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Trade Agreement (2000-2004).

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ABSTRACT

L'Accordo di libero scambio tra l'Unione Europea e il MERCOSUR, elemento di grande rilevanza inserito in un più ampio progetto di Associazione, venne anticipato, nel 1995, dalla firma del Accordo Quadro Interregionale di Cooperazione, trattato che ufficializzava l'impegno delle due regioni ad intraprendere una serie di iniziative comuni legate, oltre all'espansione del libero scambio di beni e servizi, alla cooperazione in materia politica, economica e di sviluppo, oltre alla difesa di valori condivisi quali la democrazia e il rispetto dei diritti umani.

Le trattative volte alla creazione dell'Accordo di libero scambio presero avvio nel 2000. Dopo un inizio incoraggiante, in cui vari obiettivi relativi al più ampio Accordo di cooperazione vennero considerati come raggiunti, la differenza di posizione nel negoziato tra i due blocchi si fece più grave, dati gli interessi e le necessità divergenti che caratterizzavano UE e MERCOSUR. Ciò ha portato ad una sospensione momentanea delle trattative nel 2004, con l'impegno da parte dei negoziatori di riprenderle l'anno successivo. L'attesa divenne, però, più lunga del previsto, e i lavori vennero riaperti solo nel 2010.

La presente tesi si propone, come obiettivo primario, di studiare la prima fase dei negoziati svolti in vista dell'Accordo di libero scambio, rappresentata dal quadriennio 2000-2004. La scelta di tale intervallo di tempo si basa su due motivazioni principali: la prima è la densità di avvenimenti e trasformazioni di portata regionale e mondiale, che hanno avuto grande impatto nelle trattative. La seconda è la difficoltà che deriva dalla vicinanza temporale della seconda fase – 2010 ad oggi –, troppa perché ne possano essere studiate le conseguenze nella loro interezza; conseguenze che non si sono ancora manifestate anche perché il processo, otto anni dopo, ancora non si avvia verso una conclusione.

Allo stesso tempo, vari sono gli aspetti che rendono interessante la tematica dei negoziati da un punto di vista accademico: innanzitutto la novità che l'Accordo rappresenta

dal punto di vista diplomatico, per la sua natura interregionale. Con tale termine ci si riferisce al fatto che l'Accordo vincola, in quanto parti, non singoli stati ma intere regioni, estremamente diverse tra loro: la prima, l'UE, composta da quindici paesi al momento dell'inizio delle trattative, con alle spalle un più lungo processo di convergenza economica e politica, e per questo più omogenei tra di loro; la seconda, il MERCOSUR, composta inizialmente da quattro paesi, estremamente distanti tra di loro in termini di dimensioni, struttura politica ed economica.

È inoltre un elemento di grande importanza la struttura che gli stati fondatori hanno scelto di dare alla propria organizzazione; se, da un lato, gli organi dell'Unione Europea hanno un ampio spazio di manovra e sono indipendenti dai governi degli stati membri a causa della natura sopranazionale dell'Accordo, lo stesso non si può dire del MERCOSUR, il quale venne pensato fin dall'inizio con una struttura prettamente intergovernativa, rimettendo ai governi ampio potere decisionale sulle scelte dell'Associazione, la quale risulta, al contempo, altamente sensibile ai cambiamenti politici e alle decisioni di respiro nazionale.

Un ultimo elemento di interesse da evidenziare è ciò che le trattative hanno messo in rilievo: radicati conflitti legati alle posizioni e agli interessi delle due parti, uniti a divergenze interne, ma anche la loro condizione di intersezione con altri processi di ampiezza continentale, come i negoziati in corso nello stesso periodo per la creazione dell'Area di libero scambio delle Americhe, un fattore di estrema importanza rispetto all'impegno dimostrato dall'Europa nella continuazione delle trattative con il MERCOSUR; ma anche il destino incerto del multilateralismo – rappresentato dalla diplomazia commerciale sviluppata all'interno dell'Organizzazione Mondiale del Commercio – il quale è spesso stato un fattore condizionante negli accordi bilaterali.

La presente analisi è stata strutturata a partire dallo studio di vari tipi di fonti: prima di tutto, è stato preso in considerazione un corpus di studi riguardanti le trattative commerciali del passato e le relazioni internazionali nel periodo di interesse della tesi. In secondo luogo, sono stati considerati una serie di documenti ufficiali – trattati istitutivi, accordi commerciali, dichiarazioni ministeriali e altri documenti relativi alle attività svolte dall’OMC e alle trattative a livello regionale o interregionale. Ulteriori informazioni riguardanti gli sviluppi più recenti nelle relazioni tra UE e MERCOSUR, infine, verranno ricavate da comunicati ufficiali, relazioni dei meeting e da giornali online.

Il primo capitolo della tesi è pensato per fornire al lettore una visione di insieme del sistema economico globale e del suo sviluppo a partire dal secondo dopoguerra, con particolare attenzione al modo in cui i vari stati – a partire dai paesi industrializzati, guidati dagli Stati Uniti, per poi allargarsi verso i paesi in via di sviluppo (PVS) – hanno iniziato ad intraprendere un percorso di coordinamento delle politiche commerciali, andando ad alimentare un processo già in atto, quello della globalizzazione. Come si vedrà, il percorso non verrà sviluppato dal sistema in maniera omogenea, ma conoscerà momenti di forte rallentamento, quando non addirittura di involuzione.

Tale aspetto si nota specialmente nell’ambito delle trattative multilaterali all’interno dell’OMC, organizzate in *Round*, cicli d’incontri nel corso dei quali rappresentanti dei paesi membri si riuniscono per portare avanti il processo di liberalizzazione dei mercati nazionali, oltre a proporre criteri e modalità per istituire una disciplina comune per ulteriori tematiche legate al commercio come la proprietà intellettuale, il commercio di servizi, gli investimenti. Il blocco di trattative che riveste maggior rilevanza ai fini della presente analisi è il Doha Round, iniziato nel 2001, il primo avviato dopo l’istituzione dell’Organizzazione Mondiale del Commercio. La sua peculiarità era il forte accento sulla tematica dello sviluppo, pensato per

permettere un maggiore coinvolgimento dei Paesi in Via di Sviluppo nelle discussioni affrontando problematiche fondamentali per la crescita di tali economie, quali il protezionismo applicato al commercio e i sussidi per la produzione di beni agricoli.

Un'osservazione che si può fare circa lo svolgimento dei negoziati è che rispetto ai primi cicli, svolti secondo le norme del GATT, a partire da Doha i cicli tenderebbero ad assumere durata sempre maggiore, a causa della complessità delle problematiche affrontate – in questo caso, si toccavano questioni di grande rilievo, che i paesi sviluppati avevano per anni lasciato in disparte o che avevano affrontato in maniera superficiale – e alla crescente frammentazione dello scenario internazionale – se prima gli Stati Uniti esercitavano un ruolo egemone e, insieme all'Unione Europea, erano in grado di creare un consenso comune, l'acquisizione di sovranità e il consolidamento dei PVS a livello globale hanno fatto sì che il sistema diventasse multipolare – che ha reso più difficile la convergenza di posizioni tra i diversi attori.

L'impatto negativo di questi cambiamenti sulle attività svolte dall'OMC ha portato i paesi membri a spostare gradualmente le proprie risorse dal multilateralismo al bilateralismo – prospettiva che ha sempre convissuto, ma con un impatto più ridotto, con il multilateralismo –, privilegiando un approccio più ristretto agli accordi commerciali – e non solo. Alla base di questa scelta strategica, portata avanti sia dai Paesi Industrializzati che dai PVS, c'è l'idea che ridurre i partner di un accordo permetta maggiore efficienza e rapidità, e accordi più vantaggiosi. Inoltre, la selezione delle parti implica la possibilità di intraprendere trattative con attori che condividono uguali valori e interessi, aspetto che permetterebbe anche di ampliare la portata degli accordi oltre alla sfera puramente commerciale, incentivando la cooperazione anche in ambito politico, sociale, tecnologico e così via.

Se questo può essere vero per i Paesi Industrializzati, per i Paesi in Via di Sviluppo tale approccio può rivelarsi controproducente se portato avanti con paesi strutturalmente più

avanzati economicamente e politicamente, e che hanno maggiori possibilità di ottenere risultati vantaggiosi da accordi stabiliti con singoli PVS; i quali trarrebbero maggiori benefici dal portare avanti trattative multilaterali all'interno di coalizioni permanenti con paesi di equivalente livello di sviluppo.

Come le coalizioni, anche la creazione di progetti di integrazione regionali risulta un modo per rafforzare l'identità dei PVS a livello globale. Tale idea è stata coltivata in America Latina a partire dalla fine degli anni cinquanta, e trova esempio nella creazione dell'ALALC, Associazione Latino Americana di Libero Commercio (LAFTA secondo la dicitura anglosassone), istituita in una prospettiva di sviluppo promossa dalla Commissione Economica per l'America Latina e i Caraibi, la quale prevedeva, in linea con le ideologie promosse in quegli anni, una rivendicazione dell'indipendenza economica dei PVS a partire dal modello di sostituzione alle importazioni: ossia, un incremento della capacità produttiva di tali economie con lo scopo di ridurre i flussi di importazioni. Alla luce di tale modalità, il modello di regionalismo rappresentato dall'ALALC è stato definito dagli studiosi del settore come regionalismo chiuso, a causa della matrice protezionista alla base del progetto d'integrazione. Nata per dare avvio alla creazione di un'Area di Libero Scambio tra i suoi membri, nel 1980 l'ALALC verrà sostituita da un nuovo progetto, denominato ALADI, Associazione Latino Americana di Integrazione (LAIA secondo la dicitura anglosassone), caratterizzato da una maggiore flessibilità in termini di obiettivi, con un ridimensionamento dell'ambizione di costituire un'Area di Libero Scambio, affiancata però alla volontà di portare avanti il processo di integrazione in un maggior numero di direzioni.

Il passo successivo nel percorso di integrazione latinoamericano è la creazione del MERCOSUR. Basato sulla volontà di cooperazione di Argentina e Brasile, ai quali si unirono al momento della creazione Paraguay e Uruguay, il MERCOSUR sarebbe figlio delle tendenze

neoliberali caratterizzanti l'epoca in cui venne istituito, il 1991, e gli anni novanta in generale. Tale decennio risulta permeato dalle conseguenze della crisi del debito che aveva colpito direttamente i PVS, e indirettamente i Paesi Sviluppati, portandoli ad adottare misure severe verso le economie in crisi fino all'istituzione di una dottrina economico-finanziaria, detta Washington Consensus, che mirava a incentivare la ripresa delle economie dell'America Latina tramite la liberalizzazione del commercio e della produzione locale. Il MERCOSUR incarnava tali tendenze, nella misura in cui venne sviluppato tenendo in mente la sua apertura alle importazioni di beni – industriali –, di servizi e di capitali provenienti dall'esterno.

Una trasformazione nell'orientamento del gruppo avvenne con l'elezione di Inácio Lula da Silva in Brasile (2002) e Néstor Kirchner in Argentina (2003), che diedero vita ad uno spostamento dell'asse politico predominante verso tendenze di sinistra moderate, definito come movimento dell'Onda Rosa proprio per la relazione tra le ideologie di sinistra espresse dai governi e la loro messa in pratica, moderata e più votata al pragmatismo. L'Onda Rosa caratterizzò il primo decennio e mezzo del 21esimo secolo circa, e oltre a modificare in parte l'azione del MERCOSUR diede vita ad un nuovo progetto, denominato UNASUR, Unione delle Nazioni Sudamericane, volto ad un'integrazione di ampissimo raggio, che spaziava dall'educazione alla scienza, dalle infrastrutture alla difesa, dall'economia alla cultura. La creazione dell'UNASUR marcava il cambiamento dell'ideologia dominante dal neoliberalismo al postliberalismo, una corrente pensata in contraddizione con la precedente, ridimensionando l'importanza dell'aspetto economico dell'integrazione a favore di tutti gli altri, con una maggiore attenzione allo sviluppo sociale dei paesi membri e minore propensione a sviluppare rapporti di dipendenza con i Paesi Industrializzati.

Tale Unione tuttavia perse forza con l'ascesa di nuovi governi conservatori, tra cui spiccano Mauricio Macri in Argentina (2015) e Michel Temer in Brasile (2016), che sembrerebbero escluderla dai loro programmi di integrazione.

Con il terzo capitolo della tesi si arriva alla discussione dell'oggetto centrale, l'Accordo di Libero Scambio tra il MERCOSUR e l'Unione Europea, il primo mai portato avanti a livello Interregionale. Come già detto, i quattro anni su cui si concentra questa analisi mettono in luce la stretta dipendenza tra le trattative in corso tra i due blocchi e le trasformazioni in ambito regionale – in America Latina e in Europa – e mondiale. Ciò richiede che l'Accordo venga considerato alla luce di una prospettiva più ampia, ad esempio per individuare le ragioni che hanno portato allo sviluppo di un simile progetto.

Prima di tutto, è evidente l'importanza dell'accordo per incrementare gli scambi – già consistenti – tra le due regioni, attraverso la riduzione dei costi di importazione sotto forma di dazi doganali e quote. In secondo luogo la letteratura di settore assegna agli Stati Uniti un ruolo abbastanza importante in questo processo: infatti, per il MERCOSUR, l'accordo rappresentava un'alternativa ad un progetto speculare, promosso dagli Stati Uniti, e volto a creare un Area di libero scambio delle Americhe. Portare avanti due trattative simmetriche rappresentava un vantaggio per il MERCOSUR in termini di potere contrattuale. Per l'Unione Europea invece, sempre alla luce di tale progetto panamericano, l'Accordo con il MERCOSUR rappresentava un modo per tenere testa all'incalzante espansione dell'area di influenza degli Stati Uniti, e di non trovarsi in svantaggio rispetto ad essi. Infine, l'Accordo aveva, tra gli altri obiettivi, quello di stimolare il processo di integrazione in atto all'interno del MERCOSUR, tramite gli strumenti e l'esperienza messi a disposizione dall'Unione Europea.

Tuttavia, vari fattori, sia interni alle trattative, che esterni, hanno provocato la sospensione temporanea dei negoziati nel 2004, che sarebbero stati riattivati solo nel 2010.

Alla base di tale scelta da parte dei negoziatori, l'incapacità di raggiungere un accordo tra le due parti. Prima di tutto, a livello di metodologia: i negoziatori Latinoamericani premevano perché fossero stabilite fin dall'inizio le modalità e gli obiettivi da raggiungere nel corso dei lavori, mentre la controparte Europea si mostrava propensa a portarli avanti avanzando proposte reciproche e discutendole, senza stabilire degli obiettivi di base. In secondo luogo, a livello di sostanza delle proposte: nessuna delle due parti riteneva le proposte dell'altro gruppo soddisfacenti in termini di apertura dei mercati. Tuttavia, dietro alla sospensione ci sono anche cause congiunturali, quali: la sospensione delle trattative con gli Stati Uniti, che porta la rimozione di uno degli incentivi per entrambe le parti a continuare le trattative; la svolta Argentina in termini di politica economica, che si traduce in un atteggiamento protezionista per il proprio mercato contro le esportazioni sia Latinoamericane che Europee e in un conflitto interno al blocco regionale; l'espansione dell'Unione Europea da 15 a 25 membri, che destabilizza la posizione del blocco, e la fine del mandato della Commissione Europea in carica, che rappresentava una scadenza, non mantenuta, per il raggiungimento di un accordo.

Tra la sospensione delle trattative e la loro ripresa sei anni dopo, il processo venne portato avanti in misura limitata dal Brasile, che nel 2007 stabilì con l'Unione Europea una Partnership Strategica volta, tra le altre cose, anche a tenere aperta la possibilità di concludere l'Accordo.

INTRODUCTION

The Free Trade Agreement between MERCOSUR (Mercado Común del Sur) and the European Union has been under construction for almost twenty years. Its first steps date back to 1995, year of the creation of the Interregional Framework Cooperation Agreement, which laid the foundations for a very wide project covering political and economical cooperation, trade liberalization, development and the defense of shared values.

Five years after the institution of the Framework Agreement, in 2000, the process of negotiation was launched for the liberalization of trade between negotiators of the two regions. Despite initial commitment, and the conclusion of discussions concerning the other areas of cooperation, as far as trade was concerned the process was soon slowed down by conflicts of position between MERCOSUR and the EU and trade talks were suspended, with the intentions of negotiators to relaunch them the following year, in 2005. However, it was not until 2010 that works were resumed.

The core discussion of this thesis is represented by the process of negotiation for the Free Trade Agreement between MERCOSUR and European Union, in the phase covering the period between 2000 and 2004. The relaunch of the process in 2010 and its continuation until our days, on the contrary, will not be taken into consideration for the analysis. The choice to reduce the perspective is based on a number of reasons: the primary reason is the relevance of those four years, for the events and the transformations that took place in the course of it in both regions as well as in the rest of the world. As a matter of fact, the negotiations of the FTA were largely influenced by these events, which also deeply affected economic and diplomatic relations among the actors involved.

The second aspect is the difficulty that derives from the study of processes that are too close in time. As a matter of fact the negotiations, which are still being carried on at the

moment, have yet to show results, and their consequences are hard to identify. Therefore, a study addressing the whole process would take more the shape of an hypothetical framework rather than an analysis, which is the objective of this work.

The study of the four years of negotiation process will be preceded by a review of the events that led to the launch of the project for a Free Trade Area. Considering the Interregional Cooperation, an example is provided by the creation and the commitments established by the above-mentioned Interregional Framework Association Agreement of 1995. After that, the analysis will focus on the political and economic aspects of trade negotiations: in addition to identifying the issues at stake from a pure commercial perspective, an effort will be made to study the non-trade-related factors involved in the arrangement, from the point of view of diplomacy and international politics.

Several reasons justify the centrality of the topic and explain its academic appeal. First of all, the Agreement represents a point of innovation in International Relations, for its interregional nature. As a matter of fact, FTAs are normally established between countries or, when they involve the EU on one side, between a country and a region.

Secondly, the launch of an integration project between MERCOSUR and the European Union implied the pursuit of a complex equilibrium between realities diametrically opposed. On the one hand, four – Venezuela entered MERCOSUR many years after the period considered by this thesis – Latin American countries with dramatic disparities – consider the contrast between the Brazilian economy and the Uruguayan one – undergoing a process of Integration characterized by a very low degree of supranationalism. On the other, the EU, composed of fifteen members quite more homogeneous than MERCOSUR's members, undergoing a process of enlargement that would bring ten more members in the Union in 2004. In contrast with the intergovernmental approach to integration chosen by MERCOSUR's

countries, the EU displays high degrees of supranationalism which reduces the influence domestic administrations can impose to the bloc as a whole. In this sense, MERCOSUR's dependence on the position of individual countries' has, in some occasions, represented a problem in the strength of its decision-making mechanism.

Thirdly, the talks for the FTA surface a conflict of positions and interests between the blocs and within them, and overlap with other processes such as the negotiations for the creation of the Free Trade Area of the Americas, which played quite a relevant role in fueling European's proactivity towards reaching an Agreement with MERCOSUR, or the development of Multilateralism in the WTO, an element that often conditioned the decisions taken on the bilateral level.

In order to pursue the objectives of analysis of this thesis, the sources considered in the research will be first of all, the existing doctrine and a body of scientific studies devoted to past trade negotiations and to the history of international relations for the timespan analyzed. Secondly, official documents, when available – legal texts, trade agreements, ministerial declarations and other papers related to the work carried out by the World Trade Organization or to regional negotiations – will be addressed. Finally, information concerning the contemporary developments of EU-MERCOSUR relations will be drawn from official communiqués, reports from the meetings and specialized online journals.

The structure of this thesis will be organized into three main sections: chapter One will start with a short discussion on international trade policies before and after Bretton Woods. It is important to refer to the General Agreement on Trade and Tariffs and to the World Trade Organization, which, together, represent the greatest efforts undertaken by countries to overcome commercial conflicts and protectionism and cooperate with the aim of creating common policies and opening up trade barriers. Multilateralism, however, received a backlash

from the failures suffered in the course of negotiations, in particular during the Doha Round, which provoked a shift in a lot of countries' preference towards regional agreements. A similar trend already existed to a certain degree before the creation of the WTO, but it came to be perceived, from that moment on, as a substitute to it rather than an element coexisting with multilateralism. The last section of the chapter will approach the way in which Developing Countries act in multilateral negotiations and in bilateral negotiations with Industrial Countries, with particular focus on the role of coalition-building and bargaining power in negotiations.

The second chapter focuses on Latin American integration, which is only partly represented by MERCOSUR. The first section provides a theoretical overview of some of the main interpretations proposed by scholars on the process of regional integration and its evolution from the creation of the Latin American Free Trade Agreement (LAFTA) until that of the Union of South American Nations (UNASUR). The second section will retrace the historical patterns represented by the substitution of Colonial Empires in Latin America with new independent states and the forging of new identities after independence. Then, the chapter will move on to the experience of LAFTA and LAIA, the two regional agreements that opened the way for MERCOSUR in the 1960s and 1980s. The following two sections will deal with the foundation of MERCOSUR, its transformation and the internal relations among its members. In fact, the bloc displays a quite deep disparity as far as the dimensions and the economic power of its members are concerned, a fact that is also a source of severe discrepancy in their objectives and in their perception of regional integration. The second section dedicated to MERCOSUR will focus on the transformations experienced by the region with the turn of the millennium, represented, among others, by the strengthening of moderate left-wing governments and a change in the perception of the region. Finally, the sixth section will deal

with the creation of UNASUR, an event that is deeply connected to such changes and manifests the will of member countries to address issues related to integration in a completely new way.

The EU-MERCOSUR Free Trade Agreement will be the central topic of chapter three. As mentioned above, the period of negotiations analyzed will be the one starting in 2000, year in which the talks were launched, and ending in 2004, with the first interruption caused by the deep disagreement between the two parties. Before addressing the negotiations, the chapter will deal with the Integration project of which the Free Trade Agreement is part: the Interregional Association, one of the first deals ever to establish a wide cooperation link between regions and not countries. First of all, the opening section will address some of the reasons provided by the literature regarding the creation of the cooperation project between MERCOSUR and the European Union. Then, the discussion will move to the official launch, taking place in 1995 with the signature of the Interregional Framework Cooperation Agreement. The third and fourth section will be devoted to the review of trade talks from 2000 to 2004, and to the analysis of the process, from the first Bi-regional Negotiations Committee Meetings until the moments leading to the interruption of negotiations in October 2004. These sections will also consider the context and some conjunctural factors that played an adverse role in the negotiations, contributing to the parties' failure to find a satisfying agreement and finalize the process before the deadline.

1. GLOBAL TRADE IN THE 20TH CENTURY

Before addressing the central topic of this thesis – that is, the process leading to the EU-MERCOSUR trade deal – it might be useful for the reader's understanding of its intellectual path to start the discussion from the general picture in which the agreement is framed and from some theoretical concepts that will recur later in the text.

Every agreement being negotiated in the modern international system of trade is inevitably affected by past relations among the countries involved, by the equilibrium existing between the forces in the field and by the ruling structure governing them. It is therefore important to take into consideration this system and its irregular evolution during the last decades; the strong momentum caused by globalization, pushing for deeper and deeper integration of world economies and heading to the creation, among other international bodies, of the one institution that would increasingly take the lead in the regulation of trade matters: the World Trade Organization.

Its role as a multilateral forum for trade for its member states and the many game-changing events taking place in its context make the WTO a mile-stone for our discussion, and among these events we recognize in particular the rise and fall of the Doha Round as the point where members gave up to the pursuit of fair and efficient multilateralism in favor of free trade agreements that seemed near at hand and more rewarding.

The present chapter will be divided as follows: the first section will focus on international trends and structures related to trade from the beginnings of the 20TH century until the launch of the Bretton Woods system. The second will present the same aspects from Bretton Woods until recent times, with particular focus on the activities carried out by the General Agreement on Trade and Tariffs before and the World Trade Organization. The focus of the third section will be on the concepts of multilateralism and regionalism, the coexistence

among the two and their impact on international trade. Finally, the fourth section will deal with the performance of Less Developed Countries in international trade, and the difference of outcomes regarding their efforts in multilateral or bilateral negotiations.

Globally, the chapter will try to provide the reader with theoretical and contextual foundation for the discussion that will take place in the main section of the thesis. The EU-MERCOSUR agreement represents, in fact, one among many bilateral negotiations overlapping each other and reversing the process of gradual liberalization of trades that had been taking place since the end of WWII.

1.1. INTERNATIONAL TRADE POLICIES BEFORE BRETTON WOODS

One term answers to the concept of the gradual process of convergence and interdependence linking economies, cultures and policies of countries geographically distant and with little in common historically: globalization. We take into consideration its definition as proposed by Robert M. Stern, “the increase in international transactions in markets for goods, services, and some factors of production, plus the growth and expanded scope of institutions that straddle national borders — including firms, governments, international institutions, and nongovernmental organizations (NGOs).”¹

This idea is generally related to IT improvements and the rise of telecommunications, which created new business opportunities by facilitating capital and information movements. As a matter of fact, together with the previous century, the 20th belongs to the period called by Thomas Friedman *Globalization 2.0*, an era in which the main innovation was found in the means of transportation and in communications – “from steamships and railroads in the

¹ Deardorff, A. and Stern, R. (2009). What the Public Should Know about Globalization and the World Trade Organization. In: R. Stern, ed. *Globalization and International Trade Policies*, 1st ed. World Scientific Publishing Company. p.21.

beginning to telephones and mainframe computers toward the end”² – and where goods and information were able to travel between continents, integrating markets more globally than ever before and facilitating the development of multinational companies.

If some degree of mutual trust and interest in economic cooperation had led countries to favor globalization by reducing barriers to trade and pass policies favoring the liberalization in the international movement of capitals and goods – also by applying Most-Favored-Nation clauses in their agreements – along the XIX century, this positive climate was not bound to last; the liberal system of trade implemented in Europe and still existing between the two centuries was disrupted by WWI – and later struck again by WWII – , with the formation of blockades against opponent countries and the application of protectionist measures in order to promote the development of local companies, even in countries with a long tradition of free trade advocacy such as Great Britain.³ Even after the end of the war, high tariffs were maintained in the majority of European countries, with, for example, percentages rising from 10% in pre-war Germany to 19% in the post-war.⁴

The defense mechanism applied would eventually cause adjustment problems in the years following, as oversupply after the reopening of trade broke in certain cases the equilibrium created in national countries with the promotion of local production. The consequence, in the U.S., was the Smoot-Hawley Tariff of 1930, imposed as a solution to the plunge of agricultural prices provoked by overproduction in the country.

² Friedman, T. (2005). *The World Is Flat*. Farrar, Straus and Giroux. p. 10.

³ Findlay, R. et al. (2007). *Commodity Market Integration, 1500–2000*. Op.cit. pp.43-44.

⁴ Ibid. p.45.

One of the factors that would give new life to liberalism after WWII was the enthusiastic efforts carried out by the United States to open international markets to trade, dismantling regional blocs and protectionist measures put forward by its commercial partners. One of the reasons was the substantial increment in the production of U.S. industries, which were not afraid of competition but, on the contrary, supported the opening of markets as a way to enlarge the scope of their trade.⁵

The United States had already started open trade policies right after the end of WWI, promoting liberalization bilaterally through conditional MFN treatment (Most Favored Nation). Not long after that, the country had made one more step with the Tariff Act of 1922, shifting from conditional to unconditional MFN treatment, which implied that trade partners did not have to negotiate and pay more to receive better concessions. However, at the same time the U.S. took a few steps backward to protect infant industries and to prevent post-war crisis, until 1930, year of the above-mentioned Smoot-Hawley act.⁶

Towards the end of the Second World War, the United States also conducted Western Countries along the implementation of a deeply integrated economic system, launched by the Bretton Woods Conference in 1944 and involving the creation of a monetary standard based on gold and dollar and the institution of the International Monetary Fund, a body in charge of coordinating and easing the reconstruction of post-war economies.⁷

This outburst of cooperation would also give birth to the United Nations in 1945 and to the *General Agreement on Tariffs and Trades* in 1947. The role of this Agreement in

⁵ Chase, K. (2005). *Trading Blocs: States, Firms, and Regions in the World Economy*. The University of Michigan Press. [online]. p.105.

⁶ Ibid. p.106.

⁷ Love, P. (2009). *International Trade: Free, Fair and Open?*. OECD Publishing. p.31.

international trade from that moment, until its incorporation in the World Trade Organization under the Marrakesh Agreement of 1995 will be the subject matter of the next section of this chapter.

Another factor that was perceived as a chance for liberalism was the dismantling of great part of the Colonial Empires of Great Britain and France that began in the 1950s, and that should have implied that new markets were now free from the monopoly of colonial powers and ready for new exports and economic links. However, it will be explained later in the chapter how, despite U.S. efforts to force Great Britain out of its former Empire, in the course of the implementation of GATT the survival of the Imperial Preference already in place will be conceded to the European power.⁸

1.2. INTERNATIONAL TRADE UNDER GATT AND WTO

The General Agreement on Tariffs and Trades (GATT) was understood by the 23 members of the IMF that negotiated it as a means of “raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, developing the full use of the resources of the world and expanding the production and exchange of goods.”⁹ This aim would have to be pursued, among other measures, by reducing quantitative barriers on exports inside the territory of the contracting countries, by making international transit of goods easier and by removing all kinds of procedures that would damage competition and endanger domestic industries such as dumping.

A number of exceptions were also envisioned by the agreement, regarding for example the safeguard of the national balance of payments of members, which would justify the

⁸ Chase, K. (2005). *Trading Blocs: States, Firms, and Regions in the World Economy*. *Op.cit.* p.107.

⁹ *The General Agreement On Tariffs And Trade (GATT 1947)*. (1948). [online] Available at: <https://www.wto.org/english/docs_e/legal_e/gatt47_e.pdf>. p.1.

application of restriction on imported goods, or the possibility for countries “in the early stages of development”¹⁰ to carry out protective measures in order to improve the standard of living in their economy. The survival of preferential agreements in force before GATT negotiations was also allowed, so that Colonial Powers could still count on the monopoly in their overseas territories as ruled by the Imperial Preference System.¹¹ However, the Agreement required countries to give up a certain level of sovereignty by becoming accountable in front of the other contracting members for any trade-related measure taken in their domestic market, and by having their policies bounded not only to their national well-being, but also that of all other members. In general, discrimination among trade partners carried out through preferential tariffs and regulations was denied by the Most-favored-Nation treatment ruling outlined in Article I:

With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation, and with respect to all matters referred to in paragraphs 2 and 4 of Article III, any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties.¹²

The consequence of this ruling would be a pronounced tendency for multilateral cooperation and the establishment of a fair and more integrated market among contracting countries, in the effort to substitute an international regime of bilateral agreements causing unbalanced relations and damaging trade from third countries not involved in the deals.

¹⁰ Ibid. pp.28-29.

¹¹ Kim, S. (2010). *Power and the Governance of Global Trade : From the GATT to the WTO*. Cornell University Press. p. 93-94.

¹² *The General Agreement On Tariffs And Trade (GATT 1947)*. Op.cit.p.2.

Instead of setting ground for equality in the trade system, some critics¹³ argue that the GATT allowed in fact the continuation of trade blocs and preferential agreements like the above mentioned Imperial Preference System, preventing small countries from developing their own trade relations with other international actors. In the case of the United Kingdom, the continuation of the Commonwealth meant leaving one third of international trade in the hand of the British Empire, thus keeping other GATT members at bay.¹⁴ Moreover, the agreement was applied only on a restricted number of goods, which were specified product by product in such a narrow way so as not to leave space for other countries to maximize their gains, a strategy that was already in place in U.S. trade agreements prior to the GATT:

In 1948, for example, when the United States reduced its tariff on feldspar china, it simultaneously added “value brackets” to its tariff schedule, making the new rate applicable “only to plates, cups, saucers and other items *valued at more than specified amounts*”. (Bidwell 1956, 54; emphasis in original). This precluded their application to the bulk of Japanese imports.¹⁵

This design – called, before the creation of GATT, the *Principal Supplier Rule* – was a useful way for influential members, the United States in the first place, to have a say on which countries would benefit more from the agreement, making subtle concessions in the form of reduced customs duties to their partners of preference, that were in fact one of the few, or even the only supplier of that good.

As a forum for multilateral trade, various rounds of negotiations took place inside the GATT; the first one, held in Geneva, led to the creation of the Agreement in 1947. The founding document remained unmodified for the first decade and a half, and negotiation rounds were held with the goal of reducing tariffs among the contracting parties. It was not until 1964, with

¹³ Kim, S. (2010). *Power and the Governance of Global Trade : From the GATT to the WTO*. Op.cit. p.94.

¹⁴ Ibid.

¹⁵ Ibid.

the launch of the Kennedy Round in Geneva, that specific issues started to be advanced that would change the modus operandi of the Agreement.

First of all, the modality changed from sets of crossed bilateral negotiations to the advance of proposals of contributions provided by individual states to the multilateral forum. Moreover, in 1963, the GATT Secretariat established, for the first time, guidelines to insert agriculture in the topics of negotiations, a sector in which protectionism still prevailed in the form of subsidies and other non-tariff trade-distorting measures.¹⁶ A final innovation of the round was the application of measures envisaged especially for developing countries: one of them is the submission of suggestions concerning the contribute that LDCs could give to the negotiation, from a specific group of members – Austria, Canada, Japan, Sweden, the United Kingdom and the US.

A second round that provided the Agreement with some progress was the Tokyo Round, negotiated from 1973 to 1979. Its main peculiarity is the conclusion of a number of Agreements on a “plurilateral” level – meaning that they were not shared by all membership and were, therefore, treated as “codes”.¹⁷ These agreements were envisaged to specify and implement certain norms expressed by the GATT document, on topics such as anti-dumping, subsidies and government procurement among others. By the time of the launch of the Tokyo Round, GATT membership had increased nearly fivefold, shifting from 24 founding members to 102.

¹⁶ *General*. (1963). [online] Available at:<https://www.wto.org/english/docs_e/gattbilaterals_e/Kennedy_1964_1967/500166-0001/500166-0001.pdf>.

¹⁷ *Trade Negotiations: Participation of Less-Developed Countries*. [online] Available at:<https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact4_e.htm>.

Since their beginning, rounds became increasingly longer, due in part to the rising complexity of the issues at stake and to the radicalization of members' positions in negotiations: the last one under GATT jurisdiction was the Uruguay Round, held from 1986 until 1994 and having as the main consequence the creation of the World Trade Organization. The Agreement was, in fact, conceived from the beginning as a provisional framework to coordinate trade-related policies, while the real institution was in course of design, but it nevertheless remained in place for almost fifty years. The transformation from GATT to WTO was envisaged as means to deal with issues that were becoming increasingly complex, due to technological advances, a substantial enlargement of the membership.

The World Trade Organization incorporates the set of rules contracted under the founding text of the GATT, the original version as it had been implemented in 1994 to include following decisions taken by the organization. But new procedures and fields of competence were also integrated in the structure of the newborn organization: first of all, the dispute settlement mechanism existing during the GATT was improved¹⁸; its major flaw was the possibility for violator countries to raise a veto on the decision of the rest of the membership that could easily jeopardize the resolution of the controversy. This issue was resolved by substituting unanimity to approve a report with unanimity to block a report, a solution that would make dispute settlement processes much more effectual.

The ruling structure of the WTO also displayed a large degree of innovation in the topics under its coverage: under the GATT, many crucial aspects were excluded from the deal because their regulation would clash with the interests of member countries – this is the case, for example, of trade in agricultural goods and textiles. But in 1996 these issues were

¹⁸ Deardorff, A. and Stern, R. (2009). *What the Public Should Know about Globalization and the World Trade Organization*. Op.cit. 36.

reconsidered and integrated in the range of competence of WTO, extending the benefits of participation in the forum also to developing countries, for which these kinds of products represented the greatest part of global exports.

The legacy of the GATT was continued by the WTO, which kept holding multilateral negotiations to update trade deals and face issues of unfairness or inefficacy inside the organization, and the two share similar objectives of raising living standards in the contracting states, promoting sustainable development and enhancing international cooperation by closing agreements aiming at lowering barriers to trade and correct discriminating trade practices.¹⁹ The body in charge of decision-making is composed by representatives of all member countries, meeting every two years in a Ministerial Conference.

In 2001, the city of Doha hosted the Ministerial Conference that marked the beginning of the first round of negotiations under the World Trade Organization. In compliance with the founding agreement, which stated that the organization should promote national development of Less Developed Countries (LDCs) and support the growth of their economies by means of improving and fostering their trade relations²⁰, the WTO promoted the Doha Round as an instrument for development especially, giving it the name of *Doha Development Agenda (DDA)*. The long-term objective of the DDA was “to establish a fair and market-oriented trading system through a programme of fundamental reform”²¹, as expressed in the Doha Ministerial Declaration. The idea was to shift the balance of power by encouraging LDCs to engage in negotiations more actively than ever and to confront developed countries on

¹⁹ *Agreement Establishing the World Trade Organization*. (1994). [online] Available at: <https://www.wto.org/english/docs_e/legal_e/04-wto.pdf>. p.9.

²⁰ Ibid.

²¹ *Doha Ministerial Declaration*. (2001). [online] Available at: <https://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_e.pdf>. p.3.

issues that directly affected them economically and socially. This choice was implemented because of the increased weight of LDCs in WTO, numerically, counteracted by a lack of engagement in negotiation, where the interests of developed countries still prevailed, for reasons that will be addressed later in the chapter.

The complex nature of the Doha Round emerged from the very beginning, because if the multilateral aspect was intrinsic in the mission of the WTO, multipolarity, on the other hand, made the difference in the negotiations: that is, the games were not anymore led by only a limited number of industrial nations, sharing similar interests and able to gain the support of the rest with their economic and political power, jeopardizing at the same time LDCs' chances of development. This advantage was now opposed by the demographic power and the numerical prevalence of LDCs, with China, Brazil and India as leaders.²² LDCs were becoming more and more willing to change the direction of the organization by addressing issues that had long remained outside the agenda to the advantage of industrial countries.

It was the case, for example, of the subsidies on agricultural exports that had been favoring European production and discriminated LDCs' exports, or the limitation caused by the TRIPS – trade-related intellectual property rights -, that by making life-saving medications too expensive were undermining LDCs' ability to fight primary health emergencies in their territories .

This time, industrial countries started off by accepting improvements in the cases mentioned above, and proved themselves willing to compromise with LDCs.²³ But from both sides cooperation became soon too difficult to maintain and deadlines were repeatedly

²² Guerrieri, P. et al. (2008). *Il Doha Round e il WTO. Una valutazione quantitativa degli scenari di liberalizzazione commerciale*. Il Mulino. pp.15-16.

²³ Ibid. p.17.

missed due to the incapability to settle for a satisfying agreement; negotiations were supposed to end in December 2004, but already in 2003, the year of the Ministerial Conference held in Cancun, the preconditions were not encouraging. Developing countries perceived their counterparts as stuck on their initial positions, and concessions made were not sufficient to carry on with negotiations on agriculture, among other issues.

On other matters, such as rules of origin, the dispute was taking place among industrial countries, namely between the U.S. and the EU. As a reaction to these countries' lack of initiative concerning cuts on subsidies and barriers on imports for agricultural production, LDCs rejected their proposals for the Singapore Issues – a package including trade facilitation and foreign investments among others – leading negotiations to a deadlock.²⁴

After Cancun, members tried to restore multilateral works, starting with a Framework Agreement called *July 2004 Package*, which should have provided the parts with a ground from which to try and build a consensus on the issues at stake from Doha. The document encouraged members to “redouble their efforts”²⁵ in order to pursue an agreement that could take the Doha Round to a conclusion, reminding them of the central value given to development-related issues and to LDCs necessities, with a particular focus on agriculture.²⁶ Despite confidence among negotiators on the chances to overcome the deadlock starting from the July Package, expectations were not met and the agreement was once again postponed until the following Ministerial Conference, taking place in 2005. This and few of the Ministerial Conferences that followed proved once again that the multilateral trade system

²⁴ Baldwin, R. (2004). Failure of the WTO Ministerial Conference at Cancún: Reasons and Remedies. *Discussion Paper Series*, 53. [online] p.10.

²⁵ *Decision Adopted by the General Council on 1 August 2004*. (2004). [online] Available at: <https://www.wto.org/english/tratop_e/dda_e/ddadraft_31jul04_e.pdf>. p.2.

²⁶ Fergusson, I. (2011). *World Trade Organization Negotiations: The Doha Development Agenda*. [online] p.4.

had changed, a transformation that negatively affected the outcome of WTO Conferences, where an agreement had become too difficult to reach because of the multipolarity of interests and powerful actors involved.

The Nairobi Ministerial Conference held in 2015 can be understood as a conclusion of the long process of the Doha Round: some of the negotiators shared the feeling that from that moment on the attention and efforts of WTO members were to be placed on different issues from the ones addressed by the Doha Round.²⁷ That it was, in other words, time to move on. Nevertheless, contracting members meeting in Nairobi did in effect reach something of an agreement in the form of the *Nairobi Package*. For the first time since the beginning of negotiations, countries were able to take a firm stance in reducing subsidies to agricultural exports, a topic discussed under the name of “trade competition”.²⁸ The agreement accords a different treatment for three categories of WTO members – Developing Countries, Least Developing Countries and Developed Countries. The first group received as a deadline the time-span going from 2018-2023, according to the type of product, the second one the year 2030, while for Developed Countries the measure should enter into force between the conclusion of the agreement in 2015 and 2018. Other aspects of competition are disciplined to avoid the application of allowed practices with the aim of distorting trade, such as food aid.²⁹

These results, after fourteen years of failed negotiations, were met as a success for the multilateral trade system of the WTO. However, after the closing of the Nairobi Ministerial

²⁷ Lester, S. (2016). Is the Doha Round Over? The WTO’s Negotiating Agenda for 2016 and Beyond. *Free Trade Bulletin*, [online] No. 64. p.2.

²⁸ *Evaluating Nairobi: What Does the Outcome Mean for Trade in Food and Farm Goods?* (2016). International Center for Trade and Sustainable Development. p.11.

²⁹ *Nairobi Ministerial Declaration*. (2015). [online] Available at:<
https://www.wto.org/english/thewto_e/minist_e/mc10_e/mindecision_e.htm>

Conference, many issues still needed to be tackled in future negotiations: this is the case, for example, of the Special Safeguard Mechanism for developing countries.³⁰ But when scholars tried to figure out the dynamics existing in the course of the negotiations of the Doha Round, many shared the belief that contracting members were often diverted from reaching multilateral agreements by the possibilities offered by bilateral and regional trade deals. As a matter of fact, if on the one hand countries started to give up negotiating the Doha Round and started seeking alternatives that would require smaller compromises and would ensure them the upper hand in the game – an aspect that concerns Industrial countries in particular and that will be examined more in depth later in the chapter – on the other hand their increasing involvement in bilateral or regional trade was reducing the incentives for keeping up with WTO negotiations, making their effort even more limited and jeopardizing the agreement. If this tendency of preferring bilateral and regional agreements over multilateral agreements will continue, the institution of the WTO will be at risk of losing credibility and, subsequently, efficacy in leading the international trade system towards higher degrees of cooperation and fairness among the different groups of countries. For developing countries in particular, the situation will not necessarily be favorable if they continue closing new bilateral agreements with industrial countries instead of seeking to form coalitions with their equals and face developed countries in multilateral negotiations: the first strategy is likely to cause exploitation because of the reduced bargaining power they have in one-to-one trade deals, while the second one, if efficiently implemented, will grant them more visibility and resonance for their demands and fortify their stance as global trade actors.

³⁰ *Evaluating Nairobi: What Does the Outcome Mean for Trade in Food and Farm Goods?* Op.cit. p.4.

1.3. MULTILATERALISM AND REGIONALISM

The effort put in the creation of the General Agreement on Trade and Tariffs, and in the following foundation of the WTO forty years later proves the interest of western countries – the United States in particular, as it has been described above – and their allies in promoting a multilateral approach to trade with the aim of fostering cooperation and reducing barriers among them. However, this trend did never exclude other forms of cooperation to be conducted in parallel with the main one. In fact, not only were former empires not ready to give up the link they had established with former colonies by means of the Imperial Preference, but other parts in the negotiations were at the same time pursuing the creation of new commercial links through bilateral or regional agreements: European integration, begun in 1951 with the European Community and Steel Community, which was soon transformed into the European Economic Community, would later on become a model for Regional Trade Agreements (RTAs) all over the world. Since then, the number of agreements put into force among WTO members has risen at faster rate, but available data are not completely accurate, as they rely on notifications made by members of the newly-created trade deal after their institution. Despite that, information provided by the WTO itself display³¹ that since its foundation, notifications were provided for 400 RTAs. In the first 6 months of 2017, already 10 new agreements were notified, and 3 accessions of new members to RTAs already existing.³² All WTO members nowadays have signed at least one RTA, but for the majority of them figures are higher.

³¹ World Trade Organization. *Regional Trade Agreements. Facts and Figures*. [online] Available at:<https://www.wto.org/english/tratop_e/region_e/regfac_e.htm>.

³² *Recent developments in regional trade agreements*. (2017). [online] Available at:<https://www.wto.org/english/tratop_e/region_e/rtajan-june17_e.pdf>

Before entering the discussion concerning the relationship between trade agreements and GATT/WTO rules, it is important to make some clarity from the point of view of the terminology used. The website of the World Trade Organization refers in particular to Regional Trade Agreements (RTAs) and defines them as “reciprocal trade agreements between two or more partners.”³³ Customs Unions and Free Trade Agreements are two subcategories of RTAs, and are also considered in Article XXIV of the 1947 GATT that will be analyzed in the following section – while it does not mention Regional Trade Agreements, the Article refers to Customs Unions and Free Trade Areas when addressing the norms that members need to comply in order for their external trade deals to be acceptable by the WTO. In both cases, regional trade agreements are a form of integration that can be pursued not only among countries with geographic proximity or located in the same region of the world, but also countries that do not share borders or that present very different economic, political and cultural features. It can also happen, as it is the case of the central topic of this thesis, that trade agreements are closed in which one or more actors involved are groups of countries integrated in a regional trade agreement themselves. The EU-MERCOSUR trade agreement is an extremely peculiar attempt of *interregional* trade integration, trying to combine two regional experiences quite different among each others, but with shared interest in cooperation. The difference between Customs Unions and Free Trade Agreements resides in the fact that while countries involved in the latter are required to remove all barriers to internal trade – that is, trade taking place among the contracting parties only – and do not in any way work on regulating trade with third partners, the former also implies the unification of customs duties and tariff barriers to

³³ World Trade Organization. *Regional trade agreements and preferential trade arrangements*. [online] Available at:<https://www.wto.org/english/tratop_e/region_e/rta_pta_e.htm>

apply to trade exchanges with third partners.³⁴ Compared to FTAs, Customs Unions provide a higher degree of integration to members, for it creates a “wall” separating contracting parties to other countries in respect to trade.³⁵

A little more complicated is the use of the denomination *preferential trade agreements* related to WTO legislation. In some cases, the term is used to describe “unilateral trade preferences” that are for their own nature, non-reciprocal.³⁶ According to the PTA database³⁷ of the WTO for example, the European Union is the provider of a quite significant amount of preferences towards other WTO members in Asia, Africa, South and Center America, but is not beneficiary of any itself. At the same time, countries such as Morocco, Chile, India and Turkey, among others, are both providers of preferences and beneficiaries.

A second line of interpretation, however, applies to PTAs the same definition assigned to RTAs, removing the diversity provided by the aspect of non-reciprocity. It is with this meaning that the term Preferential Trade Agreement is employed in the World Trade Report 2011, which is part of the body of references for this thesis. With the purpose of making this thesis consistent and easier to consult, the term PTA will be interpreted following the second line, as a synonym for reciprocal trade agreements, and will be referred to, with such meaning, as either Regional Trade Agreements or Free Trade Agreements (FTAs).

Coexistence between the main multilateral trade system and a constellation of regional trade agreements has always been accepted in the normative body of the GATT. As recognized

³⁴ *The General Agreement On Tariffs And Trade (GATT 1947)*. (1948). Op.cit. p.42.

³⁵ Dieter, H. (2014). *The Return of Geopolitics. Trade Policy in the Era of TTIP and TPP*. Friedrich-Ebert-Stiftung. [online] p.4.

³⁶ World Trade Organization. *Regional trade agreements and preferential trade arrangements*. Op.cit.

³⁷ World Trade Organization. *Preferential Trade Agreements Database*. [online] Available at:<<http://ptadb.wto.org/SearchByCountry.aspx>>

by Alavi³⁸, articles related to the formation of RTAs were deliberately ambiguous and generic with the goal of leaving members room for maneuver. In particular, with regard to Article XXIV, he states that it “was not meant to restrict states’ – at least the main states’ – right to establish PTAs, but, as the article itself states, to allow them to shape their external trade policies and to meet their needs.”

It rests assured that the Article provides guidelines to incorporate Customs Unions and Free Trade Areas – the two types of RTAs taken into analysis by the Agreement– in the mission of the GATT, that is, to tackle discrimination in international trade and prevent members from applying measures that can damage other members’ economies. In both cases of RTAs, members are not allowed to impose trade barriers and customs duties to WTO members outside the agreement that are “higher or more restrictive”³⁹ than the ones existing before its creation. Thus, trade arrangements that deviate from the MFN treatment are allowed, but they should nevertheless foster cooperation among signatories rather than damaging trade for countries not involved in them.

A second restriction imposed by Article XXIV is uniformity on “substantially all the trade”⁴⁰ taking place among the countries signing a RTA. This implies that when countries decide to enter a Customs Union or a FTA with one or more partners, they should not limit the benefits granted to only a few areas of trade, but should instead aim at levels of cooperation. The adverb *substantially*, however, creates ambiguity about how integrated

³⁸ Alavi, A. (2010). Preferential Trade Agreements and the Law and Politics of GATT Article XXIV. *Beijing Law Review*. [online] Volume 1(1), 7-13. p.8.

³⁹ *The General Agreement On Tariffs And Trade (GATT 1947)*. (1948). Op.cit. p.42.

⁴⁰ Ibid. p.43.

trade should become, leaving members once more with freedom to apply their own interpretation to the rules.

The large amount of RTAs notified to the WTO says a lot about the value members give to this kind of cooperation; in fact, according to Alavi⁴¹, there are at least three reasons that guide contracting countries to resort to them: first of all, they believe that this kind of negotiation – which either is bilateral or it involves a limited number of countries – are easier to conduct and require less time to reach a satisfying agreement. As a matter of fact, countries tend to close deals with partners that have similar interests, therefore the effort put into closing negotiations is less than it would be in negotiations involving full membership of the WTO. This idea spread to an even higher extent after the disappointing events in Cancun, which made way for greater commitment to regionalism and bilateral negotiations. The second reason why countries increasingly resort to RTAs is the possibility to create bonds that go beyond mere economic interests, embracing also a shared background in politics, history or culture. The third reason provided by Alavi is also quite interesting due to the fact that it points out an unexpected trend in international relations: countries are more and more willing to address issues that are not directly related to trade, and therefore are not included in the WTO jurisdiction, in cooperation with others, or else to create an alternative discussion on issues that are already considered by WTO rules. This implies that pursuing integration – a process that sets boundaries for national freedom of action – not only on trade-related issues such as competition and investments but also on other matters such as development, innovation, environmental protection and human rights, is perceived by countries as a more efficient way to deal with them.

⁴¹ Alavi, A. (2010). *Preferential Trade Agreements and the Law and Politics of GATT Article XXIV*. Op.cit. p.8.

Not all trade agreements have the same impact on trade flows and, consequently, on the economies of the countries involved in the deal; therefore, RTAs can be beneficial as well as dangerous for their members. An indicator of this impact is the degree of welfare improvement given by a certain trading arrangement, which is in turn directly connected to the level of trade diversion and trade creation produced.⁴² When a RTA contributes to promoting imports from a country that is an efficient, low-cost producer of a certain good by removing tariffs applied on them, this has a positive effect on the general income of the parties involved in the trade, producing trade creation. When, on the other hand, a RTA removes tariffs on goods produced by a less efficient exporter country, excluding countries with more efficient systems of production, it makes it more convenient trade with the first one and damages exports from the second, producing trade diversion and a contraction in the regional income. Therefore, the choice of the partners for a RTA has major implications on the economies of all sides, and the chances to enter trade arrangements depend on the level of competitiveness of one country's production, an aspect that jeopardizes the growth and international stance of less competitive countries in such sense. While "under economic theory, regional trading arrangements are seen as second-best compared to multilateral liberalization"⁴³, some recognize regionalism as an halfway step towards multilateralism, for it creates smaller free trade areas fostering cooperation among a restricted membership which can likely expand with time – provided that such FTAs follow WTO guidelines and are not conceived with the aim of discriminating third parties but only of improving trade

⁴² *Regionalism and its Place in the Multilateral Trading System*. (1996). Paris: Organization for Economic Co-operation and Development. pp.18-19.

⁴³ *Ibid.*

conditions.⁴⁴ When such conditions are met, FTAs can indeed be the starting point of an increasingly wider and multilateral cooperation among countries acting as a prelude for actual free trade.

However, the radical increase of FTAs is a source of concern for many economists, whose attention is mostly focused on how regionalism can jeopardize the cohesive power of the WTO and complicate the international system due to the overlapping of trade tariffs. Bhagwati called the phenomenon of crossing and overlapping of FTAs the “Spaghetti Bowl”⁴⁵, recalling figuratively the clueless tangle of the Italian dish to express the dangerous complexity of regionalism. When FTAs begin to overlap, in fact, it becomes more and more difficult to establish a coherent regulation of trade on a multilateral level that satisfies all countries and does not conflict with the agreements undertaken. In this sense, an increase in the number of existing FTAs and in the number of agreements in which each country is simultaneously involved, removes authority from the WTO and supplants the Institution on matters of trade regulation.⁴⁶ Another aspect to consider is how the commitment to reaching an agreement in a multilateral forum is affected when countries have other ways to reach similar objectives – when they have a quite valuable BATNA, or Best Alternative to a Negotiated Agreement, to use the terminology coined by Fisher et al.⁴⁷ To conclude, the risk that the multilateral trade system is running is that, should countries decide to adopt regionalism as a standard solution for trade-related issues, FTAs will create a scenario of isolated trade blocs among “chosen”

⁴⁴ Ibid. p.25.

⁴⁵ Bhagwati, J. (2008) *Termites in the Trading System : How Preferential Agreements Undermine Free Trade*. Oxford University Press. p.63.

⁴⁶ Krueger, A. (1997). Problems with Overlapping Free Trade Areas. In: I. Takatoshi and A. Krueger, ed., *Regionalism versus Multilateral Trade Arrangements*, 1st ed. Chicago: The University of Chicago Press, pp. 9-23. p.10.

⁴⁷ Fisher, R. et al. (2011). *Getting to yes: Negotiating agreement without giving in*. Penguin. p.50.

countries, discriminating third parties on the basis of restrictive rules of origin and bringing international trade back to the isolationism of the interwar period.

1.4. DEVELOPING COUNTRIES IN MULTILATERAL AND BILATERAL NEGOTIATIONS

The shift from a multilateral system to a constellation of overlapping RTAs implies not only a reduction of the number of contracting parties for each agreement, but also a change in the balance of power existing among them. When the WTO was dominated by two main forces, the U.S. and the E.U., powerful enough to assert their leadership to the other members, decision-making represented quite an easy task and opposition to their influence was scarce. The rule of consensus – still in force – allowed them to take decisions in a restricted circle, and afterwards extend them to the other members in order to avoid opposition. But while LDCs began to undertake transformation in their political and economic structures, they also acquired a higher degree of autonomy from the influence of industrial states, thus destabilizing the old equilibrium. However, the gap remains between LDCs and Industrial countries and to wholly fill it will take a much greater effort. To state their traditional role in the WTO, Narlikar affirms that “the late entry of developing countries onto a preexisting international system makes them rule takers rather than agenda setters.”⁴⁸

Consider which factors contribute to a country’s bargaining power in negotiations. Drahos recognizes four sources, among which the most relevant are ownership of a large domestic market and the ability to develop a strong intelligence network. The third and fourth are the capability to gain the support of other parties and rally them in coalitions and the presence of strong domestic powers binding negotiators.⁴⁹ Developing countries can hardly

⁴⁸ Narlikar, A. (2003.) *International Trade and Developing Countries : Bargaining Coalitions in GATT and WTO*, Taylor and Francis. p.12.

⁴⁹ Drahos, P. (2003). When the weak bargain with the strong: negotiations in the World Trade Organization. *International Negotiation*. [online] Volume 8(1), 79-109. p.82-83.

rely on these assets, because of domestic political instability or lack of expertise in managing commercial intelligence, among other weaknesses. Therefore, when they find themselves alone in front of a stronger country, it is inevitable that the negotiation will be conducted following its lead. This might happen, for example, because the developing country is much more reliant to the outcome of the negotiation, while the industrial country can count on other resources or other negotiations if the current one does not advance as planned. Or because the former builds its strategy on the basis of high-level intelligence, which provide information that the opponent cannot gather.

In multilateral negotiations, the scenario changes: the numerical superiority of LDCs inside the WTO gives them a chance to overcome the hegemony of industrial powers through means of cooperation. By joining forces, a large coalition of LDCs is more likely to change the direction of the decision-making process in favor of its own interests and work towards the creation of a shared pool of knowledge and information to strengthen their position. Nevertheless, according to Drahos the coalition-building strategy of LDCs is quite flawed: due to cultural diversity, different degree of economic development and industrialization and objectives that diverge according to the features of their economic and political structure, it is extremely difficult for LDCs to enter formal and permanent coalitions among each others. Temporary coalitions on specific issues are quite more frequent, but prove themselves less effective against the well-structured coalitions of Developed countries.

However, the recent failures of the WTO in addressing key issues related to development depends not only on LDCs' missed opportunities in coalition-building, but on all members disregarding their degree of development. It is quite frequent that matters of shared

concern such as development and fairness are soon disregarded in the course of negotiations, when members tend to derail them towards the satisfaction of individual interests.

After trying coalition-building to maximize the resonance of their arguments, many pursued similar options outside the multilateral system, entering regional agreements with different degrees of integration in order to tackle cooperatively issues that were equally irksome for all members. Thus, a number of agreements were formed in Latin America, as well as in Asia and Africa, with the goal of detaching from the influence of Industrial Countries and to find peculiar models of development to be shaped and constructed based on their own resources and experiences.

In the next chapter, the attention will be drawn on the MERCOSUR, the *Southern Common Market*. Its cooperation with the European Union, which will be the topic of the fourth chapter, can be evaluated in the frame of the RTAs undertaken between LDCs and Industrial Countries, but it is also important to take into consideration the leading presence of Brazil's fast-growing economy inside MERCOSUR and how its increasing influence on the international level – combined with a strategic foreign policy carried out over the last few decades and particularly marked in the 21st century – is likely to shape the relationship between the two regions.

2. THE CONSTRUCTION OF REGIONALISM IN LATIN AMERICA

The construction of MERCOSUR is the outcome of a two-century long, non-linear process that involved Latin America, with large influence brought by actors outside the region in the course of its history. Such a process involved the gradual approximation of Latin American nations, especially as far as economic and commercial issues are concerned, through the creation of several organizations in the course of centuries engaging each time a different groups of countries and, according to the ideologies underlying the project, either including – according to the principle of Pan-Americanism – or excluding US participation.

Multilateralism, or the project of a common structure in which to address regional challenges in cooperation, has represented an inner feature of Latin America since the end of colonial rule. Paraphrasing Bolivar, Legler affirms that the multilateral ideal proved itself to be inseparable from the region, like a shadow, while at the same time difficult to grasp in its true and most efficient form.⁵⁰

Gardini⁵¹ goes beyond this hypothesis, adding to it the idea that despite differences in the various forms in which integration was actualized, similar inner qualities can be found in its most recent expressions – MERCOSUR, UNASUR among others – as well as in the first embryonal projects developed after the decolonization. Not only the points of strength, represented by a common legacy and a belief in the benefits of cooperation, but also the contradictions, such as the stance of the region towards the United States – which proved to be anything but consistent – and the role of Brazil, fluctuating between a position of committed leadership and one of pursuit of autonomy and nationalism.

⁵⁰ Legler T. et al. (2011). El patrón contemporáneo del multilateralismo latinoamericano. In T. Legler et Al., ed., *Pensamiento propio*. [online] Volume 16(33), 11-34. p.18.

⁵¹ Gardini, G. (2009). L'America Latina nel XXI secolo: nazioni, regionalismo e globalizzazione. Carocci. p.63.

Despite this long history of multilateral efforts, the cyclical succession of democracy and dictatorship created political instability in the region and jeopardized the continuity of negotiations for regional integration. As a matter of fact, cooperation and multilateralism are closely linked to the persistence of democratic governments, while authoritarian regimes in Latin America historically tended to originate nationalistic, if not openly isolationist pressures, postponing the process of multilateralization of the region. The region, thus, results divided between two extreme forces balancing each other, one pushing towards integration and one towards isolation:

Empero, esa imagen idealizada de la “patria grande” —sea latinoamericana, suramericana, o centroamericana— tiene una difícil relación con el acendrado nacionalismo también presente en dicha identidad y cultura política, en cuyo origen se encuentran los procesos de construcción nacional posteriores a la independencia.⁵²

However, if considered on a regional level, this sense of identity and autonomy constitutes an element of cohesion, a force that mobilized Latin American countries against former Empires and new invaders, and which continues to inspire regional projects in light of a “defensive” and “autonomist” multilateralism.⁵³ What finally emerges from this scenario is that three among the main goals of Latin American countries, which are autonomy against international powers, national sovereignty and the creation of strong regional institutions, constitute what Sanahuja calls an impossible trilemma, in which “se puede lograr una, o a lo sumo dos de esas metas, pero de ninguna manera se pueden tener las tres a la vez.”⁵⁴

⁵² Sanahuja, J. (2011). Multilateralismo y regionalismo en clave suramericana: El caso de UNASUR. In T. Legler et Al., ed., *Pensamiento propio*. [online] Volume 16(33), 115-158. p.116.

⁵³ Ibid.

⁵⁴ Ibid. p.117.

The chapter will retrace the evolution of regionalism in Latin America, focusing in particular on the three main steps that have been theorized in the literature concerning the topic: closed regionalism, represented by the experiences of LAFTA and LAIA, developed in the 1960s; open regionalism, of which MERCOSUR is an example, put into practice in the 1990s, and then partly transformed at the beginning of the millennium by the political shift in Latin American government referred to as the "*pink tide*"; and post-liberal regionalism, the present wave of integration embodied by UNASUR, which is nowadays experiencing an impasse caused by the decline of the *pink tide* and its substitution with right-wing governments, eager to support different regional projects.

A section will be dedicated to each step of the process. In addition to that, the first section will accompany the reader through the topic by providing an explanation of some of the categories applied in the analysis of Latin American regionalism: first of all, the trajectory from closed, to open, and finally to postliberal regionalism will be addressed. Then, the analysis will address the difference between negative and positive policies. Thirdly, the difference between South-South and North-South cooperation will be taken into consideration.

The second section will provide an historical perspective of the region and its identity as a result of the process of independence from the Iberian colonies. Latin American identity, as will be explained, is built on two main elements of similarity and diversity, which led the colonies to identify themselves not anymore as Europeans, but as Americans. Section three will deal with the development of integration in the form of LAFTA/ALALC and LAIA/ALADI, through the analysis of the Treaty of Montevideo of 1960, the Caracas Protocol of 1969 and the Treaty of Montevideo of 1980. The third section addresses the construction of MERCOSUR through an analysis of its fundamental treaties, the Treaty of Asunción and the Protocol of

Ouro Preto, centering the discussion on its origin, its evolution along the years, and the relations among its members. The discussion on MERCOSUR continues in the successive section, focusing on the changes brought about in the 21st century and on the position of Brazil as a regional leader under the presidency of Lula and after. Finally, the fifth section will deal with the latest regional project that is currently being developed in the area, the Union of South American Nations, and its peculiarities comparing with its predecessors..

2.1. CONCEPTS FOR A THEORETICAL FRAMEWORK CONCERNING LATIN AMERICAN REGIONALISM

The transformations that have taken place in the region in the almost 50 years dividing the creation of LAFTA from the creation of UNASUR, which will be object of discussion of the present chapter, are of various natures. Scholars have worked on a number of categories in which to inscribe the way the objectives of the region were put into practice according to the period, spanning from the stance taken towards third countries, the importance of development and the strategy to pursuit, the kind of initiatives undertaken cooperatively and many more.

The first category applied is the one describing the level of interconnection between the region and third countries, industrial economies in particular. At this level, the change is represented by the shift from closed – old – to open – new – regionalism taking place with the evolution from LAFTA/LAIA to MERCOSUR. The first regionalism promoted economic development through protectionism, isolating the members' markets from extra-regional imports that could threaten their survival and expansion. The doctrine of the “old” regionalism was advocated by the ECLAC in a moment – the 1950s and 1960s – in which the Western Bloc, headed by the hegemonic power of the United States, was accused of having relegated Latin

American Countries in a situation of stagnation and underdevelopment and taken advantage of it.⁵⁵

On the other hand, the “new” regionalism, brought about among the debt crisis and the diffusion of the neoliberal approach to economy and trade, embodied Latin American acceptance of US policies as a means to restore development in the region. These policies had the aim of strengthening Latin American economies by favoring their entrance on the global market, through liberalization. Moreover, Sanahuja refers to the “multidimensional” character of this stage, in which diverse issues such as trade and security are addressed in the same forum, differently from what happened in past integration projects.⁵⁶

A second phase of this evolution is the one marking the shift from open to postliberal regionalism, represented by the creation of UNASUR and, to a lesser extent, the transformation of MERCOSUR that took place with the rise of *pink tide* governments. Postliberal regionalism was encouraged by the retreat of the US from its hegemonic position, which allowed Latin America to rethink integration in a local key and to become more active in a global scenario that had changed into a multipolar one. Key elements are the attention on social development to be fostered through the active commitment of the state, and through the harmonization of countries in the political sphere, with reduced importance given to economic integration.⁵⁷ Sanahuja describes the ideology behind UNASUR as “una estrategia post-liberal animada por la búsqueda de autonomía en la actuación internacional y en las políticas de desarrollo, en particular respecto a Estados Unidos”.⁵⁸

⁵⁵ Ibid. p.118.

⁵⁶ Ibid.

⁵⁷ Ibid. p.121.

⁵⁸ Ibid. p.117.

A second theoretical structure used to analyze regional cooperation is the one identifying policies as “negative” and “positive”. The move from the first to the latter expresses the establishment of higher degrees of interconnection and deeper efforts towards integration. The definition of both that follows is the one proposed by Malamud:

La integración negativa hace referencia al desmantelamiento de restricciones a los intercambios transfronterizos y a la distorsión de la competencia, mientras que la integración positiva implica políticas comunes que moldeen las condiciones en que funcionan los mercados.⁵⁹

The negative and positive kinds of integration are deeply interconnected with the structure of the regional agreement established: Latin America, historically, displayed a strong preference for institutions belonging to the intergovernmental type, reflecting a choice for negative integrative measures. However, Gardini identifies in the experience of UNASUR a quite significant sign of change towards a positive integrative approach: the Union is structured around a more political agenda, with less emphasis on trade and economic integration and larger efforts put in the creation of shared infrastructures, in the harmonization of policies in the field of security, health and education among others.⁶⁰

Despite being the expression of the shift from open to postliberal regionalism, and embodying the change from negative to positive integration, UNASUR does not represent a change in the intergovernmental nature of Latin American regionalism⁶¹ but, on the contrary, demonstrates to what extent this characteristic is deeply-rooted in the agenda of its members.

⁵⁹ Malamud, A. (2011). Conceptos, teorías y debates sobre la integración regional. *Norteamérica*, [online] Volume 6(2), 219- 249. p.221.

⁶⁰ Gardini, G. (2015). Towards modular regionalism: the proliferation of Latin American cooperation. *Revista Brasileira de Política Internacional*, [online] Volume 58(1), 210-229. p.213.

⁶¹ Sanahuja, J. (2011). Multilateralismo y regionalismo en clave suramericana: El caso de UNASUR. *Op.cit.* p.148.

A third theoretical category that is frequently applied to describe the integrative strategies of Latin American countries is the one that discriminates south-south from north-south cooperation. The first type consists in the commercial, economic, and political bonds that are closed between countries or regions that display a similar level of development and structural features, generally sharing a history of colonial domination, and has as its main goal that of fostering economic development in the countries involved. Latin American integration itself has embodied South-south cooperation ever since the beginning of negotiations between Argentina and Brazil, resulting in the creation of MERCOSUR.⁶² Even before, the creation of LAFTA and LAIA was driven by the same spirit of cooperation among countries with similar levels of development, transmitted by ECLAC (Economic Commission of Latin American and the Caribbean)suggestions and reports.

The practice of South-south cooperation was undertaken mainly as a means of escaping the influence of hegemonic powers; at the same time, it allowed regional powers to impose their own influence on neighboring countries, minimizing the opposition of stronger external countries. Legler supports this thesis and reports Altmann's thought on this regard:

Altmann, por su parte, nos recuerda que las diversas iniciativas de cooperación Sur-Sur no se reducen a intenciones altruistas y/o solidarias, sino también a lógicas de poder que buscan proyectar a la organización como un bloque influyente —dominado por Venezuela— en diversos foros multilaterales.⁶³

In addition to that, Legler also refers to the ideas of Sanahuja regarding the competition involving Brazil and Venezuela, and having as aim the leadership of UNASUR.⁶⁴

⁶² Gardini, G. (2015). *The Origins of Mercosur: Democracy and Regionalization in South America*. Palgrave. p.45.

⁶³ Legler T. et al. (2011). El patrón contemporáneo del multilateralismo latinoamericano. Op.cit. p.15.

⁶⁴ Ibid.

North-South cooperation, on the other hand, links together countries or regions with different levels of development. Despite being South-South agreements a privileged choice in the history of Latin American integration, in the application of the opposite strategy these countries disclose their pragmatic side. Sanahuja⁶⁵ traces this tendency back to 2000, when North-South treaties started increasing – Between Latin American countries such as Peru or Mexico and the US or the EU – and gives four main reasons for this growing trend. The first one is the impossibility to continue benefiting from non-reciprocal trade preferences, due to the WTO requirements on non-discriminatory practices, which lead to the creation of new reciprocal agreements between Latin American countries and industrial powers; the second one is skepticism regarding the negotiations in the Doha Development Round. As a matter of fact, its failure to respect the initial commitment from the parts and the deadlock in which it occurred led a growing number of developing countries to resort to bilateral agreements with industrial countries as a way of having faster and better results, an outcome that did not always concretize. The third reason is the hope to increase foreign investments to the region by closing links with the US or the European Union, and to stabilize cooperation with them. The final argument defends the preference for deeper and wider levels of liberalization of trade allowed by North-South agreements, compared to the less defined, often informal agreements closed with similar partners.

If, to a certain extent, the economic current of the Washington Consensus – which had quite an impact on the structure of MERCOSUR as it had first been envisaged – supports the strategy of North-South trade relations with liberalization and the attraction of foreign

⁶⁵ Sanahuja, J. (2009). Del regionalismo abierto al regionalismo post-liberal. Crisis y cambio en la integración regional en América Latina. In L. Alfonso et al., ed., *Anuario de la integración regional de América Latina y el Gran Caribe 2008-2009*. Coordinadora Regional de Investigaciones Económicas y Sociales. [online] Volume 7, 11-54. p.20-21.

investments, the projects that were developed under the framework of post-liberalism – the rise of pink tide governments and the subsequent creation of UNASUR – represented a revamp of the South-South cooperation discourse, despite the survival of actions with different inspiration were still carried out by single countries.

The crisis of the left in the region, which led to the rise of conservative governments in Argentina and Brazil and in the radicalization of Venezuelan political environment, represents a further element of instability in the trade policy of the region and of individual members. In the case of Brazil – which, for its geopolitical and economical dimensions has substantial weight on the path undertaken by the whole region – the shift in the presidency from Dilma Rousseff to Michel Temer displays signs of a transformation in the foreign policies of the country, which can be clearly seen in one of the speeches⁶⁶ of José Serra, Temer’s foreign minister: one of the main directions characterizing his mandate expose the will to distance from the multilateral forum of the WTO, in order to focus on more efficient bilateral agreements; a second one is the decision to relaunch and expand trade talks with “traditional partners”⁶⁷, namely the US, the EU and Japan. On the agreement between MERCOSUR and the EU, which will be the main object on the third and last chapter of this thesis, he stated:

A troca de ofertas entre o Mercosul e a União Europeia será o ponto de partida para avançar na conclusão de um acordo comercial que promova maior expansão de comércio e de investimentos recíprocos, sem prejuízo aos legítimos interesses de diversos setores produtivos brasileiros.⁶⁸

⁶⁶ Discurso do ministro José Serra por ocasião da cerimônia de transmissão do cargo do ministro de estado das relações exteriores. (2016). Ministry of Foreign Affairs Website. [online] Available at:<<http://www.itamaraty.gov.br/pt-BR/discursos-artigos-e-entrevistas/ministro-das-relacoes-exteriores-discursos/14038-discurso-do-ministro-jose-serra-por-ocasio-da-cerimonia-de-transmissao-do-cargo-de-ministro-de-estado-das-relacoes-exteriores-brasilia-18-de-maio-de-2016>>.

⁶⁷ Ibid.

⁶⁸ Ibid.

The concepts analyzed in this section are part of a larger theoretical literature regarding the patterns of integration characterizing the peculiar history of Latin American regionalism. In some cases, impulses of different natures coexisted, such as was the case of South-South and North-South cooperation strategies. In other cases, they followed each others, embodying transformations occurred in the relations of the region with third countries: this is the case of the evolution from “old”, to open, to postliberal regionalism, fueled by an initial rejection of external influences, to the opening of the markets during the Washington Consensus, with a return to a cautious position against US intromission. In the remaining parts of this chapter, some of these issues will be recalled and analyzed more in depth when necessary for the development of the discussion.

2.2. LATIN AMERICA: FROM IMAGINED COMMUNITY TO INTEGRATION

Latin America is among the most intricate and uncertain regional realities, due to its historical background and variety of inputs that contributed to its political, economic and cultural transformation. Before proceeding further with the discussion, it should be clarified that the area identified with the denomination *Latin America* is the one that includes the territories of former Spanish and Portuguese colonization, which cover almost the totality of South America – excluding former Dutch and English colonies and a present French territory –, most part of Central America and the Caribbean, and Mexico in the North. It is mostly among these territories that political and economic links were maintained also after decolonization and the construction of new sovereign states, but conflict and competition have nevertheless often counterbalanced harmony, preventing the pursuit of advanced models of cooperation until very recent years, an aspect that will be addressed shortly. This area differs with the one identified as South America; while the former is named after a common history of domination

which transferred on the population a cultural system peculiar to the Iberian peninsula, the latter is a pure geographic indication involving territories with different pasts.

Zanatta refers to Latin American reality as a combination of unity and diversity⁶⁹, the unity deriving from the Colonial domination of Spain and Portugal, the diversity from the inner geographic features – climate, natural resources, and many more – and the heterogeneity of cultures and ethnicities: “the space divided what history aspired to unite”.⁷⁰ Iberian colonization represented therefore a shared legacy for all these countries and led to the creation of the “imagined community” of Latin America, where the common language and religion imposed from Europe blended with those existing prior to the occupation, preserving diversity but at the same time creating a veil of homogeneity.

A further element of diversity participating in the construction of Latin American identity in the last phase of the Spanish colonial empire was the increased awareness of the gap that had been expanding between the so-called *Criollos*, people of European origin transplanted to the Americas, and the *Peninsulares*, those living in Europe. While the status of the American territories under the European kingdoms was almost equal to the motherland, their inhabitants started to suffer increased discrimination in the 18th century, as a way for the central power to regain control over their possessions overseas. The Spanish Bourbon Reforms, for instance, had the purpose of maximizing the administrative efficiency of the colonial empire by dividing the territory in four Viceroyalties instead of two – a measure that allowed stricter economic control over them – and through the exclusion of the *Criollos*, from important administrative roles that were now assigned exclusively to Europeans. The rising awareness of diversity compared to *Peninsulares* combined with the widespread,

⁶⁹ Zanatta, L. (2010). *Storia dell'America Latina Contemporanea*. Giuseppe Laterza & Figli. p.5.

⁷⁰ Ibid. p.7.

revolutionary self-identification of the inhabitants of the colonies as “*americanos*”; and this feeling, strengthened by the dramatic instability caused by the Napoleonic invasion of the Iberian peninsula in the first decade of the 19th century, would soon lead to the blast of the fights for independence.

The process of independence of Brazil from the Portuguese, on the other hand, involved different forces and took until 1888 to obtain the definitive exclusion of the Royal Family from the country. First of all, its control over the colony increased dramatically in 1808, when the Portuguese Royal Court was displaced overseas to protect the rulers from Napoleon. At the same time, the colony benefited from this change, which fueled urban expansion, improved the educational system and the administrative structure. However, similarly to what had happened after the Bourbon Reforms in the Spanish colony, the displacement caused a rise in the occupation of Portuguese immigrants in the public sector, to the detriment of locals.⁷¹ A prejudice that alimanted nationalist feelings among the upper-class and led to uprisings such as that of Pernambuco in 1817, followed by the creation of a short temporary government.

Despite nationalism spreading through the territory, the decision to separate from Portugal came from Pedro I, the son of King João VI himself, who started reigning over Brazil after his father’s return to Europe in 1822, and opposed the central government’s decision to remove the status and privileges gained during the Court’s stay in Brazil, establishing the Empire of Brazil. In light of that, two elements characterize Brazil in the 19th century in contrast with other Latin American countries: firstly, while the independence of Spanish territories led to the creation of a large number of small countries, the former Portuguese colony maintained its unity through the transformation into a sovereign country and after.⁷² Secondly, while the

⁷¹ Trento, A. (1992). *Il Brasile*. Giunti. p.8.

⁷² Ibid. p.9.

internal dynamics of the former proved itself to be quite unstable, due to the dismantlement of the main administrative structures, conflicts and authoritarian regimes, the persistence of the Empire did not meet with stark opposition nor difficulties⁷³, and could continue to rely on the structure established by João VI.

Thus, it was not deep nationalistic ideals or republican spirit that fueled the deposition of Pedro II, but the combination of elements leading towards the substitution of the Empire without bloodsheds or social turmoil. In 1888, more than thirty years after the abolition of the slave trade in 1850, Pedro II allowed the application of the *Golden Act*, which imposed freedom for all slaves, a choice that lost him the support of landowners. However, this element alone does not represents a sufficient explanation for the end of the Empire. As a matter of fact, slavery had become less convenient since 1850, and only a small share of the oligarchy still relied completely on slaves for their cultivations; therefore, the abolition of slavery of 1888 did not strike as a controversial decision as much as an occurrence that would have taken place eventually, in the near future.⁷⁴

What gave the input for the deposition of the Emperor was, on the other hand, his weak physical state and his prolonged absence from the country, and the uncertainty concerning the future of Brazil after his death. The republican faction of the government seized the day, supported by the military, to launch an uprising that would end in 1889 with the abdication of Pedro II.⁷⁵

⁷³ Lessa, C. (2008). Nation and nationalism based on the Brazilian experience. *Estudos avançados* [online] Volume 22 (62), 237-256. p.243.

⁷⁴ Trento, A. (1992). *Il Brasile*. Op.cit. p.35.

⁷⁵ Ibid.

Towards the end of the 19th century the region had therefore ceased their centuries-long relationship with the Iberian peninsula. While other European actors were trying to seize the opportunity offered by the power vacuum, the United States had already begun to look for occasions to impose their influence. As early as 1823 President Monroe declared the intention of his government of protecting Latin American independence against Europeans in the so-called Monroe Doctrine. Following the Doctrine, the paths of the Americas would become highly intertwined and any sort of intrusion from powers overseas would be perceived as a violation and as such would be counteracted by the United States.

A pioneering approach to post-colonial Latin American integration is embodied by Simon Bolívar and his utopist goal of establishing a Confederation among the newly-formed countries of Latin America. In his renowned writing *Carta de Jamaica*, he states: “Es una idea grandiosa pretender formar de todo el mundo nuevo una sola nación con un solo vínculo que ligue sus partes entre sí y con el todo.”⁷⁶ After being sent as a diplomat to the United Kingdom in 1810, to seek support on behalf of the revolutionary *Junta* that had taken control in Venezuela, he returned and fought for the independence of various other territories, of which he then assumed the leadership; in 1819 he rose to power in the new state of *Gran Colombia*, from 1824 he headed Peru.

Many thinkers reflected the same cohesive tension of Bolívar, but the lack of resources and the demolition of administrative structures in the region provoked by the exit of the Spanish soon led the new States towards a different path, that of autarchic and highly centralized states in the hands of powerful *Caudillos*. The process of consolidation of central powers launched during this period obscured any ideal of integration all through the 19th

⁷⁶ Bolívar, S. (1815). Carta de Jamaica. [online] Available at:<<http://www.cpihts.com/PDF/Simon%20Bolívar.pdf>>. p. 21.

century, and the efforts made to follow the European model in this process refrained Latin American countries from pursuing original ways of thinking national sovereignty and regionalism.

It was not until the explosion of the first World War⁷⁷, an event that drew all the attention on the violent actions of European countries and led many extra-European countries to rethink the validity of the region as a model, that Latin American intellectuals were able to develop a new perception of the identity of the region, in which the multi-cultural and diverse nature, so different from the homogeneity of the Old World, did not represent a flaw in their being.

This moment overlaps with the period marking the first century after independence. While celebrating an important landmark in the history of their countries, domestic governments still displayed structural weakness, and were faced with new revolutionary forces they were not able to resist, pushing towards an overturn of the internal equilibrium of the states that would characterize the decade of 20's, "años de tránsito".⁷⁸ Students from the Argentinian city of Córdoba gave voice to this changes in 1918 with the creation of the *Manifiesto liminar*, a cry against tyrants, giving power and authority to mediocre and silencing the defenders of truth and knowledge. What strikes the most in the text is the reference to an "American hour"⁷⁹ of revolution, an expression that embodies a sense of closeness and community among neighboring nations.

⁷⁷ Funes, P. (2014). *Historia mínima de las ideas políticas en América Latina*. El Colegio de México AC. p.99-100.

⁷⁸ Ibid.

⁷⁹ *Manifiesto liminar* (1918). [online] Available at:<<https://www.unc.edu.ar/sobre-la-unc/manifiesto-liminar>>.

This feeling of regional self-identification is transmitted even more deeply by the creation of the American Popular Revolutionary Alliance (APRA) by Víctor Raúl Haya de la Torre in 1924, joined by a large production of books and reviews dedicated to the construction and diffusion of a shared knowledge among Latin American intellectuals, spreading the ideals of Bolivar and other thinkers of the independence.⁸⁰ The redefinition of a South-American or Latin-American space also implied a revision of the stance towards the most powerful actor in the region: the United States. The institution of Anti-imperialist league in Mexico to counter US influence in 1925 and the Latin American Union in the same year are signs of the separation from the Northern neighbor aspired at by the region.

The rhetoric of anti-imperialism, revolution and Latin-Americanism lost strength with the dramatic consequences of the 1929's crisis and the relaunch of nationalistic discourses. In several countries, military coups overturned the governments and replaced them with authoritarian leaders: in 1930 Vargas in Brazil and Uriburu in Argentina, in 1933 Terra in Uruguay, among others. Governments in this phase focused on the modernization and consolidation of production and the protection of national economies after the crisis; on the political level, leaders used populist propaganda to maintain order among the population and provided countries with a corporative structure to grant social control.

The pattern of alternation between cohesive ideologies and impulses of isolationism, as we will see in the following section, recurs in the history of Latin America; this cyclicity is peculiar in the region and provides a partial explanation to the inner degree of weakness affecting regional projects launched by Latin American countries over the years.

⁸⁰ Funes P. (2014). Historia mínima de las ideas políticas en América Latina. Op.cit. p.101-102.

2.3. REGIONALISM BEFORE MERCOSUR: LAFTA AND LAIA

The creation of MERCOSUR represented the realization of an objective – establishing the common market – that was already displayed by the 1960 Montevideo Treaty⁸¹, the document marking the foundation of the Latin American Free Trade Association, in Spanish and Portuguese ALALC. However, as the next section of the chapter will observe, the common market never took shape completely, as countries would lower their expectations and renegotiate the foundational treaty soon after its enter into force.

Assessing the political and economic changes taking place inside the founding member countries of LAFTA in the 1950s constitute an important step of this analysis, as they allow to re-create the regional scenario in which the Agreement set its roots and to identify and some common elements that may be the crucial in order to understand Latin American regionalism.

Two are the key elements that emerge from the history of these countries in the 1950s: the first, the fact that all founding members experienced an economic crisis in the middle of the 1950s, as a consequence of the end of the Korean War, which had from 1950 to 1953 stimulated the production of primary goods in Latin America and raised their price. The sudden reduction of demand brought to a period of stagnation in the region, and the administrations resorted to the IMF and to the application of deflationary measures, among which the reduction of public expenditures, to obtain loans and investments, with negative consequences on social security and public support of the official governments. In some cases, these measures were implemented by democratic governments, which had seen no alternative but to strengthen their power in order to maintain public order; but in the majority

⁸¹ *Tratado de Montevideo*. (1960).[online] Available at:<[https://www3.nd.edu/~jbergstr/DataEIAs2006/FTA5yrData_files/PDF%20Files/Latin%20America/LAFTA%20-%20MONTEVIDEO%20TREATY%20\(1960\)%20\(Spanish\).pdf](https://www3.nd.edu/~jbergstr/DataEIAs2006/FTA5yrData_files/PDF%20Files/Latin%20America/LAFTA%20-%20MONTEVIDEO%20TREATY%20(1960)%20(Spanish).pdf)>.

of cases, they were applied by dictatorial regimes – even though, in some cases, established by means of election –, such as Peron’s, Stroessner’s or Odría’s administrations.

As a matter of fact, the second key concept is exactly the shared experience of centralized, if not openly dictatorial governments, which took power for a few years during the course of the decade, but which did not overcome the discontent of the population provoked by the economic problems of their countries, and eventually yielded to call for new elections. The experience of Paraguay in the first half of the decade represents an exception; from 1948 to 1954, the Presidency was held by Federico Chaves, a politician affiliated with the most democratic wing of Partido Colorado, the opposite side of which was embodied by Stroessner, who overturned his predecessor with a military coup. A second particular case was that of Uruguay, the power of which was held by a Council of 9 members, the presidency of which would be transferred from one member to another annually.

Towards the end of the decade, all countries converged to similar solutions against the crisis: seeking for foreign support to development in the form of investments, resorting mainly to the US individually or as a region. On their side, the United States were not new in proposing cooperation programs across the Americas – consider, among others, the emblematic Monroe Doctrine of 1823 –, a strategy that aimed at keeping a certain degree of influence over its Latin American counterparts. In the 1960s, the Communist threat provided an additional motivation to support the economic development of the region and cultivate a friendly relationship, two objectives that were carried out by President Kennedy through the Alliance for Progress program.

As an additional means of increasing economic development at home, Latin American countries converged towards the creation of the LAFTA by signing the Montevideo Treaty,

launching a project that had, as its main objective, that of fostering exports among the region by reducing trade barriers and opening their markets for co-members.

The Montevideo Treaty of 1960 was the result of an Inter-governmental Conference attended by seven Latin-American countries: Argentina, Brazil, Chile, Mexico, Paraguay, Peru and Uruguay. In addition to the founding members, within 7 years the scope of the treaty was enlarged with the annexation of Bolivia, Colombia, Ecuador and Venezuela, reaching the number of eleven members. The treaty aims at the reduction of trade barriers and the gradual integration of Latin American markets as a “fundamental condition for the acceleration of the economic development of Latin American countries.”⁸²

A second idea conveyed by the text of the treaty is the importance of regional integration as a means to increase trade not only among the contracting parties, but with “the rest of the world” as well.⁸³ This idea seems to resonate in the concept expressed by Mariano: “A integração não é apenas um mecanismo de abertura comercial, mas é também uma estratégia de inserção internacional política e econômica.”⁸⁴ A strategy that, however, remains stuck on the theoretical level, considered that the practice of LAFTA – old regionalism, following the terminology analyzed in the first section – did not privilege openness as much as closeness, in the sense that it focused on the development of the internal market and the single national productions by the creation of a Free Trade Area, at the same time keeping them isolated from external forces by means of high external tariffs.

⁸² Ibid. p. 1.

⁸³ Ibid.

⁸⁴ Mariano, K. (2015). *Regionalismo na América do Sul. Um novo esquema de análise e a experiência do Mercosul*. Editora UNESP. p.18.

The outcome of the Conference held in Montevideo was the creation of a Free Trade Area to be finalized within 12 years, in the course of which members were required to gradually reduce tariffs and other barriers to trade. In chapter IV, the treaty displays a provision related to the Most Favored Nation treatment, established on both goods and capitals, stating that

Cualquier ventaja, favor, franquicia, inmunidad o privilegio que se aplique por una Parte Contratante en relación con un producto originario de o destinado a cualquier otro país, será inmediata e incondicionalmente extendido al producto similar originario de o destinado al territorio de las demás Partes Contratantes.⁸⁵

Among the measures established by the treaty, the countries also agreed to include special rulings for the benefit of members with lower levels of development, which are articulated in chapter VIII. One of these measures is the exception, for these category of countries, to the Most Favored Nations clause, in order to foster and expand their production. They are also allowed to implement protectionist measures aimed at preserving national production whereas it is crucial for their economic development.⁸⁶

The creation of LAFTA was supported by a report provided by the ECLAC – Economic Commission for Latin America and the Caribbean – concerning the status of dependence suffered by Latin American countries towards Industrial Countries, a condition that undermined these countries' possibility to develop and maintain strong economies in their territories.⁸⁷ To counteract this condition, the ECLAC had given three main pieces of advice to the region, which included the creation of Trade Agreements related to commodities, the

⁸⁵*Tratado de Montevideo*. (1960). Op. cit. p.4.

⁸⁶*Tratado de Montevideo*. (1960). Op. cit. p.7.

⁸⁷ Skidmore, T. et al. (2014). *Modern Latin America*. Op.cit. p.353

construction of stronger forms of industrialization based on the model of Import-Substitution, and the pursuit of regional market integration.

As a matter of fact, the level of trade inside LAFTA doubled in the first few years of the treaty⁸⁸, and the GDP of its members rose from 1206 to 2196 US\$ the period from 1960 to 1980.⁸⁹ An interesting element is that the increase did not affect solely primary Latin American products, but also industrial ones, which became more and more exchanged inside the territory of the treaty.⁹⁰ However, this positive result must be considered in light of the fact that intra-LAFTA trade grew disproportionately in the course of the years, due to the deep differentiation among members in terms of wealth, resources and industrial development. In this sense, the lack of measures to assure an equal redistribution of the profits in the Treaty represented a significant obstacle for the economic development of the region as a whole.

The definitive creation of a Free Trade Area was also jeopardized, along the course of negotiations, by the unwillingness of countries to commit to the mission of the Treaty and to concede large shares of their domestic markets in which they were monopolist distributors, so as not to lose their advantages to increased international competition.⁹¹

As a consequence, contracting parties proved themselves unable to respect the deadline for the conclusion of negotiations, which was deferred from 1973 to 1980. The decision was taken in 1969 with the ratification of the Caracas Protocol by the founding and new members. Another variation applied to the Treaty in this circumstance was the reduction of the proportion of liberalization that each member was supposed to undertake every year, which

⁸⁸ Bethell, L., ed. (1985). *The Cambridge History of Latin America* (vol.6). Cambridge University Press. p.215.

⁸⁹ Ibid. p.212.

⁹⁰ Ibid. p.215.

⁹¹ Ibid. p.211.

moved from 8% to 2.9%, after having taken notice of the fact that only a small part of the membership had succeeded to reach the initial target⁹² – which implied, on a 9-year span, the liberalization of 72% of “the weighted average of levies in effect for third countries” .⁹³

In 1980 the eleven members of LAFTA gathered in Montevideo and stipulated a new Treaty, more extensive in its competence, at the same time more flexible with regard to the integration process to be carried out by its members. The Treaty of Montevideo of 1980 marks the transformation of the Asociación Latino Americana de Libre Comercio into the Asociación Latino Americana de Integración (in english LAIA, Latin American Integration Association). This change in the name significantly stresses the substantial changes in the statute, objectives and strategy of the newly-born Agreement.

First of all, the new denomination – referring to Integration –, compared to the previous one – referring to Free Trade –, displays an interest for a wider range of policies and measures including more than just the creation of a Common Market (art.1), which is still the primary goal of the agreement.⁹⁴ As a matter of fact, the 1980 Treaty applies, in its foreword, a sphere of words that are new in the Agreements, such as *solidaridad*⁹⁵, solidarity, which implies a deeper level of cooperation than the merely economic one. An idea that is strengthened also by the widening of the idea of development, which begins here to embrace the social sphere together with the economic one.⁹⁶

⁹² Ruocco, N. (1972). La problemática de las negociaciones comerciales en la ALALC. *Revista de la integración*. [online] Volume 11, 33-61. p.43.

⁹³ *Tratado de Montevideo*. (1960). Op. cit. p.7.

⁹⁴ *Tratado de Montevideo*. (1980). [online] Available at:<<http://www.aladi.org/nsfaladi/juridica.nsf/vtratadoweb/tm80>>.

⁹⁵ Ibid.

⁹⁶ Ibid.

A second remark refers to Art. 3 of the Treaty, which articulates the five principles that trace the path towards the objectives followed by the contracting parties. These principles are: plurality, convergence, flexibility, differential treatment and multiplicity. The first one refers to the diversity of experiences represented by LAIA members, which display different degrees of development, economic and political structures and resources. Convergence identifies the process of gradual integration that will be pursued by the Association, through the creation and enlargement of partial agreements. The last three principles refer to the expected capacity of LAIA to adapt its norms on its members, in particular the weakest ones, to avoid the rigidity of policies and deadlines that might jeopardize negotiations, and to envisage a number of measures to apply in order to foster cooperation among members towards different directions.

Going back to the concept of development, being it economic or social, it appears to be much more relevant here than it was in the past – the count of how many times the word *desarrollo* is used is itself an evidence, 31 vs. 15. Even more so because the new Treaty claims the necessity to impulse development through “a new scheme of horizontal cooperation among developing countries and their area of integration [...]”⁹⁷ As a matter of fact, Chapter IV envisages the possibility for member countries to sign agreements and pursuit economic integration with third countries in the region, with the aim of fostering economic convergence, while Chapter V refers once more to horizontal cooperation with other areas of integration outside Latin America displaying similar levels of development. The general idea is to implement a process of economic and social improvement through the establishment of a

⁹⁷ Ibid.

south-south network of cooperation, and it was drawn by the New International Economic Order (NIEO) doctrine, which is explicitly mentioned in Article 26.

The NIEO represented a normative framework proposed to the United Nations by a coalition of developing countries and adopted by the UN General Assembly on May the 1st of 1974. The pillars on which the Order must be established are “equity, sovereign equality, interdependence, common interest and cooperation among all States”⁹⁸; its ultimate goal was to erase the development gap between industrial countries and less developed countries, historically created by the predominance of the former in decision-making inside the global arena and the exploitation carried out by them to the detriment of former colonial possession, continued in the shape of neo-imperialism after decolonization. The gap is exemplified in the Resolution by a statement affirming that: “The developing countries, which constitute 70 per cent of the world's population, account for only 30 per cent of the worlds income.”⁹⁹ LAIA thus draws upon the doctrine of the NIEO, claiming the rights of developing countries to pursuit economic expansion through trade and cooperation with countries with the same level of cooperation with the aim to close the gap.

One final observation must be made on the norms regulating cooperation. An innovation for the region is represented by the existence of a norm regulating Agreements that do not require the participation of the whole membership – Acuerdos de alcance parcial/ Agreements with partial reach –, either among LAIA members (art.7) or with third parties (art. 25). This category of agreements is perceived as an important means to gradually implement

⁹⁸ Declaration on the Establishment of a New International Economic Order. (1974). *UN Documents*. [online] Available at:<<http://www.un-documents.net/s6r3201.htm>>.

⁹⁹ Ibid.

multilateralism and expand the reach of the Treaty by increasing the participation to these partial agreements.¹⁰⁰

The events occurred in the course of the 1980s prevented the effective implementation of the Treaty, reducing the possibility of members to enjoy the expected benefits of the integration. As a matter of fact, starting with Mexico declaring itself unable to repay its loans from foreign banks in 1982, many Latin American countries displayed deep economic difficulties. The reason for this massive indebtedment was the rising price of oil imports, which started with the so-called “oil-shock” of 1973 and led to a dramatic global crisis that affected not only the weaker economies of Less Developed Countries, but also the Industrial ones, whose financial structures were put in danger by the debtors’ incapability to repay the loans. The situation was exacerbated in 1981 by the Chairman of the US Federal Reserve Paul Volcker, carrying out a financial action aimed at limiting domestic inflation which had the consequence of skyrocketing the interest rate of Latin American debts.

The crisis had a severe impact on intra-LAIA trade, as it caused a reduction in the investments provided to Latin American countries, which in turn led to a decline in the exports in and outside the region and to reduced imports, which countries were now unable to afford. As a matter of fact, intra-LAIA exports generally declined in the course of the decade, passing from 13.8% of the total trade in 1980 to 10.9 in 1990.¹⁰¹

Notwithstanding the impact of the global debt crisis, some critics identified in the LAIA a number of flaws that prevented the system from being correctly implemented. The first one is the gap between the objective of LAIA to lead countries towards progressive

¹⁰⁰ *Tratado de Montevideo*. (1980). Op.cit.

¹⁰¹ Jaime, E. (1999). La ALADI ante la nueva integración latinoamericana. In S. Rodríguez et al., ed., *El desarrollo en América Latina y los procesos de integración subregional*. Universidad nacional autónoma de México. p.138.

multilateralization, through the creation of agreements with partial reach, and their actual consequence, which was the economic fragmentation of the region, a condition that contradicts the principle of convergence declared by the Montevideo Treaty.¹⁰²

Moreover, despite the presence of norms aimed at creating equilibrium among the three groups of countries in the Association, the development process was not homogeneous, and countries with more resources experienced much larger benefits than smaller ones. The figures provided by the World Bank Database shows the difference of growth in the GDP of LAIA members along the decade: while Brazil and Argentina more than doubled their GDP, other countries, such as Uruguay and Bolivia, starting from a level of GDP lower than the former, experienced a growth that was far smaller.¹⁰³

The experience of LAIA continued until the present, with vacillating interest and effort from the members. However, its opening to partial agreements led to the creation of a variety of different realities, all belonging to the framework created by LAIA, which filled its gaps, covered peculiar tasks or deepened the discussion on certain issues. Among its many products, one of the most interesting and dynamic is the one represented by MERCOSUR, a reality that realized the aspirations of the two Treaties of Montevideo, despite its still limited membership compared to the amount of countries in the region, the experience of which will be dealt with in the remaining part of this chapter.

¹⁰² Ibid. p.139.

¹⁰³ Gross Domestic Product of Latin America and the Carribeans. *The World Bank Data* [online] Available at:<https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?end=1991&locations=ZJ&start=1980&year_low_desc=false>.

2.4. THE CREATION OF MERCOSUR

The creation of MERCOSUR in 1991 followed a period of the global crisis mentioned in the previous section, which shook Latin America in the 1980s, and a wave of authoritarian regimes causing repression in many Latin American countries. The return to a sort of stability was initiated with the launch of new projects of regional cooperation¹⁰⁴.

The roots of the construction process of MERCOSUR can be traced back to a few years before its foundation in 1991, when Argentina and Brazil together started to develop a strategy of integration and cooperation. By this means, the two largest economies in Latin America aimed at consolidating the process of democratization of their governments, which had recently been released from the control of military regimes, and establishing an effective response to the debt crisis, through the expansion of trade, the support for technological innovation and the promotion of pacific relations in the region. Gardini¹⁰⁵ supports the thesis that among the primary incentives to cooperation between the two powers, there was the desire to overcome diplomatic tensions. Moreover, frictions were exacerbated by economic stagnation and domestic political instability – both countries were still governed by military regimes.

The event that reversed hostility in cooperation and inaugurated a period of common actions between Argentina and Brazil was the signing of the Treaty of Itaipu in 1979. The cause of the conflict, in this specific case, was the construction of the Itaipu Dam, an initiative aimed at maximizing the exploitation of hydric resources of the Paraná River, which had generated

¹⁰⁴Botto, M. (2015). América del Sur y la integración regional: ¿Quo vadis? Los alcances de la cooperación regional en el MERCOSUR. Op.cit. p.18.

¹⁰⁵ Gardini, G. (2009). L'America Latina nel XXI secolo: nazioni, regionalismo e globalizzazione. Op. cit. p. 72-73.

long and aimless negotiations repeatedly stalemated, often due to conflict between the political leaders of the two States.

The subsequent steps towards cooperation that will be considered in this section are the ones that were undertaken by the recently elected democratic administrations in the two countries, starting from the Iguazú Declaration of 1985 and the Program for Economic Integration and Cooperation of 1986.

In 1983, Argentina and Brazil, together with nine more Latin American countries, signed the Cartagena Consensus, a document that denounced the hardship faced by their economies and asserted the position of the region concerning the policies that were being carried out on the global level. In the first section, the authors stated that the region was living:

Una crisis sin precedente, caracterizada por una severa disminución en el producto por habitante, que hoy se ubica en los niveles de una década atrás y que ha provocado una desocupación que afecta ya a más de la cuarta parte de su población económicamente activa, y una caída sustancial de los salarios reales, lo cual puede traer graves consecuencias políticas y sociales.¹⁰⁶

This excerpt summarizes the reality that would be referred to as *Década perdida*, the lost decade. In 1988 Argentina and Brazil were, with Mexico, the countries with the heaviest debts to repay¹⁰⁷; the region as a whole owed 400 billion dollars to foreign banks and the crisis was such that debts were made only to pay previous debts, whose interests were growing vertiginously, instead of being used for growth, creating a vicious cycle that was impossible to exit.

The borrowing had begun in the 1970s, among oil-importer countries, as a solution to the increase of oil prices of 1973. But loans were also considered a fundamental outlet for the

¹⁰⁶ *Consenso de Cartagena* (1984). [online] Available at:<http://aleph.academica.mx/jspui/bitstream/56789/6278/1/DOCT2065335_ARTICULO_12.PDF>.

¹⁰⁷ Skidmore, T. et al. (2014). *Modern Latin America*. Op.cit. p.457.

large amounts of capital that oil-exporters were receiving as a consequence, and thus highly encouraged in the beginning by Europeans and US banks, which were in charge of managing these massive investments. Foreign capitals, thus, became a source of development for Latin American military regimes of the 1970s, which set their goal on industrial expansion. Brazilian GDP started growing 10% annually, creating an illusion of advancement and success in the country's administration that was not, however, confirmed by the reality of the country, especially if we consider the enormous disparity existing among the highest and the lowest classes.

From a political standpoint, the two countries also underwent similar transformations in the period. In Argentina, after a sequence of violent authoritarian regimes started in 1976 with the removal of Perón's wife Isabel, the cycle was closed by a military "misstep" – the failed war in the Falkland/Malvinas against Great Britain – that ended the administration of Leopoldo Galtieri and opened the path to re-democratization in Argentina. The uprising and discontent caused by this unexpected defeat brought Galtieri to resign from office and his temporary successor to announce new elections for 1983, favoring radical leader Alfonsín.

In a similar way, Brazil suffered a twenty-year period of authoritarian regimes established by Generals and based on bureaucracy, technocracy and repressive military control, which started in 1964 with Castelo Branco and ended in 1985 with Figueiredo, which was replaced by moderate Tancredo Neves, chosen by the electoral college and not, yet, by direct elections. However, Neves died before even starting his mandate, and his vice-president, José Sarney, replaced him until the elections of 1986, when his position was confirmed and maintained until 1990.

Alfonsín and Sarney took it upon themselves to consolidate the path of democratization and development of their countries, at the same time encouraging neighbor countries to join

the process. The Declaration of Iguazú of November 1985 represents the first official act of this project, realized in the event of the inauguration of an international bridge – Puente Tancredo Neves, in honor of Sarney’s predecessor – connecting two cities of Argentina and Brazil on the two sides of the Iguazú river and symbolizing the strong will to create close links of cooperation between the countries.

The first points of the Declaration express satisfaction with the efforts embodied by the Cartagena Consensus, mentioned above, and the Contadora Group of 1984, for its ability to engage participants in sharing information, and undertaking diplomatic actions, giving life to the “best answer on how to reach the right solution to the crisis in Central America”.¹⁰⁸

In the second place, the Declaration takes a stance on quite a large number of areas in which the two countries reaffirmed their intentions to integrate their actions and to establish shared patterns in the region. The diversity of subjects displays an interest in embracing cooperation not only on the commercial level, but also on those of security – for example in the Malvinas war, representing the intention to prevent European countries involvement in the region, but also that of keeping Latin American territories out of east-west tensions¹⁰⁹–, health, technology and science, social policies, transportations and communications, energy and drug trafficking.

In line with this program, and as a means of fostering dialogue between national representatives and experts, the two countries also determined the creation of three international bodies: the first one is the *Comisión mixta de alto nivel de cooperación e integración económica bilateral*, the second is a sub-commission dedicated to transportations

¹⁰⁸ *Declaración de Iguazú* (1985). [online] Available at:<<http://www.eumed.net/libros-gratis/2007a/256/46.htm>>.

¹⁰⁹ Ibid.

and communications between the two territories, and the third is a sub-commission for energy planning.

What emerges from the Declaration is the aim of the Argentina-Brazil axis to set the example, by undertaking bilateral cooperation measures, for the rest of the region to join forces and develop common policies in order to consolidate peace and democracy fostering, at the same time, economic and social development. The reality that Argentina and Brazil aimed at building was more long-lasting and on a wider scale, compared to the ones created in the past, which were specific and temporary – the Cartagena Consensus and the Contadora Group, despite their efficacy in the short-run, are an example – and could not therefore tackle the deep difficulties that Latin America was facing.

A second, interesting aspect that emerges from the Declaration is the idea that the mission undertaken by the two Presidents is not bound to Latin America alone. As a matter of fact, it is part of a wider movement embracing all countries in the Southern Hemisphere, and it does not surprise therefore that the document also takes a stance against the impact of military interventions in Africa as part of the above-mentioned east-west conflict.¹¹⁰

A little less than one year after the Declaration of Iguazú, in July 1986 Alfonsín and Sarney achieved the second step of their project with the Act for Argentine-Brazilian Integration, establishing the PICE – Programa de Integración y Cooperación Económica –; this Act represented “un impulso renovado para la integración de América latina y la consolidación de la paz, la democracia, la seguridad y el desarrollo de la región.”¹¹¹ The document was accompanied by twelve protocols reporting joint decisions taken on the following areas:

¹¹⁰ Ibid.

¹¹¹ *Acta para la integración Argentino-Brasileña*. (1986). [online] Available at:<
<http://www.derecho.uba.ar/publicaciones/lye/revistas/47/acta-para-la-integracion-argentino-brasilena.pdf>>.

capital goods, wheat production, food supply, trade expansion, binational enterprises, financial matters, an investment fund, energy, biotechnology, economic studies, immediate information and reciprocal assistance in case of nuclear accidents and radiological emergencies, and aeronautical cooperation.

The last document to be co-signed by Alfonsín and Sarney that will be taken into consideration for this thesis is the Treaty of Integration, Cooperation and Development of 1988. It is, among the other texts of the period – which are cited in this document as antecedents –, the one that formally stipulates the rules of the project undertaken by the two countries.

In order to finalize the process of economic integration and cooperation, the Treaty establishes that “the territories of the two countries will integrate a common economic space”¹¹² by taking two different steps: the first is the removal of trade obstacles, both in the shape of tariffs and non-tariffs, to be carried out in a period of 10 years, and the harmonization of trade policies, customs duties, fiscal and monetary policies (art.3-4). The second is the effective creation of a common market covering the territories of Brazil and Argentina (art.5). Two years later, the Treaty will become an Agreement of partial reach registered inside LAIA, open for the adhesion of other members. In fact, Uruguay and Paraguay will be the first two countries to join Argentina and Brazil in negotiations, which begun in the same year, 1990.¹¹³

In 1991, the creation of MERCOSUR was finally put into practice by the successors of Alfonsín and Sarney, respectively Menem and Collor, together with Paraguayan president

¹¹² *Tratado de integración, cooperación y desarrollo entre la Republica Argentina y la republica federativa del Brasil.* (1988). [online] Available at:<http://www2.uol.com.br/actasoft/actamercosul/espanhol/tratado_de_integracion.htm>.

¹¹³ Malamud, A. (2013). El Mercosur: Misión cumplida. *Revista SAAP* [online] Volume 7(2), 275-282. p.2.

Rodriguez and Uruguayan president Lacalle. The official decision was expressed through the Treaty of Asunción, which presents the objectives, the characteristics and the modalities of implementation of the integration process.

Differently from previous regional agreements, which embodied efforts to close the region from the leverage of industrial economies and support its development from inside, MERCOSUR represented “a process of economic *apertura* to favor the insertion of the two countries in the globalized economy and attract foreign investments towards an enlarged regional market”¹¹⁴, in compliance with the neoliberal policies promoted by the United States. In this sense, MERCOSUR also expresses the pragmatic nature of Latin America, divided between century-long concerns with regard to US influence and willingness to accept its support in times of crisis.

The Treaty of Asunción was divided into six chapters, with five annexes regulating trade liberalization, rules of origin, safeguard, declarations or certifications of accordance with the requirements and the creation of working sub-groups. The Treaty reasserted the necessity of trade expansion to reach higher levels of economic development and social justice, and advocated for the importance of increasing the role of the region in the global economy.

To reach these objectives, the four countries agreed to remove customs duties and open their national markets for the contracting parties, in addition to establishing a common external tariff and to implementing common policies towards non-members.¹¹⁵ Considering the substantial differences in the economies of the member countries, the Treaty also granted

¹¹⁴ Gardini, G. (2011) Unity and diversity in Latin American visions of regional integrations. In G. Gardini et al., ed., *Latin American Foreign Policies: Between Ideology and Pragmatism*. Springer. pp.235-254. p.236.

¹¹⁵ *Tratado de Asunción*. (1991). [online] Available at:<http://www.mercosur.int/innovaportal/file/719/1/CMC_1991_TRATADO_ES_Asuncion.pdf>. p.3.

longer periods of time for the reduction of trade barriers in Uruguay and Paraguay: they had to eliminate all kind of restrictions and duties by the end of 1995, one year after Argentina and Brazil (art. 6 and annex I, art.1).

One critical observation proposed by Malamud to the Treaty is that, while drawing from the previous Declarations and Acts a number of ideas concerning economic integration and trade liberalization, the Treaty of Asunción disregards completely a political aspect that was recurrent in the documents co-signed by Alfonsín and Sarney: the protection and reinforcement of democratic regimes in the region.

En sus austeros 24 artículos y cinco anexos, ni una sola vez aparecen los términos “democracia” o “derechos humanos”. Los cuatro presidentes que firmaron el documento fueron Carlos Menem, Fernando Collor de Mello, Andrés Rodríguez y Luis Alberto Lacalle, ninguno de ellos manifiestamente progresista.¹¹⁶

Not until 1998 did the importance of democracy re-emerge, after an attempted military coup in Paraguay in 1996¹¹⁷; but even then, it was nothing more than a clause requiring members not to “break the democratic order”, with the threat of expulsion from the Union for countries that do not comply. The clause was exposed by the Protocol of Ushuaia, which entered into force in 2001 after having received ratification from MERCOSUR members, Chile and Bolivia, which were also part of the Protocol as associated members of the agreement.

As far as economic integration is concerned, the procedures to be followed were proposed in Annex I of the Treaty, in the form of a Trade Liberalization Program. The program, in addition to granting a different deadline for countries with different rhythms of development, provided a detailed schedule for the reduction of tariffs from the entry into

¹¹⁶ Malamud, A. (2013). El Mercosur: Misión cumplida. Op.cit. pp.276-277.

¹¹⁷ Botto, M. (2015). América del Sur y la integración regional: ¿Quo vadis? Los alcances de la cooperación regional en el MERCOSUR. Op.cit. p.31.

force of the Treaty until Dec. 1994. Moreover, it imposed the expansion of preferences established in the course of previous partial scope agreements among the contracting parties, for which it also provided a time schedule of the steps to be taken from then to 1994.¹¹⁸

Two additional aspects worth of attention were expressed by the Treaty of Asunción: one of them is the definition of the basic principles of MERCOSUR. These principles are gradualness, implying that the integration should move at a slow pace to allow members to adapt; flexibility, meaning that the objectives and modalities could be subjected, if necessary, to changes, in accordance with the response of each member economy to the implementation of the Treaty; finally, equilibrium, which required countries to avoid specialization in their national productions on the basis of comparative advantages. As a matter of fact, putting all resources and effort in few products can be a great cause of instability for economies, which thus become more dependent on the global market and sensitive to its changes.

The second aspect is the creation of two bodies ad hoc for the administration and the execution of the Treaty (Chap. II)¹¹⁹: the Council (*Consejo del Mercado Común*) and the Group (*Grupo del Mercado Común*). The Council is in charge of decision-making related to the implementation of the objectives and the deadlines established by the treaty; moreover, the Council represents the political leadership of the Organization. It is composed by the Ministers of Foreign Affairs and Economy of the contracting parties. The president is changed every six months following the alphabetic order of the countries.

The Common Market Group, on the other hand, is in charge of executing the decisions of the Council under the coordination of the Ministers of Foreign Affairs. The Treaty appointed it with the tasks of supervising its application, supporting it by taking concrete measures,

¹¹⁸ *Tratado de Asunción*. (1991). Op.cit. p.14.

¹¹⁹ *Ibid.* p.6.

supporting the implementation of the Trade Liberalization Programs and promoting working programs to improve the application of the Treaty. The Group can establish sub-groups – such as those proposed in the fifth Annex of the Treaty – with the aim of deepening the analysis on specific subjects.

One implication of this administrative conformation was that National Governments maintained the control over the decision-making and implementation of the norms of the Treaty. In fact, the creation of Intergovernmental bodies depending on their countries of origin and that did not have the power to impose to members their decisions – their internalization in national legislations is a secondary step of the process, completely dependent on the action of domestic institutions – weakened their action substantially.¹²⁰ Moreover, the presence of members of the governments in the Council instead of independent experts allowed the continuation of battles of national interests among countries. The unwillingness to delegate external organizations on tasks that weight in the sovereignty of the national governments was, and still is, a common feature in the region, reflected by the lack of supranational institutions in this and other projects of regionalism.

Botto links this lack of autonomy to a change that took place in the event of the Ouro Preto Protocol of 1994:

A partir de la puesta en marcha y de manera paralela, se iniciaría un proceso de “deconstrucción” gradual de los compromisos iniciales. El primer hito fue el sinceramiento de los objetivos del MERCOSUR a una unión aduanera a través del Tratado de Ouro Preto (TOP, 1994). Con ello, el proceso no pretendería alcanzar un mercado común, con libre movimiento de personas y de capital, sino la imposición de un arancel externo común para proteger el mercado intrazona de terceros países.¹²¹

¹²⁰ Botto, M. (2015). América del Sur y la integración regional: ¿Quo vadis? Los alcances de la cooperación regional en el MERCOSUR. Op.cit. p. 23-24.

¹²¹ Ibid. p.24.

Baptista confirms this interpretation by stating that countries, in order to maintain the higher level of sovereignty they could against the new regional arrangement, put effort into avoiding the creation of closed, strict structures, but chose instead the creation of Institutions whose boundaries were undefined and flexible.¹²²

The creation of a common market, in this sense, represented too deep a level of integration which would clash with the need for sovereignty of the founding governments, and require, eventually also a deep harmonization of political structures and national laws¹²³; thus the backward movement brought about in the shift from one Treaty to the other.

The long-term objective of creating a common market thus faded, while more emphasis was put on the development of a customs union. The two different conformations represent two of the four subsequent stages in the process of economic integration theorized by Andrés Malamud¹²⁴: the lowest degree of integration is represented by Free Trade Areas, followed by Custom Unions, Common Markets and Monetary Unions.

In addition to changing the nature of the Treaty, the Ouro Preto Protocol¹²⁵ also provides a change in the structure of the Organization itself by adding two new institutions – one with decisional power, the Trade Commission, and an advisory one, the Social-Economic Advisory Forum. Two already existing advisory bodies are also implemented and formalized: a Joined Parliamentary Commission and an Administrative Secretary.

¹²² Baptista, L. (1996). O Mercosul após o Protocolo de Ouro Preto. *Estudos avançados* [online] Volume 10(27), 179-199. p.181.

¹²³ Malamud, A. (2011). Conceptos, teorías y debates sobre la integración regional. Op.cit. p. 221.

¹²⁴ Ibid. p. 220.

¹²⁵ *Protocolo de Ouro Preto*. (1994). [online] Available at:<http://www.mercosur.int/msweb/sm/normas/pt/cmc_1994_ouopreto.pdf>.

After the enter into force of the 1994 Protocol, tensions started to arise in the region. The main causes were economic asymmetries among sectors, which emerged after the Bloc had reached a substantial degree of openness concerning intra-MERCOSUR trade and had completed the creation of a Common External Tariff. As a matter of fact, liberalization increased instability in those sectors that were highly dependent on the global market, weak and needed further protection in order to develop.¹²⁶

The immediate consequence of this renewed instability was conflict among members and the unilateral violation or modification of previous agreements in order to face domestic difficulties and protect productive sectors, mainly carried out by larger countries – the crisis also renewed leadership conflicts between Argentina and Brazil – to the detriment of smaller economies, susceptible not only to the exacerbation of relations in the region, but also to the domestic protectionist measures undertaken by the other members.

The internal discrepancies of the region took the form of a crisis in 1999, which put to the test the strength of integrative tendencies of the member countries and uncovered the prevalence of individual against common interests. The causes of the crisis were of both economic and political nature, and reached their climax in the request, in 2001, to temporarily suspend the Treaty in order to allow countries to face their domestic crisis, which came from the Argentinian Industrial Union.¹²⁷

The creation of the common external tariff, which had implied a reduction of customs duty for imports of third countries, led Brazil to a substantial increase of imports, not compensated by a similar increase of exports. In fact, according to the World Bank, imports

¹²⁶ Caetano, G. (2011). Breve historia del MERCOSUR en sus 20 años. Coyuntura e instituciones (1991-2011). In: G. Caetano, ed, *MERCOSUR 20 años* [online] CEFIR. pp. 21-74. p.36.

¹²⁷ Ibid. p.41.

skyrocketed from 62.973 billion reais in 1991 to 138.588 billion reais in 1996¹²⁸, while exports rose from 66.573 billion reais to 87.923 billion reais, suffering a decrease in 1994¹²⁹.

To contain the large flows of capital leaving the country, generating a dramatic domestic financial crisis, Brazil, at the beginning of Cardoso administration, undertook devaluating measures, with heavy repercussions on the volumes of exports of the other MERCOSUR members. As a consequence of the individual decision of Brazil to protect its economy by devaluating the national currency, co-members began to undertake unilateral measures to counter their losses and to limit their dependency on the Brazilian market¹³⁰, such as the continuation of the Convertibility Plan in Argentina. Another immediate consequence was the decrease of active advances in the cooperation inside the bloc, substituted with the pursuit of bilateral agreements with third parties such as the United States, in the case of Argentina, and with the Andean Community in the case of Brazil. However, in 2002 a new crisis compelled members to re-launch cooperation, making it indispensable to establish common measures instead of pursue separate action.

Parecía perfilarse entonces, con una aquiescencia explícita de todos los gobiernos socios, la necesidad de una reforma institucional del bloque provista de una orientación general de perfil más integral y conjunto, menos ejecutivista, con mayor apertura a enfoques auténticamente regionalistas.¹³¹

Caetano emphasizes the interdependence that existed among members, causing the slightest domestic change to have serious impacts on the equilibrium of the region; this is even

¹²⁸ Brazilian imports from 1991 to 1996. The World Bank Data [online] Available at:<<https://data.worldbank.org/indicator/NE.IMP.GNFS.KN?end=1996&locations=BR&start=1991>>.

¹²⁹ Brazilian exports from 1991 to 1996. The World Bank Data [online] Available at:<<https://data.worldbank.org/indicator/NE.EXP.GNFS.KN?end=1996&locations=BR&start=1991>>.

¹³⁰Caetano, G. (2011). Breve historia del MERCOSUR en sus 20 años. Coyuntura e instituciones (1991-2011). Op.cit. p.38.

¹³¹ Ibid. p.42.

more the case if we consider the influence that Brazil economy has had over its co-members in the course of the decades and the impact of foreign policy choices of Brazilian administrations over the fate of the region.

2.5. MERCOSUR IN THE 21ST CENTURY AND BRAZILIAN REGIONAL LEADERSHIP

The turn of the millennium has brought about a certain degree of transformation in the region. Gardini¹³² supports this thesis by providing four main concepts that describe the new direction followed by the region: the first one is the evolution from the neoliberal approach that had been the basis of MERCOSUR since its foundation, towards more sustainable economic policies; the second is the pursuit of rational objectives consistent with the resources available; the third and fourth are the implementation of a new model of regionalism molded on Latin American peculiarities and the opening of views concerning possible partners favoring pragmatism in their choices.

An advance in the functioning of MERCOSUR towards equal development was carried out in 2004 with the addition of the Structural Convergence Fund (FOCEM), a body devoted to issuing investments with the goal of reducing the economic gap among the Members. Its creation was pressured by Uruguay and Paraguay in particular, and it relies on resources provided in different amounts by all members, as declared by the document establishing the fund: Brazil is bound to provide for 70% of the total, Argentina 27%, Uruguay 2% and Paraguay 1%.¹³³

¹³² Gardini, G. (2009). *L'America Latina nel XXI secolo: nazioni, regionalismo e globalizzazione*. Op. cit. p.94.

¹³³ Integración y funcionamiento del fondo para la convergencia estructural y fortalecimiento de la estructura institucional del MERCOSUR (2009). [online] Available at:<http://focem.mercosur.int/uploads/normativa/DEC_018-2005_ES_FE_IntyFuncFOCEMyFortalEstrctInstit-1.pdf >. p.3.

The pursuit of sustainable economic development and pragmatism reflects the main characteristics of the political parties that took over the region in the first years of 2000, identified as the *pink tide* (*marea rosa* in Spanish) or the “Turn to the left”. Representative personalities of this movement were, inside MERCOSUR, Luiz Inácio “Lula” da Silva, president of Brazil and Néstor Kirchner, president of Argentina, both elected in 2003, Tabaré Vázquez, president of Uruguay from 2005, and Fernando Lugo, elected in Paraguay in 2008.

The name *pink tide* is thought¹³⁴ to have appeared for the first time in 2005, in an article by Larry Rohter for the New York Times. In the article, the journalist states, referring to the then recently-elected Uruguayan president Vázquez and his Latin American counterparts, that “they are not so much a red tide as a pink one.”¹³⁵ The color, a bleached version of the color red, symbolically represents the faded ideology adopted by these governments, whose leftist arguments were often counteracted by pragmatic actions in different directions.

The *pink tide* movement put great emphasis on the continuation of regional integration projects, and Brazil, with its resources and its strong economic potential, has proved itself to be the most likely to have an impact on such a plan and to carry out a leadership role for the region under Lula’s administration.

Considering his two presidential mandates – covering the period from 2003 to 2010 –, and in particular his choices in foreign policy, a prominent element is the consolidation of Brazil’s international role, which he sought to achieve autonomously from the rest of the region on the one hand, by active participation in global forums and by diplomatic means with other international actors.

¹³⁴ Roa, C. (2016). Changing Tides: On the Political Changes Occurring in Latin America. *Center for international relations and sustainable development* [online]. p.17.

¹³⁵ Rother, L. (2005). With New Chief, Uruguay Veers Left, in a Latin Pattern. *New York Times*. [online].

On the other hand, Brazil's strengthening was pursued regionally, through the promotion and development of Mercosur in front of the rest of the world. Gratius and Saraiva analyze the pursuit of this kind of cooperation in light of Brazil's strategic plan, stating that "the idea of bringing other emerging or poorer southern countries on board to counterbalance the might of traditional Western powers served as the basis for the country's international actions."¹³⁶ Among other actions in the region, an expression of Brazilian prominent role in the region under Lula was its engagement in sharing technological expertise and implement common development projects to expand and modernize infrastructures.¹³⁷

At this point, an important clarification must be made that separates the ideological level, linked to the political discourse promoted by Lula's administration from the pragmatic level, linked to its action. On the ideological level, Lula prioritized cooperation among developing countries over cooperation with industrial countries – namely Europe and the United States. This had to do, again, with the importance of autonomy and the will to prevent the two powers from imposing their influence – and interests – on the region, a lesson learned in the previous decade after the widespread application of the Washington Consensus as western powers' solution to the financial crisis that had deteriorated Latin American countries in the 1990s.

However, on the pragmatic level, Lula's strategy can be read in light of a universalistic approach to Foreign Relations, according to which Brazil's partnerships would have to include close relations not only with LDCs, but with the Industrial world as well. This element resolves

¹³⁶ Gratius, S. et al.(2013). Continental Regionalism: Brazil's prominent role in the Americas. *CEPS* [online] Volume 374, 1-13. p.2.

¹³⁷ Saraiva, M. (2010). Brazilian foreign policy towards South america during the Lula administration: caught between South America and MERCOSUR. *Revista Brasileira de Política Internacional* [online] Volume 53, 151-168. p.161.

the apparent contradiction represented by the interest demonstrated by the Brazilian government towards EU-MERCOSUR negotiations under Lula's first mandate, and the commitment to closing a Strategic Partnership between his country and the European Union that would concretize in 2007, shortly after the collapse of negotiations for the Interregional Free Trade Agreement.

Lula's successor, Dilma Rousseff, shared with him the belonging to the Partido dos Trabalhadores – the Labor Party – and similar ideas concerning foreign affairs. However, the lack of charisma in comparison to her predecessor is considered to have had a negative effect on the efficacy of her administration¹³⁸; moreover, national problems have caused her presidency to shift its focus on the domestic level from the regional one¹³⁹, thus reducing to a large extent the commitment of her administration towards the region, compared to the previous one. Nevertheless, Rousseff reaffirmed the priority of maintaining strong Argentine-Brazilian relationships, which, however, experienced a strong decline in diplomatic and economic terms.¹⁴⁰

During Rousseff's administration, in 2012, important changes took place inside MERCOSUR. on the one hand, Paraguay membership was suspended due to the violation of the democratic clause; on the other hand Venezuela was accepted as an effective member of the Treaty. Four years later, new events shocked the Treaty and Brazil itself: the impeachment of Rousseff and her substitution, with Michel Temer, bringing substantial changes in both domestic policies and international affairs.

¹³⁸ Gratius, S. et al.(2013). Continental Regionalism: Brazil's prominent role in the Americas. Op.cit. p.3.

¹³⁹ Oliveira, G. (2015). De Lula a Dilma: mudança ou continuidade na política externa brasileira para a América do Sul? *Revista de Estudos Internacionais* [online] Volume 6(2), 134-159. p.151.

¹⁴⁰ Ibid. p.147.

His rise to power, combined with the election of Mauricio Macri in Argentina in 2015, marked the beginning of a new wave of regional policies for the two largest members in the region. An example of the ideological disagreement among the regional strategies carried out by Temer – and Macri – and Lula/Rousseff is the interest in fostering economic relations with the European Union¹⁴¹, an unusual partner given the interest in south-south cooperation that was envisaged as a priority for the governments of the *pink tide*.

Moreover, the equilibrium inside MERCOSUR during the last few years was once again made unstable by the exacerbation of political tensions in Venezuela, starting with its exclusion from covering MERCOSUR presidency pro-tempore in the first half of 2016 and the suspension of its membership in the Treaty determined in August 2017¹⁴², due to its violation of the democratic clause established by the Protocol of Ushuaia.

2.6. FROM MERCOSUR TO UNASUR: TOWARDS SOUTH-AMERICAN INTEGRATION

In addition to re-examining the strategy of integration inside MERCOSUR, the governments of the third millennium envisaged the implementation of a new regional forum, the Union of South American Nations (UNASUR), which entered into force in 2008 in Brasilia. The most recent among Latin American integrative efforts, UNASUR displays characteristics that appear unusual compared to the past experiences undertaken inside the region.

First of all, going back to the analysis proposed in the first section of this chapter, it is useful to remember that UNASUR responds to the definition of post-liberal regionalism. In

¹⁴¹ Brito, G. (2016). *Turbulencias en el MERCOSUR*. CELAG [online]. p.3.

¹⁴² *Decisión sobre la suspensión de la República Bolivariana de Venezuela en el MERCOSUR en aplicación del Protocolo de Ushuaia sobre Compromiso Democrático en el MERCOSUR*. (2017). [online] Available at:<http://www.mercosur.int/innovaportal/file/8469/1/decision-suspension-de-venezuela-del-mercosur_es.pdf>.

order to describe its nature in light of this framework, Sanahuja¹⁴³ presents a long list of elements that, together, characterize the Union, some of them being: the prevalence of politics over economics, a developmental agenda that overcomes the precepts of the Washington Consensus, deeper effort in the creation of common policies and joint actions, and the concerted construction of regional infrastructures in order to facilitate exchanges.

The shift in focus concerning the area involved in the agreement represents a first peculiarity of the Union: the project appeared, in its rhetoric, to leave behind the space referred to as Latin America – as mentioned before, a space of shared culture and identity more than a geographic one – and to embrace that identified as South America, less homogeneous than the former from the point of view of culture, language and history, but still a geographic area rich in similarities.

The foundational Treaty of UNASUR addresses this aspect in its very first lines referring to a common history among the Nations:

historia compartida y solidaria de Nuestras naciones, multiétnicas, plurilingües y multiculturales, que han luchado por la emancipación y la unidad suramericana, honrando el pensamiento de quienes forjaron nuestra independencia y libertad a favor de esa unión y la construcción de un futuro común.¹⁴⁴

Sanahuja argues that despite a change in the denomination, the project does not distance itself from the ideals of Bolivar and its coevals but, on the contrary, embodies the same ideals, only adjusted to the new challenges of the region and to the global

¹⁴³ Sanahuja, J. (2011). Multilateralismo y regionalismo en clave suramericana: El caso de UNASUR. Op.cit. p.120-122.

¹⁴⁴ *Tratado constitutivo de la Unión de Naciones Suramericanas*. (2008). [online] Available at:<<https://www.unasursg.org/images/descargas/DOCUMENTOS%20CONSTITUTIVOS%20DE%20UNASUR/Tratado-UNASUR-solo.pdf>>. p.7.

transformations represented by multipolarity and globalization.¹⁴⁵ However, on a more rational and geopolitical level, he also reads this new emphasis as the expression of Brazilian strategic interest in integration: the Union of South-American Nations, in this sense, represents a space in which one of the major competitors in the leadership of Latin American countries, Mexico, would cease to threaten Brazil, due to its geographical exclusion from South-America and to its distance from Latin American cooperation, substituted with growing partnerships with the United States, which leads the country to identify itself more and more with North-America.¹⁴⁶

A summit held in Cuzco in 2004 anticipated the institution of UNASUR by creating the South American Community. Both the Community before, and the Union after, included 12 South-American countries, covering the totality of the sub-region except the area of French Guiana, constituting a French territory and thus belonging under the jurisdiction of the European Union. Therefore, are part of UNASUR, together with Brazil and the Spanish-speaking countries of Argentina, Bolivia, Chile, Colombia, Ecuador, Paraguay, Peru, Uruguay and Venezuela, the former British colony now referred to as the Co-operative Republic of Guiana and the Republic of Suriname, a former Dutch colony.

By virtue of its wide coverage, the territory of UNASUR overlaps with other regional agreements, namely MERCOSUR and CAN – Andean Community, which includes as full-members Bolivia, Colombia, Ecuador and Peru. Because of that, one of the objectives¹⁴⁷ of the

¹⁴⁵ Sanahuja, J. (2011). *Multilateralismo y regionalismo en clave suramericana: El caso de UNASUR*. Op.cit. p.124.

¹⁴⁶ Ibid.

¹⁴⁷ *Tratado constitutivo de la Unión de Naciones Suramericanas*. (2008). Op.cit. p.8.

Union is to take advantage from the lessons learned by the two and, starting from there, to make steps further towards a deeper and more efficient level of integration.

This vision, expressed in the forewords of the founding Treaty, was contrasted by that of Venezuelan President Chavez, who perceived UNASUR as an alternative to CAN and MERCOSUR, promoting values opposed to those of neoliberalism, instead of envisaging an absorption of the two previous ones by the most recent one.¹⁴⁸

From the political standpoint, UNASUR proved itself to be a useful and efficient forum in which to address and solve crisis faced by the region: its contribution was relevant in the containment of the Bolivian political crisis of 2008 and of the coup against President Correa that took place in Ecuador in 2010.¹⁴⁹ Arenas-García, on this matter, emphasizes two aspects of great relevance in the assessment of the impact of UNASUR in the region:

first, that UNASUR replaced the Organization of American States (OAS) as regional political forum, thus excluding the US from playing a role in the resolution of regional conflicts. And furthermore, leaders from different political orientations came together to express that the region would not tolerate breakdowns of constitutional democracy.¹⁵⁰

From the economic standpoint, however, the outcome of UNASUR until today is not perceived quite as brilliant; Elsa Llenderozas argues that while the level of interdependence is decreasing, and the figures regarding interregional exchange are stable, from a structural point of view the Union displays degrees of inhomogeneity in trade policies and ideas, which prevent member countries from successfully unifying domestic markets and institutions.¹⁵¹

¹⁴⁸ Sanahuja, J. (2011). Multilateralismo y regionalismo en clave suramericana: El caso de UNASUR. Op.cit. p.128.

¹⁴⁹ Arenas-García, N. (2012). 21st Century Regionalism in South America: UNASUR and the Search for Development Alternatives, *eSharp* [online] Volume 18, 64-85. p.74.

¹⁵⁰ Ibid. p.75.

¹⁵¹ Llenderozas, E. (2015). UNASUR: Desafíos geopolíticos, económicos y de política exterior. In W. Grabendorff, ed., *Pensamiento propio*. [online] Volume 20(42), 195-214. p. 205.

This chapter was conceived as an overview of the irregular path followed by Latin American countries in pursuit of regional integration. The agreements taken into consideration only represent a portion of the "spaghetti bowl" that covers Latin American economic and political relations. Nevertheless, their analysis is representative of the evolution of regional integration in accordance with the political and economic changes occurred inside and outside the area: the process of decolonization, the many rises and falls of authoritarian regimes, the debt crisis and the creation of the Washington Consensus, until the retreat of US hegemonic power and the development of a multipolar world are only few of the events that influenced integrative trends in the region.

The most recent among these transformations was the shift in the political representation inside many national governments, which moved from the moderate left of the *pink tide* to the right in Brazil and Argentina. A shift in a different direction was undertaken by Venezuela, where Hugo Chavez' successor Nicolas Maduro dramatically radicalized his political stance paving the way to a dictatorship in practice.

The move to the right, on the one side, and the authoritarian changes, on the other, are nowadays provoking increasing tension inside MERCOSUR, radicalizing the positions of its members and leading to a strengthening of the cooperation axis between Argentina and Brazil in the decision-making of the region.

3. LATIN AMERICAN FOREIGN RELATIONS: THE EU-MERCOSUR FREE TRADE AGREEMENT

After a general discussion regarding the international system carried out in the first chapter, and a study of some among the many experiences of integration launched in Latin America in the second chapter, the third and last chapter will now be devoted to MERCOSUR's foreign relations and its attempt to close one of the first interregional agreements ever established, the Interregional Association with the European Union, which has as one of its main goals the creation of a Free Trade Area between the two blocs.

The past twenty-some years have seen MERCOSUR and the EU engage in recurrent meetings in order to resolve conflicts and find agreement concerning the methodology of trade liberalization and on which products to focus for the lowering of quotas and customs duties. However, these attempts have been made extremely difficult by shared interests in sectors such as the agricultural one, which radicalized the positions of the blocs and exacerbated the conflict.

According to Doctor¹⁵², the Interregional Association displayed a clear North-south configuration from the point of view of the issues at stake and the bargaining positions of the parties. As will be discussed later, MERCOSUR, an exporter of agricultural goods first and foremost, required Europe to give up its highly protectionist measures – including the Common Agricultural Policy – to allow Latin American countries market access that would encourage growth in production and expansion of national economies, but would damage not-competitive European farmers and producers in general, which would lose subsidies and would have to deal with increasing competitors. On the contrary, EU negotiators declared,

¹⁵² Doctor, M. (2007). Why Bother With Inter-Regionalism? Negotiations for a European Union-Mercosur Agreement. *Journal of Common Market Studies* [online] Volume 45(2), 281–314. p. 299.

late in the process, their predominant interest for market access in manufactured, industrial products – mainly belonging to the automotive sector – area in which Latin American economies tried to protect and foster the expansion of their industries, less competitive than the European ones.

Protectionism aside, figures concerning trade between the two regions evidence the significance that their relation had for the respective economies. Europe constituted the main exporter to Latin America; its exports accounted for 30% of the totality of products bought by MERCOSUR's countries in the period immediately after the signature of the Framework Agreement of 1995, 85% of which was composed of chemicals, machineries and metal products.¹⁵³ European presence in Latin America was also proved by the primacy of MERCOSUR among the destinations of European investments in the 1990s.¹⁵⁴

The chapter will analyze the dynamics developed by EU and MERCOSUR in the course of negotiations in particular during the timeframe of interest, to outline the foundations of the cooperation, attention will be given also to some of the reasons that encouraged the engagement of MERCOSUR and the EU in negotiating the Free Trade Agreement, and to the text of the Interregional Framework Cooperation Agreement of 1995, which represents the starting point of the project established by the two blocs. Space will also be given to study the consequences of the first phase of the process, and the events that characterized the aftermath of 2004, in order to try and give an interpretation of the scenario that was created during and after the process.

¹⁵³ Makuc, A. et al. (2015). La Negociación MERCOSUR-Unión Europea a Veinte Años del Acuerdo Marco de Cooperación: Quo Vadis? *Banco Interamericano de Desarrollo* [online]. p. 6.

¹⁵⁴ Doctor, M. (2007). Why Bother With Inter-Regionalism? Negotiations for a European Union-Mercosur Agreement. Op.cit. p.282.

3.1. AN OVERVIEW OF THE REASONS FOR LATIN AMERICAN-EUROPEAN INTERREGIONAL COOPERATION

The process of strengthening cooperation between the European Union and MERCOSUR began in 1992, shortly after the foundation of the latter, with the signing of an Institutional Cooperation Agreement. The primary aim of this agreement, signed by the European Commission, was to support the four founding members along the process of integration, by providing them with assistance regarding institutional consolidation, technical knowledge, information and training.¹⁵⁵

Before engaging in inter-bloc economic and political cooperation, the European Economic Community – EU's predecessor until its implementation in 1993 – had pursued agreements with several Latin American countries bilaterally, aimed at maximizing trade by opening up the respective markets. These agreements were temporary – and would in fact be, in some cases, interrupted with the rise of authoritarian regimes of the 1980s – and exclusively economic.

The efforts undergone in the 1990s embodied a different ideology than those older bilateral agreements. First of all, consider the main force leading the way in the economic relations of the decade, Neo-liberalism. As previously mentioned, the creation of MERCOSUR in itself represented, for founding members, a way to comply with the doctrine of the Washington Consensus and with the principles of Open regionalism, by opening their economies to globalization. Improving their relations with industrial countries as a region, was a second one. Fostering North-south relations started then to be more relevant than ever in

¹⁵⁵ *Memo 94-62*. (1994). Press Release Database of the European Commission. [online] Available at:<http://europa.eu/rapid/press-release_MEMO-94-62_en.htm?locale=en>.

the strategic agenda of the region, creating a new path after a long tradition of South-south cooperation among developing countries.¹⁵⁶

Secondly, the cooperation agreements built between the European Union and MERCOSUR covered a wider range of topics than only trade; in addition to trade liberalization, the association involved measures to strengthen the institutional apparatus of the newly-born region and deepening of the political dialogue – with specific emphasis on the consolidation of democracy –, but also the creation of links at the academic level, with the implementation of exchanges and study visits between the two continents.

Another important aspect to be considered while dealing with the expansion of Latin American diplomacy towards industrial countries is US hegemonic presence in the region and the dependency on it, deriving from the lack of alternative trade partners. In this sense, the fact that the European Union proved itself willing to further trade relations with MERCOSUR constituted an increase in the negotiating power¹⁵⁷ of its countries facing the United States and a decrease in dependency, which made it easy for the US to obtain favorable deals to the disadvantage of Latin American countries.

Finally, a remark must be made concerning the commercial benefits of a trade agreement with the EU for MERCOSUR's economies. In this regard, Makuc¹⁵⁸ states that because of Latin American specialization in the export of agricultural products, together with the high external tariffs established by the European Union in the same sector – in addition,

¹⁵⁶Devlin, R. (2000). The Free Trade Area of the Americas and MERCOSUR-European Union Free Trade Processes: Can they Learn Something from Each Other? *INTAL – ITD*, [online] Occasional Paper 6. p.6.

¹⁵⁷ Carranza, M. (2003). Mercosur, The Free Trade Area of The Americas and the Future of U.S. Hegemony in Latin America. *Fordham International Law Journal*, [online] Volume 27(3), 1029-1065. p.1046.

¹⁵⁸ Makuc, A. et al. (2015). La Negociación MERCOSUR-Unión Europea a Veinte Años del Acuerdo Marco de Cooperación: Quo Vadis? Op.cit. p.6.

also, to the trade-distorting effect of EU's Common Agricultural Policy (CAP) – an efficient trade deal between the blocs would have been instrumental in paving the way towards more advantageous trade conditions for MERCOSUR.

Thus, the formalization of trade relations between MERCOSUR and the European Union in 1992 was driven, from the Latin American side, by the ideology of Open regionalism, by the interest in creating an alternative to the influence of the United States and by perspectives of improving trade by gaining better access to the European market of agricultural goods, among other factors. From the European side, instead, the specialized doctrine identified at least six factors explaining EU's interest in negotiating a deal with MERCOSUR, which Arana¹⁵⁹ analyses to test their validity.

The first argument interprets Europe's pursuit of interregional cooperation as a strategy to contrast US hegemony in the region and to limit the damages that would suffer if it were to be excluded from trade in the Americas by the creation of a FTA between the two sides of the continent. Starting from 1994, MERCOSUR countries negotiated with the US, Canada and other Southern and Central American countries the creation of the Free Trade Area of the Americas (FTAA), which was perceived as an extension of NAFTA to include the other states of the continent. In light of that, it appeared that "peaks in EU negotiating seriousness tended to coincide with peaks in perceived US influence in the region".¹⁶⁰ As a matter of fact, a parallel reading of the two processes shows similar timings, an aspect that might prove the link between FTAA advances and European commitment to the deal.¹⁶¹

¹⁵⁹ Gomez, A. (2017). The European Union's policy towards Mercosur: responsive not strategic. *Manchester University Press* [online]. p.23.

¹⁶⁰ Doctor, M. (2007). Why Bother With Inter-Regionalism? Negotiations for a European Union-Mercosur Agreement. *Op.cit.* p. 290.

¹⁶¹ Makuc, A. et al. (2015). La Negociación MERCOSUR-Unión Europea a Veinte Años del Acuerdo Marco de Cooperación: Quo Vadis? *Op.cit.* p. 18-19.

A second element of this argument is the idea of “bandwagoning”¹⁶², which implies the refusal on the side of Europe to be left out on the benefits deriving from cooperation with Latin America. A concept that only partly shares the meaning of contrasting US hegemony by subtracting some of its advantage, adding to it the idea that Europe tried to emulate, in a sense, the United States by pursuing the same strategies and goals.

The existence of a strong cultural bond and of a number of similarity between European and MERCOSUR’s countries is a further element that has been taken into consideration in order to explain their interest in pursuing a structure of interregional association; some also add that this bond includes:

“a common culture as a result of colonialism and a process of immigration between both regions; common political values; process of democratization; the development of open market economies; [...] a similar respect for individual rights and freedoms, the rule of law and [...] a common model of integration.”¹⁶³

However, the author shows doubt concerning this argument, which does not, in her opinion, take into consideration the fact that geographical proximity would make the United States an even more “natural” partner, even though its regional projects are jeopardized by a traditional anti-American sentiment from its southern neighbors. As a matter of fact, she argues that it is still to verify whether is this sentiment the main force leading Latin American countries to choose Europe over the United States as a partner of preference, more than any cultural affinity between the regions.¹⁶⁴

¹⁶² Gomez, A. (2017). The European Union's policy towards Mercosur: responsive not strategic. Op.cit. p.27.

¹⁶³ Ibid. p. 28.

¹⁶⁴ Ibid. p. 29.

A third argument seems to support the second, by taking into consideration the entrance of Spain and Portugal into the European Economic Community in 1986. According to Arana, this has been considered by the literature a cause for the commitment of the region to Latin America, which would be in this case driven by the presence of the two main former colonial empires, the two countries that have the most in common with the states that constitute MERCOSUR. Moreover,

Aldecoa Luzarraga (1995) mentions the issue of EU membership and without further explanation affirms how important it was that Spain held the presidency of the EU in 1995, in terms of improving relations between the EU and Mercosur.¹⁶⁵

Backlanoff, more specifically, refers to the actions undertaken by Spain, including the promotion of direct investments among others, as a “reconquest”¹⁶⁶ of its former dominion, even though being part of the European Union involved in part a limitation of its strategy:

Indeed, in 1985, the EC Council of Ministers ruled that Spain, upon its admission to full membership, would have to renounce all trade agreements previously concluded with third nations, including those in Latin America. As a latecomer to the European Community, Spain was in no position to lay down conditions that would benefit its transatlantic offspring.¹⁶⁷

In light of that, having lost previous trade agreements, Spain resorted to promote cooperation with Latin America through the regional framework rather than individually.

The fourth argument proposed by the author regards the role of Europe as a promoter of regional arrangements abroad, an “external federator”.¹⁶⁸ In this section, Arana reports the

¹⁶⁵ Ibid. p.37.

¹⁶⁶ Backlanoff, E. (1996). Spain's economic strategy toward the "Nations of Its Historical Community:" The "Reconquest" of Latin America? *Journal of Interamerican Studies and World Affairs* [online] Volume 38(1), 105-127. p.105.

¹⁶⁷ Ibid. p.112-113.

¹⁶⁸ Gomez, A. (2017). The European Union's policy towards Mercosur: responsive not strategic. Op.cit. p. 29.

emphasis put by academics and officials on the importance that the European integrative model had on the construction and development of Latin American projects such as MERCOSUR, which persisted through interregional diplomacy and trade relations as means of strengthening the integration of the region.

Despite the centrality of the European model, it is important to remember that the two experiences present more differences than similarities in their structures: above all, the pursuit of a completely intergovernmental arrangement in the case of MERCOSUR, in contrast to the supranational vision that European states have been trying to concretized along the years.¹⁶⁹ Further evidence is provided by Klom in support of the idea that, despite is largely recognized centrality as a model for Latin American integration, the differences in the past history of the two regions – which represent, in both cases, the initial incentive for pursuing cooperation in order to avoid conflict –, the aspiration for supranationalism or intergovernmentalism, and the substantially different internal balance – Europe appears more homogeneous in the equilibrium among its members, while MERCOSUR presents quite a high level of polarization in terms of dimensions and economic power, with one of its members, Brazil, constituting 70% or even more of the total membership.¹⁷⁰

To add a final idea to this argument, it is interesting to consider a larger approach taken by Arana concerning Europe's external regionalist impulses, which had in the past a broader impact than just on Latin America. Moreover, Europe has proved itself a leader in the promotion of inter-regional agreements, aside from that pursued with MERCOSUR, such as the one stipulated with 18 former African colonies in 1963, or the so-called Euro-Arab dialogue

¹⁶⁹ Klom, A. (2000). Association negotiations between the Mercosur and the European Union: Rivalling Western Hemisphere integration or supporting Southern Cone integration. *Workshop: Dollars, Democracy and Trade: External Influence on Economic Integration in the Americas* [online]. p.3.

¹⁷⁰ Ibid. p.5.

of 1973.¹⁷¹ The implication of this thesis detracts some strength to the idea of a preferential relationship existing between Europe and MERCOSUR.

The fifth argument asserts the strategic justification lying behind the EU's actions in support of interregional arrangements, which has the aim of establishing a strong global stance and reaffirming its influence on the multipolar system by creating a strong network of cooperation with third countries, and their region.¹⁷² This argument, in a sense, takes the cue from the initial idea proposed by Arana, which envisaged the European Union commitment to the relationship with Latin America as a means of counteracting the influence and advantage of the United States, and adds that this may have an influence on how the EU carves its external policies.¹⁷³

The sixth and final argument presented in this analysis puts the focus on the economic level, and lets it prevail over cultural, hegemonic or integrative reasons. In particular, this idea takes into consideration the growing impact of globalization on economic relations and how it relates to the creation of free trade agreements. On this aspect, the literature appears polarized between those who affirm that the creation of an interregional agreement between MERCOSUR and the EU does not conflict with globalization trends, and those who believe that FTAs limit these trends, as they may lead to a decrease of European investments to Latin America.¹⁷⁴

The complexity of the picture suggested by this analysis involves a number of different variables contributing to the establishment of relations between the two blocs. For sure, it is

¹⁷¹ Gomez, A. (2017). The European Union's policy towards Mercosur: responsive not strategic. *Manchester University Press* [online]. p. 32.

¹⁷² Ibid. p. 34.

¹⁷³ Ibid. p. 35.

¹⁷⁴ Ibid. p. 36.

not possible to consider them individually in order to explain why, starting from the 1990s, MERCOSUR and the European Union considered it useful for both regions to undertake the process of negotiation for the establishment of one of the first interregional agreements in history. However, the interaction between these variables also changed in time, influencing the commitment and strategy of the blocs in regard to negotiations. Moreover, the strong intergovernmental nature of MERCOSUR largely affected the process, making it much more vulnerable to the political changes in the single national governments. This aspect will be taken into consideration later in the chapter, when a more detailed recount of the negotiation process will be provided.

3.2. THE EU-MERCOSUR INTERREGIONAL FRAMEWORK COOPERATION AGREEMENT OF 1995

The first official step marking the launch of the negotiation process between the two regions can be found in the Interregional framework cooperation agreement stipulated in 1995 and entered into force in 1999. The document was signed between Argentina, Brazil, Paraguay and Uruguay, MERCOSUR four founding members, on the one side, and the European Community – composed by Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, the Netherlands, Austria, Portugal, Finland, Sweden and the United Kingdom – on the other.

The fifteen members of the European Community were defined by the document as “Parties to the Treaty establishing the European Community and the Treaty on European

Union”.¹⁷⁵ This body represented one of the three “pillars”¹⁷⁶ of the European Union, as established by the Maastricht Treaty in 1992, the other two being the Common foreign and security policy and the Cooperation in the fields of justice and home affairs. The three pillars constituted the main areas of competence of the newly-born European Union, and remained into force from the establishment of the Treaty until 2009, year in which the Treaty of Lisbon was applied.

As mentioned before, the first bilateral treaties signed with Latin American countries individually, before the establishment of the European Union, involved the commitment of the European Commission, a body founded independently in 1958 and only at a later time incorporated to the European Union as its “politically independent executive arm”.¹⁷⁷ At present, trade negotiations with MERCOSUR continue to involve the Commission, which is the institution appointed to deal with trade-related issues on behalf of the European Union.

An aspect that strikes as highly interesting in the treaty is the importance that has been conferred to shared values, such as democracy and respect for human rights, to which the two blocs referred as the founding principles of Interregional Cooperation, and as a crucial source of inspiration for future joint and individual policies (Art.1). With reference to this idea, Saraiva¹⁷⁸ proposes some remarks that try to better explain the stance of the Agreement: first of all, the European Union has launched, starting from the 1990s, a strategy based on inter-

¹⁷⁵ *Interregional Framework Cooperation Agreement Between The The European Community And Its Member States, Of The One Part, And The Southern Common Market And Its Party States, Of The Other Part.* (1995). [online] Available at:<http://www.sice.oas.org/TPD/MER_EU/negotiations/Framework1995_e.pdf>. p.1.

¹⁷⁶ The Maastricht and Amsterdam Treaties. *European Parliament.* [online] Available at: <http://www.europarl.europa.eu/ftu/pdf/en/FTU_1.1.3.pdf>.

¹⁷⁷ *European Commission. Overview.* [online] Available at:<https://europa.eu/european-union/about-eu/institutions-bodies/european-commission_en>.

¹⁷⁸ Saraiva, M. (2004). A União Européia como ator internacional e os países do Mercosul. *Revista Brasileira de Política Internacional* [online]. Volume 47(1), 84-111. p. 99.

regionalism which privileges economic cooperation with foreign actors that share the above-mentioned common values, placing more emphasis on a sort of “ethical bond” than on the benefits of a commercial deal. Secondly, this strategy seems to propose a redefinition of the role of the European Union, with an increase of its “international responsibility” on a global level and a prevalence of foreign policy objectives over economic ones.

The Interregional Framework Cooperation Agreement develops around four main subjects, exposed in titles II-V: Trade, Economic Cooperation, Encouraging Integration and Interinstitutional Cooperation. The sections regarding Trade (title II) and Economic Cooperation (title III) appear to be the most elaborate. The first one includes specific commitments regarding trade liberalization, the exchange of agricultural products, customs-related issues, statistics and intellectual property. As a matter of fact, trade liberalization represented a crucial share of the interests of cooperation, which had the ultimate goal of creating an association “founded on greater political cooperation and progressive and reciprocal liberalization of all trade”.¹⁷⁹

As far as Economic Cooperation is concerned, on the other hand, the objective set by the two regions was to:

promote economic cooperation in such a way as to help to expand their economies, increase their international competitiveness, foster technical and scientific development, improve their standards of living, establish conditions conducive to job creation and job quality and diversify and strengthen economic links between them.¹⁸⁰

For this purpose, the areas of competence initially identified by the treaty were business, investments, energy, transport, science, telecommunications and environment.

¹⁷⁹ *Interregional Framework Cooperation Agreement Between The The European Community And Its Member States, Of The One Part, And The Southern Common Market And Its Party States, Of The Other Part.* (1995). Op.cit. p.2.

¹⁸⁰ Ibid. p.6.

However, the treaty also called for the two regions to work towards the achievement of the largest possible extension of cooperation, in order to include as many areas as was feasible (Art.10).¹⁸¹

The third subject identified by the treaty puts the focus on the role of Europe as a promoter and supporter of regional integration experiences abroad, and officializes its commitment to foster the consolidation of MERCOSUR by transfer of knowledge, training of staff, support in dealing with technical issues, and implementation of joint research or projects (Art.18).

The fourth and last of the main areas of cooperation, addressed in title V, aimed at increasing the exchange of information and knowledge among the regions, as a means of improving the level of harmonization between the respective institutions regarding their action and policies. Interinstitutional cooperation, moreover, largely depended on the increment of dialogue and of the frequency of contact between the appointed bodies (Art.19).

The final aspect of the text of the Agreement that will be addressed by this thesis is the institutional structure designed by the two blocs, which is composed of two bodies, the Cooperation Council and the Joint Committee, introduced by title VIII.

The Cooperation Council represents the body in charge of the implementation of the cooperation project, through decision-making, discussion on the matters established by the Agreement and proposals to the members in order to pursue its objectives. The treaty requires that members of the Council “meet at ministerial level periodically and whenever circumstances require”¹⁸², and provides it with a large autonomy, by appointing it with the task of establishing its one regulations concerning procedural matters. The treaty also

¹⁸¹ Ibid.

¹⁸² Ibid.

provides the Council with the freedom to “decide to set up any other body to assist it in the performance of its duties” and to “determine that body's composition, objectives and operating procedures” (Art.28), in addition to regulate the work of the second body, the Joint Committee.

The Joint Committee, on the other hand, has as its main task that of assisting the Council in the implementation of the Agreement through proposals and discussions on the issues of competence, and is required to gather annually; however, the Committee can also receive additional tasks by delegation from the Council.

The assessment that has been made regarding the decisions connected to the Treaty is ambivalent: on the one hand, the Agreement has been considered positively as having a wider-reach than the one proposed by the US to MERCOSUR – the FTAA –, which, among all the areas of cooperation addressed by the Framework Agreement stipulated with the EU, only included proposals for a trade deal envisaging liberalization between the two blocs.¹⁸³

However, Savini¹⁸⁴ underlines the fact that, despite willingness to make concrete steps forward in medium term, the Agreement lacked a time-schedule for action and does not contain any deadline to bound parties to a prompt application of the Treaty. According to his analysis, two reasons accounted for this lack of scheduling: the first one was a cautious behavior from the part of Brazil, reminiscent of past trade deals established on a North-South basis, which made it suspicious about committing to an Agreement with Europe, the development level of which was substantially different than that of MERCOSUR's countries. The second reason proposed was the existence, for both parties, of internal issues considered

¹⁸³ Saraiva, M. (2004). A União Europeia como ator internacional e os países do Mercosul. Op.cit. p.96.

¹⁸⁴ Savini, M. (2001). As negociações comerciais entre Mercosul e União Europeia. *Revista Brasileira de Política Internacional* [online] Volume 48(2), 109-125. p.112.

of higher priority compared to the progress of cooperation, which refrained them from establishing a strict framework that could derail their attention and resources.

These issues of higher priority were, as far as MERCOSUR was concerned, the need to strengthen its newly-established customs union and to implement the macroeconomic policies launched with its foundation. Moreover, negotiations for the creation of other integrative projects, such as the FTAA, which would soon be overcome by negotiations with Europe.¹⁸⁵

From a European perspective, on the other hand, the elements of distraction were several, according to Savini:

A União Européia, por sua vez, encontrava-se imersa nos trabalhos de implementação de sua União Econômica e Monetária (o euro), de ampliação geográfica em direção aos países do Leste Europeu, de reforma do orçamento e da política agrícola comum (PAC), e de aprofundamento de suas relações extracontinentais – onde o Mercosul é apenas um dos atores, ao lado dos países Mediterrâneos, África do Sul (com quem a UE assinaria um acordo de livre comércio em março de 1999), México (março de 2000) e uma nova Convenção de Lomé (maio de 2000) para suas ex-colônias na África e Caribe.¹⁸⁶

It is not difficult to understand the reasons why concerns about internal harmonization, in the case of MERCOSUR, and progress in the creation of the Economic Union and of in the expansion through Eastern European countries in Europe would overcome the commitment to further cooperation between the two regions, considering the importance that internal stability plays in making external relations easier to carry forward in the most efficient way.

The treaty found application four years after its stipulation, in 1999, an event celebrated by the first meeting of the Cooperation Council in Brussels. The outcomes of the meeting were the establishment of a negotiating schedule, and the definition of the methodology. Even

¹⁸⁵ Ibid. p.113.

¹⁸⁶ Ibid.

more important, in the same year the Council decided for the creation of an additional body, with members belonging to both regions, designated to carry out negotiations in the following years, the Bi-regional Negotiations Committee (BNC).¹⁸⁷ The first Cooperation Council meeting was followed, by the first round of negotiations by the BNC in 2000.

The idea that emerges from the analysis that was carried out, and that will be outlined in the next sections, is that of an uncertain scenario, also due to the to the absence of an homogenous literature concerning the discussions developed in the course of the BNC Meetings, and the reduced availability of detailed official reports. As a consequence, the next sections will not analyze each and every Meeting individually. On the contrary, it will try to retrace and study the difficulties and milestones of the negotiating process, such as, as it will be seen in the following section, the tariff-offers advanced by the two actors during the V and VI Meetings and the conflict they generated.

3.3. UNFOLDING THE PROCESS OF NEGOTIATIONS: 2000-2004

There is little doubt that, while the Framework Agreement covered an extremely wide spectrum of areas of cooperation in which to deepen dialogue between the two regions, shortly before the launch of negotiations the focus shifted, in particular, to trade liberalization, and in particular to the creation of a Free Trade Area between MERCOSUR and the European Union. For this purpose, in 1999 the Heads of Government of the countries involved reiterated, during a Meeting in Rio de Janeiro, their commitment to close the deal and the centrality of the subject of trade liberalization for the relations between the two blocs:

The Heads of State and Government agreed that the expansion of trade, through the development of free-trade between Mercosur and the European Union, constitutes a central element in the construction of a more dynamic

¹⁸⁷ Makuc, A. et al. (2015). La Negociación MERCOSUR-Unión Europea a Veinte Años del Acuerdo Marco de Cooperación: Quo Vadis? Op.cit. p.7.

relationship, in the promotion of their integration processes and in the strengthening of the multilateral trading system.

With this purpose, they agreed to launch negotiations between Mercosur and the European Union aiming at bilateral, gradual and reciprocal trade liberalisation, without excluding any sector and in accordance with WTO rules.¹⁸⁸

The first period of negotiations, which lasted until the interruption of meetings in 2004 for reasons of dissatisfaction and lack of agreement that will be presented more extensively later in the chapter, saw the unfolding of fifteen meetings of the Bi-regional Negotiations Committee – from two to four per year – in which representatives of the two blocs tried to address crucial topics such as trade liberalization and other issues related to trade, listed below.

The timing, in the case of the EU-MERCOSUR FTA, played quite an important role in the development and relevance of negotiations. The launch of the Technical Groups and the first few meetings, as a matter of fact, were carried out in the perspective of the imminent start of the Doha Round, which would begin in November 2001, one month after the sixth BNC Meeting. The Doha Round, as mentioned in the previous chapters, had a particular relevance for the actors, in particular MERCOSUR, as it was planned to deal mainly with factors that could highly favor the development of LDCs – agricultural trade was only one among the many. Moreover, the Rounds hosted by the WTO all had as a primary objective that of fostering progress in Trade Liberalization, which was central among the topics negotiated in the Interregional Association.

¹⁸⁸ *First Meeting of the EU-Mercosur biregional negotiations committee (2000)*. [online] Available at:<http://www.sice.oas.org/TPD/MER_EU/negotiations/CNB_1_e.pdf>. p.1.

Later on in the negotiations, timing affected once again the process by failing to take advantage of a “political window of opportunity”¹⁸⁹, before the closing of which parties should have managed to reach an agreement – as mentioned above, the finalization of the agreement was expected for the Meeting of October 2004. This window was represented by two imminent events: the first one was the extension of EU membership to Eastern countries, which was expected to bring major changes in the objectives and needs of European foreign policies; the second was the change in the composition of the European Commission, which finished its mandate in 2004.¹⁹⁰

Finally, the reaching of an Agreement between the region missed one more critical deadline: a Summit held in Mexico in May of the same year between the European Union and Latin American countries.

The main directions in which negotiations were carried out were the regulation of trade in goods, trade in services and the other trade-related issues of relevance such as intellectual property, competition, government procurement, controversy resolution and many more. In order to foster the progress of discussions, in the course of the first meeting – taking place in April 2000 in Buenos Aires – the Committee appointed three Technical Groups, organized as follows: the first one was in charge of

trade in goods, covering both tariffs and non-tariff measures, including inter alia sanitary and phytosanitary measures, standards, technical regulations and conformity assessment procedures; antidumping and counter-vailing duties and safeguards; rules of origin; and customs procedures and mutual assistance in customs matters.¹⁹¹

¹⁸⁹ Doctor, M. (2007). Why Bother With Inter-Regionalism? Negotiations for a European Union-Mercosur Agreement. Op.cit. p.285.

¹⁹⁰ Ibid.

¹⁹¹ *First Meeting of the EU-Mercosur biregional negotiations committee.* (2000). Op.cit. p.4.

The second one dealt with “trade in services, intellectual property rights and measures to encourage an open and nondiscriminatory investment climate,”¹⁹² while the third group accounted for discussion concerning “government procurement, competition and dispute settlement.”¹⁹³

The schedule for negotiations until 2004¹⁹⁴ gives an idea of the string of issues to be dealt with by negotiators and of the ambitions of the Parties. In the last year of work negotiators should have been ready for finalizing the outcomes of the four-year process. However, as it is known, the meetings of the Negotiations Committee did not prove themselves to be as effective as expected.

An aspect that was determinant in complicating the process was the requirement of the Single Undertaking, one of the three principles established in Buenos Aires, which provided the process with an evident degree of frustration by ruling that all the aspects of the Agreement should be negotiated, and thus finally accepted, as a unitary decision.¹⁹⁵ On the subject, Doctor¹⁹⁶ argues that such requirement made it all the more difficult to find an agreement, as Parties were unlikely to establish an homogeneous process of negotiation involving the different topics at stake.

The problems affected both the part of “substantive bargaining”¹⁹⁷ as such, over which some degree of conflict existed on the regional level of MERCOSUR as well as on the

¹⁹² Ibid.

¹⁹³ Ibid.

¹⁹⁴ Doctor, M. (2007). Why Bother With Inter-Regionalism? Negotiations for a European Union-Mercosur Agreement. Op.cit. p.285.

¹⁹⁵ Makuc, A. et al. (2015). La Negociación MERCOSUR-Unión Europea a Veinte Años del Acuerdo Marco de Cooperación: Quo Vadis? Op.cit. p.8.

¹⁹⁶ Doctor, M. (2007). Why Bother With Inter-Regionalism? Negotiations for a European Union-Mercosur Agreement. Op.cit. p.286.

¹⁹⁷ Ibid. p.286.

interregional one, and the procedural part¹⁹⁸, on which the Parties displayed radically different views concerning the methodology to apply, which emerged in the event of the fourth Meeting of the BNC in Brussels – March 2001 – and was not overcome until the following Meeting, held in July of the same year.

The expectations regarding which procedure to follow during the negotiation process displayed deep divergences between the Parties. On one side, Latin American negotiators envisaged as a priority to satisfy before the launch that of establishing clearly defined objectives to pursue during the course of negotiations. However, EU's vision did not appoint the same importance to objective-setting. Instead, it envisaged the process as a gradual and repeated exchange of offers and proposals concerning the objects being discussed, supporting this techniques with the argument that some degree of homogeneity needed to be maintained between this new arrangement and the previous ones closed between Europe and other foreign actors, thus the importance of a bottom-up approach – against the top-down favored by MERCOSUR – towards negotiations.¹⁹⁹

A second element of divergence regarded the structure of the representative group of negotiators from the two blocs. Klom states that:

The major part of the EU's team consisted of highly specialized technical experts, covering details of specific sectors, used to intra-EU and multilateral negotiations. The Mercosur team, on the other hand, mostly consisted of high-level officials and politicians, often dealing with both Mercosur and FTAA negotiations, few of them really acquainted with the details of negotiations.²⁰⁰

¹⁹⁸ Makuc, A. et al. (2015). La Negociación MERCOSUR-Unión Europea a Veinte Años del Acuerdo Marco de Cooperación: Quo Vadis? Op.cit. p.9.

¹⁹⁹ Molle, G. (2008). Negociación MERCOSUR-Unión Europea. *Revista de Comercio Exterior e Integración*. [online] 11, 95-120. p.103.

²⁰⁰ Klom, A. (2003). Mercosur and Brazil: a European perspective. *International Affairs* [online] Volume 79(2), 351-368. p.361.

This aspect explains in part the divergent methods envisaged by the MERCOSUR and the European Union. However, the top-down approach reflected in particular the vision of Argentinian negotiators, not that of MERCOSUR's team as a whole. The existence of a different opinion among the rest allowed negotiations to avoid an early stalemate, even more so due to the moderate vision of MERCOSUR's Brazilian presidency, which could more than other actors drive the debate towards a better outcome.²⁰¹

Before negotiations reached their core with the exchange of the first offers between the parties, a sequence of four Meetings took place that was dedicated to establishing the grounds for negotiations and sharing information regarding the current internal situations and ongoing process of the blocs, as established by the parties in the course of the first BNC Meeting²⁰²: on the one side, MERCOSUR was required to present a report concerning the state of the integration process through the implementation of the Common Market, and the trade prospects of the region, with particular focus on services and government procurement.²⁰³ The information demanded to the European Union, on the other side, referred to the implementation of the Common Agricultural Policy among its members – a crucial aspect of the negotiations, as will be discussed later – and to the enlargement of its membership with the adhesion of ten Eastern countries.

The first offer came from the European Union during the course of the fifth Meeting, held in July 2001; as mentioned above, the differences concerning the procedural approach initially led MERCOSUR to receive the proposal unenthusiastically but, shortly after, the region

²⁰¹ Ibid. p.362.

²⁰² *First Meeting of the EU-Mercosur biregional negotiations committee* (2000). Op.cit. p.4.

²⁰³ Ibid. p.5.

decided to get onboard with the EU-sponsored methodology, and committed to present its own offer during the successive Round of negotiations, in October 2001.

The European proposal on tariff reduction was articulated as follows: first of all, a six-group division of the products with different liberalization schedules; secondly, the proposal of a percentage of products to enter the markets of the European Union from MERCOSUR, to be added to the amount of goods for which import had already been liberalized. Finally, an offer concerning the extension of quotas of MERCOSUR products for one billion dollars of value.²⁰⁴

As far as the first point of the proposal is concerned, the six-group division involved one that would undergo immediate and complete elimination of customs duty, three for which customs duty would be removed completely, but with a deadline of respectively four, seven and ten years. The products belonging to the fifth category represented processed agricultural goods and fishery products; for this group, the deadline remained to be agreed during the course of the negotiation process. Finally, the European Union had envisaged the possibility of keeping the sixth group outside the liberalization process, thus maintaining the effect of quota on the products – agricultural goods, some of which processes, such as meat, cereals sugar and others.²⁰⁵

Regarding the second point, European negotiators proposed the liberalization of 37% of MERCOSUR exports to the EU, which expanded a share of goods without customs duty that already amounted to the 57% of exports. Thus, the percentage of MERCOSUR products

²⁰⁴ Quijano, J. (2011). El MERCOSUR 20 años después. In: G. Caetano, ed, *MERCOSUR 20 años* [online] CEFIR. pp. 87-133. p.114.

²⁰⁵ Ibid.

entering European markets without customs duty would amount to 94% of the totality of trade.

The offer made by the EU, in a certain sense, appeared as a defensive measure concerning the products that were most important for both itself and its counterpart, agricultural goods. Thus, while showing a strong commitment to reach over 90% of trade liberalization, the EU contradicted this appearance by maintaining the application of quotas on goods that were game-changing in the negotiations. Unwilling to extend its concessions over interregional negotiations, the European Union referred any chance to modify its stance to the WTO Ministerial Conferences of the upcoming Doha Round.²⁰⁶

Putting aside trade in agricultural goods, other points of the European offer displayed a quite different stance, which disclosed its interest in entering MERCOSUR markets in the industrial sector and in that of services.²⁰⁷ Such a behavior reflected a coexistence of two opposite stances. The first, a defensive stance towards its markets, most of all in relations to agricultural products, over which the EU maintained strictly protectionist policies and on which regard it proved itself to be absolutely inflexible in its offers. The second, an offensive stance that promoted total market liberalization in relation to its outbound trade directed towards MERCOSUR.

Conversely, the EU decided to approach the liberalization of trade in industrial products according to a four-period schedule. Immediate entry into force was required for products with low levels of complexity such as paper, wood and textiles. A second group was bound to become free of trade barriers in a four-year time; it included domestic appliances and optical

²⁰⁶ Makuc, A. et al. (2015). La Negociación MERCOSUR-Unión Europea a Veinte Años del Acuerdo Marco de Cooperación: Quo Vadis? Op.cit. p.11.

²⁰⁷ Savini, M. (2001). As negociações comerciais entre Mercosul e União Européia. Op.cit. p.119.

instruments among others. A third group including cars, shoes and chemical products would be liberalized after seven years. And a fourth, to be specified, included the products that were not mentioned in the first three groups.²⁰⁸

First of all, the EU showed great interest in expanding its trade in services, by demanding almost full liberalization – the only element of limitation regarded the exchange of audiovisual products. The demand included also restriction to the movement of goods in international territories, telecommunications and financial services.²⁰⁹

Moving on to the proposal advanced by MERCOSUR in occasion of the sixth BNC Meeting, Latin American negotiators addressed, once again, matters that had something to do with the methodology, in addition to substantive aspects.

First of all, MERCOSUR required that a foundational tariff was established so as to be able to compare all ad valorem tariffs on its ground. Secondly, it proposed to identify the level of the respective customs duty of the two regions to consider as the starting point of the liberalization process being negotiated. With regard to that, the EU appeared from the beginning to appoint lower levels of discrimination on MERCOSUR's products – the average European tariff was of 6.9% of the value, against the 12% applied by its counterpart. The last two points of MERCOSUR's proposal cover the same area as the last two points of the European offer.

The third proposal accorded to the other party a liberalization of 66% of the total amount of European imports to MERCOSUR, to be added to the already existing 11% of trade volume that was exempted from customs duty. Finally, the fourth point referred to the quotas applied by the EU on products imported from MERCOSUR, which affected 5% of the total

²⁰⁸ Ibid.

²⁰⁹ Ibid. p.120.

amount of trade. The demand made by Latin American countries was for an opening of quotas of five billions, a figure that was five times larger than the one advanced by the European Union.²¹⁰

Each proposal raised some questioning from the counterpart of the region that advanced it. Starting from the offer disclosed by the EU, the criticism concerned several points, but the general idea was that the proposal concealed efforts to preserve some degree of protectionist regime, at least on “sensible products”.

First of all, MERCOSUR negotiators noted the fact that the percentage of liberalization the EU proposed to implement through the association agreement – 37% of the volume of trade directed to the European market – was far lesser than the one advanced by MERCOSUR – 66% of the volume of trade entering the markets of its members, showing therefore the lack of a strong commitment to improve market access. In reaction to the complaint, EU negotiators observed that the small amount proposed was compensated by the fact that EU market liberalization was already more advanced than the Latin American one, with lower average tariffs, thus creating more favorable conditions for MERCOSUR’s exports and a far higher final level of liberalization than the counterpart.²¹¹

Secondly, Latin American negotiators complained on the nature of tariffs reductions being negotiated: more specifically, they underline the fact that the liberalization proposed by the EU only dealt with quotas and ad valorem tariffs, leaving specific tariffs – customs duties established on a fixed value per unit or volume of the traded good – untouched.²¹² Moreover, in the very little volume – less than 10% – left aside by the EU in the liberalization process lied

²¹⁰ Quijano, J. (2011). El MERCOSUR 20 años después. Op.cit. p.114.

²¹¹ Ibid p.115.

²¹² Ibid. p. 116.

those sensible products for which protectionism was crucial in order to avoid dangerous competition²¹³, which were also the products that MERCOSUR countries held as the most valuable for their economies to liberalize.

A further matter of concern for Latin American countries was the fact that the European proposal showed resistance in the opening of the internal agricultural market also in relation to the Common Agricultural Policy, a set of trade-distorting measures applied by European countries, composed by subsidies for producers in the rural areas of Europe and market regulation measures which, together with the high barriers established against agricultural imports, represented a severe threat to MERCOSUR's agricultural trade expansion, a sector in which the region showed competitiveness.²¹⁴

Finally, the last remark that will be mentioned was addressed to the dubious nature of the low average tariffs imposed by the EU. As stated by Quijano: "Promedios muy bajos pueden esconder –como de hecho ocurre en la UE– picos arancelarios muy elevados en ciertos productos que la UE no quiere dejar entrar."²¹⁵ Therefore, an additional barrier survived liberalization, concealed by the absent or almost absent of customs duty applied to non-sensible products which "adulterated" the average figure.

From the opposite side of the negotiating table, European negotiators advanced two main criticisms to their counterparts: the first point of disagreement stated that the global level of trade liberalization expected by MERCOSUR in its proposal, covering 77% of the total volume of trade, represented too low a figure, not only considering the objective of the

²¹³Molle, G. (2008). Negociación MERCOSUR-Unión Europea. Op.cit. p.103.

²¹⁴ Ibid.

²¹⁵ Quijano, J. (2011). El MERCOSUR 20 años después. Op.cit. p.116.

Interregional Association, but mainly with regard to the regulations issued by the General Agreement on Tariffs and Trade.

Such a statement referred to the exception proposed by the document concerning the creation of Free Trade Areas, and the guidelines members are required to follow for this purpose, expressed by Art. XXIV. As mentioned in the first chapter of this thesis, the article displayed ambiguity by requiring parties interested in forming a Free Trade Area to remove duties on “substantially all the trade”,²¹⁶ without providing further specification regarding what degree of liberalization could be perceived as “substantial.”

On the subject, the opinion supported by the European Union assigned this title to a level of liberalization that affects at least 90% of the volume of trade exchanged between the countries negotiating the FTA. On the ground of this estimation, the 77% of trade liberalization proposed by MERCOSUR resulted below the bar set by the World Trade Organization as interpreted by the EU.²¹⁷ At the same time, the final figure proposed by the EU resulted in compliance with the requirement, despite being considered unsatisfactory by MERCOSUR.

The second point of disagreement expressed by the EU regarded what appeared to be an important restraint to MERCOSUR’s agenda. As a matter of fact, the lack of a working customs union inside its territory was an aspect that frustrated any effort of liberalization of trade with the European Union, whose products would still meet with barriers while moving from one member country to another, after having entered the region freely.²¹⁸

The respectively unsatisfactory proposals advanced by the parties made it so that the following Meetings would be devoted to the recognition of the disagreement and the search

²¹⁶ *The General Agreement On Tariffs And Trade (GATT 1947)*. (1948). Op.cit. p.43.

²¹⁷ Molle, G. (2008). *Negociación MERCOSUR-Unión Europea*. Op.cit. p .103.

²¹⁸ Quijano, J. (2011). *El MERCOSUR 20 años después*. Op.cit. p.116.

for a compromise. However, what was apparent from the negotiations was the positional approach established by both sides, keeping a firm stance about their demands and about the concessions they were willing to make.

In particular the European Union, with its double and in a way contradictory strategy – defensive and offensive – analyzed above, lacked of dynamism, even more so considering the several reasons explaining EU's commitment to Latin America previously discussed, which should have had, on the contrary, fueled the process. On the other hand, some critics defined MERCOSUR's behavior as more proactive²¹⁹ than that of its counterpart, and more eager to proceed forward with transatlantic relations, also by reviewing and expanding its offers.

In May 2002, Head of Government from the two regions gathered in Madrid for the Second EU-MERCOSUR Summit, where they released a political declaration concerning their commitment to the pursuit of the Interregional Association started in 1995. The forewords, first of all, reaffirmed the importance of the partnership for the new century:

We need to face together the serious challenges and seize the opportunities of the twenty-first century. In a spirit of mutual respect, equality and solidarity, we will strengthen our democratic institutions and nurture the processes of modernisation in our societies taking into account the importance of sustainable development, poverty eradication, cultural diversity, justice and social equity. We believe that furthering our integration processes and increasing trade and investment are important means of enhancing access to the benefits of globalisation.²²⁰

Secondly, the declaration moved on to address the progress made during the first two and a half years of work on the three levels around which the consultation revolved, the

²¹⁹ Gomez, A. (2017). The European Union's policy towards Mercosur: responsive not strategic. Op.cit. p.147.

²²⁰ European Union Latin America And Caribbean Summit. (2002). [online] Available at:<http://europa.eu/rapid/press-release_PRES-02-133_en.htm>.

Politics, Economy and Cooperation. Heads of Government, on this matter, stated the reaching of a conclusion in the negotiations regarding the first and third points, at the same time calling for the continuation of works on trade liberalization, a subject that was still far from being settled.²²¹

What can be speculated by these words is a recognition that the second level, the one that addressed the stipulation of a Free Trade Area between the regions, was both of highly crucial in their agendas, and the most challenging to deal with, due to many reasons: the high level of disparity between the European Union and MERCOSUR, the centrality for both of issues such as trade in agricultural goods, which made it extremely difficult for the parties to yield and move towards intermediate positions, the large amount of stakeholders inside the two regions, such as farmers in Europe, and their pressure on negotiators.

The set of Meetings taking place after the EU-MERCOSUR Summit and until August 2004 saw only two new exchanges of offers between MERCOSUR and the European Union. The first one²²² happened in the event of the VIII Meeting of the BNC in November 2002. Both proposals would, however, be deemed insufficient in the Meeting that followed – March 2003 in Brussels. The proposal made by European negotiators, as a matter of fact, did little more than reproducing the first one, despite the criticism with which it had been received in July 2001.²²³ Some progress, on the other hand, seemed to be made by MERCOSUR, which in the occasion of the VIII Meeting proposed a new offer in which the elimination of customs duty reached 83.5% of the volume of trade.²²⁴

²²¹ Ibid.

²²² Makuc, A. et al. (2015). La Negociación MERCOSUR-Unión Europea a Veinte Años del Acuerdo Marco de Cooperación: Quo Vadis? Op.cit. p.11.

²²³ Quijano, J. (2011). El MERCOSUR 20 años después. Op.cit. p.117.

²²⁴ Ibid.

In the occasion of the X BNC Meeting, which had been appointed as a round for discussion concerning government procurement and investment²²⁵, the relation between the parties presented some friction with regard to the conditions to establish on the subject, which were to be decided, as per usual, on the basis of offers from the two blocs.

The element that fueled Latin American reticence was, once again, the clarification of methodology for the negotiations. However, in addition to that, Molle²²⁶ accounted for this position also the desire for better conditions concerning Trade on goods. On the contrary, European reaction was similar to MERCOSUR's action: EU's negotiators also refrained from exposing their own offer until their counterparts were willing to advance one first²²⁷; moreover, the EU demonstrated its dissatisfaction by asking for a complete restructuring of MERCOSUR's offer:

La Comisión Europea presentó un amplio pedido de mejoras, dirigido a un completo reordenamiento de la oferta MERCOSUR, con la creación de nuevas categorías de desgravación con plazos más breves, que incluían el reclamo de que en el tercero o cuarto año de la desgravación (según el nivel arancelario de base), el arancel desgravado no superara el 5%.²²⁸

Globally, in the course of the Meeting, according to Molle²²⁹, the behavior displayed by the two regions provided further evidence of the wide gap resting between their positions.

On the one side:

²²⁵ Doctor, M. (2007). Why Bother With Inter-Regionalism? Negotiations for a European Union-Mercosur Agreement. Op.cit. p.285.

²²⁶ Molle, G. (2008). Negociación MERCOSUR-Unión Europea. Op.cit. p 107.

²²⁷ Ibid.

²²⁸ Ibid.

²²⁹ Ibid.

La posición comunitaria consistió en una nueva descalificación de la oferta del MERCOSUR y en el reclamo de una definición sobre sus pedidos [...].²³⁰

On the other:

El MERCOSUR ratificó su concepción de que el trato diferencial y especial debía estar reflejado en los cronogramas de desgravación y que estaba dispuesto a considerar pedidos de mejora comunitarios en la medida en que estuvieran presentados en la nomenclatura del MERCOSUR y referidos a los cronogramas en los cuales había sido presentada la oferta, descartando la reelaboración diseñada por la Comisión Europea para “cerrar la brecha”.²³¹

The last few scheduled Meetings realized during this first phase of bi-regional negotiations took place between Brussels and Buenos Aires in the first half of 2004. However, more were marked afterwards in order to undertake every possible effort to close a deal before October. The initial schedule assigned to these steps the discussion on the final topics concerning, among others, modalities for dealing with Agriculture, tariffs and customs duties, and the following offers between the two regions. After that, the last two Meetings would be devoted to conclude the negotiating process.²³² At this point, however, the negotiations were far from being over.

In the course of the XII Meeting, the European Union revealed some changes in its upcoming offer concerning, however, only part of the sensible products for which MERCOSUR demanded liberalization. Nevertheless, it did not provide further detail concerning the scheduling or the volume of this opening. From the standpoint of EU demands, the region stated its main interest for the liberalization of the automotive sector of Latin American markets.²³³

²³⁰ Ibid. p. 108.

²³¹ Ibid.

²³² Doctor, M. (2007). Why Bother With Inter-Regionalism? Negotiations for a European Union-Mercosur Agreement. Op.cit. p.285.

²³³ Molle, G. (2008). Negociación MERCOSUR-Unión Europea. Op.cit. p.109.

The last two exchanges of offers did not prove themselves satisfactory for the parties. The first one, in May 2004, two months before the XIV Meeting, saw MERCOSUR unsatisfied on at least two aspects: firstly, the agricultural one, on which the extension made by the EU was still not at the level expected by its counterpart. Secondly, in exchange for further concessions in the agricultural sector, the EU fixed a requirement of reciprocity concerning MERCOSUR's exports in textiles and footwear, another sector in which the region had hoped for an improvement in the level of market access in Europe.²³⁴ The political change undergone inside MERCOSUR with the election of *pink tide* President, embodied by the pro tempore presidency of Argentinian President Kirchner in the month of the exchange, resonated in the stricter stance held by the region against European proposals, in particular on a subject as crucial as agriculture was for the objectives of those governments.

The final Meeting according to the schedule, for July 2004, led to signs of frustration when MERCOSUR's negotiators decided to leave the table early in protest for the poor conditions advanced by the EU. New Meetings were arranged for the following months, but the level of dissatisfaction was such that Foreign Minister Celso Amorim remarked the fact that an agreement could not be reached "at any cost."²³⁵ The momentary stalemate was accounted to the process of negotiations in technical meetings, which were said to having crushed against a wall that could only be overcome by means of a "political push"²³⁶ from national Ministers.

²³⁴ Makuc, A. et al. (2015). La Negociación MERCOSUR-Unión Europea a Veinte Años del Acuerdo Marco de Cooperación: Quo Vadis? Op.cit. p.11.

²³⁵ Cantanhêde, E. et al. (2004). Amorim critica proposta agrícola da União Européia. *Folha de S.Paulo*, [online] Available at:<<http://www1.folha.uol.com.br/folha/dinheiro/ult91u87034.shtml>>.

²³⁶ Rossi, C. (2004). Mercosul e UE suspendem negociação. *Folha de S.Paulo*, [online] Available at:<<http://www1.folha.uol.com.br/folha/dinheiro/ult91u87004.shtml>>.

The Meeting held in August confirmed once again the hostility felt by MERCOSUR towards the lack of concessions in EU's proposals. The reasons behind it were, in the opinion of EU's negotiators, the divergence between the statements and the practice of Latin American proposals:

O chefe da delegação europeia disse que, inicialmente, a UE ofereceu proposta de se abrir 90% para o Mercosul, enquanto o bloco sul-americano abriria apenas 34% do seu mercado aos europeus.

Ainda segundo o chefe dos negociadores europeus, na segunda oferta, o Mercosul propôs um acordo de 3 bilhões de euros e a sua contrapartida foi de 1,7 bilhões de euros.²³⁷

However, an important point of conflict was also constituted, once again, by the different approaches concerning the modalities of negotiation: on the one hand, negotiators from MERCOSUR demanded for discussion to be conducted on all issues as a whole, while European appointed wished for a case-by-case approach.²³⁸

The process closed with the proposals advanced by the two blocs in September. The unsatisfactory outcome for both the EU and MERCOSUR met with other conjunctural factors²³⁹, which made it difficult to maintain the initial commitment to the Agreement. These factors were, first of all, the annexion of ten new members of the European Union which became effective in May. The level of development of some among the new members, lower than the average European, made it important to revise agricultural imports conditions. A second factor was the new mandate of the European Commission, a change that was expected for the following month, in October 2004.²⁴⁰

²³⁷ Mata, A. (2004). Encontro entre Mercosul e UE acaba sem avanço. *Folha de S.Paulo*. [online] Available at:<<http://www1.folha.uol.com.br/folha/bbc/ult272u34227.shtml>>.

²³⁸ Ibid.

²³⁹ Makuc, A. et al. (2015). La Negociación MERCOSUR-Unión Europea a Veinte Años del Acuerdo Marco de Cooperación: Quo Vadis? Op.cit. p.17.

²⁴⁰ Ibid.

The idea assumed by Makuc²⁴¹ is that not only were the offers far from satisfying for the two parties of the negotiations, in relation to the needs of their markets and the objectives posed by negotiators. As a matter of fact, the final proposals displayed a worsening of the conditions that had been advanced in the previous exchange in May. A worsening that seems to imply that both blocs attempted to win the other by making conditions stricter on the sectors of greater interest for it. Namely, the automotive sector for European exporters and the agricultural one for Latin Americans.²⁴² This idea is confirmed by an article²⁴³ published on the Brazilian newspaper *Folha de S.Paulo*, according to which negotiators advanced an offer in which the number of goods on which liberalization would be adopted were fewer than before, and the automotive sector itself appeared in a list of goods that would only be liberalized after a period of eighteen years.

The situation left open two different possibilities: either lowering the aim of negotiations and work towards a less ambitious, but more viable Agreement, or suspend the process – considering that the deadline for offers and discussions was shortly approaching – as an overturning of the blocs' positions was unlikely. The second option was pursued, with the goal of re-launching the discussion the following year. However, it would take six more years until the BNC would gather again and actually restart the process.

3.4. THE NEGOTIATIONS UNTIL 2004 AND THE AFTERMATH OF THE DEADLOCK: SOME REMARKS

The perspective of the negotiations that has been provided in the course of the chapter could not be completed without spending a few words on those events that have played a

²⁴¹ Ibid.

²⁴² Ibid.

²⁴³ Soliani, A. (2004). Nova oferta não agrada à União Européia. *Folha de S.Paulo*, [online] Available at:<<http://www1.folha.uol.com.br/fsp/dinheiro/fi2909200418.htm>>.

crucial role in the outcome emerged in 2004. The four-year period analyzed was constellated with elements of transformation, turning it into a phase of transition for MERCOSUR and, to a lesser extent, for the European Union, and having, thus, a major influence on bi-regional relations as well.

It is undoubtable that the decline in communication and understanding reached during the Meetings derived, for a large part, from a deep polarization in the interests of the two parties – which was present from the very beginning²⁴⁴ – and a level of contradiction between what they wanted the partner to do for them, and what they were willing to do. Moreover, the development gap – which directly implied a gap in what each part could actually do in the Agreement, in terms of concessions and variations of their policies – between MERCOSUR and the EU was not reflected by the approach of negotiations, which treated the two sides of the table as equals. With the words of Makuc:

Los distintos intereses se fueron haciendo cada vez más evidentes, al tiempo que se llevaba adelante una negociación como si las dos partes fueran iguales y estuvieran en idénticas condiciones para negociar.²⁴⁵

Moreover, as it was mentioned earlier in this discussion, both parties failed to pursue a solution halfway, turning their initial ambitions concerning each other's market access into firm positions that were proposed repeatedly during the exchanges of offers. However, not only causes of substance affected the discussions. Conjunctural factors –directly or indirectly involving the actors – emerged that influenced the strategies of the parties, leading them in some cases to gradually withdraw their commitment from the negotiations or to move it towards a different path.

²⁴⁴ Makuc, A. et al. (2015). La Negociación MERCOSUR-Unión Europea a Veinte Años del Acuerdo Marco de Cooperación: Quo Vadis? Op.cit. p.13.

²⁴⁵ Ibid. p.13-14.

First of all, the administrative turnover in Latin America in the beginning of the 21st century, that have been referred to as the *pink tide* in the course of the previous chapter, largely changed the strategy of MERCOSUR as far as Foreign Relations are concerned.

The election of Brazilian President Lula da Silva and Argentinian President Néstor Kirchner shifted the interest of the Latin American bloc away from the negotiation of the FTAs and placed renewed emphasis on the continuation of the work for the implementation of MERCOSUR's customs union. While Brazilian stance did not see a dramatic change from the presidency of Cardoso in relation to the United States, Kirchner's election represented, for the Argentinian government, a substantial distancing from the influential neighbor.²⁴⁶

Thus, the negotiation process for the FTAs started to lose momentum due to the new direction of Latin American interests – the negative outcome of the Summit of the Americas held in 2005 in Argentina would finally mark its collapse. The reason, according to Makuc²⁴⁷, had to do with the different perspectives displayed by the Latin American bloc and the US on topics that were part of the Agreement, such as education, security, terrorism and social policies among others.

On the other hand, the Brazilian-Argentinian axis seemed willing to respect its commitment towards the European partners. Notwithstanding a rethorical position that expressed preference for South-South over North-South relations, the *pink tide* Presidents favored the continuation of negotiations with Europe, perceiving the potential value for MERCOSUR's member states and the possible benefits that could derive, in the area of social

²⁴⁶ Santos, L. (2016) As Negociações do Acordo de Associação Inter-regional Mercosul-União Europeia: os ímpetus de negociação dos atores governamentais Argentina e Brasil. *II Simpósio Internacional Pensar e Repensar a América Latina* [online]. p.9.

²⁴⁷ Makuc, A. et al. (2015). La Negociación MERCOSUR-Unión Europea a Veinte Años del Acuerdo Marco de Cooperación: Quo Vadis? Op.cit. p.18.

development, from an improvement in the agricultural market access of such an important partner. Towards the end of the first phase of negotiations, however, a shift in economic policies was implemented by Kirchner that put Argentinian economy in a protectionist stance, and also influenced its position towards inter-regional negotiations with the European Union.

On the subject, Santos reports Arana's analysis, who states:

a incerteza europeia frente às questões agrícolas, serviu como uma desculpa para que a Argentina, naquele momento, desistisse de assinar um acordo, levando em consideração que neste período Néstor Kirchner já dava sinais de uma política industrial mais protecionista.²⁴⁸

Despite the fact that the two presidents had initially displayed a similarity of views regarding the international stance of MERCOSUR, with the progress of negotiations perspectives started to diverge, weakening the position of the region in front of its counterpart for the lack of internal agreement.

In addition to that, the approaching suspension of the FTAs provided a further change in the scenario for the EU-MERCOSUR Trade Agreement. As discussed in one of the previous sections of the chapter, one of the incentives for Europe in the Agreement was the threat posed by the FTAs and the special relationship it was bound to create between the US and Latin America. The growth in US influence on the region would have implied a worsening of trade relations between Europe and MERCOSUR, if it had been integrated in the wider Agreement.²⁴⁹ However, when the idea grew among European stakeholders that the project for the Free Trade Area of the Americas was off the table, their commitment to stick to the negotiating process receded.

²⁴⁸ Santos, L. (2016) As Negociações do Acordo de Associação Inter-regional Mercosul-União Europeia: os ímpetus de negociação dos atores governamentais Argentina e Brasil. Op.cit. p.10.

²⁴⁹ Makuc, A. et al. (2015). La Negociación MERCOSUR-Unión Europea a Veinte Años del Acuerdo Marco de Cooperación: Quo Vadis? Op.cit. p.18.

The disagreement that divided interregional talks was echoed by the difficulty with which negotiations proceeded on the multilateral level: the Doha Round had failed to reunite the perspective of the different groups, and it is of quite a great relevance the fact that MERCOSUR and the EU were not part of the same negotiating team, as one shared the demands and views of developing countries and the other sided with the industrial world.

What had an even greater impact on the interregional Trade Agreement was, however, the fact that, following a choice expressed mainly by the European Union, negotiations regarding a number of topics – such as quotas on agricultural goods – approached by the Agreement were conditioned by the outcomes of the Doha Round and those of the following Ministerial Conferences – such as that of Cancún, held in 2003. This means that the parties were asked to wait for the result of these negotiations in order to abide by the resolutions made in the multilateral forum. However, failure to reach an agreement under the WTO implied that interregional negotiations on those topics remained unsettled until further notice.²⁵⁰

A second implication on the equilibrium between the interregional and the multilateral level can be hypothesized: it might be argued that some degree of recovery in July 2004, marked by the relaunch²⁵¹ of negotiations with the publication of the *July Package*, might have provided the parties with a reason to postpone reaching an agreement on the interregional level, in favor of progress on the multilateral one.

²⁵⁰ Makuc, A. et al. (2015). La Negociación MERCOSUR-Unión Europea a Veinte Años del Acuerdo Marco de Cooperación: Quo Vadis? Op.cit. p.21.

²⁵¹ Valle, V. (2005). O peso das relações inter-regionais com a União Europeia em relação a outras alternativas de política externa do Mercosul. *Revista Brasileira de Política Internacional* [online]. Volume 48 (1), 99-128. p.108.

Finally, the correlation between the different areas of negotiation – multilateral, in the WTO; interregional, involving MERCOSUR and the EU; finally, bilateral, involving two countries at a time – provides one more point of analysis for the scenario of the years following the interruption of talks at the interregional level: the lack of progress among MERCOSUR and the EU and the former and the US incentivized both Industrial actors to substitute the failed deals with cooperation talks that engaged them to negotiate with Latin American countries on a bilateral basis, a scheme that could prove more efficient due to the reduced complexity of the parties involved. In 2007, for example, Brazil under Lula’s second mandate closed a “Strategic Partnership” with the EU, in the occasion of the Lisbon Summit. The declaration following the Meeting marked the two parties’ commitment to work together on several directions that retrace, in some cases, the goals of the Interregional Association:

Os dois lados concordam com a necessidade de identificar e promover estratégias comuns para enfrentar os desafios mundiais, inclusive em matéria de paz e segurança, democracia e direitos humanos, mudança do clima, diversidade biológica, segurança energética e desenvolvimento sustentável, luta contra a pobreza e a exclusão. Estão também de acordo quanto à importância de cumprir as obrigações decorrentes dos tratados internacionais vigentes em matéria de desarmamento e não-proliferação.²⁵²

However, quite an interesting point in the declaration referred to the commitment to work together for the relaunch of the cooperation between MERCOSUR and EU after the interruption experienced by the negotiations. According to European stakeholders, Brazil could act as a mediator between the interests of its region and those of Europe, and continue its role as ideal leader of MERCOSUR.²⁵³ Ultimately, it would act as a bridge between two

²⁵² *Cúpula Brasil-União Européia, Declaração Conjunta* (2007). [online] Available at:<<http://www.eubrasil.eu/pt/2007/07/04/cupula-brasil-uniao-europeia-lisboa-4-de-julho-de-2007-declaracao-conjunta/>>.

²⁵³ *Communication from the Commission to the European Parliament and the Council. Towards an Eu-Brazil Strategic Partnership.* (2007). [online] Available at:<<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52007DC0281&from=EN>>. p.3.

dramatically different realities and a means through which the interregional relationship could be recovered.

From a Brazilian standpoint, the Strategic Partnership contributed to a number of goals that were part of the agenda established by Lula's administration in the area of foreign relations: the construction of Brazilian autonomy towards South America, a re-balancing of US global influence, and the implementation of multipolarity as a key feature of international relations.²⁵⁴

As far as the first aspect was concerned, the principle of autonomy – as described in the previous chapter – referred to the refusal to depend, or to be tied down, by the regional agenda. In itself, the Strategic Partnership with the EU expressed the intention and the efforts made to pursue interregional cooperation regardless of the lack of commitment of MERCOSUR's countries. On a larger perspective, the Partnership also allowed Brazil to enlarge its network outside the borders of South-South cooperation, working on both levels as required by universalism, the principle permeating Brazil's strategic agenda beside that of autonomy.²⁵⁵

The last two points completed each other, in the sense that the Brazilian agenda envisaged a growth of its own stance globally in order to fight US hegemony, at the same time aiming at re-balancing the multilateral system – through a reform of the United Nations – and bringing it to a higher degree of multipolarity. With Saraiva's words, Brazil's aimed at a "reorganisation of international institutions on the basis of more inclusive criteria."²⁵⁶

²⁵⁴ Saraiva, M. (2017). The Brazil-European Union strategic partnership, from Lula to Dilma Rousseff: a shift of focus. *Revista Brasileira de Política Internacional*. [online] Volume 60(1), 1- 30. p.6.

²⁵⁵ Ibid. p. 3.

²⁵⁶ Ibid.

Multipolarity and inclusiveness were crucial elements for a leading developing country such as Brazil, and reflected the importance of empowering other growing economies by giving them an active role and a voice to confront traditional powers.

The Joint Declaration given in Lisbon by the two parties highlighted the importance of the cooperation axis between them also in light of the pursuit of the objectives established by the Doha Round, remarking the commitment to support development of LDCs and to foster dialogue among countries through, among others, trade liberalization and investment flows.²⁵⁷

In addition to contributing to the progress of discussions for the EU-MERCOSUR Association during the period of suspension, the Strategic Partnership also provided some left-out MERCOSUR members with a new incentive to restore negotiations. Argentina, in particular, had suffered from a worsening of its international position, due to a protectionist shift that caused a closing of its markets for both MERCOSUR members – Brazil in primis – and the rest of the world.

The exclusion from an improved relationship with the EU, moreover, would have put Argentina in a position of weakness compared to Brazil.²⁵⁸ Therefore, during the administration of Cristina Fernández de Kirchner, and while Argentina held the pro-tempore presidency of MERCOSUR – from December 2009 until August 2010 – efforts were made by the president to encourage the relaunch of negotiations on the Interregional level.²⁵⁹

²⁵⁷ *Cúpula Brasil-União Européia, Declaração Conjunta* (2007). Op.cit.

²⁵⁸ Makuc, A. et al. (2015). *La Negociación MERCOSUR-Unión Europea a Veinte Años del Acuerdo Marco de Cooperación: Quo Vadis?* Op.cit. p.22.

²⁵⁹ Santos, L. (2016) *As Negociações do Acordo de Associação Inter-regional Mercosul-União Europeia: os ímpetus de negociação dos atores governamentais Argentina e Brasil.* Op.cit. p.10.

Beside the renewed interest coming from Argentina, the restart of negotiations proclaimed by the EU-LAC Summit of 2010 was the result, according to Makuc,²⁶⁰ of the impact of two different forces that gave new value to the liberalization of trade between the two blocs. The first driving element is the damage done by the Global Crisis of 2008 on both MERCOSUR and European countries, with different characteristics: on less developed economies, the consequence was a collapse of the price of exports, in regard with primary goods; on industrial ones, a decrease in the volume of products exported, with different degrees of gravity among EU members. Facing this scenario, liberalization of MERCOSUR markets would be, at least in part, a cure for European exporters, providing them with better conditions of trade in the region.²⁶¹

The second factor pushing the EU towards the Interregional Trade Agreement was the growth of China's commercial and financial presence in Latin America. Similarly to the negotiation of the FTAs, the economic link that was being established between MERCOSUR and the Eastern giant acted as a strong incentive, making European stakeholders aware of the risks of letting China subtract EU's influence in the region and of the importance to fight to challenge its competitor for market access.²⁶²

However, to complete this scenario, it is important to remark also the presence of a conflict internal to the EU, with the European Commission on one side of the table, pushing in favor of Trade Liberalization, and some members, - Makuc names among them Ireland, Greece, France and others – echoing the voices of their agricultural producers, strongly

²⁶⁰ Makuc, A. et al. (2015). La Negociación MERCOSUR-Unión Europea a Veinte Años del Acuerdo Marco de Cooperación: Quo Vadis? Op.cit. p.22.

²⁶¹ Ibid.

²⁶² Ibid.p. 25.

contrasting the resurgence of the Agreement for perceiving it as a threat to economies that were still under recovery.²⁶³ Nevertheless, the process was driven forward and new BNC Meetings were scheduled, even though a suspension was imposed only two years later and only withdrawn in 2016, with a new exchange of offers between the parties.

²⁶³ Ibid. p.23.

CONCLUSIONS

The present thesis has been developed on three different levels, and to each one of them a chapter has been devoted. Initially, the analysis has interested a global level, then reduced to a regional level during the course of the second chapter. The third chapter has seen a widening of the perspective, in an intermediate position between the first two, interesting the inter-regional level, which was at the core of the discussion. At this level, the establishment of a long-term Interregional Association between MERCOSUR and the European Union, and in particular the parts of it that would affect trade and market access across the two regions, represents the central topic of the chapter.

These final words have the purpose of establishing a link between the transformations that took place on the different levels and try to provide an interpretation of how the relationship with the first two levels has affected, and will affect in the immediate future, the progress towards the creation of the Free Trade Agreement and, in a wider perspective, the Association between the blocs. Finally, a few words will be spent to outline some thoughts on the prospects of the negotiations here analyzed.

Before moving on to these elements, it is useful to remind the reader of the plurality of factors that contributed to the suspension of negotiations, and they affected the process on different levels. Beside conjunctural factors – events indirectly related to the negotiations, but still highly influential –, responsibility for the deterioration of discussion must be recognized to factors that were, on the contrary, central to the process, and which represented points of deep disagreement between the parts. First of all, the methodology used to approach the negotiations generated conflict between MERCOSUR – which demanded to establish the objectives and founding rules in advance – and the EU – which, on the other hand, envisaged the process as a “free” exchange of proposals. Secondly, the radical divergence in the

substance of the proposals represented a recurring obstacle all through the Meetings. As a matter of fact, each part usually believed that the proposals advanced by the other was too limited and unsatisfactory.

In the forewords of this thesis, the idea was proposed of the cruciality of the four-year period 2000-2004, due to the transformations undertaken by the global economy, and by the Latin American and European blocs in particular. It is not of lesser significance the occurrence of events that completely overturned the international order and the agenda of various countries: the most crucial one is with little doubt the 9/11 attack, which, as many scholars have observed, radically shifted the security agenda of the United States, moving to the background neighboring areas such as South America, in order to concentrate the resources and efforts on the Middle East. Despite the main relevance of this aspect on the national security level, it did not fail to have a major influence on the commercial one as well, as it contributed to the withdrawal of the US from its projects of influence in the South, of which the establishment of the Free Trade Area of the Americas constituted one important aspect. It is in light of this shift that the large impact of the “spaghetti bowl”, represented by the overlapping of FTA negotiations, engaging MERCOSUR with different actors, in competition with each other, can be fully perceived.

In Latin America, one of the main factors of transformation was represented by the political shift denominated *pink tide*. Despite moderation and pragmatism in the application of their left-wing ideologies, domestic and foreign policies experienced change in that they started to focus more on the social dimension of the economy, and on the solidarity among the countries identified as the South of the world. As far as MERCOSUR was concerned, the political change implied a shift from a neoliberal, hegemonic approach, to a postliberal one,

wider in its area of competence – not only economic integration and trade, but also security, energy, culture, education infrastructure among many others.

In the European Union, as it was observed in chapter three, the balance between the fifteen members was shaken by a substantial enlargement to twenty-five members, caused by the simultaneous entry of ten new members, located in the Eastern part of Europe and in the Mediterranean – Cyprus and Malta. The integration, which interested two sides of Europe that had been divided for more than a decade after the Cold War, represented a milestone for the region; however, this implied undergoing a process of convergence – from a political, economic, administrative and normative point of view – to approximate the two different systems that characterized the West and the East of Europe. While the western countries had been working towards integration for decades – founding members of the European Coal and Steel Association had been involved in the process since 1951 –, eastern countries displayed a completely different situation.

Considering, in particular, the economic dimension, the new members presented a reality of relative underdevelopment, with a deeply agricultural configuration; an aspect that resulted of great relevance considering the pressures made by foreign partners to downsize the scale of the Common Agricultural Policy and to expand European market access for agricultural goods, and how large a threat this would be for those economies.

One last consideration to be made about the European Union is the incentive to reach an agreement that was represented, in the form of a deadline, by the imminent conclusion of the mandate of the European Commission expected in 2004. Once the deadline was passed, the continuation of the works under a new mandate would become more complicated, thus discouraging an immediate relaunch.

After having reviewed the elements of transformation of global relevance, and those taking place inside the two blocs, it is now important to evaluate to what extent these changes on the global and on the regional levels affected the interregional one, represented by the EU-MERCOSUR Association Agreement.

First of all, it can be argued that the relations developed on the interregional level were, and still are, deeply influenced by the uncertainties affecting multilateralism and regional integration. Their survival depends a lot on the strength of multilateralism – as was seen towards the end of the first phase of negotiations, regarding the conditionalities established by the EU –, and the internal instability of a bloc also represents a potential reason for failure in reaching an agreement. Moreover, the Interregional approach presented some degree of similarity with the multilateral one in case of deadlock: the delusion provoked by the interruption of negotiations in 2004, as mentioned in the third chapter, led to the establishment of talks on a bilateral basis, between Brazil and the Union, in order to create a Strategic Partnership that could allow both actors to continue the process in absence of an agreement between the Latin American countries composing one of the two sides.

The existence of a strong BATNA (Best Alternative to a Negotiated Agreement) in the resort to bilateral negotiations is, for sure, a short-term incentive for the parts to give up the multilateral or interregional level as soon as some degree of dissatisfaction emerges. On the longer term, however, establishing links on a wider level – that is, involving more than two parties – would be highly beneficial for the international trade system, because it would create a sort of homogenization among the enormous amount of existing bilateral agreements and would contribute, according to some scholars, to gradually pave the way towards trade liberalization on a global level.

Being MERCOSUR a region composed of Less Developed Countries, maintaining a common stance in front of Industrial powers in interregional negotiations, as well as in multilateral ones – which does not happen at present, considering the large amount of inhomogeneous coalitions based, rather than on shared conditions, on common positions in regard to a specific issue at stake – would be instrumental for the bargaining power of the region and its international relevance.

The gap existing even inside the group, which resonated in a highly fragmented agenda, however, put the stability of the region to the test and negatively affected its ability to achieve substantial success in international trade negotiations; in the case of the 2004 suspension, it led members to pursuit autonomous agreements. Despite that, it should be of primary importance and highly beneficial for LDCs, to keep negotiations on the multilateral or interregional level, so as not to lose leverage. In addition to that however, LDCs should not underestimate the importance of deepening the modalities of cooperation, in terms, for example, of institutionalization and increase of shared practices. Moreover, in the case of regional experiences such as MERCOSUR, achieving deeper levels of supranationalism of the organization would be beneficial.

In addition to that, as it has been argued in the discussion concerning bilateral negotiations between LDCs and Industrial countries, the risk of reaching an outcome that favors the EU – for example, a case in which the final agreement involves a large improvement of market access in Latin America for EU products, but allows the survival of the Common Agricultural Policy and postpone the increase of quotas for MERCOSUR's products until an agreement is reached in the WTO – is not to be underestimated. Even more so, if we consider the reasons moving Europe towards MERCOSUR proposed by some of the authors referenced in the thesis.

As mentioned in chapter three, beside the high potential of Latin American markets for European exporters, a strong incentive for strengthening the EU presence in the region derived from the threat represented by the US, proposing a regional project that would include Central and Latin America. In this sense, the external perception of MERCOSUR countries was more that of a bone of contention than an equal partner. This idea is reinforced by the withdraw of the EU from negotiations following the collapse of the discussion for the FTAs.

The period analyzed was followed, as a matter of fact, by a loss of momentum from the part of MERCOSUR, reflected not only in Brazilian pursuit of autonomous negotiations, but also in the creation, in 2008, of UNASUR, which marked, as mentioned, a shift in the self-perception of the region, from a Latin American focus to a South American one. In addition to that, the establishment of UNASUR aimed at providing a new conception of integration beyond the neoliberal vision that permeated MERCOSUR – based on economic integration, wide open to cooperation with industrial countries, and eager to let them into Latin American markets for goods, services and investments –, justified by the need of members to relaunch their economies through industrialization and exports and towards a postliberal approach.

The setting defined as postliberal, a short delineation of which was provided in chapter two, mirrored the commitment of *pink tide* governments to social development and put the focus primarily on a internal agenda interested in developing shared policies with this purpose. Because of that, UNASUR appears to be less devoted than MERCOSUR to engaging with third countries, focusing its economic and financial interests of integration only on the South American level. Therefore, had it taken the lead over the region in relation to MERCOSUR, this could have implied a prolonged withdrawal from negotiations with the EU and other third countries.

The changes in the political scene, however, represented by the substitution of left-wing governments with conservative ones, led to a dismissal of the UNASUR and its integration project, making it quite unlikely to overturn the predominance of MERCOSUR, which had restarted talks with the EU even before the political change.

In 2018, negotiations still endure. The latest round – the 31st since the beginning – took place between November and December 2017, and hosted a discussion on recent proposals made by the two regions. 2018 is likely to be the year in which negotiations will provide an outcome, but for this to happen Europe, in particular, will have to find a solution for the disagreement among its members. The election of French President Macron in 2017 represented a strengthening of the opposition towards Free Trade Agreement, for the threat it represents to domestic agricultural products, and his influence makes Europe much stricter regarding its demands to MERCOSUR.

As far as the Latin American bloc is concerned, for the Free Trade Agreement to succeed it would be necessary to reach a lasting equilibrium among the members – new and old – and establish a strong consensus in regard to the path to follow in MERCOSUR relations with the European Union.

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