



School of Business and Public Management

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***“Mercosul, Three Steps from a Customs Union. Analysis of
two Mercosul Countries: Brazil and Argentina. ”***

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La esperanza es aquella virtud que no se abandona perezosamente en la obra del Señor, ni confía en que las cosas se arreglarán por sí solas. La esperanza es la virtud que sabe que el futuro es el fruto del esfuerzo y del desinterés de hoy. Que no busca su propia y particular satisfacción, sino que comprende que no hay salvación si no es en comunidad. Y la esperanza es, sobre todo, la virtud que ha comprendido - y en eso basa su alegría - que el futuro es el fruto del amor de Dios por su criatura, el pequeño hombre de la tierra.

Ismael Quiles, S.J.

1. INTRODUCTION

The need to face common problems has been leading countries to one political approach, aiming at an appropriate entry into the world economy. That approach has resulted in the conclusion of many international agreements, such as the European Union, NAFTA (The North American Free Trade Agreement) and more specifically in Brazil, LAIA (The Latin American Integration Association or ALADI) and MERCOSUL¹ (Southern Common Market).

For the economic integration resulting from political agreements signed by participating countries, it is possible to obtain advantages common to all, such as on expansion of markets, on increase in resistance to discriminatory practices of protectionism, on increase in comparative advantages, and an reduction of costs through improved economies of scale.

Latin American countries, with the objective of establishing among themselves a common market, gradually and progressively created the LAIA



association. The LAIA foresees creation of the partial and multilateral agreements. With that possibility in mind, Brazil, Argentina, Paraguay and Uruguay created MERCOSUL, an agreement that intends to be, proximately, a Customs Union with the future possibility of the adhesion by other Latin American countries.

MERCOSUL began as a free trade zone that foresaw the elimination of customs duties and of commercial restrictions in the exchange of products. After passing through several steps of economic integration, MERCOSUL has entered the phase of Customs Union. It foresees the establishment of a common external tariff, coordinated commercial policies, and the harmonization of customs legislation.

In this context, this paper intends to outline what are the steps to be followed by Mercosul to arrive in a future Customs Union. With this aim in mind this paper will describe the main points of a Customs Union: 1) the establishment of a common external tariff, 2) political harmonization, and 3) the harmonization of customs legislation. I focus the customs procedures in the two main partners of Mercosul: Brazil and Argentina. In this paper I assume two principles: 1) all concepts and approaches are based on the point of view of a Customs Service and 2) the main focus is the imports procedures.

¹ Mercosur, which stands for Mercado Común del Sur (Common Market of the South), is the most widely used acronym, but the agreement is also known as Mercosul, the Portuguese equivalent of the Spanish acronym. I will use in this paper the acronym Mercosul.



2. THE CREATION OF A CUSTOMS UNION

The integration of Latin American countries is an essential condition for the sustainable development of the region. Latin American countries should integrate their economies, increasing commercial, financial and technological exchange inside the region and with the rest of the world to grow in a harmonic way.

The logic of the new world economy, where globalization and economic liberation have a central role, forces countries to work in a more and more integrated way. And that integration ends up impelling the development of each country and region totally. It is enough to see the examples of the regional blocks, as the NAFTA, the European Union and the Economic Cooperation of the Asia and Pacific (APEC), whose countries grow and are developed in the course of the integration.

In the America of the South and in the Caribbean, at a stage, early the governments perceived the importance of the integration for the economic and social development of the region. The first initiatives began in the 1960's with the creation of Latin American Free Trade Association (LAFTA or the acronym ALALC), and later Latin American Integration Association (LAIA or ALADI). In the last 40 years, Latin America countries have participated to the creation of new economic blocks (free trade areas, customs unions and common markets) as an answer to the demands of new dynamics to the world economy.



It was believed that those experiences were frustrated, among other things, by an excess of member countries². Eleven members, too dispersed and too different, which included all of South America and Mexico. And it was frustrated too, due to overly ambitious definitions of commitments: first, the establishment of a free trade zone, and later the establishment of a Latin America common market. The result was an imbalance between the broad geographic territory and the objectives of deepening. This result was translated into an enormous distance between the rhetoric and formal commitments and its actual impact on trade flows and investors' expectations.

The ALADI, up to now, has not enable to generate political power to confront the lack of common macroeconomic limits. This means the absence of capacity of decision making with big problems of exchange, and this limits the debate to smaller problems of technical character and diplomatic issues. This casuistry, detached from the projects of national development of its countries' members finished the concretion of the initial objective of creating a common market for Latin American.

The relative discussion of the conformation of one Latin American economic block is associated with the perception that trade structure and investment flows will obey a scenario of blocks. Here that the movement of products and factors will be more flowing to the interior of each area than among areas. This increases the importance of the identification of each country with one block.

² Peña, Félix – Broadening and Deepening: Striking the Right Balance – Mercosur: Regional Integration, World markets.



The arguments that justify a vision of international scenario composed by blocks are: the frequency with which preferential commercial agreements have been signed in last years and the relative difficulty that WTO (World Trade Organization) is having in fighting with pressures for the globalization. A more radical vision arrives to consider the formation of blocks like something simply unavoidable. If economic blocks are formed by neighboring countries is easier to overcome the costs because relatively little trade is evaded, there is trade creation in significant proportions and the benefit of scale economies is enormous.

The contrary arguments to that perception of blocks emphasize, among other aspects, the fact that any regional block cannot omit its trade links to outside of the region. This reduces the fears about protective barriers, and it could not have, therefore, closed units to the trade with third countries. Beyond that, one argues that the modifications that happened recently in the commercial politics of most countries will place, more and more evident, the costs of adhering to arrangements regionalists, in detriment of a multilateral opening.

One position in relation to the formation of a hemispheric area has been requested of Brazil. In that area, Latin American countries would be granted preferential commercial treatment mutually. Far from being a trivial topic, the difficulties of definition, in the case of Brazil, derive of their characteristic of "global trader", although "small", as well as of the commitments already assumed with other partners. In relation to those last ones, the Brazilian position can be drawn by a recent declaration, asseverating that Latin America is the great priority of Brazilian external politics. The invigoration of the relationships with the countries, by means of the growth inside the region and of the direct flows of



investments, it is one indispensable stage of the process of full integration of Brazil in the world economy. If before the importance was geopolitical, now it is also economic, the trade of Brazil with the region has increased a lot in the last years.

**BRAZILIAN TRADE INTERCHANGE
SOUTHERN COMMON MARKET - MERCOSUL
US\$ MILLION FOB**

YEARS	BRAZIL		BRAZIL X MERCOSUL		ARGENTINA		PARAGUAY		URUGUAY	
	EXP	IMP	EXP	IMP	EXP	IMP	EXP	IMP	EXP	IMP
1990	31413	20661	1320	2319	645	1399	380	332	294	587
1991	31620	21041	2309	2268	1476	1614	496	219	337	434
1992	35792	20554	4097	2228	3039	1731	543	194	514	301
1993	38554	25256	5386	3378	3658	2717	952	275	775	385
1994	43545	33078	5921	4583	4135	3661	1053	352	731	568
1995	46506	49971	6153	6843	4041	5591	1300	514	811	737
1996	47746	53345	7305	8301	5170	6805	1324	552	810	943
1997	52990	50747	9043	9426	6767	7941	1406	517	869	967
1998	51139	57714	8878	9427	6748	8034	1249	351	880	1042
1999	48011	49210	6777	6718	5363	5812	744	259	669	646

Source : MDIC/SECEX/Brasil

Brazil's total represent the amount of export and import

For the others countries (Argentina,Paraguay,Uruguay) the amounts represent the trade with Brazil



EXPORTS AND IMPORTS - GLOBAL VALUES

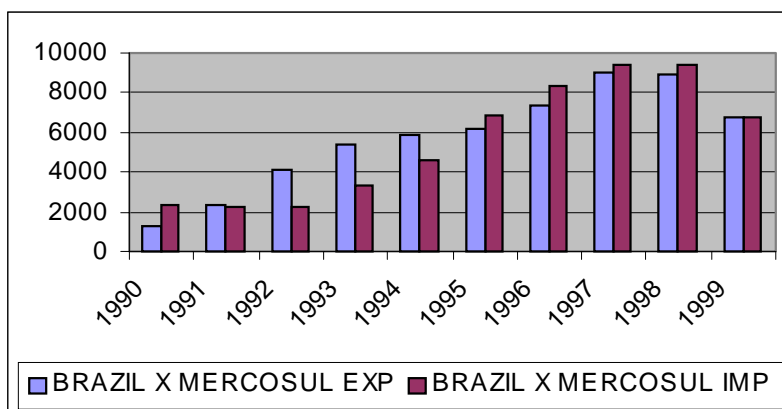
US\$ MILLION

YEARS	BRAZIL		ARGENTINA		PARAGUAY		URUGUAY	
	EXP	IMP	EXP	IMP	EXP	IMP	EXP	IMP
1990	31413	20661	12353	4077	959	1350	1708	1415
1995	46506	49971	20963	20122	919	3136	2106	2867
1996	47746	53345	23811	23762	1043	3107	2397	3322
1997	52990	50747	26431	30450	1141	3403	2726	3716
1998	51139	57714	26441	31403	1014	2898	2770	3808
1999	48011	49210	23125	25532	745	1900	2237	3356

Global values for exports and imports.

Source : Secretaria General de la ALADI

The amounts represents the total of import and export for each country





2.1 MERCOSUL CREATION

The Treaty of Asuncion, among Argentina, Brazil, Uruguay and Paraguay, was subscribed on March 26, 1991. It has as its objective the creation of a common market (accordant Preamble of the Protocol of Ouro Preto). At the moment, the consolidation of a Customs Union has not been reached. Therefore that one cannot affirm that a customs common legislation exists, and the Common External Tariff is not applied to the entirety of merchandise. It can be concluded that it is a Customs Union in formation, since it still needs to meet a series of essential requirements to conform it.

Chile signed a free trade agreement with Mercosul in June 25, 1996. Chile only participates of the program of free trade and it has its own common external tariff. This agreement is the ACE 35 in ALADI context. In Brazil, Decree 2075/96 internalized it. Bolivia³ signed an agreement with Mercosul too. The Bolivia agreement was made in December 1996. The agreement foresees the elimination of tariffs from a number of products.

In the Glossary of Customs International Terms of the Council of Customs Cooperation, international organization specialized in the customs matter (denominated in unofficial form World Organization of Customs – WOC or OMA), it is defined Customs Union as an entity constituted by a customs territory

³ Bolivia, a member of the Andean pact, obtained special authorization from its Andean partners to negotiate an accord with Mercosul.



that substitutes two or more customs territories⁴. It possesses in its last phase the following characteristics:

1. A customs common tariff and a customs common legislation or harmonized for the application of that tariff;
2. The absence of perception of customs duties and taxes of equivalent effect in exchanges among the countries that conform the customs union – harmonization of customs legislations;
3. Elimination of restrictive regulations to commercial exchanges inside the customs union – coordinated commercial politics and others politics.

In this context Mercosul must complete the three characteristics to arrive in a Customs Union entirely. In this paper I intend to analyze the present situation of Mercosul in these three points, principally focusing on Brazil and Argentina, the two main members of Mercosul agreement.

2.2 ADOPTION OF A CUSTOMS COMMON TARIFF OR CUSTOMS

EXTERNAL TARIFF – CET

2.2.1 Common nomenclature

With the objective of creation a Customs Union there is the necessity of establish a Common External Tariff applicable to all products imported of third

⁴ XXII Curso Iberoamericano sobre Técnicas Aduaneras Internacionales – Instituto de Estudios Fiscales – Ministerio de Economía y Hacienda de España.



countries by the Member States. Before, it is necessary to make a unification of the nomenclatures of goods adopted by Member States.

In the Glossary of International Customs Terms of the Council of Customs Cooperation (CCA or OMA) is defined as the tariff nomenclature as any classification system and code applied by a national administration, or for a customs or economic union, to designate merchandise or groups of associate merchandise, to the purpose of customs rate.

The selection of the nomenclature for Mercosul necessarily relapsed in the nomenclature accepted in a widespread form at the international level, “The Nomenclature of the Harmonized System.” The Member States of Mercosul decided to adopt a common nomenclature based on that system. The denomination is Nomenclature Common of Mercosul (NCM).

The Decision CMC (Common Market Council) 22/94, in its article 1, has approved the external tariff of Mercosul. This external tariff is structured with base on “The Nomenclature of Harmonized System of Appointment and Code of Merchandise”, and it was introduced in the legislation of each Member State of Mercosul. The Harmonized System already governed Argentina and Brazil. The Decision CMC 26/94 approved the norm of procedure of decisions, approaches and opinions of general character on tariff classification of merchandise.

It is useful to clarify that in spite of its denomination it continues being a national nomenclature, because Mercosul does not have an unique nomenclature, but rather each Member State has standardized the own one according to conventional rules.



When the unique version in Spanish was approved, Declaration of Lima in the XV Meeting of General Directors of Customs of Latin America, Spain and Portugal, the new NCM have been effective since 1/1/1996. Then, in Mercosul, it is used the last version of the Nomenclature of the Harmonized System for its first six digits and the General Rules of Interpretation. The NCM has eight digits (9.308 positions).

In Brazil, the Customs uses a nomenclature denominated TEC – tariff external common. It follows the pattern of NCM and uses more three digits to individualize merchandizes in agreement with control necessities, different tariffs and to promote specifics sectors of economy. It is called “Ex-tarifario,” or tariff exception.

In Argentina, the Customs developed a new nomenclature denominated Customs Integrated Tariff. It is based on the Nomenclature Common of Mercosul and it uses three additional digits to individualize merchandise according to control necessities (it does not imply a common tariff modification). These three digits are different from the last three digits used for Brazil.

In present days Mercosul NCM includes 85% of all merchandise and the average of rate tariff is 14%. The lower tariff is 0% and the higher is 22.5%. There are some products like informatics, telecommunications and capital goods that have a different treatment.



2.2.2 *Types of customs barriers*

The customs barriers could be of two types: tariff and non-tariff barriers. With regard to tariff barriers, they are those taxes that are imposed on products that enter to a country coming from foreign countries. The establishment of the common external tariff is a characteristic of a Customs Union.

The tariff completes two main functions. It is an instrument for protection of the national industry. And, it is an instrument for fiscal collection, since the money that enters in the tariff concept passes to the income of State.

With regard to the non-tariff restrictions, they are those barriers to the circulation of goods, detected only with a detailed examination. They are, in fact, all the restrictions that are used for not allowing the entrance of products of a country to other, and that they are not of tariff type. The controls phytosanitary and zoo-sanitary are one example of a non-tariff restriction. Another example is the Brazilian Consumer Protection Code. Some countries complain that it has been used in some occasions as a barrier for the entrance of Latin American products. Since it imposes to the products, the execution of a series of directive that are not demanded in other countries (the manufactured date and expiration date). Argentina has a consumer protection law, more recently than Brazilian law. Uruguay has a consumer protection law too, and Paraguay does not have one. The Argentina and Uruguay law had followed the Brazilian model. The Brazilian consumers protection code is far ahead Argentina legislation in assuring consumers rights against companies.



The experience showed that in the processes of Latin American integration the establishment of a common tariff was a difficult task.

2.2.2.1 Tariff: - ad valorem, specific or mixed

Among the reasons that take a country to institute the tariff duties we have:

- 1) Obtaining of new sources of income for the government;
- 2) The necessity to equilibrate the balance of international payments.

When the deficit passes to become constant, it is necessary the adoption of measures that can contribute to stabilize the balance of payments, through a decrease of the volume of operations that imply waste of foreign currencies. The government must be able to use tariff duties, specifying high rates for the import of superfluous articles with objective of promoting its reduction.

- 3) The protection of incipient national industries.

With the objective of a better understanding, we can define the tariff rate as the following types:

1. Specific - determined by the physical characteristics of the merchandise, the declared value of the merchandise is not important.



2. Ad valorem - determined by the declared value of the merchandise in form of percentage of the value.

3. Mixed – It is a combination of rates specific and ad valorem.

Each one of those rates presents their advantages and disadvantages, and the option for a certain type depends on of peculiar circumstances of each country. Mercosul countries through Decision CMC 22/94 fixed the Common External Tariff as Ad Valorem. However there are some exceptions called “exceptions lists”. There is a Mercosul technical committee about “tariffs, nomenclatures and classification of merchandise”.

The declarations of value that serve as base for the calculation of the duty ad valorem are always doubtful, that implies in the necessity of a great knowledge of the international prices of the products. This forces the importers countries to impose many formalities. The specific rates eliminate the necessity of a complex control, nevertheless the existence of highly specialized employees to determine the typical characteristics of each product become obligatory for the import country.

The Mercosul Customs Union, which had its leverage on January 1, 1995 (with the complete customs union foreseen to year 2006), listed some exceptions for the application of the tariff rate. This list of exceptions was made with regard to the different productive structures of the member countries. There are exceptions to the common external tariff for capital goods, computer, and telecommunications sectors.

During the negotiations Argentina had zero tariffs on capital goods and computers, because the country did not produce computers, and had an incipient



production of capital goods. Argentina's strategy after the 1980's therefore were to eliminate import tariffs and protect domestic industry – the importation of capital goods at international prices was thought to be an effective vehicle for accelerating the modernization of Argentine industrial capacity. Brazil, however, as the sole producer of computers and the largest producer of capital goods in Mercosul, was not willing to agree on a zero tariff for these goods. Keeping tariffs in place in these sectors, which had long benefited from protectionist policies, seemed justified by the relatively large and diversified stock of capital goods and by some potentially competitive segments of the computer industry. The cost of adopting zero tariffs would have been extremely high. The solution was to delay implementation of the common external tariff. An average tariff of 14 percent went into effect for capital goods in 2001, for Argentina and Brazil. Uruguay and Paraguay will have this average of 14 percent only by 2006. For informatics and telecommunications, the average tariff will be 16 percent as of 2006.

2.2.2.2 Other types: - antidumping, compensatory.

Dumping is the introduction of import products of a country into the market of another country at an inferior price of the normal value.

The topic of the entrance of imports with subsidized prices or with dumping it is not only a concern for the partners of an integrative process, but also a concern for the national industry of the importer country because,



obviously, it affects the equal conditions of trade. But, in fact, it is a topic that also greatly worries the countries of GATT (General Agreement of Tariffs and Trade, now it is WTO - World Trade Organization), since WTO authorizes imposition of antidumping and compensatory duties. WTO, which authorizes countries to apply compensatory sanctions, considers the practice of the dumping and subsidies as crimes.

The safeguard clauses are mechanisms of juridical character that countries use to avoid, in an integration process, the entrance of some products that could threaten or cause a serious damage to production of some sensitive sectors of their economy. The rule on the application of safeguard clauses regarding imports from third countries was approved in Mercosul; basically, it follows the rules of the World Trade Organization.

The Council of Common Market dictated the Decision CMC 11/97 “Normative Mark of the Common Regulation about the Defense Against the Imports Object of Dumping from Countries that are not Members of Mercosul”. This decision says that it is necessary to adopt a harmonized treatment for imports from countries non-members, but it is necessary to adapt the instruments of trade defense with the Ronda do Uruguay. This decision allows each country member to apply its own rules about the matter because there is not yet a common regulation about antidumping, but they should follow the rules of Decision CMC 11/97. It foresees too that one country member could solicit to apply antidumping measures against another country member. This request should be made with all legal bases and it should be presented at CMC –



Common Market Council. All imports of products subject to antidumping measures come from countries of Mercosul will be fit in the rules of origin.

The Protocol of Brasilia, Decision CMC 1/91, defined that the Member States, in case of a controversy, will try to solve it by means of direct negotiations. They will inform the Common Market Group (CMG), through the Administrative Secretary, the results of the negotiations. If by means of the direct negotiations they would not reach an agreement or if the controversy had been solved only partially, anyone of the Member States in the controversy will be able to subject it to consideration of the Common Market Group (CMG). The CMG will evaluate the situation, giving the opportunity to the parts in the controversy. They would expose their respective positions and requests, when they consider it necessary. The advice will be given by selected experts chosen of one previous list. When the controversy had not been able to solve by means of the application of the procedures referred, anyone of the Member States in the controversy will be able to communicate to the Administrative Secretary its intention of appealing to the procedure of arbitration.

2.2.3 Already measured adopted as regards as valuation

The exact application of the Common External Tariff not only demands to standardize customs duties (to have common rules for the determination of the taxable base), but also the method with which the merchandise are valued in the



different customs that conform the Custom Union. In consequence, it should remember a common system of valuation of the merchandise in customs.

All the countries signatories of the agreement of the GATT will implement article VII of the “General Agreement on Rates and Trade”, GATT, 1994, known as the “Agreement of Customs Valuation”. The Member States of Mercosul adopted the system of valuation based on the agreement. The new system is based on the positive notion of the value, expressed in the transaction value. Brazil and Argentina have already adopted it; Paraguay and Uruguay have approved the Agreement.

The Council of the Common Market dictated the Decision CMC 17/94, that norm establishes the value of merchandise in customs. The Article 1º expresses: "The taxable base for the determination of the import duties will be the value in customs of the merchandise, introduced at any title into the customs territory of Mercosul and it will be determined according to norms of a related agreement for the application of the Art. VII of the G.A.T.T".

This agreement foresees the application of six methods of Customs valuation. In a concise way, we can define the methods like as:

1. First method - value of transaction of the imported merchandise.
2. Second method - transaction value of the identical imported merchandise to the merchandise object of the shipping.
3. Third method - transaction value of the similar imported merchandise to the merchandise object of the shipping.
4. Fourth method - value of resale of imported merchandise.
5. Fifth method - computed value of the imported merchandise.



6. Sixth method - value based on reasonable approaches, conducive with principles and general dispositions of the Agreement of Customs Valuation and with available data in the import country.

The main objectives of the control of the customs value are to check if:

- The circumstances converge for the application of the method of the transaction value;
- The declared value includes the total, either already paid or still to be paid, for the importer to the exporter, for the imported merchandise;
- The declared value includes all the adjustments foreseen in the article VII of the agreement of valuation of the GATT; and
- The substitute method was used adequately.

The system of Customs Valuation imposed by the agreement requires that both the importer and the Customs authority participate actively in the valuation of merchandise. In accordance with that system, possible disputes, relatively to the declared customs value by the importer, will give the opportunity for consultations between the Customs administration and the importer to approve the establishment of an appropriate base of valuation. It is important that the Customs authority and the importer exchange information to assure the accuracy of the customs value. It is important also the exchange of information among the Customs authorities of the diverse countries involved in commercial transactions.



2.3 NORMALIZATION OF THE CUSTOMS LEGISLATION

Following the example of the European Union, Mercosul countries should create a “Customs Code Community” with the objective of harmonizing the customs duties of the Member States, thereby exporters and importers will not be surprised by different legislations. The objective is to become the customs clearance an easy procedure and routine.

With this objective, Decision CMC 25/94 approved the Customs Code of Mercosul. In Brazil, the Secretariat of Federal Revenue - SRF, organization that is responsible for all Customs Service and it is subordinated to Ministry of Finance, published this decision through the Internal Norm SRF 5393 of 11/09/1994 with the objective that interested citizens would criticize it. The others Mercosul countries are analyzing that Customs Code too.

Since this time, Mercosul’s customs code is being examined by the parliaments of the four countries. It contains a series of concepts, customs operations, regimens, and customs controls that are universally accepted and it is based on the “Kyoto Convention” that regulates customs procedures. The legislative proposal has suffered many changes, but the final proposal has not been approved yet for the country members of Mercosul. There is a lack of interest by the Member States.



2.3.1 Situation and proposals as regards as:

2.3.1.1 Value

The countries will follow the Agreement of Customs Valuation of the GATT. The price on the commercial invoices, known as the Value of Transaction (the paid price or to pay for the goods to the import country in a export sale), will be used as the basis for determination of the customs value of the imported goods.

The transaction value will be composed of the value of merchandise plus the costs of transportation until merchandise arrive in the port or local of import and the relative expenses of the shipment, the release and handling of imported goods, and the insurance. The definition of the Customs Valuation demands certain cooperation among the involved countries.

With the application of the common norm it should determine the uniformity of the taxable base, condemning the arbitrary and fictitious values. With this purpose, the following considerations should be implemented:

- The formalities should be reduced to the minimum and should not become an obstacle for the release of the merchandise.
- An integrated computer system should be made to be used in a uniform way by the Customs of the Member States.
- Channels of exchange of information should be defined with the objective of having reliable consultation databases and to be used for all members.



- The Participation of different trade and industrial sectors should be allowed because the contribution of antecedents and their collaboration in the determination of the value of complex merchandise.

2.3.1.2 Origin

One of the things that differentiate a Customs Union and a Common Market of a Free Trade Area is the existence of a Common External Tariff. This means that all countries partners of the Customs Union or the Common Market will charge the same tariff for merchandise. Once the importer has paid the TEC (common external tariff), this product can be re-exported to any other country inside the Customs Union or the Common Market without necessity of paying another tariff. In contrast, the situation in a Free Trade Area is very different, since each country partner charges its own tariff for a product that is not native of the area when it is entering into its territory. Of course, this means that the rules of origin of a Free Trade Area need to be much stricter to avoid the entrance of foreign products into the country that charges the lowest tariff rates, for later to be distributed to the other partners of the area that charge a higher external tariff.

Today's commercial practices indicate to us that it is common to find products that had been manufactured in more than one country. Therefore, if the countries do not have preset rules, it becomes difficult to determine when a



product can be considered of intra-zone and when not. Only qualified goods originated of the Member States of the integration process will benefit of the special tariff treatment. This emphasizes the importance of specifying clear and defined approaches to clarify if this or that merchandise would originate of the region. It is good to clarify that this rules of origin are not possible to be applicable to determine the origin of goods negotiated in commercial transactions with countries that are not members of the Customs Union.

The countries partners will provide a declaration that attest the execution of the origin requirements, so that the goods exchanged among the members' countries can benefit from the reductions of obligations and restrictions. This declaration is denominated "origin certificate".

Asuncion's Treaty in its Annex II established general rules of origin to be used during the denominated period of transition (up to the December 31, 1994). Then, by means of Decision CMC 6/94 a regulation of origin of the merchandise was approved in Mercosul, supplemented by Decision CMC 23/94. In consequence, both decisions (registered in ALADI like 8th and 22nd. Additional Protocols to the ACE 18) regulate the general rules of origin in Mercosul; they are applicable to the trade intra area.

This rule demands that a product needs to be native of one of the four countries partners, or manufactured with products that are from the country partner, before it can be exchanged free of all obligation. A product made with raw materials or other non-regional inputs can also be exchanged inside the Mercosul without paying a tariff. In case of non-regional inputs, these inputs should have been transformed inside the Mercosul, and the transformed product



must acquire a new classification in the Nomenclature Common of the Mercosul (NCM). Also, if the value CIF port of destination or CIF marine port of the inputs of third countries do not exceed 40% of the FOB value of the final product, then this product also can benefit of the intra-regional free market.

The fact that Mercosul some day craves to become a Customs Union means that there is no necessity of having so elaborated and detailed origin rules. Mercosul still has not completed the free trade area, for the existence of important exceptions to the free circulation of merchandise. Therefore it is necessary to have rules of origin to differentiate the merchandise that would originate of the area in free circulation. On the other hand, with relationship to the construction of the Customs Union exceptions to the TEC still exist, this means that there is merchandise in convergence process at the stipulated tariff level. These exceptions should be eliminated completely when the TEC is completed by the year 2006. In the trade intra area, different situations are presented according to products that are or not included in the TEC and in the common exceptions (capital goods, telecommunications and informatics) or characteristic of each country.

For a complete integration between Mercosul countries, the origin norms should be developed and applied in an impartial, transparent, coherent way and that is neutral for the trade. But this application, in a Customs Union, should be for the trade extra area and for preferential regimens agreed in common. The differentiation among the foreign merchandise of the community ones must be propitiated, and it should not stop the trade intra area as still is in Mercosul.



Each Member State should have an office that coordinates the appropriate administration of the different systems linked to origin control, in execution of the agreements that the nation subscribed. The level of technical qualification in the matter of the customs officers has singular relevance. The customs services of the Member States should have specialized employees and assigned in permanent form to solve the arduous questions about the application of the origin rules.

Independently of that exposed, it should be advanced in the improvement of Customs Union to the ends of eliminating the demand of the origin certificate definitively for the trade intra area.

2.3.1.3 Traffic

At the moment, the regulations and bureaucratic norms, especially in the frontier positions, are mainly responsible to increase the costs of loads' transports. The objective of the harmonization of norms is to increase the integration of markets, to propitiate investments and operations intra-zone and to facilitate the planning according to the concept of integration axes and development. It is necessary that goods be allowed to enter into customs territory with suspension of taxes, and also that they are allowed into circulation.

The suspension destination of customs traffic is subject to the dispositions of the Agreement of Terrestrial International Transport (ATIT),



subscribed in Santiago do Chile September, 01 1989 for the Member States of Mercosul, Bolivia, Chile and Peru, and for national regulations for internal traffic of each country.

The merchandise that enters by ground (truck and railroad) in the national territory from any country signatory of the agreement, going to the exterior, are object of operation of Customs International Traffic (TAI) with use of MIC-DTA (International Manifest of Cargo - Declaration of Customs Transit), unique claimed document for the exit and temporary entrance of the unit of transport and for the traffic of merchandise, providing the effects of suspension destination of traffic and the effects of entry manifest.

For the case of air and water, it is presented to the arrival before the customs, the MIC-DTA together with the document that authorizes the suspension destination. It is not necessary this last one if the customs broker subscribe the MIC-DTA.

In the mentioned agreement, the companies authorized to do the international transport among the States signatories are excused from presenting formal guarantees to cover the possibly claimed obligations for both merchandise under the regimen of customs international traffic and also for vehicles under the regimen of temporary admission. However their vehicles, enabled for this transport, are the guarantee to account for the obligations and pecuniary sanctions that could occur.

In the Member States of Mercosul, the traffic destination can be requested regarding any merchandise class that enters or leaves national territory



for different roads (terrestrial, aquatic or air). The customs fix the itinerary and the term in which the transport should be completed.

As the application of traffic regimen is practically harmonized in Mercosul, it should be worked in the sense of doing a better control to the ends of being able to make a real and reliable pursuit and to have corresponding cancellation of the traffics in the moment of the customs exit.

2.3.1.4 Nomenclature

The most important formality in the import procedure is the determination of appropriate classification of merchandise. This should be the first stage to be verified when merchandise enters into customs territory. The classification of products determines the amount of taxes due customs directly. The countries will adopt the Harmonized System of Description and Code of Goods for the first six digits.

The appropriate classification of merchandise belongs to the exporter firstly. In case the Customs Officers do not agree with the given classification, they will be able to modify it.



2.3.1.5 Customs Economic regimens

Customs Regimen is the tributary juridical treatment applied to imported merchandise. There are a great number of customs special procedures. The main source of regimens, procedures and customs techniques is the Convention of Kyoto, 1973.

The customs special regimens are in general suspensive, this means that there is a deferment for the payment of duties. This deferment is in general under bond, and there is a period of time to complete the exportation. However, this period can be extended.

The expression customs regimens refers, in general, to customs destinations and customs special regimens and regulations refer to customs operations. In the Glossary of Customs International Terms of the Council of Customs Cooperation (CCA) customs regimens is defined as the customs applicable treatment for merchandise subjected to the control of customs. Note that the definition clears up that the word merchandise covers equally the means of transport.

The Council of the Common Market of Mercosul dictated Decision CMC 16/94, denominated “Norm of Application About Customs Dispatch of Merchandise.” This norm tries to establish general points about customs procedures for the different regimens. Each Member State has adopted the mentioned norm, but has also applied its own national norms for each one of the regimens in particular.



The main regimens defined in Decision CMC 16/94 are:

1) Arrival regimen and exit of instruments of international traffic: customs formalities previous to presentation of declaration of merchandise.

2) Temporary deposit or warehousing: where the merchandise is stored while waiting for the declaration to be presented for the assignment of temporary destination.

3) Customs dispatch of merchandise: execution of customs formalities necessary to introduce the merchandise for consumption, to export them or to locate them under any other customs regimen.

4) Import and Export for consumption.

5) Temporary Import and Export: in their modalities of suspensive destination for re-exportation or re-importation in the same situation or with active or passive improvement. The temporary admission for the trade intra-area should not be allowed, since today it has still not been possible to harmonize for different reasons in Mercosul. Mercosul countries are using the temporary admission in widespread form. Temporary import or export can only be authorized exclusively for the inputs, parts or pieces used in the manufacturing of goods that are excepted from the TEC, or for those products whose excepted inputs from the TEC overcomes 40% of FOB value of the final product since they follow the application of the rules of origin. The temporary import and export are part of the politics of incentives that should decrease to their maximum expression before the process of formation of a customs union occurs.

6) Storage deposit: merchandise stored under customs control until it has another destination.



7) Customs traffic: is subject to the dispositions of the Agreement of Terrestrial International Transport (ATIT), subscribed in Santiago do Chile in September, 1989, by the Member States of Mercosul and others, and also to the national regulations for internal traffic of each country.

The operation of a Customs Union demands, with high-priority character, the uniformity or harmonization of the customs regimens. The regulation of customs regimens should be contemplated by means of the sanction of Customs Common Code. The regulation should be based in the harmonized Norma (Decision CMC 16/94). Common customs procedures should be implemented for the harmonized regimens to assure that the internment of goods to the enlarged market takes place under similar conditions until the entrance point.

During the year 1997 Mercosul countries worked on a project “Mercosul Customs Unique Document (DUAM)”, having reached the conclusion that it is incompatible with the existent computer systems in the Customs of the Member States, and that modification would carry high costs. Although a list of common data has been identified for the four Member States.

2.4 POLICY HARMONIZATION

In Mercosul there are no formal mechanisms for macro-economic coordination. Considering the weight of the Brazilian economy in Mercosul,



negotiations on policies that demand the harmonization of macroeconomic instruments would tend to be largely influenced by the pace and format of internal reform in Brazil, thus making it evident that Mercosul itself is not the frame of reference for economic reforms.

Nonetheless, if a deepening of the integration process is needed, common mechanisms for coordinating macroeconomic policy must be created. There are no easy answers, especially when you consider that decision-making under the sub-regional agreement requires consensus among countries with extremely unequal economic power.

2.4.1 Current situation and problems

2.4.1.1 Commercial politics

The adoption of a common commercial politics in relationship to third States or groupings of States is something inherent to a Customs Union. The type of common external tariff that is adopted by the countries will mark the common rules that the countries have decided to adopt with common agreement as regards commercial politics in respect of third countries. This is to say, if integrated countries have decided to fix a high tariff, it is clear that their commercial politics will be the one of a closed economy. Here, the economy is more to the style of substitution of imports where national production is prioritized, protecting the economy from the competition of third countries. On the other hand, if one notices a common lower external tariff, this means that the



adopted commercial politics are those of market freedom. This is, where products of third countries flow almost freely to the area. Here, the national producers will increase their competitiveness in order not to lose markets. The coordination of macroeconomic policy among the Member States is one of the more difficult tasks of an integration process.

The Member States of Asuncion's Treaty have committed to adopt a common commercial politics in relation to third countries, one that translates fundamentally in the Common External Tariff (TEC), the essential characteristic of a Customs Union (tariff aspect). The main instrument of effective common commercial politics in Mercosul is the TEC, which is applied to imports coming from the extra-zone.

The Member States continue to charge the TEC to the extra-zone imports that enter for another State. The argument for this is that a consolidated list with the exceptions tariff positions does not exist (this would enable countries to demand origin requirements for all products, but not to charge the TEC for a product extra-zone that has already paid the tariffs). Independently of that indicated, the nonexistence of a uniform approach for the collection of the TEC become difficult the harmonization. And, it gets worse because a mechanism of assignment of the customs collection does not exist.

In fact, effective access to markets is one of the central components of Customs Union. Although Mercosul has been advanced in this matter, many national regulations that limit the free circulation of merchandise still subsist (obstacles materialized in non-tariff restrictions of border and non-border character).



The significance of the TEC is in its two different purposes: to collect funds for the National Treasure and to protect domestic industrial activities. This significance is not identical for the countries members of Mercosul, since the percentage that customs duties represents in the budget of each one of the States is not the same. The existence or not of industries that are to be protected translates into the required tariff level, which is also different among the Member States. For the reasons explained above, the determination of tariff levels for the TEC was not an easy task, and it was only arrived at by intense commitment, given the diverse interests of each one of the most sensitive sectors.

Table II – Collection of Federal Revenue - (Current prices)⁵

UNIT: R\$ MILION								
Months	Income tax	IPI (Except IPI-linked)	I. Import IPI-linked	Contributions(*)	Others	Revenue Managed	Others Revenues	Total General
Dec-00	6.149,9	1.480,1	1.229,4	7.251,7	485,3	16.596,5	425,6	17.022,1
TOTAL 2000	56.396,6	13.997,2	13.352,0	77.395,5	5.041,4	166.182,7	9.837,7	176.020,3
Jan-01	6.194,4	1.108,1	1.082,3	7.631,6	507,4	16.523,8	845,3	17.369,1
TOTAL 2001	6.194,4	1.108,1	1.082,3	7.631,6	507,4	16.523,8	845,3	17.369,1
(*) CPMF, COFINS, PIS/PASEP, CSLL e CONTRIBUIÇÃO P/ PLANO SEGURIDADE SOCIAL DOS SERVIDORES PÚBLICOS.								

Source: Secretariat of Federal Revenue – Brazil – Website

⁵ www.receita.fazenda.gov.br



2.4.1.2 Agricultural politics

One the most problematic points for integration is the agricultural sector. Great competitiveness in agriculture and agricultural production exists among most of the countries in development. It is necessary to develop an infrastructure so that sectors and regions producers can progress. There is a great possibility that Latin America will become the neighbor's biggest agricultural world producer in the next century.

The understanding that Latin America, as a whole can be the biggest world producer of foods, fibers and energy of the coming future should take the countries in development to begin a strong commercial war in agricultural sector that would bring immense harm for the own producers. Under this aspect, the coordination of macroeconomic politics and reduction or suppression of non-tariff barriers (especially sanitary and phytosanitary restrictions) would give an impulse to the process of development of the region, instead of remain as a continuous focus of conflicts.

Another problem that affects the export of agricultural products directly is the shameless use of subsidies. The Brazilian government has considered all financial support to the exports as source of distortions to trade, for example the very long financings to export of foods, as well as the invigoration of limitless credit guarantees and insurance to exports. This is a very interesting aspect. Brazil, the country that stands out and it could stand out even more in the international scenario as world producer of foods, has that conception and it



restricts the access to the credit for the rural producers, to the step that the Europe and United States subsidize in an astonishing way its agricultural producers.

A multilateral round of commercial negotiations that includes a clear commitment on access and liberalization of the agricultural markets is high-priority for Mercosul, as well as on the elimination of the distortions in its markets and of the subsidies. Another high-priority is the inclusion of formulas of special and differentiated treatment that observe the structural differences and respond with appropriate instruments to the necessities of the countries in development.

While geography is the mother of Mercosul, the basic economic complementarities of the four countries have fueled the political impulse for integration. All four countries are major agricultural-producing and exporting countries. Both Brazil and Argentina have very powerful, cost-competitive, agricultural sectors – notably oilseeds (mainly soya), coffee, meat, orange juice, cocoa and sugar in Brazil and oilseeds, vegetable oils, wheat, meat, fruits and vegetables in Argentina. Brazil is a major market for Argentine wheat. As Brazil produces only 70 per cent of its oil needs, Argentine exports are convenient, while Paraguay sells significant quantities of hydropower to Brazil from its share of the Itaipú power dam. Brazil is rich in minerals and has a large, diverse and, in a number of cases, sophisticated industrial base. Argentina has a high-cost, but skilled, labor force; the labor force is abundant in Brazil, low-cost and, for the most part, unskilled. After automobiles, Brazil's Mercosul imports were heavily



weighted towards commodities such as oil and agricultural goods such as grains, malts, cotton, milk and dairy products, fruits and oil seeds.

Argentina is richly endowed in agrarian resources. The most fertile and productive land is located within a radius of 500 kilometers of Buenos Aires. This area is one of the most fertile regions in the world for temperature agriculture, contributing to production costs, which rank amongst the lowest in the world.

In any country, agriculture is maintained in a situation of free competition. The State sustains and guarantees free competition for all kinds of mechanisms. For example: the agricultural prices are sustained at different levels to assure a minimum rent to the farmers. In fact, one constantly thinks about the presence of measures adopted by the countries that are a true hidden protection to imports. Efforts should be made to eliminate those restrictions.

2.4.1.3 Sanitary politics

The following are considered as sanitary or phytosanitary measures: all measures applied to protect the health and the life of animals or to preserve the vegetables in the territory of the country for resulting risks of the entrance, elimination or propagation of plagues, illnesses and dangerous organisms. Wanting to improve the health of people and of animals in the territory of all countries, any country should not be prevented from adopting or from applying the necessary measures to protect the life and the health of people and the animals



or to preserve the vegetables. Those measures should be on the condition that it does not constitute an arbitrary or unjustifiable means of discrimination among the countries. And the same conditions must prevail, and so the countries do not place a hidden restriction on the international trade.

To harmonize the sanitary and phytosanitary measures in the biggest possible degree, the countries will base their measures on norms, guidelines or international recommendations, when they exist.

The countries should accept as equivalent the sanitary or phytosanitary measures of other countries⁶, even when they are different or those used by other countries that trade with the same product. This can only occur if the country exporter demonstrates objectively to the country importer that their measures achieve the appropriate level of protection of the country importer. To achieve such effects, reasonable access for inspections, tests and other pertinent procedures should be facilitated to the country importer that requests it.

By means of Decision CMC Nº 9/95, Mercosul adopted the Agreement of Ronda's Uruguay. This decision was established in regards to the sanitary and phytosanitary regulations. The objective is to accelerate the process of normative harmonization, as well as the national procedures of control. The pursued end is to assure that the national norms in the matter do not constitute an unjustified obstacle to the intra-regional trade of products of vegetable and animal origin.

Once the tariff for agricultural products is zero, the non-tariff restrictions are totally without management. The agricultural sector began to work with the private sector and the dismantlement process was designed in

⁶ Lipovetzky, Jaime Caesar – Mercosul: strategies for the integration



several stages, with a quite appreciable result, subsisting the problems in the most sensitive sectors in each country.

Regarding the sanitary measures, in this decision was resolved that the politics to adopt is that for the preservation of the sanitary and phytosanitary patrimony of the Member States. This meant that common sanitary measures was not established; it focused on respecting the specialties and the advances in the fight against plagues and illnesses and in the establishment of free areas of each Member State. The “principle of sanitary regionalization” of the WTO⁷ was implemented in Mercosul. This is different from the manner used by European Union in which the sanitary frontiers among the Member States have been eliminated.

In December of 1998, the Resolution GMC 77/98 was approved relative to mutual recognition and equivalence of control systems. By means of the same resolution the subscription of bilateral agreements is authorized among the competent organizations of the Member States. This agreement recognized systems of mutual control of the agricultural products to optimally facilitate the passage between borders without limitation of the commitments assumed among the four Member States.

The sanitary systems of the countries of Mercosul differ in their structure, organization, politics and costs. The problems of their populations' health also influence the patterns of development for different products; these problems are a result of geography, history, demography, culture and the degree

⁷ World Trade Organization



of economic development. However, an important quantity of problems and common principles exists:

- The requirements, for the registration of pharmacies products and elaborated products in a Member State producer, have been harmonized.
- The physical locations for the entrance and exit of the narcotics and psychotropic substances were also approved.
- The program of inspectors' training was approved to ensure the execution of “good practices” of production of medical products.

The fact that all the countries do not have identical regulations will influence in the eradication of investments.

2.4.1.4 Industrial politics and energetic

The integration and complement of the resources of Mercosul countries, in the energy sector, constitute an approach axis. This approach should be enlarged and improved to enable the preservation of the environment and the elimination of unjustifiable barriers and regulations in this sector.

In Mercosul, a common and general industrial politics does not still exist. Only there is the existence of scarce commitments or sector understandings. This translates in a certain harmonization in very punctual topics like as: sectors railcar, steel, textile and leather.



Each one of the countries has its own legislation, relative to the different institutes that conform the denominated industrial property. Although they are inspired by the same principles, they are not coincident in their entirety, nor do they have the same degree of complexity. The rights of patents are territorial (due to the lack of supra-national community patent organs). What is pursued with the harmonization is to give a bigger security and to facilitate the business, so that there will be not different rights granted by the patents in the four countries. By means of Decision CMC 16/98 the Protocol of harmonization of norms was approved for industrial designs.

Among the countries of Mercosul very important experiences of energy integration exist, mainly at the bilateral level (some in operation, others in execution and others in study of feasibility). The hydroelectric projects and the gas ones are the most important ones, being that the consumption of natural gas the one that will grow in more measure. The development of pipeline nets constitutes one of the most ambitious investment projects in Mercosul, impelled by the expansion of the capacity of electric generation through the installation of central thermal of natural gas. All of the countries of the region register a tendency to the deregulation and the opening to the private initiative of the energy sector; as a result the potential for the development of projects has been increased notably (Bolivia and Chile also participate).

The infrastructure of energy of Mercosul refers to the natural gas, to the nets of electric power distribution and the distribution of petroleum and sub-products. Through Resolution GMC 57/93 “The guidelines of energy politics” were approved in Mercosul. By means of Decision CMC 10/98, “The memorandum of



understanding relative to the exchanges of electricity and electric integration” was approved in Mercosul. With the subscription of this last document, the free recruiting of sources of electricity power was authorized in anyone of the Member States. The memorandum also defines the development of technical studies that and the identification of the adjustments that are considered necessary for the electric integration among the countries.

The difference of the industrial politics rules and demands foreseen in the regulations of each country and the different aspects of the industrial activity (disparities of technical norms of production, of conservation and/or presentation of the products) it constitutes an obstacle to the free circulation of the merchandise and of the services in the environment of a Customs Union. Consequently, it is necessary that one work in a great harmonization effort that keeps in mind the specific problems in each sector or productive activity.

The materialization of the energy projects will require an increase of the reserves to supply the consumers, in such way of giving continuity to the supply in economically profitable volumes.

Argentina’s abundant and diverse energy resources, which include oil, gas, hydropower and uranium, render the country largely self-sufficient with respect to its energy needs. Petroleum products are exported, increasingly to neighboring Brazil.

Brazil is richly endowed in natural resources and human capital. It has a substantial, diversified and sophisticated industrial base located in the south of the country. But its income distribution is the most skewed among Latin



American countries, resulting in serious poverty for a significant portion of the population.

2.4.1.5 Environment politics

The regional infrastructure should adapt to the capacity and the vocation of the territories and the ecosystems that compose it. It should also maintain the quality and quantity of natural resources provided by the ecosystem.

The projects should be conceived to reduce the maximum negative environmental impacts and to stimulate the initiatives that contribute to the conservation of the natural resources. At the same time, the projects should also generate employment and increase production. It is a general idea that everyone knows about the conservation of natural resources, but the environment is still threatened by the uncontrolled exploitation of them. Furthermore, the economic well-being depends on activities that drain these resources producing contamination and generating residuals.

The growing demands of the markets of the developed countries require that exported products of Mercosul's countries respond to the approaches settled by the international community regarding the preservation of the environment. The preamble of Asuncion's Treaty refers to the preservation of the environment, and the national legislations of the Member States refer to it by



means of several normative, mainly in what concerns dangerous residuals. In regard to environmental politics, the basic directive norms were approved in Mercosul by means of Resolution GMC 10/94. Then, it was recommended to adoption of the norms of the series ISO 14.000 (this series corresponds internationally to the environmental administration).

In 1999, the Protocol of Harmonization of Norms was approved regard to “industrial garbage” in Mercosul. By virtue of the differences among the environmental legislations in the Member States, based on the different vision that has each country regarding the care of the environment, it was opted to analyze individually each non-tariff restrictions. A project of an “Additional Protocol” in Mercosul, as regard as the environment sector, was elaborated, but it is still being analyzed. It is a very extensive project and it does not take in account the existent asymmetries among the countries. It is recognized that an appropriate harmonization of the environmental standards should be possible for not falling in the establishment of non-tariff barriers.

2.4.1.6 Policy of transport

The amplification of economic integration presupposes the invigoration of the physical integration among the countries. The biggest economic blocks in the world grew and they consolidated leaning on a modern and integrated infrastructure. In the meantime, in Latin America the countries feel the effect of



the lack of more modern and more efficient systems of transport, energy and telecommunications that can impel the commercial exchange in the region.

The precarious physical integration in the continent represents today one of the biggest obstructions to the competitive insert of the region in the world economy. To overcome that deficiency, it is necessary to improve and to enlarge the highways, railways, waterways, ports, airports and pipelines, beyond integrating the energy nets and telecommunications. This should facilitate the exchange of goods, people and information among the countries of the region and of them with the rest of the world.

The new projects should integrate the via of transport, of energy systems, and of telecommunications, creating a basic structure of integration axes and development. In that way, it is possible to reduce the costs of transport and to increase the competitiveness of companies installed in the area influenced by those axes. This will positively reflect the quality of products and services, the productivity and innovation capacity.

Mercosul countries should have as a priority the conformation of multimode nets that better use terrestrial, fluvial, water and air roads. They should also facilitate the border traffic of people, vehicles and loads, besides contributing to make the trade and the investments in the region more dynamic.

The topic of harmonization in the politics of transport in fact constitutes an aspect of the liberation of the trade of services. The harmonization in the matter would become easier if the countries of Mercosul were parts of diverse international instruments. However, until the present, harmonization in the politics of transport has been advanced very little. The unique agreement



subscribed by all countries is the Agreement of Terrestrial International Transport (ATIT) in Chile, September of 1989, effective since 1991.

According to a recent diagnosis elaborated by the Institute for the Integration of Latin America and the Caribbean (CEPAL) of the IDB (Inter America Development Bank), the current infrastructure of transport of the countries of Mercosul presents a wide group of deficiencies and bottlenecks that reveal its lack of adaptation at the current level of intra-area commercial exchange. Also, it reveals a probable saturation of the existent systems in the near future.

Regarding the asymmetries linked to the transport, the Resolution GMC 58/97 was approved. This resolution has the objective of considering permanent treatment on the part of the authorities of transport of the Member States the task of identification of the asymmetries connected with the terrestrial international transport. The final objective is progressively eliminating its negative effects, in the case of competitiveness of the companies that borrow service.

The deficiency of the structure of transport and its saturation, in the short term, will cause an increase of the costs of freight as a result of the foregone growth of the trade flows. The necessity of immediate expansion of the existent infrastructure requires the installation of a wide group of projects whose execution goes with the lack of resources (especially the public resources). Overcoming these restrictions depends on the creation of politics and instruments that allow the participation of private capitals in the investments.

The deregulation has caused disadvantage for Argentinean transport compared to Brazilian transport due to financial aspects, for acquisition of means of transport, and for reduced costs of labor in Brazil. Therefore, with better trucks



and smaller cost of exploitation, Brazilian transport has a great advantage compared to Argentina.

Argentina and Brazil alone are responsible for about 80 (eighty) percent of intra-Mercosul trade flows, and nearly two-thirds of this trade is carried on trucks which are, in turn, funneled over two bridge crossings at “Foz do Iguaçu” and further south at “Paso de Los Libres”, Argentina-Uruguaiiana, Brazil. The Uruguaiiana crossing alone handles almost 70 (seventy) percent of Argentine-Brazilian bilateral trade that is moved by truck.

Argentine and Brazilian officials have made many efforts to prevent formation of bottlenecks at Paso de Los Libres-Uruguaiiana crossing, by means of coordinating opening and closing times and streamlining border formalities through point of origin and destination inspections. Therefore, three-day delays at the border are still not uncommon. These delays increase transportation costs because drivers must be compensated for overtime and equipment is needlessly idled.

Excessive paperwork demands generated by an extremely bureaucratic customs service contributes to some of the border bottlenecks within Mercosul. In an attempt to eliminate this problem, the Common Market Group (GMC), adopted the “International Cargo Manifest and Customs Transit Declaration” for use by all Mercosul countries. The procedure under this uniform cargo manifest permits cargo to be sealed at a special customs warehouse within the country of origin and then waived through at the border following presentation of the manifest and a perfunctory inspection, with the real customs inspection occurring at the final point of destination.



In an attempt to diversify the transportation's option available to intra-Mercosul carriers, the Mercosul countries have adopted a uniform intermodal law patterned after that of the Andean Community. These regulations – Decision CMC 15/94 issued in December 1994 and since ratified by all four-member states – govern only intermodal transportation between the Mercosul member states. Decision CMC 15/94 permits use of a single contract for transport of goods utilizing different modes of transport.

Use of railroads is currently not a feasible option, since the rail systems in Argentina, Paraguay and Uruguay use one gauge, usually the standard 1.23 meters, instead of the narrow gauge generally favored in Brazil.

Without a doubt, the long-term solution to the current bottlenecks impeding the faster and more efficient flow of products and people within Mercosul is the building of better roads and more bridges, as well as the improvement of existing river facilities. It comes as no surprise, then, that the sharp increase in intra-regional trade flows of the past five years has caused once-dormant infrastructure improvement projects to be revived and has created a demand for new ones.



3. CONCLUSION

In the four countries, Mercosul stopped being a foreign policy variable for becoming, simultaneously, a variable of economical politics. The competitive insertion of economy of the four countries in the international market was configured as an indispensable instrument. The Mercosul mark is bigger and stronger than each country considered individually.

In general, the following positive implications of that integrate effort can be marked:

- Amplification of the productive scale;
- Increase of the productivity;
- Consolidation of the commercial opening;
- Increase in the power of reception of productive investments (attracted for the Mercosul dimension and for “safety's climate” in the commercial and financial relationships in the more dynamic sub-areas of the continent);
- Invigoration of the expressed credibility of the involved countries and of the sub-area.

The process proceeds based on the governments' political will, in the connection of economic interests and in the rising international recognition of its identity and success. The propagated "crisis" only reflects alarming episodes and attitudes, and is not continuous. It is natural that the interdependence creates larger sensibilities, in what already called itself the “paradox of the success.”



However, all disputes have been solved by the mechanisms of Mercosul or directly by involved governments.

And it is inside of a positive vision that is necessary to be evaluated and surpass some important challenges that constitute the calendar of the block in this century turning. The calendar must include in the interns area: definition of final regimens of automobile sections and sugar, full validity of TEC and formulation of common normative boards as regards to services, government purchases, competition and the consumer's defense. And the calendar must include too in the external face of Mercosul: conclusion of a free trade agreement with the Andean Community's countries; deepen the coordination intra-Mercosul in the ambit of the negotiations for the conform of the FTAA; and the negotiation of a liberalization agreement with the European Union, that it guarantees, indeed, better access to the community market.

It is a hard work, where persistence, patience and mutual confidence are necessary, perhaps, until a certain complicity of the countries. There will not be miracles, just partial results. What has already happened during these few years brings signals of hope for new accomplishments, for the wealth of Brazil and your partners.



4. ACRONYMS

CMC - Common Market Council – highest policy-making body, formed by the ministers of Economy and foreign affairs ministers that treat of the conduction of the integration process and of the agreements with other countries, organizations and economical blocks. The CMC dictates decisions.

GMC – Common Market Group – It is the implementing organ, coordinated by the ministries of foreign affairs and made up of representatives of public entities of the national governments. Dictates resolutions.

ACE – (Acordo de complementação econômica). Economic complementation agreement. It's an instrument used in ALADI where all agreement between the countries are registered.

CET or TEC – Common external tariff.

LAFTA or ALALC - Latin American Free Trade Association

LAIA or ALADI - Latin American Integration Association

FTAA – Free Trade Agreement of The Americas

WTO – World Trade Organization

GATT – General Agreement of Trade



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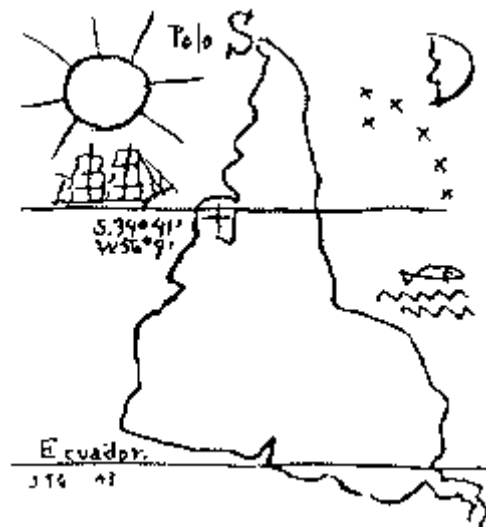
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"He dicho Escuela del Sur; porque en realidad, nuestro norte es el Sur. No debe haber norte, para nosotros, sino por oposición a nuestro Sur. Por eso ahora ponemos el mapa al revés, y entonces ya tenemos justa idea de nuestra posición, y no como quieren en el resto del mundo. La punta de América, desde ahora, prolongándose, señala insistentemente el Sur, nuestro norte.". Joaquín Torres García. *Universalismo Constructivo*, Bs. As. Poseidón, 1941.