

# **Association negotiations between the Mercosur and the European Union: Rivalling Western Hemisphere integration or supporting Southern Cone integration?**

**by A.M. KLOM<sup>1</sup>**

European Commission, External Relations Directorate-General,  
Mercosur Desk, Brussels  
Ph. #32.2.2964343, Fax #32.2.2991103  
E-mail Antonius.Klom@cec.eu.int

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## **Abstract:**

The European Union is a regional integration process based on a supranational approach, while the Mercosur is a regional integration process based on an intergovernmental one. This creates a number of similarities and differences between the two. The European Union has supported the Mercosur from its foundation. Their relationship, both in political and commercial terms, has expanded greatly during the 1990's. They are currently negotiating the transition towards a new step in their relationship: a full-scale association and free trade agreement between the two regions. Formal negotiations started in April 2000 and will continue during the course of the next few years. Both parties have a strong interests in creating closer ties between them, but the negotiating process also has repercussions for the other countries and negotiations in the Western Hemisphere region.

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<sup>1</sup> **Andy Klom** is **Desk Officer for Mercosur** at the External Relations Directorate-General of the European Commission in Brussels. The current article was written on a **personal basis** and the opinions and arguments expressed in it are not necessarily those of the European Commission. Therefore, the current article **does not represent the official position** of the European Commission.

## **1. INTRODUCTION: THE BASIC NATURE OF THE EUROPEAN UNION AND MERCOSUR INTEGRATION PROCESSES.**

### **1.1. The basic nature of the European Union integration process.**

The EU integration process, both political, economic and in other areas, formally started in 1951 and is still going strong today. The latest achievement in this process is the Economic and Monetary Union (EMU) and its most public element the single currency of the EU, the Euro. The EU is now heading towards a new enlargement round (to include various Central and Eastern European and certain Mediterranean countries) and is aiming at an ever close Union between its members. It is an autonomous process, driven by internal motives, but also with a number of external influences and inputs. The original character of the EC/EU process was originally highly supranational, however the process over the years has edged more and more towards an inter-governmental approach or at least an intricate mix of supranational and inter-governmental elements. In its present phase, the EU is probably the most supranational of integration processes to be found in the world.

The main characteristic of this special approach of the European Union is the creation of various central, centralized and/or supranational institutions within the EU : the European Commission, the European Parliament, the Council of Ministers, the European Court of Justice, the Court of Auditors, the European Central Bank and various less well-known bodies and institutions. These institutions often –though not always- have autonomous and overriding competences, mostly operating in a separate and independent manner from the EU Member States or any instruction that an EU Member State government may wish to give. The EU therefore goes beyond the level of regional integration of a Customs Union or Common Market and is presently still pursuing more avenues of integration, also in the non-trade and non-economic sphere.

The latest example of a new field of integration in the EU is the creation of a single representative, the so-called “Mr. PESC”<sup>2</sup> (Javier Solana, ex-Secretary General of NATO), to represent, focus, steer and develop the growing area of the EU’s common foreign and security policy in respect of the EU’s external political relations with third countries in the world. Javier Solana combines his role of Mr. PESC with the more bureaucratic position of Secretary General of the EU Council of Minister’s secretariat, while also doubling as the Secretary General of the Western European Union (WEU), which is the defence alliance between NATO’s Western European members that is now slowly moving towards integration into the EU’s overall structure.

### **1.2. The basic nature of the Mercosur integration process.**

The Mercosur was officially created by Argentina, Brazil, Paraguay and Uruguay in 1991 with the signing of the Treaty of Asuncion. It originally was set up with the ambitious goal of creating a common market/customs union between the participating

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<sup>2</sup> Politique Externe et de Sécurité Comune, or in English Common Foreign and Security Policy.

countries, on the basis of various forms of economic co-operation that had been taking place between Argentina and Brazil since 1986. The Treaty of Ouro Preto of 1994 added much to the institutional structure of Mercosur and initiated a new phase in the relationship between the countries, when they decided to start to implement/realize a common market. A transition phase aimed at constituting a common market was set to begin in 1995 and to last until 2001 (2006 for Paraguay and Uruguay). In 1996 association agreements were signed with Chile and Bolivia establishing free trade areas with these countries on the basis of a "4 + 1" formula. In 1998, Mercosur also formerly created a common mechanism for political consultations, in which the four countries plus Bolivia and Chile all participate as full members of the so-called "Political Mercosur". In July 2000 Mercosur and Chile announced that they wished to negotiate the admission of Chile as a full member into Mercosur by the end of the year.

The Treaty of Ouro Preto established an institutional structure for Mercosur, which was inspired by the example of the EU, but did not copy the EU model. The main difference compared to the EU is Mercosur's rejection of the notion of supranationality and the creation of autonomous (supranational) central institutions. Thus Mercosur functions on the basis of a 100% intergovernmental structure, notwithstanding the fact that it aims to achieve objectives very similar to the European ideal, i.e. the creation of a common market and possibly later on in the future an economic and monetary union.

The institutions of Mercosur consist of a Common Market Council (ministers), a Common Market Group (ambassadors), a Commercial Commission and a large number of Technical Committees, Working Groups and Ad Hoc Groups, all of which deal with specific areas of policy such as industry, competition, the environment, co-operation, agriculture or customs. These entities consist of representatives (diplomats and other civil servants) of the four member countries. They take decisions on the basis of consensus. Their meetings and calendar are organized through a six-month rotating presidency. Other Mercosur institutions include the Joint Parliamentary Committee (16 members from each national parliament, a joint parliament in embryonic form), the Economic and Social Consultative Forum (similar to the EU's Economic and Social Committee) and the Administrative Secretariat of Mercosur (like the General-Secretariat of the EU Council of Ministers). All these institutions are still at an intergovernmental level of development. The Mercosur countries (Brazil in particular) take special care that they do not evolve into powerful, central, and possibly supranational institutions (such as, for instance, in the case of the Administrative Secretariat).

Although the smaller countries of Mercosur (Uruguay, Paraguay; Chile as well) would prefer a larger degree of supranational governance in Mercosur, this is clearly opposed by Brazil, which up to the present time has rejected initiatives in that direction. A good example is the arbitration mechanism in Mercosur, based on the 1994 Protocol of Brasilia, which does not lead to an easily binding mechanism for solving disputes, necessitating the intervention of the Presidents of the four countries to solve (trade) disputes of a technical character. In this respect the EU strongly differs from Mercosur in its supranational and centralized set-up, with strong central entities such as the Commission and the European Parliament and with impartial and

independent arbitration by institutions such as the Court of Justice in Luxembourg. Its decisions are binding for private persons, companies and governments.

Following the recent problems in Mercosur during 1999 the Mercosur countries are at present considering possibilities for changing and reinforcing their institutional structure. Reforms could create an impartial "Technical Secretariat", which could mediate and solve trade issues at a technical level, without requiring the intervention of the political levels of government. The Mercosur countries have yet to make a decision on this issue.

Mercosur's immediate aim is the creation of a common market between its members in goods, services and capital. During the transition phase between 1995-2001 (2006) a large part of the internal trade between the members should be liberalized. Certain industries and certain categories will be excluded for the time being or be subject to a special regime. The common characteristic of this integration process is the introduction of a common external tariff (CET) for the goods that are part of the internal liberalization process. At present, Mercosur is still in the transition phase towards its common market, comparable to where the EC was during the 1960's. It is an imperfect common market, but one that is moving forwards as part of a process of regional economic integration. At present, an important part of Mercosur's internal commerce has been liberalized, but not all of it. Important sectors such as cars, information technology or certain agricultural products such as sugar have been excluded or submitted to a special transitional regime (like cars). In addition, there are only plans for the services sector to be liberalized sometime in the future. A general framework agreement on services still has to be put into further detail, though negotiations are currently underway. Common commercial policies are being developed, such as in the field of competition policy, consumer policy, safeguards or anti-dumping regulations, however, their adoption or application is sometimes delayed.

A common market, once established and perfected, should provide the members of Mercosur with a platform to better prepare themselves for participation in world markets and for the absorption of the effects of globalization, i.e. stronger competition in Mercosur and more competitiveness for Mercosur companies. As such the Mercosur countries take a very outward view of their integration process, seeing it as a means for participating more effectively in the international economy and in international negotiations. However, the effect of a common market and a common external positioning should in the longer term be an improvement of the economic performance of the Mercosur economies. Thus, more prosperity and well-being for the peoples involved, and as such a strengthening of the democratic values and institutions in the Mercosur countries should be expected in the future.

### **1.3. Similarities and differences between the European Union and the Mercosur.**

Whereas the EC/EU was built in 1951 upon the rubble of the Second World War and the apparent ever-lasting rivalry between France and German, Mercosur was built upon decades of dictatorships (only ending in Paraguay in 1989), complicated by the long-standing rivalry between Argentina and Brazil. (Both competed to build a nuclear device.) The Mercosur process, although focused on common market and

trade aspects, therefore also has profound political and pacifying effects. As it grows these effects are spreading throughout the societies of Mercosur.

The EU and the Mercosur are probably the only two real regional integration processes in the world that are trying to establish common markets/customs unions or even more ambitious forms of economic integration. Most other forms of economic integration at best add up to free trade areas, or if they do go beyond that level they tend to be too small to make an impact on the global level of trade. Both the EU and Mercosur are pursuing forms of political integration and developing other areas of non-trade co-operation and integration. Both are based on an institutional structure/community-based approach. Both came forth from a long period of rivalry and tension. In these respects one could expect that the EU and Mercosur would seek each other out as natural allies in integration. However, there are also important differences.

The EU is clearly a supranational process, equipped (to a certain degree) with autonomous institutions and actors. Mercosur is 100% intergovernmental and appears to be set to remain so in the near future. The EU consists of 15 Member States, at present, of which the largest one (by financial-economic criteria) does not constitute more than 25-30% of the overall total. In Mercosur the largest member covers between 70-80% of the total, depending on which criterion one applies. This difference creates a completely different internal balance within each region. Within the EU, the balance between member states is more equilibrated and differences are softened by substantial financial transfers from more prosperous member states to lesser developed ones, while in Mercosur the different internal balance appears to regularly lead to bilateral Argentinean-Brazilian deals, which are then presented for official Mercosur adoption to the other members. Mercosur does not have any budget at the “community” level, nor does it have a system of financial transfers between its members. The EU was created to solve an internal rivalry, after many bloody conflicts, and to shape a unified bloc facing an external threat (Cold War/ Soviet Union). Mercosur hopes to bridge an internal rivalry, one that never really led to wholesale bloodshed, and is trying to shape a unified platform to face and benefit from an external challenge (Globalization). These differences show that the two processes are not identical and that, though Mercosur may be inspired by the European experience in regional integration, Mercosur is not copying EU policies and structures and is clearly setting-up its own, autonomous, process of integration.

#### **1.4. EU policy towards Latin America.**

Latin America drew the attention of the EC/EU quite late in the day. The decolonization process, the Cold War and the process of European integration itself led the EC/EU to focus on many other priorities between 1950-1985, while Latin America became mainly an area of US-Soviet rivalry until 1990. Historically Europe has had many ties with Central and South America. Individual countries of the current EU often maintained, to a certain degree and in certain areas (culture, education, trade, immigration), close ties over the past 200 years. Immigrant communities from Southern, Northern and Eastern Europe still tend to be substantial in various Latin American countries and at a personal level form a human bond between the two regions. However, the inclusion of Portugal and Spain in the EC/EU, the end of the Cold War and the disappearance of a Soviet threat led the EU to take a greater interest

in Latin American affairs. The debt crisis of the 1980's and the various regional/civil wars taking place during the same period in Latin America, together with the end of dictatorship and restoration of democracy in other countries, gradually drew the EC/EU closer towards the Latin American region.

A more formal step in policy-making was taken with the establishment of an EU strategy for Latin America in 1995 (for the period 1996-2000) and in 1999 (for the period after 2000-2004). An essential element of this strategy was the differentiation made between the various countries and subregions of Latin America, for the EU recognized that to approach Latin America in a wholesale manner with one set of objectives and interests would probably not do justice to many of the more particular interests and needs of the individual Latin American countries. The EU made a distinction in policy and in relationship between the subregions of Central America (San José), the Andean Community and Mercosur, with a separate approach for two individual countries that do not easily fit into such a subregion: Mexico and Chile. Already in its 1995 decision, the EU determined that it wanted to pursue a closer relationship with Mercosur, Mexico, particularly in the area of trade.

An association agreement was subsequently signed with Mexico in 1997, to which a specific FTA agreement was added in March 2000. Framework Agreements were signed with Mercosur and Chile in 1995 and 1996, which are now being followed-up by negotiations on association agreements that should automatically include a free trade area. However, this type of approach would probably not be appropriate or feasible for Central America (aid and co-operation) or the Andean Community (GSP preferences and co-operation), where the EU has pursued a different type of relationship. Though the EU has maintained an overall approach towards Latin America through the annual European Union-Rio Group meetings and the recent first European Union-Latin America/Caribbean summit in Rio de Janeiro in June 1999 (second planned for 2002 in Madrid), its activities towards Mercosur, Chile and Mexico have attracted much more attention.

### **1.5. The integration process in Latin America and in the wider context of the Americas.**

In the Western Hemisphere, and particularly in Latin America, there has been a renewed interest in regional integration since the beginning of the 1990's. Various initiatives and ideas have been launched, some of them, such as NAFTA, are now well-known<sup>3</sup>. The FTAA/ALCA<sup>4</sup> process as such therefore does not constitute the only integration process in the Americas. Notwithstanding all the historical tendencies and attempts to create greater Pan-American unity, many regional and subregional activities have been taking place over a considerable period of time. The FTAA is one of the latest attempts to create more integration, though only in the field of trade, and is distinct in its unifying character, bringing North and Latin America (and the Caribbean) together. One should recognize that after the dissolution of the colonial empires in Central and South America, which as such formed a practical tie between Europe and the Americas, many centripetal and centrifugal tendencies pushed the continent towards more unity (Bolívar, Monroe, Pan-American conference) and towards less unity (break-up of Central America, New Granada, Peru and the Rio de

<sup>3</sup> North American Free Trade Agreement.

<sup>4</sup> Free Trade Area of the Americas, or in Spanish Area de Libre Comercio de las Americas.

la Plata provinces into individual republics). The FTAA is one of the latest initiatives in this area.

Latin American integration has been attempted several times in recent history. The LAFTA<sup>5</sup> and later on ALADI<sup>6</sup>, the CACM<sup>7</sup> and other initiatives in Central America and the Caribbean all show that within Latin America there was and is an interest in greater economic integration. Mercosur is probably one of the latest exponents of this drive, though a very ambitious one (common market) and a very unique one, since it is the first time that two large countries such as Argentina and Brazil have decided to join forces.

The way Latin American integration processes (Mercosur, Andean Community) and the FTAA relate to each other is for the participating countries to decide upon. The 1997 FTAA ministerial meeting in Belo Horizonte clarified the relations between the FTAA and other integration schemes, though what is clear is that Pan-American or Western Hemisphere integration is not a given fact. Integration can just as well take place at a Latin American (ALADI), South American (future SAFTA<sup>8</sup>) or North American (NAFTA) level, or at a Mercosur or Andean Community subregional level. Moreover, plurilateral and multilateral initiatives such as APEC<sup>9</sup>, the Cairns Group and the WTO may lead certain individual Western Hemisphere nations to co-operate or liberalize trade with non-American nations as part of a greater, but different set-up. Initiatives such as APEC and the way they affect the Americas (United States, Canada, Mexico, Peru and Chile) shows that, even when setting aside the EU-Mercosur or European-Latin American ties, there are other examples of certain American nations liberalizing trade with out-of-region partners. Recent discussions on the idea of a Pacific Five (P-5) or negotiations for Chile-South Korea and Chile-New Zealand FTAs show that this is not a rare tendency.

Thus the EU-Mercosur relationship should also be considered in this context. Latin America considers it advantageous to pursue greater economic integration internally and greater economic integration with North America, with the Pacific and with Europe, and to diversify its contacts and agreement with various international partners. One does not exclude the other and none should be taken for granted.

## **2. EUROPEAN UNION-MERCOSUR RELATIONS**

### **2.1. European Union-Mercosur relations during 1991-1999.**

Mercosur and the European Commission already signed a technical co-operation agreement in 1992, less than a year after the founding of Mercosur through the Treaty of Asuncion. However, the basis for the present relationship between the two regions is the EU-Mercosur Inter-regional Framework Co-operation Agreement (FA95) signed in December 1995 in Madrid. The FA95 contains political, co-operation and commercial elements. The FA95 constitutes the first step in a two-phased approach. The main objective of the FA95 is the preparation of future negotiations on an Inter-

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<sup>5</sup> Latin American Free Trade Area.

<sup>6</sup> Asociacion Latinoamericana de Integracion, or in English Latin American Integration Association.

<sup>7</sup> Central American Common Market.

<sup>8</sup> South American Free Trade Area.

<sup>9</sup> Asia Pacific Economic Co-operation.

regional Association Agreement (IAA) between the EU and Mercosur, which should contain an enhanced form of co-operation, a free trade agreement and a strengthened political dialogue. The IAA should then become the final phase of the formal relationship between the EU and the Mercosur.

The FA95 has led to intensive contacts during 1996-1999 between the EU and Mercosur in the field of co-operation, commercial affairs and political dialogue. Most attention was given to the objective of preparing for future negotiations on association. The main result of the joint work between EU and Mercosur officials is to be found in the so-called "Joint Photography" document that the EU and Mercosur prepared following their meeting in Belo Horizonte in November 1996 and which was completed in Brussels in May 1998. During this period a set of three joint EU-Mercosur Working Groups created up to 22 different sectorial studies (1997-1998), covering many areas of the EU-Mercosur trade relations. These studies served as a basis for intensive joint activities at the end of 1997 (in Punta del Este) and the first half of 1998 (in Buenos Aires and Brussels) to prepare a joint document that could summarize the main elements of these studies. As such the joint photography document provides an overview of the EU-Mercosur trade relations during 1990-1996 in many important areas of the relationship (goods, agriculture, trade policy, services, commercial defence instruments, competition, veterinary rules, public procurement, technical regulations and rules of origin).

A period of internal reflection followed during 1998-1999 in both the EU and Mercosur. In the EU the European Commission, as main negotiator, proposed to the EU Council of Ministers a set of draft negotiating directives to start negotiations with Mercosur on an Interregional Association Agreement. This step can in certain respects be compared to the legal procedure for obtaining the so-called "fast track" negotiating authority in the United States. The European Commission's proposals were accompanied by an impact study that in broad lines was based on the joint work done during the photography exercise. The EU Council of Ministers debated these proposals with the European Commission between September 1998 and July 1999. The Council reached a compromise position on the Commission's proposals in time for the EU to participate in the political launching of the negotiations with Mercosur during the June 1999 EU-Latin American Rio summit. The directives were formally approved by the Council of Ministers in September 1999. During the same period Mercosur went through a process of much reflection, due to the financial and economic crisis that affected the region during 1998-1999. Mercosur is at present debating how to adapt to the challenges it faces in the future. As a consequence, the main priority for Mercosur is at present probably the deepening and broadening of its integration process.

The EU-Mercosur heads of state and government meeting, in the margin of the EU-LA Rio Summit in June 1999, provided the impetus for the political decision to finalize the preparatory phase and to embark upon the real negotiations (comparable to the second Summit of the Americas in 1998 in Santiago de Chile). From the EU point of view negotiations should be split between discussions on non-tariff issues (immediately) and discussions on tariffs and services (to begin after 1 July 2001) and should only be concluded with due regard for the results of the next WTO Round. As such the preparation and conclusion of an association agreement will still take many years.



Practical negotiations started in November 1999 in Brussels, when Mercosur and EU negotiators presented to ministers a document on the structure, methodology and calendar for the negotiations. The main forum for negotiations will be the EU-Mercosur Biregional Negotiations Committee (BNC), to which a Subcommittee on Co-operation (SCC) and several Technical Groups (TG) dealing with trade matters will be assigned. Following the adoption of this document, negotiators held a first round of negotiations at the level of the BNC during 6-7 April 2000 in Buenos Aires. This first round resulted in a set of conclusions that address the general principles of the negotiations, its political dialogue, co-operation and trade elements. This round also created three TGs dealing with market access (for example: tariffs, TBTs, SPS, agriculture, rules of origin, customs procedures, wines & spirits), with services and related matters (all services, investments, IPR) and horizontal matters (procurement, competition policy, dispute settlement). It also established three subgroups to deal with specific aspects of the negotiations on co-operation (economic co-operation, financial & technical co-operation, social & cultural co-operation).

Notwithstanding the preparations for future negotiations as described in the above, the period between 1996-1999 also saw the development of a variety of regular activities as foreseen under the FA95. In the field of the political dialogue annual ministerial meetings were held (Luxembourg-1996, Noordwijk-1997, Panama-1998, Brussels-1999, Vilamoura-2000), while Mercosur also met with the EU Troika every September in New York in the margin of the United Nations General Assembly. Commercial issues were discussed in meetings of the Trade Subcommission (Belo Horizonte-1996, Brussels and Punta del Este-1997, Brussels-1998) and co-operation was discussed in the Joint Committee (Brussels-1996, Punta del Este-1997, Buenos Aires-2000). In the same period co-operation projects were launched, or continued, in the field of customs harmonization, industrial standardization and normalization, veterinary and phytosanitary rules, statistical harmonization, support for small and medium-sized enterprises, support for social affairs, legislative harmonization in the fields of competition, anti-dumping and consumer policy, and institutional support to the Joint Parliamentary Commission and the Administrative Secretariat of Mercosur. In April 2000 Mercosur and the EU established a new set of co-operation priorities for the period 2000-2003 to cover the areas of macroeconomic co-ordination, transport and network services, science and technology, transfrontier co-operation, information society, and education.

Regarding interparliamentary contacts, the European Parliament and the Joint Parliamentary Commission of Mercosur signed a co-operation agreement in June 1996 on the basis of which many joint meetings, contacts and visits have taken place during 1996, 1997, 1998 and 2000. Presently the European Commission is undertaking a project in support of the activities of the Joint Parliamentary Commission of Mercosur, in parallel to several projects that it has provided to support the Administrative Secretariat of Mercosur. A new project providing institutional support to Mercosur's Economic and Social Consultative Forum is also presently being prepared for implementation in the near future.

## **2.2. Grounds for strengthening the EU-Mercosur relationship.**

Consolidating and expanding the ties between the EU and Mercosur has for the past decade been a priority for both European governments and the European business community. Though trade with Mercosur only represents 2-3 % of all EU external trade, and therefore might not appear as crucial for the continued existence and prosperity of the EU, it should be pointed out that EU exports to Mercosur grew between 1990-1996 by more than 250%, showing the great potential that Mercosur holds for EU operators following its policies of economic reform and regional integration. During the 1990s EU investments in Mercosur also grew steadily, climaxing with very strong growth during 1998-1999. In 1999 the EU overtook the US as the No. 1 investor in Mercosur. Forecasts indicate that this growth will continue during 2000. Mercosur represents for the EU an important emerging market, apart from shared interests in the field of integration processes, common values, historical and cultural ties.

Trade with Europe represents 30-40 % of all Mercosur external trade, making the EU Mercosur's No. 1 trading partner. This creates, even at the merely commercial level, a relationship that goes beyond any particular or individual trade consideration. It shows that Mercosur has a strategic stake in maintaining and improving its relations with the EU. At present Mercosur has a very strong orientation towards the EU, which, together with all its other political, cultural, linguistic and other shared interests, forms the basis for the future strategic partnership that is being shaped through the current activities. This is different than the trade patterns found in other Latin American countries, which tend to focus more on the United States. However, Mercosur as such forms an exception in Latin America due to this very strong orientation towards the EU. This forms a basis for the future.

The past 10 years, exactly the period in which Mercosur was established and has been consolidated, have shown that Mercosur is an important partner for the EU and represents important trade and investment potential for EU entities. Current activities are directed towards strengthening ties and consolidating the EU position in Mercosur. The reverse applies for Mercosur, though Mercosur may also be trying to balance its relations with the United States by stronger ties with the European Union. Economic analysis, both by the European Commission as well as in Mercosur countries, shows that benefits are to be gained for both sides in establishing closer, commercial, ties between the two regions.

As mentioned above, the economic integration processes of Mercosur creates common ideas and objectives, the trade and investment flows during the past decade gave proof of the great potential of Mercosur as an emerging region, the shared political and democratic values (democracy and human rights) have been essential to the EU-Mercosur relation since the restoration of democracy during the 1980's, geo-strategic considerations may play a role for Mercosur or particular Mercosur members in wanting to balance the set of external relations they hold, while guaranteed, continued and improved market access for EU companies forms an important drive for the EU to aim at a successful conclusion of association negotiations.

The European Union wants to make an impact on the regional integration process of Mercosur, on the Southern Cone and on Latin America in general. Mercosur is the

only other Common Market in the world besides the EU, though still an incomplete one at present. Most of the EU's co-operation during the past decade has aimed at reinforcing the Mercosur integration process, with similar initiatives for the Andean Community and Central America. Regional integration is considered by the EU to be beneficial for the development of the participating countries and for the consolidation of their democracies, just as it has been for Europe. Whether this can really be achieved, remains to be seen. Mercosur consists of sovereign and autonomous entities. It takes inspiration from the EU model, but it certainly does not copy the EU model. Mercosur is Mercosur and is trying to shape its own destiny.

### **2.3. The on-going European Union-Mercosur negotiations during 2000.**

The EU Council of Ministers approved the negotiating directives for the negotiations in September 1999, based on the political compromise reached by the EU ministers in Luxembourg in June 1999. This compromise instructs the Commission to start negotiations on non-tariff matters immediately, to begin negotiations on tariffs and services on 1 July 2001, and in the meantime to hold a "dialogue" with Mercosur-Chile about tariffs, services, agriculture, etc. in light of the WTO round. Negotiations can only be concluded after the end of the WTO round, which must take into account the results of the Mercosur discussions.

In November 1999, contacts between the Commission and Mercosur focused on the structure, methodology and calendar of the negotiations. Agreement between the negotiators was reached on a document describing the structure, methodology and calendar for the negotiations.

The first round of negotiations in the BNC was held on 6-7 April 2000 in Buenos Aires. Negotiators reached conclusions on general principles, political dialogue, co-operation and trade matters. They also created a number of Technical Groups and subgroups on co-operation. Some of the general principles established relate to free trade, not excluding any sector, conformity with WTO rules, single undertaking, concluding at the earliest possible time, aiming at comprehensive negotiations and balanced results and reinforcing consultations on WTO matters. In the trade chapter a set of ambitious objectives was set-up that clearly indicated that the future IAA should not only cover a liberalization of trade in goods and services, but that it will also deal with government procurement, investments, intellectual property rights, competition policies, trade defence instruments and a dispute settlement mechanism. The various areas to be covered by the TGs were identified and a working programme was established until mid-2001. This working programme will include exchanges of information, discussions on objectives and modalities on non-tariff measures, ways of addressing non-tariff obstacles to trade and the exchange of working texts. After mid-2001 discussions will start of the methodology and schedule for the progressive elimination of tariffs in goods and the liberalization of trade in services. The first BNC also established a detailed agenda for work and discussions during the second meeting of the BNC.

After April 2000 the Commission's services quickly prepared for the second round of negotiations, which took place both at the level of the BNC, as well as in the Technical Groups and one of the Subgroups on co-operation. This second round was held during 13-16 June 2000 in Brussels and the trade negotiations focussed on three

issues: 1) the exchange of information; 2) the identification of non-tariff obstacles; 3) the definition of specific objectives for each area of the negotiation.

During the preparatory phase the Commission presented to Mercosur an initial list of non-tariff obstacles and transmitted to Mercosur, following the agreement made in Buenos Aires, a large amount of information (paper, diskettes, CD-ROMs) as regards the EC's legislation and regulations. Mercosur in return also sent a large amount of information to the Commission as regards the state of its integration process and its legislation/regulations and presented a draft document containing specific objectives. During the second round the first meetings of the Technical Groups took place, where both sides mainly discussed the information requirements and the various elements of information exchanged. During the course of the next months, in the run up to the third round, these fact-finding activities will continue, while the elements of identifying non-tariff obstacles and specific objectives should also undergo further development. It is clear that both sides feel a strong need to first get to know each other's systems better before real offers can be put on the table.

Political dialogue negotiations were conducted at the highest level in the BNC itself during this second round, while co-operation negotiations took place for the first time at the level of the Subgroups, in particular in the Subgroup dealing with Financial & Technical Co-operation. The parties agreed on a draft text for this type of co-operation, which to be included at a later time in the overall text of the association agreement.

During the association negotiations the characteristics of the future co-operation relationship will be one of the major topics to be discussed between the regions. An important element in these discussions will be the definition of how to "upgrade" or "enhance" the co-operation relationship when the 1995 Framework Co-operation Agreement comes to an end and is replaced by the Interregional Association Agreement. The shift from "co-operation" agreement to "association" agreement should be reflected in and have a bearing upon the substance and form of the co-operation between the EU and Mercosul. This basic issue will require much thought and debate between the EU and Mercosul, probably involving other aspects of the EU's policies towards and agreements with "associated" countries. This question will eventually have to be dealt with at the level of the full BNC. However, the fine details of the future co-operation chapters will have to be negotiated in the three Subgroups dealing with Economic Co-operation, Financial & Technical Co-operation and Social & Cultural Co-operation.

#### **2.4. Outlook for continued negotiations during and after 2000.**

It is clear that the parties want to conclude the negotiations at the earliest possible time, though for the EU the results are related to the results of the next WTO round, while for Mercosur the FTAA/ALCA timetable is a determinant for its planning of meetings with the European Union.

For the continuation of these negotiations, one can expect that after an initial intensive period of work during 2000-2001, a period of stalemate will occur during 2002-2003 as both sides begin to deal with more sensitive issues. This might then progress towards a final and crucial stage in the negotiations during 2004-2005. This fits in

with the ALCA/FTAA timetable for Mercosur (deadline 2005), while the same applies to a possible next WTO round (three years duration, from 2001-2002 onwards). The EU-Mercosur negotiations will therefore probably become a strategic negotiating asset for Mercosur in its ALCA/FTAA and WTO dealings and for EU in its WTO and other dealings in their final phase.

In principle the BNC will meet three times a year and the SCC once a year. The TGs and subgroups will meet in parallel to the BNC sessions. The schedule of meetings can be adapted according to the wishes of the parties and progress being made. The parties agreed in June 2000 on a third round of negotiations that is now being planned for November 2000 in Brazil, to be held under the Brazilian Presidency of Mercosur. A third round would again include meetings of the BNC, the Technical Groups and the Subgroups. During this third round, the first working texts might be exchanged in a limited number of areas where non-tariff matters are being negotiated (i.e. non-tariff barriers, technical barriers to trade, veterinary & phytosanitary rules, customs procedures, rules of origin, investment, procurement, intellectual property rights, competition, trade defence instruments and dispute settlement), while it is also expected that draft texts for the political dialogue chapter and for macro-economic co-operation can be exchanged. It is expected that a fourth round of negotiations will take place during the first half of 2001 in Brussels and a fifth and sixth round during the second half of 2001. Where necessary, the parties can decide to speed up or slow down the process.

### **3. SOME TENTATIVE CONCLUSIONS**

#### **3.1. The European Union interest in Mercosur.**

Following the strong growth in the EU-Mercosur relations one can say that the European Union has a certain amount of influence in the Southern Cone region of South America. As the No. 1 investor and trading partner of Mercosur one can even safely say that the EU has a real degree of influence, but that this interest also shows that the European Union has an important and vulnerable stake in the region. The United States, as the No. 2 commercial partner of Mercosur, also has a real degree of influence and has a rival stake compared to the commercial interests of the EU. Of course, the concept of "influence" is questionable and will be interpreted in many different ways. The expansion of EU trade and investment in Mercosur has pushed the EU-Mercosur relationship considerably. The deepening of the EU-Mercosur political dialogue during the past decade is an event only comparable with the EU-Chile and EU-Mexico relationships within the context of the EU's overall relations with Latin America. The post-Cold War warming-up of relations and intimate support to a process of regional political and economic integration in Latin America has drawn both on the past European-Latin American ties, history and values, as well as on the present unique example of European regional integration that is inspiring the countries of the Southern Cone. As such, one can conclude that there is a certain amount of EU influence in the Southern Cone. However, it would be over-ambitious, if not pretentious, to try to define this influence.

Some have said that influence through interregional agreements is less effective than through multilateral agreements. The truth is probably neither one nor the other. Both the United States and the European Union and many other countries have tried to keep

all options on the table when it comes down to trade liberalization initiatives. Many may prefer an agreement at the WTO level, though this still seems a distant goal at present for a variety of reasons. For the sake of continuing liberalization at a regional level and consolidating closer ties on the basis of current close relations the interregional approach serves a valid goal. The experience of a parallel negotiation of the GATT/WTO Marrakech agreement, the NAFTA agreement and the creation of the APEC process shows that both the multilateral and regional levels can interact, influence and stimulate each other. Most countries therefore try to keep all options open. One only has to look at the various US initiatives in respect of APEC, FTAA and the WTO. Equally one can look at the EU initiatives towards Mercosur, ASEM, the Mediterranean and the WTO. In a similar manner one can consider the unilateral strategies of Chile and Mexico and the multitude of FTAs they are negotiating or have already concluded, rendering these two countries into hubs connecting a variety of different trade relations.

The model of European integration has probably been the most influential factor for Mercosur during its founding and consolidation phases. No country, region or international organization can offer the same amount of experience and examples as regards regional integration to Mercosur during this stage in its development than the EU. It forms the distinguishing characteristic of the EU-Mercosur relationship, which makes it very different from all other ties that Mercosur has, or can have, with either the US, FTAA, Andean Community, Chile or the WTO members. However, this factor is only influential to the extent that EU integration is successful, EU trade and investment with Mercosur are extended, and the Mercosur process is continued. This seems to be a vision for the future to strive for: Two partners, both integrating internally, both expanding trade mutually and both major players in the global market. In the meantime, both the EU and Mercosur have to overcome many internal hurdles. At the same time they have to conclude an association agreement that will form the finishing touch in their growing bilateral relations.

### **3.2. Effects of the EU-Mercosur negotiations on other processes in the region.**

Both the FTAA negotiations, as well as the EU-Mercosur negotiations, are continuing without great urgency on the part of the main actors, though clearly based on a long-term commitment of all sides. Though the EU has received a clear mandate to negotiate from its constituent members, it is clear that the US negotiators will still be working on a « provisional » basis, at least until the next US Presidential elections in November 2000. Mercosur, as the main player in Latin America for both processes of negotiations, appears at present to be more inward-looking and interested in getting its own problems solved, before entering into any sort of trade liberalization commitments with any particular partner. Brazil, as both the main member of Mercosur and one of the most prominent powers in Latin America, appears to be following a second agenda in parallel to its Mercosur involvement, in which it has signed a Free Trade Agreement with the Andean Community, has concluded trade negotiations with Mexico (cars) and now is in the process of organizing a major conference of South American countries in August 2000 to discuss mainly political matters (democracy, human rights).

It is often argued that both Mercosur and Brazil, could become the core of a counter-weight to the United States in the FTAA negotiations, possibly strengthened due to on-going or successfully-concluded negotiations with the EU on an association agreement (including a free trade area). If one carefully looks at the trend of recent trade statistics for Mercosur, one can discern that a trade deal with South or Latin America would be one basic element of Mercosur's policies aimed at achieving trade liberalization with its main trading partners, while a trade deal with North America or the European Union could form the other basic element of a Mercosur strategy. Of course, seen from Mercosur's point of view, it could try to maximize its gains and go for parallel deals with both South America, North America and the European Union. This, however, depends on how much internal stability and integration Mercosur can achieve, especially in light of the financial crisis of 1999, the on-going economic recession in Argentina and the current plans to integrate Chile into Mercosur as a full member by the end of the year 2000. It is clear that there is still much work to be done both in Mercosur and in the EU-Mercosur association negotiations.

The EU-Mercosur relationship stands on its own and forms an autonomous process of diplomatic, political and commercial interaction between the two regions. Both players have major interests in their own region, which are also affected by what happens between them. The FTAA/ALCA process is also an autonomous process of regional integration, in which Mercosur plays a prominent role. The EU-Mercosur relationship does not intend to rival or compete with the process of regional integration in the Western Hemisphere, however, it should be clear that the EU-Mercosur process is not invalid or to be excluded by what is achieved in the Americas. The EU partakes in a multitude of international trade agreements, which do not exclude each other; Mexico and Chile do so as well, and even the United States is engaged in a variety of regional initiatives like APEC, FTAA and NAFTA that do not aim at being mutually exclusive.

A perspective of rivalry can only distort one's analysis of what is really happening in the Southern Cone region of Latin America. However, if one adopts a perspective of supporting and furthering regional integration, then the European Union-Mercosur relationship and its future possibilities, as described in the above-mentioned chapters, suddenly becomes much clearer.

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