meio ambiente. In: THORSTENSEN, V.; JANK, M. (org.) O Brasil e os grandes temas do comércio internacional. São Paulo: Aduaneiras, 2005, p. 241-271.

This multilateral resistance is replicated, also, in bilateral and multilateral negotiations led by the Bloc in the trade arena. The theme of environment has not been addressed in any of the five agreements negotiated by Mercosur[67]. The major agreement concerns are based on tariff preferences.

The aforementioned profile of concentrating in tariff preferences and other elements in connection with competitiveness are also the key that drives the Mercosur integration process itself. In this sense, it is pointed out that the theme of environment and its relation with trade may have been set aside in the Bloc's works, despite its reference, even if generic, on the agenda since the execution of the Asunción Treaty. This reflects, largely, the guidance of the Bloc in the conduction of the theme of environment in its works and commitments, which has led to the regulation of urgent themes, although at an unsatisfactory pace. The main example, in this sense, is the latest step taken by the Bloc in the area, as a result of the coming into force of the Additional Protocol to the Marco Agreement on Environment regarding Cooperation and Assistance in Environmental Emergencies, entered into in 2004, which only became effective in April 2012.

On the one hand, the three aforementioned fronts demonstrate that Mercosur and its member states show reticent positions – if not resistant – about combining concepts and procedures related to environment protection and trade regulation.

On the other hand, the resumption of negotiations between the EU and Mercosur references to negotiations on sustainable development[68], which are the same terms used in the agreement executed between the EU and South Korea, and in the agreement entered into between the EU, Peru, and Colombia. Considering that agreements have considerably detailed provisions on trade and environment regulations, even including specific institutional mechanisms for the implementation of commitments, it is believed that something in this format will be put on the table in the negotiations with Mercosur.

Based on the strategies diagnosed in the agreements entered into by the EU, five points which shall deserve particular attention stand out, as follows: i) the binding nature of the commitments on "trade and environment" and their effects on the implementation of the latter; ii) the decision on which multilateral agreements on environment will be considered as encompassed by trade relations and how this will be performed[69]; iii) the specific themes currently facing the EU agenda on environment (as in the case of the use of land in the light of the priority that agricultural trade assumes for the Mercosur countries); iv) the less significant nature that concerns about the protectionist use of environment assumed in the agreement; and v) the decrease in the commitments to technical and financial assistance by the EU to its trade partners in the environmental field.

67 The agreements entered by Mercosur were the ones with: i) India; ii) Israel; iii) Egypt; iv) SACU; and v) Palestine. Just the agreements entered into with India and Israel are still in force. For further information, please visit <http://www.mercosur.int> and <http://www.desenvolvimento.gov.br/>. Accessed in June 2012.

68 For a history recap on the relationship between trade and the theme of the environment please see NORDSTRÖM, H.; VAUGHAN, S. Trade and Environment, Special Study n. 4. Geneva: WTO, 1999; JANSEN, M; KECK, A. National environmental policies and multilateral trade rules. Staff Working Paper ERSD-2004-01. Geneva: WTO, 2004.

69 In a recent WTO publication aimed at mapping the rules negotiated in regional and preferential trade agreements, Anuradha makes his diagnosis: "2. Increasing use of environmental provisions in PTAs. Environmental provisions are increasingly being incorporated into PTAs. Developing countries should plan for negotiations accordingly (...)". (p. 419) (marks of the original text), see ANURADHA R.V. Environment. In: CHAUFFOUR, J.P.; MAUR, J.C. Preferential trade agreement policies for development: a handbook. Washington: Banco Mundial, 2011, p. 407-425.

Green biotechnology applications for industrial development: opportunities and challenges for cooperation between the EU and the Mercosur

1. The bio-economy: the way forward to a sustainable agricultural and industrial development

The increasing world population and explosive growth of emerging economies create escalating demands for agricultural, industrial and health products. At the same time, more sustainable industrial and agricultural productivity will be required with the resilience to cope with future climate change impacts and enhanced resource use efficiency to deal with natural resource constraints and restricted fossil fuel reserves.

This rising need for a sustainable supply of food, raw materials and energy, together with tremendous progress in the life sciences has led to the concept of the Knowledge-Based Bio-economy (KBBE) (2007) or 'bio-economy' with emerging key technologies as major drivers of innovation. According to the OECD, biotechnology offers technological solutions for many of the health and resource-based problems facing the world. The application of biotechnology to primary production, health and industry could result in an emerging bio-economy where biotechnology contributes to a significant share of the economic input (OECD, 2009).

Innovations in biotechnology can expand the markets for agricultural producers worldwide, reduce environmental degradation, and provide alternatives to fossil carbon-derived products and energy. The cultivation of biotechnology crops has already contributed substantially to sustainable development and climate smart practices including a reduction of agricultural and industrial environmental footprints, and conservation of biodiversity (WWF 2010, James 2012, Brookes and Barfoot 2012). Farmers have benefitted both financially and health-wise with significantly higher

Ine Pertry

Joined Institute of Plant Biotechnology Outreach (IPBO) in 2009 as coordinator and scientific member of the Flanders-UNIDO Risk Assessment Research Network (FURARN). She obtained a Ph.D in Sciences-Biotechnology at Ghent University in 2009.

Ivan Ingelbrecht

In 2010, he joined Institute of Plant Biotechnology Outreach (IPBO) at Ghent University, Belgium as Manager of the International Industrial Biotechnology Network, a Cooperation Network of the UN Industrial Development Organization (UNIDO), Austria aimed at utilizing innovative biotechnologies for pro-poor development.

Marc Van Montagu

He is a pioneer in plant molecular biology. He is well known (with J. Schell) as the discoverer of the Ti-plasmid and the inventor of Agrobacterium tumefaciens transformation technology, now used worldwide to produce genetically engineered plants. He has won numerous prizes amongst which the Japan and has produced over 750 publications. Currently he is president of the Public Research and Regulation Initiative (PRRI), president of the European Federation of Biotechnology (EFB), and chairman of the Institute of Plant Biotechnology Outreach (IPBO).

Dulce de Oliveira

Visiting professor at Institute of Plant Biotechnology Outreach (IPBO)- Ghent University.

Sylvia Burssens

In 1999 Sylvia Burssens obtained a PhD degree in the field of plant biotechnology at Ghent University, where she was a researcher at the Department of Plant Genetics. She joined Institute of Plant Biotechnology Outreach (IPBO) since its foundation in 2000. Next to global strategic networking aimed at technology transfer to developing and emerging economies she is also involved in awareness creation on the applications of green biotechnology.

incomes per hectare and reductions in chemical sprayings (JRC 2008, Carpenter 2010, Qaim 2010, Brookes and Barfoot 2012, James 2012, Lusser et al., 2012). The bio-economy especially offers new opportunities for farming, forestry and related agribusiness in the developing world, where a large fraction of the population, often over 50%, derives their livelihoods from agriculture and where the productivity levels of land are significantly below the technical and environmental potential. Moreover, subtropical and tropical regions have a rich biodiversity with a huge potential for value addition which remains largely underutilized.

2. Green biotechnology in Europe: the KKBE concept

In Europe, the KBBE concept has been translated in KBBE specific European Technology Platforms (ETP) and the implementation of several European Research Area (ERA) nets to reduce fragmentation and improve the coherence and coordination of national research programs. Along with this, several European Commission expert groups have been established. Research in the different areas of the KBBE has been promoted and financed through the Commission's Framework Programme 7 (FP7) and several Member State initiatives (The Knowledge Based Bio-Economy KBBE in Europe: Achievements and Challenges, 2010).

In 2009, the European Commission developed a common strategy for the promotion of six key enabling technologies (KETs) as main drivers for the development of new goods and services for a low carbon, knowledge based economy. Industrial biotechnology was defined as a KET for the progressive replacement of non-renewable materials currently used in various industries with renewable resources. Six different research areas have been identified under the current framework programme (FP7) activity Biotechnologies, which are linked to a wide range of different European and international policies: (1) novel sources of biomass and bio-products, (2) marine and fresh-water biotechnology (blue biotech), (3) industrial biotechnology: novel high added-value bio-products and bioprocesses (white biotech), (4) bio refinery, (5) environmental biotechnology and (6) emerging trends in biotechnology (http://ec.europa.eu/research/bioeconomy/biotechnology/policy/index_en.htm).

With the adoption of the FP7 programme (2007-2013), the EU decided to invest in European knowledge by increasing growth and competitiveness and doubling the budget compared to the FP6 programme to a total of 67.8 billion euro. The FP7 is being organized through 4 main programmes: Cooperation, Ideas, People and Capacities. The Cooperation programme aims to promote collaborative research projects and networking activities between industry and public research in order to develop excellence in European science. Within this programme several thematic areas have been identified, with the Food, Agriculture and Fisheries and Biotechnology theme being of particular interest for biotech research. This theme, with 1.9 billion euro funding, specifically addresses 3 major activities: (1) sustainable production and management of biological resources from land, forest and aquatic environments, (2) fork to farm: food (including seafood), health and well-being, (3) life sciences, biotechnology and biochemistry for sustainable non-food products and processes (European Commission, 2005; Cordis, 2012). With FP7, international cooperation has been integrated into all 4 programmes. Recognized international cooperation partner countries or ICPs can receive funding by participating in collaborative projects under the cooperation programme, while international cooperation and science and technology policy dialogue is stimulated under the capacities programme. In addition, international cooperation opportunities can also be identified through the Marie Curie actions of the people programme or ERC grants under the ideas programme (research*eu focus, 2012a).

With the Europe 2020 strategy, launched in 2010, Europe prioritizes on smart and sustainable growth by developing and promoting a knowledge and innovation based economy, which will be greener, more resource efficient and more competitive. Europe is concentrating its efforts on research and innovation by aiming to invest 3% of the EU's GDP in R&D. The "Innovation Union", one of the 7 flagship initiatives of the Commission, aims to improve funding conditions to ensure technology transfer and product and service development from innovative ideas and scientific research (European Commission, 2010). Under this flagship one single funding programme has been established. Horizon 2020 will run from 2014-2020 and the Commission has proposed to invest 80 billion euro into this framework to support multi-disciplinary and multi-actor projects developing solutions for specific challenges. It will focus on 3 major objectives: scientific world leadership (24.6 billion euro budget), industrial leadership (17.9 billion euro budget) and European societal challenges (31.7 billion euro budget). Under these societal challenges, six themes have been identified: (1) Health, demographic change and well-being, (2) food security, sustainable agriculture, marine and maritime research and the bio-economy, (3) secure, clean and efficient energy, (4) smart, green and integrated transport, (5) climate action, resource efficiency and raw materials and (6) inclusive, innovative and secure societies. As these challenges are global, international cooperation in science, technology and innovation will be stimulated as well as partnerships with industry, civil society and governments (European Commission, 2011; Research* EU focus, 2012b). With this program bio-economy research and innovation funding will increase as it has been proposed to allocate 4.7 billion euro to the "Food security, sustainable agriculture, marine and maritime research and the bio-economy" challenge. In addition, other funding opportunities will be present under the challenges "Health, demographic change and well-being", "Secure, clean and efficient energy" and "Climate action, resource efficiency and raw materials" to further stimulate the bio-economy (European Commission, 2012).

3. Optimization yield and quality traits for biomass production

International and national research addressing the availability of feedstock for a bio-economy focuses mainly on the optimization of yield as well as quality traits such as starch properties in potato or fatty acids composition in rapeseed, sunflower or crambe oils (Albrecht et al. 2010). Biorefineries are highlighted as sustainable production systems to use forestry and agricultural feedstock for the production of bio-based transportation fuels, chemicals, heat and power since they represent significant advantages in economies of scale and closed-loop structure. Several FP7 collaborative projects and networking actions such as Crops2Industry, the ERA-IB-2, GLOBAL-BIO-PACT and SAHYOG (Table 1), covering the whole value chain and/or investigating the technical competence and socio-economic impact of using non-food crops for industrial applications, have been launched recently. In the EU BIOCORE project (Table 1) the industrial feasibility of a bio-refinery concept to convert cereal by-products such as straws, forestry residues and short rotation woody crops into second generation biofuels, chemical intermediates, polymers and materials is being analyzed. In recent years, several bio-refinery pilot plants have been constructed in Europe amongst which the Bio-Base Europe which is a joint initiative of Flanders and the Netherlands and the first open innovation and education center for the bio-based economy (www.bbeu.org).

Linking up with white biotechnology, green biotechnology research efforts are being undertaken to optimize plant biomass as alternative renewable and carbon-neutral raw material for the production of bio-energy and biomaterials. In frame of the competitive agricultural market with producers of food, feed, fibers, and increasingly bio-energy, it is anticipated that the second generation biofuels will be derived from cellulosic biomass from fast growing perennial grasses, such as Miscanthus, and trees such as poplar and willow. At the Plant Systems Biology Department (PSB) of the Flanders Institute of Biotechnology (VIB, Belgium), research is being carried out on modification of lignin, a cell wall polymer that hinders saccharification. The aim is to design trees with altered cell wall properties in order to facilitate lignocellulosic biomass conversion to bio-ethanol and to reduce the chemical load required for industrial processing for paper and pulp applications. Currently, a field trial is being performed with poplar trees with down-regulated cinnamoyl-CoA reductase to serve as non-food feedstock for the production of bio-ethanol. The first results indicated a bio-ethanol yield up to 81% higher compared to non-modified poplar (Van Acker et al., 2011). The same principle can be extended to other crops through powerful gene discovery programs targeted to cell wall recalcitrance genes (Vanholme et al., 2010). Under the FP7 project RENEWALL (Table 1), a European consortium is investigating different plant genes involved in cell wall biosynthesis as well as microbial genes to develop new strategies for crop improvement, either through conventional breeding, or in combination with genetic modification (GM) to produce plants with modified cell wall properties that are easier to saccharify for biorefining.

Alongside agricultural feedstock yield optimization for better processing, there is also a focus on better crop yields to intensify biomass production in frame of limited available arable land and the continuing decrease per capita, biodiversity conservation and sustainability criteria. Apart from modern breeding techniques, computational approaches combined with high-throughput technologies (systems biology) are being applied to unravel the molecular basis underpinning plant growth in order to boost crop productivity. BASF Plant Science in Europe announced with Monsanto in 2010 to expand their joint efforts to develop higher-yielding and stress tolerant crops through inclusion of wheat into the existing program on corn, soy, cotton, and canola (www.yieldbooster.org/images/stories/PDF/final%20release.pdf). BASF Plant Science is working in close collaboration with PSB (VIB; www.psb.ugent.be/the-ipb-division/systems-biology-of-yield) where researchers are also looking into possibilities to enhance the yield performance of bioenergy crops such as poplar and maize, as model for grasses, under abiotic stress conditions. PSB (VIB) is also part of the FP7 funded ENERGYPOPLAR consortium (Table 1) that aims to develop energy poplar trees with both desirable cell-wall traits and high biomass yield under sustainable low-input conditions to be used as a source of cellulosic feedstock for bioethanol production. Other current European FP7 research projects in the field of yield optimization are the RECBREED project (Table 1) on new genetic and molecular breeding tools, and SPICY (Table 1) which aims to develop a suite of tools based on molecular breeding to help breeders in predicting phenotypic responses of genotypes for complex traits such as yield under a range of environmental conditions. The collaborative 3TO4 project (Table 1) with academic and industrial participation seeks to increase productivity and decrease the input per unit yield through the conversion of C3 crops to use C4 photosynthesis. Several FP7 projects aim at identifying new crops for the sustainable production of bio-based products. The objective of the collaborative OPTIMA project (Table 1) is to identify high yielding grasses for the Mediterranean region, within the optimization chain that will provide a stable source for both biomass and new plant derived bio-products using an interdisciplinary approach. The FP7 large scale integrating project ICON (Table 1) under the leadership of the Swedish University of Agricultural Sciences (SLU) is aiming at the biotechnological development of high yielding oil crops (Crambe abyssinca and Brassica carinata) for the sustainable production of oils and lubricants for the chemical industry. JATROPT (Table 1) is linking high quality research groups, including EMBRAPA and companies operating in different continents and disciplines on research and development of Jatropha curcas as a high oil, low competition with food crop, for the production of biofuel.

In addition to improving yield of the classical agricultural feedstock, several European projects are looking into taking advantage of alternative sources which do not compete with feedstock for arable land. Microalgae show great promise as small factories using sunlight, marginal water resources, waste nutrients and high levels of carbon dioxide to sustainably produce biomass and a wide variety of biomaterials. However, large-scale commercial cultivation of algae still faces some challenges, including high cultivation and harvesting costs, contamination and an inconsistent productivity level. The GIAVAP consortium (Table 1), running under the FP7, is aiming to adapt available engineering techniques and to develop cultivation, harvesting and extraction techniques to make algae strains of economic interest better suited for industrial applications. Likewise, the FP7 SUNBIOPATH project (Table 1) is looking into the genetic improvement of photochemistry and sunlight collecting processes in algae chloroplasts in order to increase biomass yield.

4. Molecular farming

Molecular farming for the production of nutraceuticals, medicinal products, cosmetics, agrochemical or pharmaceutical compounds in plants is another example of promising applications of green biotechnology for the renewable industrial sector. Recently, much progress has been made in the field of bio-pharmaceutical production, a process less costly than bacterial or mammalian cell-based production. The Pharma-Planta consortium, a mixture of academic partners, SMEs and large industry partners (www.pharma-planta.net), created under the EU Sixth Framework Program has successfully developed the production of a monoclonal antibody against HIV in transgenic tobacco plants. The product has already been tested in clinical trial phase I at the Surrey Clinical Research Centre (UK) and the first results are promising.

Other efforts have been undertaken for the production of plant-derived molecules using contained facilities. The COMOFARM project (Table 1), funded under the EU FP7 programme, aims to establish high-yielding production systems for pharmaceutical and industrial proteins based on plants, plant tissue and plant cells. The project includes a comparison of four alternative systems of hydroponic plants, root cultures, moss and suspension cells, and involves the evaluation of different species, strain and process optimization, scale-up, downstream processing, protein characterization and process evaluation in terms of regulatory compliance. The multidisciplinary team of the METAPRO project (Table 1) aims to optimize the production of several useful isoprenoid derived secondary metabolites to demonstrate the tools and strategies needed for the generic production of useful secondary metabolites in plants. As a proof of concept astataxanthin (ketocaretonoids) and the apocarotenoid crocin are being engineered into Solanaceaeous host platforms with tomato fruit and potato tubers as ideal cell factories. The TERPMED small collaborative project (Table 1) makes use of 'omics' technologies to detect, purify and characterize compounds bearing specific functional groups from the terpenes with high potential as novel human drugs for treating cancer and neurological disorders. Innovative production platforms using plant secretory organs such as trichomes are being tested to produce the most biologically active and interesting compounds as well as novel compounds by combinatorial biosynthesis. The objective of another FP7 project, SMARTCELL (Table 1), is to design plant systems for sustainable production of secondary plant metabolites and value-added industrial products. SMARTCELL focuses on metabolites of the terpenoid pathway and the production in periwinkle and tobacco derived plant systems. The PLAPROVA collaborative project (Table 1) between the EU and Russia with participation of South-Africa has developed a rapid plant-based system to produce vaccines and pharmaceutical products in plants. The project was launched with the development of vaccines against important diseases of livestock such as avian influenza and blue tongue and extended to other viruses such as the human and bovine papillomaviruses, hepatitis B virus, porcine respiratory and reproductive syndrome virus and foot and mouth disease virus.

Small or medium-scale focused research projects

Project	Project title	Subject(s)	Period	Website
AGROCOS	*From biodiversity to chemodiversity: novel plant produced compounds with agrochemical and cosmetic interest*	*Agricultural biotechnology - Biotechnology*	2010-2014	www.agrocos.eu
COMOFARM	*Contained molecular farming controllable contained systems for high yield and consistency*	*Agricultural biotechnology - Biotechnology*	2009-2012	www.comofarm.org
ENERGYPOPLAR	*Enhancing poplar traits for energy applications*	*Agricultural biotechnology – Agriculture – Biofuels – Renewable sources of energy*	2008-2012	www.energypoplar.eu
METAPRO	*The development of tools and effective strategies for the optimization of useful secondary metabolite production in plants*	*Agricultural biotechnology - Agriculture*	2009-2013	www.isoprenoid.com
RECBREED	*Recombination: an old and new tool for plant breeding*	*Agricultural biotechnology - Agriculture*	2009-2013	recbreed.eu/
SPICY	*Smart tools for prediction and improvement of crop yield*	*Agricultural biotechnology*	2008-2012	www.spicyweb.eu
SUNBIOPATH	*Towards a better sunlight to biomass conversion efficiency in microalgae*	*Industrial manufacture - Sustainable development -Resources of the sea, Fisheries*	2010-2012	www2.ulg.ac.be/genemic/sunbiopath
TERPMED	*Plant terpenoids for human health: a chemical and genomic approach to identify and produce bioactive compounds*	*Agricultural biotechnology*	2009-2013	www.terpmed.eu

Collaborative projects

Project	Project title	Subject(s)	Period	Website
3TO4	*Converting C3 to C4 photosynthesis for sustainable agriculture*	*Scientific research*	2012-2016	www.3to4.org
BIOCORE	*Biocommodity refinery*	*Agricultural biotechnology – Sustainable development*	2010-2014	www.biocore-europe.org
OPTIMA	*Optimization of perennial grasses for biomass production*	*Biotechnology*	2011-2015	www.optimafp7.eu

Support actions

Project	Project title	Subject(s)	Period	Website
ALCUE-KBBE	*Towards a Latin America & Caribbean Knowledge Based Bio-Economy (KBBE) in partnership with Europe*	*Coordination, cooperation – Economic aspects*	2011-2013	bioeconomy-alcue.org

Table 1: Overview on green biotech related projects currently running or ending in 2012 under the FP7-KBBE programme (CORDIS, 2012)

Large-scale integrating projects

Project	Project title	Subject(s)	Period	Website
EU-PEARLS	*EU-based production and exploitation of alternative rubber and latex sources*	*Agricultural biotechnology -Biotechnology - Coordination, Cooperation - Food - Life sciences - Policies - Scientific research*	2008-2012	www.eu-pearls.eu/UK/
GIAVAP	*Genetic improvement of algae for value added products*	*Scientific Research – Resources of the sea, Fisheries*	2011-2013	giavap.eu
ICON	*Industrial crops producing added value oils for novel chemicals*	*Biofuels – Sustainable development*	2008-2013	icon.slu.se/ICON/
RENEWALL	*Improving plant cell walls for use as a renewable industrial feedstock*	*Agricultural biotechnology-Agriculture – Biofuels – Renewable sources of energy*	2008-2012	www.renewall.eu
SMARTCELL	*Rational design of plant systems for sustainable generation of value-added industrial products*	*Agricultural biotechnology - Agriculture*	2009-2012	www.smart-cell.org

Small/medium-scale focused research project for specific cooperation actions dedicated to international cooperation partner countries (SICA)

Project	Project title	Subject(s)	Period	Website
JATROPT	*Jatropha curcas applied and technological research on plant traits*	*Agricultural biotechnology – Biofuels*	2010-2013	www.jatropt.eu

Collaborative project for specific cooperation actions dedicated to international cooperation partner countries (SICA)

Project	Project title	Subject(s)	Period	Website
PLAPROVA	*Plant production of vaccines*	*Agricultural biotechnology – Biotechnology - Medicine, Health*	2009-2012	www.plaprova.eu

Large-scale integrating projects

Project	Project title	Subject(s)	Period	Website
CROPS2 INDUSTRY	*Non-food crops-to-industry schemes in EU27*	*Biotechnology - Coordination, Cooperation - Food - Life sciences - Policies - Scientific research*	2009-2012	www.crops2industry.eu
ERACAPS	*ERA-Net for coordinating action in plant sciences*	*Coordination, cooperation – Earth sciences*	2011-2014	www.eracaps.org
ERA-IB-2	*ERA-Net for industrial biotechnology 2*	*Biotechnology - Coordination, Cooperation*	2011-2015	www.era-ib.net
GLOBAL-BIO-PACT	*Global assessment of biomass and bioproduct impacts on socio-economics and sustainability*	*Agricultural biotechnology*	2010-2013	www.globalbiopact.eu
SAHYOG	*Strengthening networking on biomass research and biowaste conversion biotechnology for Europe India integration*	*Biotechnology*	2011-2014	www.sahyog-europe-india.eu

Table 1: continued

5. Mercosur emerging economies at the frontier of technology adoption and development

Following Canada and the US, emerging economies such as China, India and Brazil have been embracing green biotechnology and in particular genetic engineering as one of the frontier technologies to advance sustainable agriculture and crop productivity.

Not only is Brazil ranking first for biofuel production but it is also emerging as global leader for the cultivation of biotech crops with an impressive growth of biotech crop hectarage of 19% in 2011 and as such rapidly closing the gap with the US. To date 3 biotech crops are being cultivated in Brazil covering 30.3 million hectares or 75% of their total hectarage in Brazil in 2011. Herbicide tolerant (HT) soybean is the most important cultivated biotech crop in Brazil (20.6 million ha), followed by insect-resistant Bt maize, HT maize and maize combining the Bt and HT traits (9.1 million ha) and insect-resistant Bt cotton (0.606 million ha). Trends show an increasing preference for the use of stacks which will further increase with soybean with stacked traits becoming commercially available in Brazil in 2012 (James, 2012). Moreover, the recent approval for commercialization of virus resistant bean by EMBRAPA demonstrates the impressive technical capacity to develop, deliver and approve a new state-of the art biotech crop by the public sector. This bean variety is expected to be commercially available within the next two years (James, 2012). Argentina is following in third position with 23.7 million hectares biotech crops by cultivating HT soybean (19.1 million ha, HT/Bt/Bt-HT maize (3.9 million maize) and HT/Bt/Bt-HT cotton (0.7 million ha), followed by Paraguay (7) with 2.8 million hectares of herbicide resistant soybean and Uruguay (10) with 1.3 million hectares of herbicide resistant soybean and Bt maize. Europe in contrast grew only 114,507 ha biotech crops in 2011 consisting of 114,490 ha Bt maize and 17 ha Amflora potato with modified starch content (James, 2012).

Notwithstanding Brazil's performance as the second in cultivating GM crops, just behind the US, the biotech industry in Brazil is jeopardized by the lack of strategy to find new genes needed to improve plants for agriculture and industry. One of the reasons is the still deficient scientific body. Although the Brazilian science output increased expressively during the last 20 years, the density of scientists is still unsatisfactory especially in the Northeast and North of the country. Internal efforts have recently been made to minimize this drawback, notably the Brazilian government program 'Science without Frontiers' with the main goal of promoting the consolidation and expansion of science, technology and innovation in Brazil by means of international exchange and mobility (http://www.cienciasemfronteiras.gov.br/web/csf-eng/).

The challenge of moving from science to industry in biotechnology bears another important lagging factor: the excessively restrictive regulatory framework for the use of biodiversity is preventing Brazilian scientists from exploring the potential of the extremely rich Brazilian natural resources. The actual provisional measure for the use of Brazilian biodiversity is considered to be disastrous to the Brazilian biotech industry and also the Brazilian Patent Law is quite restrictive. Law 9279 prevents patenting of cells, genes or molecules (Barreto de Castro, 2011). As a result there is not a single molecule from Brazilian biodiversity patented.

Trade

The EU is ranked first as export market for the agricultural products of the Mercosur region accounting for 19.8 % of total agricultural imports in 2009. Protein-rich livestock feed materials can only be grown to a small extent in Europe because of agricultural and climate limitations. In order to maintain meat and dairy production, Europe currently imports approximately 30 million tons or about 72% of its need for feed materials, mainly soy, from the US, Brazil and Argentina (Europabio, 2011). In the past some problems arose as the majority of soy grown in these countries is GM soy and Europe approved only few varieties for import and in addition applied a zero-tolerance policy towards traces of non-approved GM in imports. As a result, in 2009, approximately 180,000 tons of US GM soy, which was approved for import into the EU, were rejected because trace amounts of unapproved GM maize had been detected (Wager and McHughen, 2010). As the majority of soy grown in these countries is GM soy (94% in US, 83% in Brazil and 100% in Argentina) and the number of new events in these countries further increases while the rate of approval in Europe is much slower, it was not unlikely these situations would occur again in the future (Wager and McHughen, 2010; James, 2012). To address this situation of asynchronous approvals, the EU adopted new legislation in 2011 allowing 0.1% of unauthorized GM events in animal feed when meeting certain criteria. The event must have been approved by at least one non-EU food safety authority and must have been submitted to the European Food Safety Authority (EFSA) for review. With this 'technical solution' Europe aims to lift this trade obstacle and assure feed supply. However, zero-tolerance remains in place when it concerns food imports (EuropaBio, 2011).

Next to being a prominent trading partner for export, the EU is also the leading investor in the Mercosur region. European green biotech companies and technology providers may represent a new wave of potential investors to invest in the Mercosur region in order to bring their products to the market. Europe may have a strong base in R&D in green biotechnology but is, in comparison with emerging economies, lagging behind when it comes to commercialization. The main reason for that is two-fold. First of all, the policy and regulatory climate is not attractive for companies and investors. The EU regulatory framework for GM plants, rooted in public reluctance and misconception, is by far the most stringent and complex with several discrepancies at the EU and national level. Some countries allow growing GM crops on their territories and others not despite the authorization by the European Commission and positive advice of the European Food Safety Authority (EFSA). Moreover, the average time required to obtain authorizations is 1.5 to 2 years longer than in Canada, Brazil and the US (Europabio 2011). Additionally, many debates at several levels have been ongoing on genetically modified crops as well as on the competition between the use of arable land for food production or the production of industrial compounds or bio-energy (Doran, 2009). Due to these difficult circumstances, one of the major leading plant science companies in Europe, BASF Plant Science, has recently decided to focus on the main markets in North and South America, as well as the growing markets in Asia and to move its headquarters to North Carolina, US. Despite the fact that several sites in Europe will be closed, a reinforcement will be made at the sites in Ghent (Crop Design, Belgium) and Berlin (Germany) where the industry-leading research is being performed in close partnership and collaboration with top scientists (www.basf.com/group/corporate/en/products-and-industries/biotechnology/plant-biotechnology/index).

Mercosur countries belong to the top ten countries growing biotech crops with a total acreage of 58.1 million hectares (ha) representing more than one third of the global biotech crop acreage. By contrast, Europe is only growing 114,490 ha of mainly one crop (Bt maize) in only seven countries: Spain, Portugal, Poland, Slovakia, Romania, the Czech Republic and Sweden (James 2012). Another commercial release is planned in 2014 with the Fortuna potato which is more resistant to *Phytophthora infestans* or late blight. But very few new biotech crops are to be expected on the market as the number of release experiments in Europe, with the exception of Spain, is decreasing all the time (www.gmo-safety.eu). Additionally, more than half of the Net Land Balance (NLB) corresponding to the additional available area for crop production is located in Africa and Latin-America. This is in contrast with Europe where the NLB has continuously declined. The limitation of arable land and available land resources may be a major bottleneck for the production of agro-industrial crops for Europe. Due to its restricted agricultural area Europe's industry will greatly depend on imports from countries and regions such as the US, Brazil, South-East Asia and Russia (King and Hagan, 2010). The rising need for a continuous agricultural feedstock for the chemical industry for sustainable bio-based products may therefore open up new opportunities for the export of high yielding agro-industrial crops including crops obtained through genetic engineering.

Plant genetic resources and benefit sharing

In a recent study of the European Academies, Science Advisory Council (EASAC, 2011), the crucial contribution that plant genetic resources can make to address the societal challenges in Europe is depicted. Pursuing scientific priorities for plant genetic resources and wider international collaborations can help EU countries to tackle food security, sustainability, crop diversification and nutritional value, and other opportunities for restoration of neglected and underused land and for the deployment of new crop uses, such as biofuels, biomaterials and chemical feedstock.

Climate change will increasingly become an influencing factor on crop production in Europe. It is expected that in Southern Europe crop-specific high temperature thresholds may be exceeded which may result in significantly higher risk of crop failure in Southern Europe, while Northern Europe may be able to grow a wider range of crops than is currently possible (EASAC, 2011).

Access to plant genetic resources can crucially contribute to the development of novel smart crops not only to produce higher yields but also for the production of industrial, chemical and pharmaceutical compounds as biobased products or biofuels. Mercosur countries harbor a wealth of biodiversity and the advent of 'omics' technologies such as plant genomics and metabolomics, and other recent technological advances in the plants science field, allow to define, capture, and create value from this biodiversity while conserving and protecting it at the same time.

The objective of the running FP7 AGROCOS project (Table 1) is to discover and carry to the stage of development plant derived small molecules with potential as new cosmetic and agrochemical agents. Compounds are searched for a diversity-oriented natural product library of compounds derived from plants originating from biodiversity hot-spots in Europe, Africa, Latin-America, and the Asia-Pacific region. The consortium gathers industrial and academic partners amongst which BASF, KORRES S.A. (Greece) and the University of Panama. Another current FP7 project aiming at bio-prospection, development, exploitation and sustainable use of plant derived products with industrial value is EU-Pearls. The project seeks to establish new value creation chains for natural rubber and latex from guayule and Russian dandelion.

Strengthening strategic networking

European technology platforms (ETPs) have been set up with the aim to develop strategic research agendas for a particular area by bringing together industry-led stakeholders and facilitating public-private partnerships. Amongst these, the European Biofuels Technology Platform (www.biofuelstp.eu) and the European Technology Platforms Plants (Plants for the Future;) can deliver valuable input on research priorities and action plans in green biotechnology to be considered for contributing to the establishment of the KBBE.

The creation of multidisciplinary platforms covering the whole value chain from R&D to bringing on the market is key in the process of establishing efficient cooperation mechanisms. Benchmarking the Mercosur and EU partners in the field of (green) industrial biotechnology is the first step to the creation of a workable platform. Such strategic networks facilitate the identification of common needs, gaps and synergies in order to define the potential areas for cooperation and funding opportunities ultimately leading to the implementation of demonstration projects. Recently, several initiatives have been launched to strengthen networking in order to identify opportunities and foster international collaborations in the field of industrial and green biotechnology.

The Mercosur-EU Biotech Program

Following an agreement between the EC and the Mercosur in 2005 the BIOTECSUR institutional platform has been launched with its management unit at the National Directorate of International Relations of the Argentine Ministry of Science, Technology and Productive Innovation. The aim of this regional biotechnology platform is to promote development and use of biotechnology applications in the Mercosur aimed at increasing the added value and competiveness of the region's products in international markets. The strategic lines are building business and productive capabilities, capacity building, supporting public policy formulation (including harmonization of standards and regional fiscal incentives), improving the funding system, and improving the positioning of biotechnology. In the meantime the platform has launched five regional projects of which two are related to green biotechnology, the forestry and oilseed production chain respectively: an integrated genotyping platform chain aiming at the bio-prospection of candidate genes for germoplasm of eucalyptus in the Mercosur and a platform for the comprehensive genomic approach in the Mercosur for prospection of genes that are appropriate for soybean improvement under biotic and abiotic stress conditions.

The ALCUE-KBBE project

The ALCUE-KBBE project (see Table 1) was initiated under FP7 in 2011. ALCUE-KBBE stands for 'Towards a Latin America and Caribbean Knowledge Based Bio-Economy in Partnership with Europe' and the consortium consists of 12 organizations, seven of which are from Latin-America and the Caribbean, and five from Europe. The objective is to establish a platform of Latin-American Caribbean (LAC) and EU regional and continental organizations involved in research funding and implementation, as well as other stakeholders form the public and private sector and civil society, in order to generate relevant information to build a strategic roadmap for R&D, the establishment of enabling policy and institutional environment and the development of the KKBE in both the EU and LAC regions. To achieve these goals a database of experiences, resources, policies and actors is being pooled together. Key actors are being identified and an analysis of the LAC bio-economy opportunities and limitations to identify policy and R&D needs will be performed. To that extent e-consultations and workshops with multi-stakeholders to discuss and propose bio-economy policy roadmaps, scenarios for bio-economy development in LAC and R&D collaboration agenda for specific topics are being organized. ALCUE is represented in international summits and is mainstreaming the bio-economy concept in LAC via an electronic communication instrument. The project will also target bi-regional RTD projects in research areas subject to funding by FP7 or Horizon 2020 and successful consortia constructions and investments in common priority RDT themes will be identified.

The International Industrial Biotechnology Network (IIBN)

The IIBN was established in 2010 by the Institute of Plant Biotechnology Outreach (IPBO) and the United Nations Industrial Development Organization (UNIDO) to assist developing and emerging economies to access, develop, or implement agricultural and industrial biotechnology for their sustainable agro-industrial development in a demand driven and socially responsible manner. IIBN stimulates the application of biotechnology for the socio-economic development of transition economies through the implementation of demand-driven demonstration projects intended to serve as "proof of concept" for further up-scaling and technology transfer, public outreach on the opportunities and challenges posed by the bio-economy and capacity building through strategic networking. Demonstration projects are developed through a consultation process involving stakeholders from the government, public and private sector institutions and other relevant groups such as farmers. In search for the identification of implementation projects, IIBN has organized an expert group meeting on the KBBE as a driver of economic development and industrial sustainability in Concepción, Chile (2009). At this meeting bio-prospection of plants for the improvement of the competitive position of plant-derived high-added-value botanical drugs and phytochemicals was critically evaluated by weighing the advantages and disadvantages of novel technologies vis-à-vis technologies currently in use. Another high level stakeholder meeting was held in Nanning, Guangxi Province, China (2010) on the valorization of underutilized tropical and subtropical plants. Areas and opportunities for intervention and cooperation in the field were identified in order to enhance the resource efficiency of existing agro-industries in the Guangxi Province. In 2011 a first demonstration project "Regional Potential Assessment of Novel Bio-Energy Crops in fifteen ECOWAS countries" was initiated together with the company "Quinvita" (Belgium) and the ECOWAS Regional Centre for Renewable Energy and Energy Efficiency (ECREEE, Cape Verde). The project aims at mapping the suitability of novel bio-energy crops for sustainable development across fifteen West-African countries.

7. Outlook

The rise of the KBBE in Europe, the emerging economies of the Mercosur countries and the pressing need for global sustainable development create new challenges and novel opportunities for cooperation between the Mercosur and the EU. Europe can capitalize on a strong research base and major tradition of leading scientific excellence in green biotechnology. The EU has currently a strong policy oriented to the development of bio-based products with the recently adopted Lead Market Initiative (EC 2009, 2011) and renewable energy with the Renewable Energy Directive (Directive 2009/28/EC) translated into several programmes and renewable energy will become a major player in the European energy market.

The work programme 2013 (WP2013) in the area of food, agriculture and fisheries, and biotechnology research aims to transform the society into a bio-based community relying on sustainable biological resources not only delivering food and feed, but also bio-based materials and bio-energy by supporting research activities as well as bio-economy market development and EU competitiveness. The specific topics were identified according to the four pillars under the "Food security, sustainable agriculture, marine and maritime research and the bio-economy" challenge of the horizon 2020 programme: (1) sustainable agriculture and forestry, (2) sustainable and competitive agri-food sector for a safe and healthy diet, (3) unlocking the potential of aquatic living resources and (4) sustainable and competitive bio-based industries. This fourth pillar will emphasize on further developing the biorefinery concept and on exploiting the chemical diversity of plants and the potential of algae as biochemical factories (FAFB 2013 orientation paper, 2012). The WP2013 energy theme will continue to support renewable energy technologies, including bio-energy (FP7 Energy theme orientation paper, 2012).

The Mercosur and the EU may seek collaboration opportunities in translating new R&D developments in the innovation cycle of the biotech industry and into business. The rising need for agricultural and woody feedstocks will expand the external agricultural market and with the application of recent biotechnologies, Mercosur countries can become amongst the main sustainable producers of biomass for the renewable chemical industry including the production of biofuels and bio-based products. Moreover, the Mercosur harbors a wealth of yet unexploited biodiversity with potentially interesting compounds that can be used to create value-added products for the pharmaceutical, cosmetic, agrochemical and fine chemical industry through the application of new biotechnological methods that allow rapid bioprospection, development and sustainable use. Access to existing germplasm collections of industrially relevant crops such as sugarcane, cassava, castor bean, eucalyptus and palm may very useful for the production of bio-based products and bio-energy and lead to benefit sharing and mutual exploitation together with technology and science providers.

WP2013 will also pinpoint translating research and innovation knowledge into bio-based market products and processes not only by including demonstration and dissemination actions, but also by targeting small medium enterprises and supporting market development. More specifically, the participation of small and medium enterprises is mandatory required for approximately half of the topics and highlighted as beneficial to several others. In addition to focusing on applications to address the posed challenges, international cooperation is seen as crucial to succeed. Therefore all topics are open to the participation of third countries. For Latin America specifically, new cooperation opportunities will be pursued on biodiversity in agriculture. WP2013 will continue to link up European R&D activities with related research programmes for counterpart projects in third countries (also known as twinning). Currently, twinning is ongoing with Argentina and the Mercosur on plants, soil and food research (FAFB 2013 orientation paper, 2012).

Multi-partner cooperation initiatives between the EU and the Mercosur including the public and private sector will be vital in defining common strategies and action plans in order to build synergies and critical mass in mutually characterizing and catalyzing the sustainable development of the bio-economy in both regions. In these technology platforms or clusters innovative SMEs will play a crucial role in transforming the technology into value-adding processes and value-added products. Partnerships between green biotechnology science and technology providers and producers bringing biotechnology applications to the market are currently amongst the major challenges to create opportunities for win-win situations and rendering the innovation cycle more efficient. Although several promising initiatives have already been taken additional government incentives will be needed to implement demonstration projects as proof of concept for the creation of value added products. Mapping key actors and technologies with crops and traits of shared interest for the innovation cycle in industrial biotechnology and the production of bio-based products will be essential in the process of building co-operations that will lead to trade and investment opportunities in the knowledge bio-based economy for the development of both the Mercosur and EU region. To achieve that ambitious goal however a policy towards equal sustainability criteria and a workable intellectual ownership environment will be essential.

8. Recommendations

1) Recent progress in crop biotechnologies represent new opportunities for high-yielding and land-saving agriculture as well as for the sustainable production of added value bio-based products and bio-energy, cooperation, and hence job creation in the agribusiness sector**. Harmonization of the regulatory frameworks both within and between the EU and the Mercosur regions is urgently needed to create an enabling environment for the implementation of agricultural biotechnology applications, market authorizations, and international trade.**

2) **Objectively verifiable criteria for the sustainable production of bio-based products and bio-energy should be defined considering the 3P standard 'People, Profit, and Planet' of both the EU and the Mercosur region in a global context**. An extensive set of sustainability indicators and metrics should be put in place to track and monitor continuous improvement along the 3P standards of sustainability pathways. Indicators may be amongst others, the efficient use of resources such as land, water and energy, greenhouse gas emissions, natural resource conservation, labor conditions, employment and income generation. In this context it is important to bear in mind that economic profit using a country's natural richness without socio-economic development is the antithesis of the concept of sustainability.

3**) Implementation of bilateral demonstration projects for the production of value added bio-based products built on complementary strengths and mutual needs of both regions should be strongly encouraged as proof of concept.** The identification of key actors in the EU and Mercosur region representing the whole value chain and multidisciplinary strategic networking in specific thematic areas linking industrial biotechnology with the agribusiness sector is a crucial step towards establishing successful demonstration projects. Government policies towards incentives are strongly needed to strengthen initiatives taken by public and private sector organizations to build such strategic networks.

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Future

The Future of the EU-Mercosur Negotiations: How Important are Politics?

Carlos Malamud

Carlos Malamud: Professor of Latin American History at the Universidad Nacional de Educación a Distancia (UNED) and Latin America Senior Analyst at Elcano Royal Institute, Madrid.

1. Introduction

In 1985, with democracy re-established in Argentina and Brazil, Presidents Raúl Alfonsín and José Sarney laid the groundwork for what would become Mercosur (Mercado Común del Sur). In 1991, the Treaty of Asunción initiated the most dynamic subregional integration process of its day, involving Argentina, Brazil, Paraguay and Uruguay. Chile was invited but, given its idiosyncratic economic model – far more open to the outside world, it decided to participate as an observer.

Within a short space of time, Mercosur was a significant promise for the future. The consolidation of democracy in the countries involved matched the considerable increase in intraregional trade. Many in the EU looked towards Mercosur as an example for the rest of the region. The EU was the main market for its exports – absorbing almost 25% – and its main source of Foreign Direct Investment (FDI). At that time, the EU was also seeking to extend its integration model to the rest of the world and Latin America was a good start.

Formal bi-regional negotiations only got to a start once Mercosur had acquired an international legal status. An interregional framework agreement (Acuerdo Marco Interregional or AMI) was signed at the end of 1995 and aimed to be the forerunner of a Treaty of Association between the EU and Mercosur by means of a three-way pact based on free trade, cooperation and political dialogue. The negotiations formally started in 2000 and, although it was hoped they would be speedily completed, obstacles soon emerged that have persisted to this day and which have prevented the agreement's formalisation.

Seventeen years later, the negotiations that were seen to be so exemplary and promising ended up being impossible. It is true that for some years they were interrupted by the prospects of the Doha Round coming to fruition within the World Trade Organization (WTO), but its failure gave rise to the conviction that they needed to be resumed. At the 6th EU-LAC (the European Union, Latin America and the Caribbean, ALCUE in Spanish) summit, held in Madrid in May 2010, it was formally announced that the bioregional negotiations would be restarted with the aim of completing the process by the end of the year. Despite several negotiation rounds being held, signing the Treaty has again become impossible. It is difficult to explain how the current negotiating impasse has come about, since although all the parties involved proclaim they have the political will to bring the talks to a successful conclusion, once the process gets down to details it becomes impossible to make any progress on specific issues. If, on the one hand, the Mercosur countries focus on denouncing the Common Agricultural Policy (CAP) and on the closure of the European agricultural markets to their products, Europe, on the other hand, bewails the protectionist nature of the Latin American services and manufacturing sectors.

Within the EU, the greatest obstacles are posed by the champions of the CAP, led by France. Spain, meanwhile, is in an odd position: its diplomacy is a firm supporter of the Treaty, as made evident in the 6th ALCUE summit, but its agricultural lobbies are committed to opposing it. At present, with the crisis affecting Europe in general and Spain in particular, the signing of a Treaty of Association with Mercosur would be a good stimulus for European exports, especially considering that Brazil is one of the emerging regional economies. Nevertheless, the situation is not helped by either the growing Chinese presence as an extra-regional player in Latin America and by the impasse in Mercosur's progress towards greater integration, or even by the particular conditions in Argentina (including the expropriation of YPF) and the crisis in the EU. Despite everything, it would be important for the negotiations to reach a successful outcome that has so far been elusive.

As explained, the future of the negotiations between the EU and Mercosur is more than uncertain, since the signing of an agreement between the parties has proved to be impossible to date. To compound the problem, a number of important changes both in the two regions and in the international scenario have had a negative impact on the progress of the negotiations. This paper has a double purpose: (1) to analyse the causes of the current situation while attempting to envisage what the future of the negotiations and their final result might be; and (2) to assess the degree to which the emergence of the Pacific Alliance can influence the negotiations and in what way.

2. The Reasons for the Current Impasse and its Consequences

One of the achievements of the 6th EU-LAC summit in Madrid in May 2010 was the signing of a document by the representatives of the EU and Mercosur that officially announced the resumption, within a period of two months, of the negotiations between the two blocs. Spain's role in fostering the re-launch was decisive, since otherwise, had the summit's organisers not promoted the issue, it would have been unlikely for it to be included in the agenda.

When they made this decision, the Spanish authorities had to opt for either fostering their Latin American foreign policy or their agricultural policy, which is more favourable to the CAP. The latter's defence is justified by the large number of people who benefit from it, especially in certain regions that are of prime importance in electoral terms, such as Andalusia and Castile-León. While in the former it is the Socialist Party (PSOE) that has the most to gain, in the latter it is the Popular Party (PP), making it easier for them to combine in defence of the CAP in Spain's political life, as occurs in other European countries, such as France.

According to the web page of the EU delegation in Argentina, the aims of the trade pillar of the Association Agreement between the EU and Mercosur are:

a) To be complete and ambitious, exceeding the respective obligations of the two parties within the framework of the WTO;

b) To broaden the range of products and services to be liberalised, while taking into due consideration the issues related to products and sectors that are sensitive to the two parties;

c) To cover not only merchandise, but also aspects such as services, investments, public procurement, trade and sustainable development;

d) To guarantee adequate protection to intellectual and industrial property rights and designations of origin, efficient competition policies and a special agreement on sanitary and phytosanitary rules; and

e) To establish an effective and binding mechanism for dispute resolution to help overcome trade disagreements between the EU and Mercosur'.[1] Nevertheless, although the objectives have been updated to present-day requirements, the goal of signing a Treaty of Association remains as intractable and unattainable as in the year 2000.

The expectations for the signing of an agreement, even before the end of 2010, were very high in certain diplomatic, political and academic circles. Despite that, some of us had very serious reservations about the possibility of any progress being made in what remained of the year, as unfortunately turned out to be the case. In an analysis written at that time to evaluate the results of the 6th EU-LAC summit, I considered these positive expectations 'excessive',[2] especially considering that the formal negotiations had started in Buenos Aires in April of 2000 amidst grandiose promises and bombastic rhetoric. The negotiations were suspended in 2004 with no agreement having been reached, precisely in the same year that most official forecasts expected them to have been completed successfully. Since then conversations have been frozen, theoretically pending the conclusion of the Doha Round.

1 Available at:
<http://eeas.europa.eu/delegations/argentina/press_corner/all_news/news/2011/20110204_01_es.htm.>.

2 Carlos Malamud, 'La Cumbre ALCUE de Madrid y el estado de la relación birregional Europa-América Latina', Real Instituto Elcano, availble at: <http://www.realinstitutoelcano.org/wps/portal/rielcano/contenido?WCM_GLOBAL_CONTEXT=/elcano/elcano_es/zonas_es/ari98-2010>.

In an analysis of the 6th EU-LAC summit, Celestino del Arenal and José Antonio Sanahuja, despite calling for caution and the avoidance of excessive optimism about the outcome, given the numerous and weighty difficulties that might derail the process, pointed out that 'there are promising prospects for a successful conclusion to the negotiations even before the end of the year', that 'the agreement reached shows that circumstances have changed and that both parties have reviewed their positions and now appear to have a clear political will – on the Latin American side, namely Argentina and Brazil, and on the European, namely the Commission and certain countries like Spain– to attempt to close as soon as possible this pending chapter in the relations between the two regions'.[3]

When the negotiations resumed, there were a large number of obstacles militating against them. As had occurred since 1995, there were hindrances on both sides that prevented any steps being taken in the right direction. As we shall see, this implies that the failure of the different negotiation rounds should be attributed to both sides, with neither of them being solely to blame. Among the main problems were, on the one hand, the gaining of free access for Mercosur's agricultural and livestock produce to the European markets, due to the EU's protectionism and, on the other, access to Mercosur's markets for European services, intellectual property and industrial products, due to the South American bloc's protectionism.

An instance of the difficulties encountered on the European side was that at the meeting of EU Agriculture Ministers held before the UE-LAC summit in Madrid, France and other EU member states who were staunch defenders and beneficiaries of the CAP were highly reluctant to resume negotiations and contrary to a possible opening up of Europe to Mercosur's agricultural and livestock produce. In a delaying tactic, or perhaps a clear blocking move, those who led the opposition recalled that for the Treaty to be signed it was mandatory to close the Doha Round first.

Insisting on their optimistic reading of the process, Arenal and Sanahuja, explained in their analysis that the factors playing in favour of a quick accord were as follows: (1) the growing Chinese trade and investment in Mercosur, which could be prejudicial to production sectors such as the automotive industry, in which both parties have converging interests; (2) at that time, prior to the Brazilian general elections, Europe's interest in pre-empting possible US bilateral agreements was seen as an incentive; (3) it was important to complete the negotiations between the EU and Mercosur before Venezuela were to join the bloc, as that would avoid a large number of problems that would arise with Caracas intervening directly in the negotiations; (4) Brazil's desire to present a success in its trade policy, given the fact that one of the Lula Administration's prime aspirations –the signing of a balanced accord with the WTO– failed to come about; and (5) the evidence that the increased trade flows resulting from the Treaty of Association would have helped to overcome the global economic crisis.

Despite these positive factors, reality has been far more elusive and it has proved to be impossible to make any headway in the negotiations in the economic and trade pillars, although not in the

3 Celestino del Arenal y José Antonio Sanahuja, 'La Cumbre ALC UE de Madrid: un nuevo impulso a las relaciones birregionales', Fundación Carolina, available at: <http://www.fundacioncarolina.es/es-ES/nombrespropios/Documents/NPArenalySanahuja1005.pdf>.

political coordination and cooperation items. Between July of 2010 and March of 2012 there have been eight negotiation rounds that have not given rise to any concrete results. The ninth round is scheduled for July of 2012 in Brazil. The joint communiqué issued after the eighth round is sufficient proof of the still general framework in which the talks are still mired: 'Chief Negotiators of both sides reaffirmed their commitment to move negotiations forward to reach a comprehensive, balanced and ambitious Association Agreement. Negotiations were held in the Political, Cooperation and Trade pillars of the Agreement. With regard to the Political and Cooperation Pillars, progress was achieved in a number of areas and there was a fruitful exchange of views on many issues, which contributed to a better understanding of each other's positions. With regard to the Trade Pillar, Working Groups met and continued their work, clarifying positions and presenting new proposals. Progress continued to be registered in several Working Groups, in particular Services and Establishment, Dispute Settlement Mechanism, Public Procurement and Rules of Origin. Trade in Goods related issues and Trade Defense Instruments and Sustainable Development were discussed at Chief Negotiators' level with both sides clarifying positions and expectations'.[4]

It should not be forgotten that previously, between 2000 and 2004, there were 13 Bi-regional Committee meetings that produced no tangible results. The last negotiation round was in May of that year, in Brussels. The expectations at the time were that an accord would be sealed in October of 2004 after a further two meetings. But once again the deadline came, with no agreement in the offing. The 24th meeting of the Bi-regional Committee was held in March of 2012. Beyond the parties' desire to reach an accord (which in some cases is actually sharply antagonistic), the truth is that between 2000 and 2012 many things have changed, not only in the bi-regional relationship but also with the EU and Mercosur.

It is usually pointed out, quite accurately, that the reasons for the failure of the negotiations are attributable to both parties and to their protectionist proclivities. Each of the parties, Europe and Mercosur, has its own reasons. However, if the focus is broadened and the relations between the EU and the world and the rest of Latin America are compared with the relations between Mercosur and the world and its own region, some valid conclusions can be drawn. While the EU has signed a fair number of Treaties of Association and Multiparty Agreements, including FTAs (in Latin America's case, Treaties have been signed with Mexico, Chile and Central America plus Panama, and Multiparty Agreements with Colombia and Peru), Mercosur's record is far more modest. It has only signed three FTAs (with Israel in 2007 and, more recently, with Egypt in 2010 and Palestine in 2011). On the other hand, Mercosur's internal regulations prevent its member states from negotiating independently with third parties, as occurred with Uruguay a few years ago when it tried to negotiate a preferential investment agreement with the US.

As regards the bi-regional relationship, it has ceased to be a priority for either party. In some ways, China's emergence as a leading extra-regional player in Latin America, and particularly in Mercosur, has altered the region's foreign trade dynamics between the parties involved. At the beginning of the 21st century the EU was Mercosur's main market, or at least one of its most important ones, but today there has been a significant shift towards China. The soybean

4 Statement of the EU and MERCOSUR after the 8th round of negotiations on the future Association Agreement between both regions, available at: <http://www.sice.oas.org/TPD/MER_EU/negotiations/Statement_8_round_e.pdf>.

exports of the four Mercosur countries, despite the evident risks of re-primarization, are among the main pillars of the economic growth registered in the past few years, especially in countries such as Argentina, Paraguay and Uruguay as well as, although to a lesser extent, the greater diversification of its foreign trade[5].

At the end of June 2012, during Wen Jiabao's tour of the Mercosur countries, he advocated the possibility of China and Mercosur initiating negotiations to sign a Free Trade Agreement (FTA). In Latin America today, only Chile and Peru have signed FTAs with China, while Colombia has one underway. In addition to the significant difficulties inherent in the signing of such an instrument, the big question mark is whether progress in these discussions will have a positive or negative impact on the negotiations between the EU and Mercosur. In other cases, the fact that a Latin American country had FTAs signed with the US helped to speed up the negotiations with the EU, either because the idea was to follow the American lead or because it was feared that there would be a reaction from the US contrary to European interests and the idea was to neutralize them.

In the EU, among the reasons blocking an accord, the following can be mentioned:

a) The enlargement process, that led from a 15-member Union in 1995, when the bi-regional negotiations started, to a 25 member EU in 2004 and a 27-member Union in 2007. The enlargement process involved a greater complexity to the decision-making process, a lesser interest among the EU as a whole in Latin America and the opening up of a constituent and organizational process that has not yet come to a satisfactory conclusion and whose consequences are difficult to evaluate.

b) The persistence of the CAP, despite being reformed in 2003 and despite the budgetary prospects for 2014-20. On this front, France's leadership is obvious, although it is not the only country with a firm stance in this respect.

c) The Euro-Zone crisis. The fact that the resumption of the negotiations should have been approved in 2010, when the effects of the Lehman Brothers crisis were still being felt, plunged the EU into a state of even greater introspection than the constituent process.

In Mercosur there are also a number of factors, amongst which the following stand out:

a) The impasse at Mercosur and the disputes between large countries (Argentina and Brazil) and small ones (Paraguay and Uruguay). The paper mill conflict between Argentina and Uruguay aggravated the situation within Mercosur, and made it evident that there was no adequate system for the peaceful resolution of disputes and brought out into the open the limitations of Brazil's leadership.

5 China is one of Mercosur's main trading partners, primarily buying cereals and food products in exchange for high value-added products. In 2011 China exported US$48.45 billion to Mercosur, 34.5% more than in 2010, while its imports from Mercosur amounted to US$51.03 billion. Mercosur's positive trade balance is due to China's trade with Brazil.

b) The growing protectionism of Argentina, which has increasingly affected its partners in Mercosur, as shown by the disputes between Brazil and Argentina. The hindrances on imports imposed by President Fernandez's government have intensified the process.

c) Venezuela's proposed entry to Mercosur, which has not yet been resolved, not only generated internal resistance but has also provoked a shift in the integration agenda towards political coordination (reinforced by Unasur and CELAC), to the detriment of free trade.

d) Following President Lugo's removal from office, both the bloc's future and the number of its members will be subject to significant uncertainty, thereby complicating matters even further.

3. The Pacific Alliance and the EU-Mercosur Negotiations

The appearance of the Pacific Alliance introduces significant novelties into the debate on Latin America's regional integration. In April of 2011, when the Alliance's Presidents forged ahead with the project, they clearly opted for the free circulation of capital, goods and services. They also sought to reinforce infrastructures in a region with a profound deficit. A few figures can illustrate the magnitude of the problem. Its four members have a combined population of 207 million (almost 35% of the total for Latin America and the Caribbean), a GDP of US$2.1 trillion and a per capita GDP of around US$13,000. Its exports account for 55% of the total for Latin America and the Caribbean, exceeding Mercosur's in volume. The proof of these countries' openness is that they have all signed FTAs with the US and various treaties with the EU. Chile, Mexico and Peru comprise the Asia Pacific Economic Cooperation forum (APEC). With its admittance to the Transpacific Association Agreement (TPP), Mexico has joined Chile and Peru, which were already members.

From this perspective, the appearance of the Alliance has had an impact on Latin America and its regional integration process. The Alliance has not side-stepped the political sphere, but it has brought to the fore the economy and trade as essential to integration, as proved by its defense of free trade and its desire to establish links with other areas with a similar character. The Alliance's stance has led to opposition from the ALBA countries, although more openly in some cases than in others.

The Alliance's creation goes beyond the debate between Latin America and South America, as Mexico's presence has resolved the issue with a fait accompli. The Alliance's existence is an enormous challenge for Brazil and its South American project. Similarly, it can affect Brazil's leadership (or non-leadership) in South America. Therefore, the question is what will the Brazilian government and its Foreign Affairs Ministry (Itamaraty) do, given the new situation. It is obvious that Brazil should make a move, but also that it will not do so until the Alliance consolidates. So the complex question arises again of whether a joint leadership of the two big Latin American powers is possible, comparable in some way to the role played by the Franco-German axis in Europe's integration process.

Contrary to other regional or sub regional integration processes, the Alliance openly embraces globalization. Thus, it aspires to extend beyond its own area and open itself up to the world, in this case to the Pacific. So at this point one would have to ask: will the Pacific become the center of the world in the future? Will China become the world's second or third great power within the next 30 to 50 years, or perhaps in even less time? For this to happen, it will be necessary for growth to remain more or less constant over all that time, which implies that both the macro and micro economic variables that sustain it should not be subject to significant changes and that the same should apply to the political environment, dominated by the hegemony of the Chinese Communist Party. Nevertheless, it has been observed that in the recent past the trends in private salaries and in the regulatory framework have started to lead to relocations, to the extent that one out of every four European companies in China is considering moving, although this does not imply losing their market.

When deciding on establishing commercial and economic links with China, Latin American leaders should consider two important circumstances. On the one hand, the risk of concentrating foreign trade in a single market and, on the other, the Chinese style of conducting business. As regards the former, the risk posed by not diversifying markets is obvious, as Mexico knows well from its relationship with the US. In reference to the Chinese style of doing business, both the African experience and certain cases in Latin America point to certain conclusions, as shown in Peru by the activities of the Shougang Hierro Perú mining company. The main problem for South American countries posed by trade with China is the re-primarisation of their exports. Hence the importance of the Alliance negotiating as a bloc with its Oriental counterparts. This is something that Mercosur, for instance, has not yet done.

As regards its relations with the EU, the Alliance also differs from other existing regional or sub regional integration projects, as all its members –including the observers– have signed Treaties of Association (Chile and Mexico) or Multiparty Treaties (Colombia and Peru). Even the observers (Costa Rica and Panama) are part of the EU-Latin America Treaty of Association. In this respect, hitherto unprecedented channels of bioregional cooperation could be opened. But the most important question on this issue is whether the emergence of the Alliance will have any impact –and if so, for good or ill–, in the negotiations between the EU and Mercosur. Given the stronger links with the EU of the countries in the Alliance, and their more open stance on trade, it is reasonably likely that their experience should be taken into account by the Union's authorities.

The political economy of Brazilian trade policy: implications for Mercosur–European Union negotiations

Ivan Tiago Machado Oliveira

Researcher at IPEA. Doctor of Business Administration from the Federal University of Bahia (UFBA). Master of Contemporary Studies of Latin America from the Universidad Complutense de Madrid. Member of the International Studies Association (ISA) and the Latin American Trade Network.

1. Introduction

Changes in Brazilian economic structure with the opening of the 1990s involved increases in productivity and in the export capacity of some sectors. Since then, Brazil's foreign trade policy is designed taking into account new possibilities for market-seeking actions and also competitive impacts of imports in various sectors. In Brazilian trade negotiation strategies, the confluence of negotiation vectors focused either multilaterally or in regional trade agreements can be identified.

In 1994, with the release of the hemispheric negotiations for the formation of the Free Trade Area of the Americas (FTAA), an initiative of the United States that put Brazil into defensive position in the commercial arena; the schedule of regional agreements in addition to the Southern Common Market (Mercosur) began to expand, changing the country's trade negotiation strategy. Shortly after, in 1995, trade negotiations were launched between Mercosur and the European Union (EU), both for the interest of the member countries of Mercosur and the European Union, which feared the loss of competitiveness and margin of preference if the FTAA was effectively formed.

The dynamics of the FTAA negotiation and the agreement between the Mercosur and the EU worked in parallel to attempt to launch a new round of multilateral negotiations in the World Trade Organization (WTO). After the Doha round joined the negotiating agenda in 2001, there were triangulating themes and interests between the FTAA and Mercosur-EU agreements and that of the WTO, which made the closing of an agreement between the parties even more difficult.

As the negotiations with the major trading powers (United States and EU) stalled, Brazil started approaching some developing countries in order to carry out trade agreements, adopting the logic of rapprochement with large countries of the Global South, particularly since 2003. Brazil signed seven trade agreements with countries outside South America, with reduced length and depth, four of which in force, namely: one with India, which involves only 452 tariff lines, and another with Israel, involving about 9,000 tariff codes. The agreements with Egypt signed in 2010, and with the Southern African Customs Union (SACU) signed in 2008, still have pending ratification. In July 2006 Mercosur entered trade preference agreement with Cuba, involving about a thousand tariff codes. There are also Economic Complementation Agreement that involves directly Brazil and Mexico, which covers 800 customs codes and has been in force since 2002, and a second between Mercosur and Mexico, signed in 2002, which regulates trade related to the automotive industry. In December 2011, Mercosur signed a new trade agreement with Palestine, an agreement which is not yet in force. It is worth remembering that Mercosur has commercial preference agreements or free trade agreements with all countries in South America.

In 2012 the negotiations of the trade agreement between Mercosur and the EU were resumed, including consultations with private sector about potential offensive and defensive interests for the agreement. This interest in resuming discussions on the bilateral trade agenda comes at a time when, with the international financial and economic crisis that has been developing since 2008, there has been an increase in the use of restrictive measures to international trade and protection of domestic industries in various countries, including those comprising the Mercosur and the European Union (EVENETT, 2012; WTO, 2011).

Being aware of the negative effects that trade protectionism triggered during the Great Depression, they have sought, at least on the diplomatic agenda, to prevent protectionism from spreading as a solution to the economic and social problems that those countries are experiencing in the current economic scenario. As an example of this trading effort one can identify the G20 agenda on the need to maintain openness to international trade as a mechanism for fighting the crisis (WTO, 2012b). Notwithstanding the positive action observed in forums such as the G20 concerning the policies of beggar-thy-neighbor, many economies have made increasing use of protectionist measures in order to deal with problems raised by the crisis, or enhanced by it. The World Trade Organization's General Officer, Pascal Lamy, has reiterated its concern about the wave of protectionism in the current economic climate and the dangers it brings to the recovery of the world economy (WTO, 2012a).

Although developing countries have maintained a growth rate above the world average and have been less affected by the crisis so far in relation to developed ones, they also have used instruments of protection from foreign competition in its markets, with increased State intervention in the economy. Among these countries, Brazil stands out in Latin America for being the largest economy in the region and having built an industrial base with a development model focused on the domestic market and in replacing imports. In addition, the country has expanded in recent years protection and benefits to domestic companies through multiple commercial policy instruments and creditworthiness, reinforcing the relatively protectionist character that marks the Brazilian development for many decades.

Based on this context, this paper seeks to examine the political economy of trade policy in Brazil, focusing on its implications for trade negotiations between Mercosur and the European Union. So, continuities and changes in the relationship between sectoral interests and preferences and the formulation of Brazilian trade policy are considered. The distributional effects of foreign trade policy, the definition of winners and losers that make it a focus of action and interests of economic groups and private actors, which mobilize to influence decisions on trade policy, are included in the analysis. It is also under discussion the binding between Brazil's trading strategies and its foreign policy, which unveils ties that help in understanding the trading dynamics between Mercosur and the European Union in a Brazilian perspective, focusing on domestic issues and actors.

In addition to this brief introduction, this article contains two sections. In section 2 the argument is developed, with the examination of the agreement between the Mercosur and the EU from the perspective of the political economy of Brazilian trade policy. The article, in section 3, closes with final considerations based on the argument developed over the article.

2. Players, preferences and interests in Brazilian Trade Policy

The opening of a domestic economy and its subsequent integration into the economic globalization brings expansion of domestic political disputes around the foreign policy agenda. These disputes conform from the positive and negative effects of this opening and economic restructuring process of productive structures of the country, relocating sectoral interests and reconfiguring the political economy of trade policy of the country. According to Soares de Lima and Santos (2001, p.287):

> The integration into the international economy and economic openness contribute to the politicization of foreign policy in view of domestic distributive impacts with increased participation in international trade, since in an open economy there are different gains and losses, fruits of international decisions and negotiations.

The identification and understanding of sectoral interests and political articulation in building trade policy strategies are essential to explain decisions taken. Baldwin and Seghezza (2010, p.296), to discuss the interface between multilateralism and regionalism now-a-days, signal that:

> In the nations and sectors where a political consensus has been marshaled behind liberal trade policies, tariffs were cut on both an MFN and preferential basis. In other nations and/or sectors where there is a political consensus for protection, tariffs are high both multilaterally and preferentially. **In short, it is a third factor - the strength of sectoral vested interests - that determines both the MFN and preferential tariffs.** Under this conjecture, the complements effect we observe is not due to regional tariff cutting promoting multilateral tariff cutting; it is due to a third cause.

In the analysis of the tariff profile of Brazil, it is observed that the non-agricultural sector, manufacturing-industrial essentially has generally structured protection standards with higher rates applied, 40% higher than the tariff protection average applied in the agricultural sector. This is in line with others in the analysis of the political economy of trade policy denoting the character still uncompetitive and defensive of many Brazilian industrial sectors, desirous of protection to maintain their space in the domestic market.

Veiga (2007a) highlights the primacy that the sectors that suffer direct competition with imports managed to keep about the sectors and exporting interests over the 1990s in reforms related to Brazil's foreign trade policy. This priority continues to be observed in the 2000s, particularly in the context of the crisis at the end of last and beginning of the current decade. The dominance of defensive postures in trade negotiations in recent decades is linked to the dynamics of the political economy of trade policy. Thus, the analysis of the impact of economic and trade opening of Brazilian industry, and the political logic that structured it is crucial to understand the phenomenon.

In Markwald's analysis (2001), the commercial opening in early 1990s has not resulted in a cumulative and comprehensive deindustrialization process. For the author, the private sector strategies to overcome inefficiencies in the industry in Brazil, based on the imports replacement model, culminated in value-added relative loss along the domestic production chain. However, the author elaborates that this trend would represent a small correction of the excesses of the national protectionist developmental model, giving the manufacturing sector renewed bases and structures from elements of efficiency and international competitiveness.

The following elements of analysis on the impacts of trade liberalization in Brazil's industry are summarized by Veiga (2007a): a) There is no evidence of downgrading in the Brazilian industrial structure, which denotes that the structural impacts of economic and trade opening were limited; b) There was major impact on industry performance over the 1990s, with productivity gains which spread in the industrial sector but with significant losses in employment volume in the sector, particularly those labor-intensive, having these effects been maximized within the framework of macroeconomic stabilization with the Real plan; c) the opening has not had significant effects on the reorientation of industry towards exports, notwithstanding the efficiency gains in the sector have influence on the recent growth of exports. The results presented by the author for the last decade can replicate, in which the industrial sector lost share in national production and the total exports of the country, in which the agricultural sector expanded participation.

Using tariff protection rates by sectors, Markwald (2005) identifies some that compete directly with imports and are favored by high levels of protection, being frequent public sector aid plaintiffs. Among the sectors identified by the author, there are: a) mechanical capital goods; b) textile and clothing, c) appliances; d) automotive; e) rubber and plastics; e f) chemicals. As indicated by Markwald (2005), in these industries is a large part of the stock of foreign direct investment in the industry. These same sectors are seeking to have and maintain a relevant role in the process of influence in Brazil's foreign trade policy since the period of economic opening. Example of the ability of articulation and influence of these sectors identified by the author as those with higher levels of protection can be seen when observing the data of protection measures in use in the crisis context, according to data from the Global Trade Alert and WTO report. All sectors highlighted by the author received additional protection by means of trade protection measures since 2008!

(EVENETT, 2012; WTO, 2012b). In other words, sectors that have high effective protection are protected, increasing the difficulties of access to the domestic market by international competitors. In this context, the negotiation of the trade agreement between Mercosur and the European Union is affected, considering that some of these sectors are particularly of interest to European private players who seek the Brazilian market through the agreement.

Veiga (2007a), in turn, believes that the textile and clothing, automotive and electronics, steel and chemical sectors are those that most influence the formulation of negotiating positions of Brazil in the agenda of its foreign trade policy. The common characteristic to these sectors, as also identified by Markwald (2005), is suffering direct competition with imports. For Veiga (2007a) this is a capital element to understand the Brazilian reactive and defensive dynamic trade policy in recent decades. Veiga (2007a, p.94) reiterates that:

> (...)**the specific features of trade liberalization implemented by Brazil, in the early 1990s, generated structure of industrial value-added protection strongly heterogeneous, in intersectoral terms, benefiting the same sectors favored by the industrial policy and support exports from previous decades: automotive, electronics, textiles and clothing, and of capital goods.** The importance of this feature is strengthened by the fact that sectorial schemes of investment incentives and production survived and have been set up throughout the Decade, benefiting, among others, sectors already favored by major levels of trade protection, at the post-opening phase. (...)It is not by chance that the "political preferences" that can be detected from the negotiating positions of Brazil, but also the adoption of unilateral measures of trade policy, have clearly sectoral cutting." (Emphasis added).

The "conditional liberalization" marked, in Veiga's analysis (2002), the transition in Brazil's foreign trade policy in the 21st century. As prominent elements in the analysis of this process, Veiga (2002) claims that the "protectionist bloc", which dominated the expression of the interests of the private sector over the last few decades, is losing strength and leadership role, but continues to be a power that cannot be ignored. For Veiga & Rios (2009, p.33), the formation of a "competitive bloc", which features less defensive interests in trade negotiations in which Brazil engages, is linked mainly to the sectors of agribusiness and mineral extraction, counting also with the presence of some more competitive industrial sectors. According to the authors:

> (...) Brazil's economic development from the 1990s has enabled the emergence of less defensive interests and visions regarding the prospect of international integration of the country, both in the private sector and public agencies. The determining factor of this change is the consolidation of a strongly competitive exporting sector and geographically diversified offensive interests. In good measure, this "competitive block" is intertwined with the agribusiness and mineral extraction industries, but tends to include more and more various manufacturing segments. (...)From the beginning of the current decade, the "maturing" of transformations initiated in the 1990s – the consolidation of a competitive agribusiness and integration, by large companies, of exporting activity to its growth strategies –, the dynamism of the world economy and the Chinese appetite for commodities have converged to produce an exporting boom that substantially increased the trade of Brazilian economy.

Therefore, consolidation of transformations initiated in the mid-1990s in the Brazilian agricultural sector, along with increased exposure to international competition, resulted in an intense and systematic increase in productivity in the sector with growth in production over the 1990s and 2000s. It is worth noting the importance of Mercosur as an area of adequacy of economic structures of member countries to expanded competition. The Mercosur was fundamental in the process of increasing competitiveness of the agricultural sector, since the purchase of cheaper and technologically advanced agricultural inputs, which generated positive impacts on Brazilian agricultural productivity.

There was significant growth in the participation of Brazil in international agricultural trade, particularly as exporter. The participation of Brazilian agricultural exports in total world agricultural exports was less than 2.5% in 1990. In 2011, this stake was about 5.5%, with emphasis on growth from 2000. The increased productivity of the agricultural sector and the increase in world demand for food, especially China, are determining factors for the understanding of the expansion of Brazil's participation in international agricultural trade, placing it as one of the largest exporters of agricultural goods in the world. These data confirm and explain the offensive positioning of Brazilian agricultural sector in formatting the "competitive bloc" which seeks greater trade liberalization in negotiations that Brazil is involved, whether multilateral or regional.

Veiga (2007b) notes that an offensive agriculture agenda negotiation is feasible only in the WTO multilateral trade negotiations, by systemic factors involved, such as export subsidies and domestic support, which require broad agreement covering all countries using these measures. This is an element that complicates the negotiations between the South American and European blocs. We can add to this the positive effect of Chinese growth on agricultural commodity prices, generating super profits for the agricultural export sector, which reduces the momentum and the industry's pressure on the government to seek the opening of the European market through tariff reduction and non-tariff barriers with the trade agreement.

In this way, when considering the economic opening and trade policies and their effects on the domestic political economy in Brazil, we can assume that in the tension between changes and continuities in the Brazilian economy over the past few decades, protectionist interests continue to dominate key sectors of industry, that have good political articulation and seek to participate actively in the process of formulation of the country's foreign trade policy. The "protectionist bloc" still is a major force of influence in relation to State bodies for defining the trade negotiation agendas of Brazil. However, a new block emerges particularly based on the agricultural sector for gains in access to protected markets and the liberalization of international trade.

The protection logic prevails in the dynamics of interaction, which results determined the external performance vector in the field of commercial negotiations. It was observed that the interests of Brazilian business sectors, particularly those more protected, in choosing commercial multilateralism as a priority within the framework of negotiating their preferences, are related to the dynamics of the negotiation process and the adaptation of agreements reached in that forum. In multilateral negotiations, the negotiating process is more complex and time-consuming, involving a more extensive agenda of trade issues and a greater number of countries, integrating cross-bargains and also forming coalitions. Furthermore, the effects of trade liberalization or adjustment to new rules agreed under the multilateral trading regime are slower, with time dilation especially for developing countries. With this, the sectors that require protection, essentially competing with imports, preserve it for a prolonged transition period, which allows, in the limit, to carry out structural changes that can increase their productivity and international competitiveness prior to adapting to new rules or trade liberalization.

On the other hand, the increased agricultural competitiveness places this sector in offensive position in trade negotiations. As some of the main problems that affect international agricultural trade are structured as systemic elements of international competition in the sector, such as subsidies, only multilateral negotiations fully meet the needs and interests of Brazilian agribusiness. Distortions caused by subsidies granted mainly by developed countries earn only negotiated solutions in a multilateral context. Even in market access, the constraints of multilateral bargaining tend to generate higher gains than through regional agreements. Here is a critical element for the progress of negotiations between the Mercosur and the EU: gains in market access and reduction of internal subsidies and exports for the agricultural sector.

Stands out, however, the highly protectionist interests profile coordinated by Brazilian Business Coalition (CEB) in major regional agreements and multilateral negotiations in which Brazil has been involved in recent years. Although offensive positions related to the logic of trade liberalization to international competition have arisen in certain economic sectors participating in the CEB, especially agriculture, they are still important and in general protagonists of the coalition's defensive positions in trade negotiations, favoring particularly some industrial sectors and services in Brazil.

The importance of multilateralism in the trade negotiation strategy of Brazil should be understood in the dynamics of interaction between private and public interests, which restructured the political economy of the country's trade policy. Protection and openness interests, as discussed in the previous section, which drive the activities of economic players in the quest to influence the formulation of the foreign trade policy, signaled for the strengthening of the participation of Brazil in the multilateral negotiations. There is, therefore, an integration of views among the bureaucratic and economic elite as for negotiating priorities during this period. According to Albuquerque (2006, p.50):

> We can say that, under the basic posture of commercial elites and the Brazilian government has been ambiguous resistance. Both for our diplomacy as for the business community, trade unions and academia, the multilateral free-trade rules are a compromise between the asymmetric interdependence with the United States and the complete freedom of action to adopt trade rules that unilaterally favor us, but we would be subject to the unilateralism of the other partners.

Thus, among the domestic determinants important for understanding and explaining the commercial trading strategies of Brazil in recent years, is the more general structuring of the county's foreign policy, considering both principles guiding its activities in international relations, as traditions that outline the paths traversed and its effects on institutional inertia.

Seeking the "deep forces" that structure the Brazilian foreign policy, Lafer (2004) states that the Brazilian diplomatic action has two guidelines from the years 1930 to date: 1) the first is to cultivate the area of autonomy, that is, to maintain the freedom of understanding and interpreting the Brazilian problems with Brazilian solutions; 2) a second line is to *identify external resources to be mobilized in order to meet the requirements of national development*. The concepts of autonomy and dependence are markedly present in the formulation of foreign policy of middle powers like Brazil. Development would emancipate themselves from dependence on external power centers and transform the domestic social and economic structures. So the concepts of *autonomy* and *development* are uniquely bound to the logic of the formulation and implementation of Brazilian foreign policy, establishing the "forces" that support it and, therefore, the limits of continuity in change.

In order to maintain its autonomy and making external possibilities with the imperatives of national development, the Brazilian foreign policy of recent decades has traces of innovation that connect to the tangle of tradition, thus reconfiguring the nexus between the past and the future in a context in which *national interests* are redefined according to the present needs of a multiplicity and a diversity of players and agendas. The analysis of continuities and changes in foreign trade policy must therefore be based on these structuring elements and its foreign policy.

During the Lula and Dilma Governments, the emphasis on autonomy while guiding concept of Brazil international action resumed aspects of national-developmentalism in the trade negotiations frame, adding and highlighting political conditions to the economic logic of foreign trade policy. By analyzing the trade policy of the Lula administration particularly, Veiga (2005) highlights this return of trade negotiations logic found in the national-developmental tradition of Brazilian foreign policy, which would have lost some prestige in the 1990s. According to Veiga (2005, p.09):

> In summary, the changes introduced by the Lula government put the trade-negotiations strategy back on the rails of the "national-developmentist" tradition of Brazilian foreign policy; this was accomplished in two steps. The first step was made in the field of foreign policy, which rehabilitated two key concepts of the "national-developmentist" tradition that had lost some of its prestige during the 90s. **The North-South divide** is the first of these concepts. (…) The second concept attributes to foreign policy the key function of **"insulating" the design and implementation of industrial policies from the restrictions and threats represented by external agreements, external commitments and the interests of the developed countries**. The second step directly subordinated the strategy of trade negotiations to the foreign policy reconciled with the "national-developmentist" tradition (Emphasis added).

In recent years, spaces of autonomy were grown and external resources were identified to be mobilized in order to meet the requirements of national development, which means to extend the action of the State in the protection and encouragement of companies operating in the domestic market. The binomial autonomy-development has been worked in foreign trade policy according to conditions and distinct logical political action, but not dismantled the integration of these concepts in the Brazilian diplomatic practice. It was redefined in a new international context of economic crisis and internal needs, determined by the change in the domestic political economy over the last decade. This articulation was through the maintenance optics of traditional vector of Brazilian foreign policy, but with transformed focuses. There was, thus, in the three paths of the commercial trading strategy, which is linked to principles and acting traditions from outside of the country, although with new approaches and programs in each government, but keeping a more protectionist point of view that in the past, pre-crisis.

The analysis of the relationship between private and public interests in the formulation of Brazilian trade policy, either for the use of specific protection measures in post-crisis, or in structuring their agenda of trade negotiations, signals the existence of elements of continuity and change, but remains on a political spectrum based on protection of the internal market for international competition. Although liberalization has gained space on Brazilian trade agenda with the conformation of the "competitive bloc", essentially agricultural, in recent years, particularly in the multilateral negotiations, the interests of the "protectionist bloc" still prevail, as can be seen by the number of protective measures in use since 2008 and by the analysis of the negotiating agenda in the main forums.

The search for *autonomy* to apply *protection* policies aimed at the *development* of the country marks the commercial policy of Brazil. Contemporary Brazilian protectionism so reinforces lines of action that have developed over the past decades, in a context of international crisis in which interests of domestic sectors, historically strong and influential, are potentially threatened and the country's economy undergoes important structural transformation, with clear impacts on the political economy of trade policy.

3. Final remarks

The political economy of Brazilian trade policy attests to the centrality of private interests that seek and commonly can influence the country's trade policy agenda both with regard to the use of protective measures, such as import tax rates increase, as in the agenda of trade negotiations, same as the one between the Mercosur and the EU. As observed, the "protectionist bloc" still maintains the primacy while the private agent of influence on strategies of trade policy in recent years. Furthermore, it is worth mentioning the confluence between the trade policy agenda and the Brazilian foreign policy, where the autonomy-development dyad organizes the bases for harmonizing external possibilities with the imperatives of national development, still very tied to interests of protection.

The active role of the State in the transition of the productive structure in Brazil toward intensive industries in natural resources and energy, with the maintenance of an industrial base, perhaps less diversified than the current, signal to the continuity of an interventionist agenda, which presents protectionist interface regarding the trade policy. With the argument of stimulating domestic production with a view to creating jobs and income, the government has implemented a series of measures that expand the role of protectionism while instrumental mechanism for Brazilian economic development. Thus, it structures in Brazil what might be called a new developmental model, in which the centrality of the State while inducing private investment in selected sectors is clear.

Given the analysis undertaken in this article about the effects of the political economy of Brazilian trade policy on the negotiating process of the trade agreement between Mercosur and the EU, we can say that there is a risk of increased protectionism in Brazil in the short and medium term, a fact also noted in the current economic situation in the EU, expanding the difficulties that one must find so that negotiations proceed in order to sign the agreement in the near future. However, the dangers of a marginal integration strategy of Brazil in global production chains, and increased protection to domestic production, are of relative isolation and loss of competitiveness in many sectors of the Brazilian economy.

In a world marked by productive, financial and commercial integration, in which the *economic time* passes more quickly, the negative results of a development strategy that disregard the positive impacts of international competition and foreign markets for exports, inflation control and increased productivity in Brazil tend to be slightly more sensed, although they have an important and developing domestic market, as in the case of Brazil. Therefore, the conclusion of trade negotiations between Mercosur and the EU does not find mainstay in the analysis of the interests and preferences of private and public players that structure the political economy of Brazilian trade policy, although presenting positive aspects that involve increased productivity and relative gains from trade between both blocks.

It is worth noting that other factors and players are equally important in the analysis of political viability of the agreement, including the analysis of the political economy of trade policy of the other partners of the Mercosur and the EU, not addressed in this article. However, it is reasonable to think that any analysis that encompassed such elements would eventually ratify the skepticism about any prediction of a negotiating process' conclusion with an agreement entered. Thus, the political economy of trade policies of the countries involved in the Mercosur -EU agreement are tied to the context of paralysis in trade negotiations in WTO, and crisis and an increase in the use of protective measures in the world, questioning the feasibility of concluding negotiations between the blocs in the medium term. It is up to the negotiators the difficult task of proving that skeptical placements based on analysis, as presented and developed in this article, may be wrong.

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