Legal Features and Institutional Perspectives for the MERCOSUR: The Common Market of the South after the End of the Transition Period

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1. Introductory Overview

The execution and coming into force of the Common Market of the South – hereinafter MERCOSUR – following the Treaty of Asunción, of 26 March 1991, between Argentina, Brazil, Paraguay and Uruguay, opened up a new trend in regional economic integration and trade in the Southern Cone of the Americas. The transition period was completed as of 31 December 1994, according to the provision to that effect in the Asunción Treaty, while a new Protocol, signed in Ouro Preto, on 17 December 1994, opens up perspectives towards the constitution and effective implementation of a full customs union within the next ten years, until 2006. Thereafter it remains, however, questionable whether and how far a full "common market" could be reached among the participant States.

Still in evolution, the MERCOSUR is attracting attention both within and without, as evidenced by the Madrid Intraregional Agreement of 15 and 20 December 1995 between the European Union and the MERCOSUR as well as by the applications by Chile and Bolivia eventually to become two new member States, while also a wider Free Trade Area in the Americas might have NAFTA in the North and the MERCOSUR in the South as its two hardcores.

Interesting enough is the fact that, although internally not yet completed, the MERCOSUR is becoming more and more visible and relevant internationally. A truth which has become evident, since the early 90's is that, as an economic block the MERCOSUR is internationally more visible than any of its member States. The present status of the MERCOSUR, however, although it has been showing itself economically efficient remains legally provisional and may impair, due to so far remaining institutional lacunae, its subsequent development.

The MERCOSUR comprises a total population of ca. 200 million, in an area of more than 12 million square kilometers. While intraregional trade, in 1990, among MERCOSUR member States was US $ 3.6 billion it has reached US $ 15 billion in 1995, and shows a tendency to maintain a substantial growth level every year. Another aspect is that member States, firstly Argentina, afterwards Brazil, particularly since mid-1994, seem to be flowing into periods of economic growth and stability, thus contributing to create a favorable environment for such a joint effort. The stabilization plan in Argentina has been consolidated over more than five years and the Brazilian effort has successfully completed two years in mid-1996.

The MERCOSUR, after the lapse of its first five years is showing that it has come to stay. Trading partners and other regional economic blocks or arrangements such as already evidenced by the European Union – a trend hopefully to be followed by the NAFTA and APEC as well – are learning to develop closer ties and cooperate more actively with the MERCOSUR.

The four member States differ considerably, as the simplest data about each shows: *Argentina*, with ca. 33 million inhabitants and a territory of 2.8 million square kilometers, has been one of the fastest growing economies in the last few years, with an average 8% growth p.a. since 1991. 1993 GDP was US $ 255 billion, with per capita income around US $ 7,700.00. *Brazil*, combining territory of 8.5 million square kilometers and 160 million inhabitants, is the largest economy within MERCOSUR. GPD for 1995 on the order of US $ 670 billion, and the commercial trade balance for the same period estimated at more than US $ 10 billion. Yearly growth rate was above 5% for 1994 and again in 1995. Brazil's per capita income is about US $ 3,000.00. *Paraguay*, comprising 406.000 square kilometers and population of 4.6 million. GDP, for 1993, was US $ 6.8 billion. *Uruguay's* population of 3.1 million inhabitants in a territory of 177.000 square kilometers, has been traditionally an important international financial center. GDP for 1993 was approx. US $ 11.4 billion, and per capita income around US $ 3,600.00. The combination of the four member States is proving to mean more than simply adding the figures of the four separate units. This is the political dynamics of economic integration.

2. The Latin American Free Trade Association (LAFTA) and the Latin American Integration Association (LAIA)

Present achievements, however, rest again on a long past, not always successful, as previous economic integration attempts within LAFTA and LAIA never reached proper operational conditions, leading to more restricted and deeper integration efforts at the bilateral level since mid-eighties, between Argentina and Brazil.

After the end of World War II, regional economic integration efforts were undertaken not only in Europe, notably through the Paris and Rome Treaties (1951 and 1957) creating the three original European Communities, now verging towards full implementation as the European Union (Maastricht Treaty, 1992), as well as through the EFTA, the European Free Trade Association (Stockholm Treaty, 1960), but also being resumed in the Latin American context, through the LAFTA. The Latin American Free Trade Association (Montevideo Treaty, 1960), provided for the creation of a free-trade zone, by means of periodical and selective negotiations between member states. The choice negotiation (at the discretion of member states) instead of automatic reduction of import duties, made LAFTA, as a trade opening program, to develop reasonably well in its very first years, but losing its drive by mid-decade and coming to an almost complete standstill in the 70's. Despite having stimulated intra-regional trade, distance between its original objectives and the results achieved was substantial. LAFTA was eventually replaced by LAIA.

LAIA, the Latin American Integration Association (Montevidéo Treaty of 1980), used a different concept to attempt integration among member states. Instead of the free-trade zone established by LAFTA, an economic preference zone was stipulated, aiming to create a growing net of bilateral initiatives, preceding the institution of multilateral relationships in Latin America. LAIA made possible agreements and joint action between member States changing a picture of formerly restricted commercial and trading intra-regional ties. The establishment of a common market, however, remained a long-term objective.

3. The Common Market Arrangements between Brazil and Argentina

The shortcomings of LAIA did not however, impair the possibility of developing closer ties among countries such as Argentina and Brazil, eventually leading to the concept of a bilateral common market by mid-eighties. Official start was the 1985 Iguaçu Declaration.

Under the LAIA framework, Argentina and Brazil, in 1986, entered twelve commercial protocols: These were concrete steps towards bringing the two countries closer together. Supplementing and improving former agreements, both countries signed the 1988 Treaty for Integration, Cooperation and Development, setting up a common market between the two countries within the next decade, with gradual elimination of all tariff barriers and harmonization of macro-economic policies.

4. Economic Integration Coming of Age: the MERCOSUR

The bilateral arrangement between Argentina and Brazil, from the outset, stipulated that this agreement would be open to other Latin American countries. Paraguay and Uruguay

joined the effort, thus leading to a new treaty, which was signed by representatives of the four countries on 26 March 1991 in Asunción (the "MERCOSUR Treaty"), providing for the creation of a common market among the four member States.

A transition period was stipulated, during which, due to the chronological differences in actual implementation of trade liberalization programs by the member states, the rights and obligations of each party would initially be equivalent but not necessarily equal, first for Argentina and Brazil, which had started, and thereafter also for Paraguay and Uruguay, which joined the integration effort later.

The transition period ended on 31 December 1994. The opening of a new phase was marked by the Protocol of Ouro Preto of 17 December 1994, paving the way for subsequent developments. As of 1 January 1995, a free-trade zone and customs union came into force among Argentina, Brazil, Paraguay and Uruguay. Implementation of the common market, however, has been postponed in order to allow member States to comply with requirements and make the necessary adjustments.

Other LAIA countries may join the new agreement. Approval of applications from third countries requires unanimous approval of the four member States. Negotiations with Bolivia and Chile to gradually adjust trade tariffs and policies vis-à-vis the MERCOSUR levels and trends may lead to widen the membership within a foreseeable future. Chile seems to be the first to be in a position to join the MERCOSUR, at least on a preliminary level.

5. Objectives

The objectives of MERCOSUR as stated by the Treaty of Asunción and the Protocol of Ouro Preto, are the following:

(i) free transit of goods, services and production factors between the members states with, inter alia, the elimination of customs rights and lifting of non-tariff restrictions on the transit of goods, or any other measures with similar effects;
(ii) stipulation of a common external tariff (TEC) and adoption of a common trade policy with regard to non-member states or groups of states, and the coordination of positions in regional and international commercial economic meetings;
(iii) coordination of macro-economic and topical policies of member states relating to foreign trade, agriculture, industry, taxes, monetary system, exchange and capital, services, customs, transportation and communications, and other matters to be agreed upon, in order to ensure free competition between member states; and

(iv) the commitment by the member states to make the necessary adjustments to their respective legal systems in relevant areas, in order to allow for the strengthening of the integration process.

6. Conceptual Features and Institutional Framework

The conceptual feature of the MERCOSUR Treaty is the reciprocity of rights and obligations for each and all member states. Initially targeted as a free-trade zone, thereafter as a customs union and, finally, as a common market. In addition to the progressive implementation of the customs union, the free movement of manpower and capital across the member States' international frontiers is possible, and depends on equal rights and duties being granted to all signatory countries.

The MERCOSUR Treaty, besides reciprocity, also contains provisions regarding the most-favored nation clause, according to which member States undertake to automatically extend, after full implementation of the common market, to the other signatories of the Treaty, any advantage, favor, entitlement, immunity or privilege granted to a product originating from or intended for countries that are not party to LAIA.

The Asunción Treaty, 1991, and Ouro Preto Protocol, 1994, set up the institutional framework for the MERCOSUR. The structures created were to be reviewed at the end of the transition period, notably the Common Market Council and the Common Market Group. As provided, before establishing the common market, the member States would call a special meeting in order to determine the definite institutional structure for the MERCOSUR, as well as define the specific functions of each agency and the decision-making process. Notwithstanding the progress achieved within the first five years, the institutional framework of the MERCOSUR remains provisional and its definite configuration is yet to be ascertained. The present structure comprises: the Common Market Council, the Common Market Group, the Trade Commission, the Socioeconomic Advisory Forum, the Joint Parliamentary Commission, the Secretary and administrative office. In addition to these are to be counted the Work Subgroups, in charge of technical matters.

7. The Common Market Council

The Common Market Council (hereinafter, the Council) is the highest-level management organ of MERCOSUR with authority to stipulate and conduct its policies, and having responsibility to comply with the objectives and time frames set forth in the Treaty. Council members are the Ministers for Foreign Affairs and Economic matters, or their equivalents, from all member states. The Council is presided in rotating alphabetical order, for six-

month terms. The Council shall meet whenever necessary, but at least once a year. The presidents of the member States are expected to participate in the annual Common Market Council meeting whenever possible. Council decisions are made by consensus, with attendance of representatives from all member states.

8. The Common Market Group

The Common Market Group, hereinafter the Group, is the executive body of MERCOSUR, coordinated by the Ministers for Foreign Affairs of each member state. Its basic duties are to ensure compliance with the Treaty and to take resolutions required for implementation of the decisions made by the Council. Furthermore, it can undertake practical measures for opening trade, coordinating macro-economic policies and negotiating agreements with non-member states and international agencies, participating when necessary in the dispute settlement mechanism. The Group has authority to organize, coordinate and supervise the activities of the Work Subgroups as well as to convene special meetings to deal with relevant issues.

The Group shall be integrated by permanent and alternate members from each member state, representing respectively: the Ministries for Foreign Affairs and Economic matters, or their equivalents for industry and/or economic coordination; and the Central Banks. The members of the Common Market Group appointed by a given member state will constitute the National Section of the Common Market Group for that country.

The Group meetings are to be held regularly at least once every quarter in the member states, in rotating alphabetical order. Special meetings may be freely called at any time, at any previously scheduled place. The meetings will be coordinated by the Head of the Delegation of the host member state. As for the Council, the Group decisions shall be made by consensus, with the representation of all member states.

9. The MERCOSUR Trade Commission

The MERCOSUR Trade Commission (hereinafter, the Trade Commission) is responsible for the application of common trade policy instruments, agreed by the members states, for operation of the customs union, assisting the Executive bodies. It is also incumbent upon the Trade Commission to ensure proper development of common trade policy matters, comprising both the intra-MERCOSUR trade and trade with third countries.

The Trade Commission is integrated by permanent and alternate members, appointed by each member State. The common trade policy instruments to be applied are:

(i) trade agreements with other countries or international entities;
(ii) administrative and commercial product lists;
(iii) final adaptation system, for the MERCOSUR customs union;
(iv) general origin rules;
(v) free-trade zone regulation, excepting special customs areas and export processing zones;
(vi) mechanisms to discourage unfair trade practices;
(vii) elimination of internal and harmonization of external tariff restrictions;
(viii) customs coordination and harmonization;
(ix) consumer protection systems; and
(x) export incentive harmonization.

In addition to the foregoing, the Trade Commission is responsible for management and supervision of all issues raised by the member states in connection with application and compliance of the common external tariff and other common trade policy instruments. Meetings shall be convened at least once a month, as well as whenever asked to by the MERCOSUR executive agency or by a member state. The Trade Commission is competent to adopt decisions pertaining administration and application of trade policies adopted. Whenever necessary, the Trade Commission may submit proposals to the Executive bodies regarding regulation of matters under its authority. Additionally, it may present new guidelines or modify those existing for trade and customs matters. In that capacity, the Trade Commission can propose changes to import duties on specific items under common external tariff, including development of new MERCOSUR production activities.

In order to fulfill its tasks, the Trade Commission can create technical committees whose activities will be directed to supervise and implement work on technical matters, also adopting internal operating regulations. Both decisions made as well as proposals advanced by the Trade Commission are to be adopted by consensus of the representatives indicated by each member state.

Disputes ensuing from the application, interpretation or compliance with the decisions issued by the Trade Commission are to be referred to the MERCOSUR executive bodies, and should be solved in accordance with the stipulations of the Dispute Resolution mechanism under the Brasília Protocol on dispute settlement.

10. The Socioeconomic Advisory Forum

The Socioeconomic Advisory Forum is consultative by nature, and is intended as the 'agora' for discussion of relevant matters related to integration, representing different socioeconomic sectors and interests to be voiced from each member State.

Although the precise features of its activities are yet to be ascertained, its occurrence is a positive sign. In reaction to criticisms voiced before, this new Socioeconomic Advisory Forum has been added to the institutional framework of the MERCOSUR, as a channel for private operators and interests, besides government officers and diplomats from each member State.

11. The Joint Parliamentary Commission

The Joint Parliamentary Committee combines advisory and decision-making nature, with powers to submit proposals as well. Its duties include, *inter alia*:

(i) follow up on the integration process and keep the respective national Congresses informed;
(ii) take the necessary steps for the future installation of a MERCOSUR parliament;
(iii) organize subcommittees to examine matters relating to the integration process;
(iv) submit recommendations to the Common Market Council and Group as to how the integration process should be conducted aiming at the definite common market structure;
(v) make adjustments necessary to harmonize the different national laws and submit same to the respective Congresses;
(vi) set up relationships with private entities in each member state, as well as international agencies and 'bureaux' in order to obtain information and specialized assistance in relevant matters;
(vii) set up relationships aimed at cooperation with Congress of the non-member States and entities involved in regional integration schemes;
(viii) enter into cooperation and technical assistance agreements with public and/or private entities both domestic and supranational or international; and
(ix) approve the budget, lobbying vis-à-vis the member states for other financing sources.

The Committee shall be integrated by a maximum of 64 acting parliamentary members, being 16 per member state, and an equal number of alternate members, appointed by each national Congress, for at least two year terms. Meetings shall be conducted by a director's board consisting of four Presidents (one for each member state).

The Committee will ordinarily meet twice a year, and extraordinarily whenever summoned by any of its four Presidents. Meetings are to be held in the territory of each member state on a successive and rotating basis. Meetings of the Joint Parliamentary Committee will only be valid when attended by parliamentary delegations from all member states. Decisions by the Joint Parliamentary Committee will be made by consensus of the majority of the members appointed by the respective Congresses of each member state.

12. The Secretary and Administrative Office

The Secretary and administrative office will keep documents and issue the MERCOSUR official bulletin in both languages, Spanish and Portuguese, also being in charge of communicating the activities of the Common Market Group so as to allow for the maximum disclosure of decisions and the relevant documentation.

The MERCOSUR working and official languages are Portuguese and Spanish. While the official version of all working papers will be drawn in the language of the country hosting the meeting, the corresponding version in the other language will be prepared by the Secretary and administrative office, in order to ensure its validity in all four member States.

13. The Work Subgroups and Representatives from the Private Sector

The Work Subgroups are directly subordinated to the Common Market Group. The Work Subgroups draw the minutes of the decisions to be submitted to the Council, as well as conduct studies on specific MERCOSUR matters. Currently the following Work Subgroups have been operating:

(i) commercial matters;
(ii) customs matters;
(iii) technical standards;
(iv) taxation and monetary policies related to trade;
(v) terrestrial transportation;
(vi) maritime transportation;
(vii) industrial and technology policies;
(viii) agricultural policy;
(ix) energy policy;
(x) coordination of macro-economic policies; and
(xi) labor, employment and social security matters.

Meetings of the Work Subgroups are to be held quarterly, alternating in every member state, in alphabetical order, or at the Common Market Group. Administrative activities will be carried out by the Work Subgroups in preparatory and decision-making stages. During the preparatory stage, members of the Work Subgroups may request the participation of representatives from the private sector of each member state. The decision-making stage is reserved exclusively for official representatives of the member states.

The presence of representatives from the private sector is an interesting innovation. Delegations of representatives from the private sector in the preparatory stage of the Work

Subgroup activities shall have a maximum of three representatives for each member state directly involved in any of the stages of the production, distribution or consumption process for the products that are comprised within the scope of the activities of the subgroup.

14. Dispute Settlement under the Brasília Protocol

Closer trade relations are apt to give room to various issues and matters related to diversity or conflict of interpretation of rights and obligations. To that extent, devices and mechanisms for the settlement of disputes related to the Treaty, to agreements executed under its scope, as well as on decisions made by the Common Market Council and resolutions adopted by the Common Market Group require institutional channels or devices for settlement of disputes, or at a higher and tighter level, some institutional supranational jurisdiction to manage the outcome of such integration effort. It is necessary not only to settle actual disputes but to avoid and solve controversies, before they may become issues among private parties or countries engaged in the integration process.

As it stands up to the present, dispute settlement under the Brasilia Protocol was initially intended as applicable to any controversies raised until the end of the transition period, between the member states, resulting from differences either of interpretation and application or non-compliance with the provisions of the Treaty, or of protocols and agreements entered as well as secondary legislation aimed at the implementation of matters in connection therewith. In addition to the foregoing it is mandatory to keep in mind the role of secondary legislation, and differences with result from such secondary legislation, such as decisions made by the Common Market Council and resolutions adopted by the Common Market Group, also extending to national legal provisions with related subject-matters.

Although it should have been replaced at the end of the transition period, the Protocol of Ouro Preto has stipulated that the dispute settlement under the Brasilia Protocol should be maintained thereafter, with a few procedural amendments. After 31 December 1994, the member states should have replaced this provisional dispute settlement mechanism establishing a definitive system for the settlement of disputes. As this was not done, the Brasilia Protocol for the settlement of disputes remains the device for peaceful settlement of controversies among MERCOSUR member states.

Any dispute arising in connection with the MERCOSUR Treaty and secondary legislation should first be subject to an attempt of settlement through direct negotiation between member states. Such procedure will be limited to 15 days as from the date one of the member states raises the matter, unless otherwise agreed by the parties.

Should direct negotiation fail, an agreement not being reached between the member states, or should the controversy be only partially solved, any of the member states may submit the matter for the review of the Common Market Group, hearing the parties involved in the conflict, and requesting outside advice from experts, should it be the required. The Common Market Group will subsequently make its recommendations to the parties involved in an attempt at peaceful settlement of the disputed matter. Such procedure may take no longer than 30 days, as of the date the dispute was submitted for the consideration of the Common Market Group.

Failure to handle any dispute through the combination of direct negotiation and intervention of the Common Market Group will lead to arbitration. Any of the member states may request the Administrative Office of the Common Market Group to institute an arbitration procedure. Each member state shall be in charge of the expenses for the arbitrator appointed thereby.

The arbitration procedure will be handled by an *ad hoc* court that will set up its headquarters in one of the member states, depending on the case, and follow its own rules of procedure, deciding on the dispute based on the provisions of the MERCOSUR Treaty and the secondary legislation and agreements executed thereunder, on the Common Market Council decisions and Common Market Group resolutions, as well as on such international law principles and provisions as may be applicable to settle the matter.

Each member state will appoint ten arbitrators to be placed on a list to be filed at the Secretary and administrative Office of the Common Market Group. Each arbitration panel will be composed of three arbitrators taken from this list. Each member state – or two or more member states siding together in the controversy – will appoint an arbitrator, who may not be a national of either country appearing as parties involved in the controversy. This third arbitrator will be the presiding judge. All arbitrators must be jurists of acknowledged expertise in their particular field of activities, and is to be appointed within a fortnight after the Administrative Office informs the member states that an arbitration procedure is to be instituted.

The arbitration panel is bound to render its written decision within two months of the date the presiding arbitrator to that specific arbitration panel was appointed, subject to extension for an additional thirty-day period. The award to be issued by the arbitration panel will be decided by a majority vote. The voting will be confidential, and dissident votes may not be justified.

Awards rendered by the arbitration panel are not subject to appeal, and will bind the member states concerned in the dispute with the force of '*res judicata*', i.e., not subject to any further court review. The awards must be immediately complied with, unless otherwise

stipulated by the arbitration panel. In the event any member state fails to comply with the arbitration decision within thirty days, the other member states may take temporary compensatory steps to ensure such compliance. Any member state involved in a dispute has fifteen days as from award notification to ask for any required clarification. The arbitration panel will have fifteen days to answer, and may delay award performance until a decision on the request is handed down.

Claims made by private parties (individuals or legal entities) in connection with or as a result of any sanction or application of any legal or administrative steps with restrictive, discriminatory effects, or constituting a case of unfair competition from any of the member states in violation of the Treaty and/or agreements executed thereunder, Common Market Council decisions, Common Market Group resolutions. Such claims emanating from private parties will be submitted to the National Section of the Common Market Group of the member state where the claimant is resident or has its business headquarters, provided enough evidence is given to allow the National Section to ascertain the violation, or its threat or loss. After the claimant is heard, the National Section of the Common Market Group of the member state will make direct contact with the National Section of the Common Market Group of the member state charged of violation of the provision, or will forward the claim within a fortnight of its receipt to the Common Market Group, without further examination or review.

After receipt of the claim, the Common Market Group will convene a group of specialists to decide whether there is ground for further processing the claim; this group will take no more than three days after the day of its appointment to give such notice of advice. The group of specialists will be integrated by three members designated by the Common Market Group. Should an agreement not be reached, the specialists will be elected from a list of twenty-four specialists registered with the Administrative Office of the Common Market Group, each member state being entitled to select six specialists of recognized competence in matters under dispute. Expenditures resulting from activities performed by the group of specialists will be proportionally borne by the parties, as determined by the Common Market Group or, should they fail to reach an agreement, such expenditures are to be equally divided between the parties to the controversy.

The group of specialists, appointed as outlined above, will submit its opinion to the Common Market Group. Should, in accordance with this opinion, it be ascertained that there is ground for the claim against the member state, any other member state may request the adoption of measures aiming at the correction or annulment of the disputed measures. Should this not be complied within fifteen days, the member state requesting such measures may go ahead directly to arbitration.

The so far stipulated framework for settlement of disputes, contained in the Brasilia Protocol of 17 December 1991, in force as of 1993, is centered on a combination of administrative and arbitration procedures. The choice for arbitration both conceptually and historically could seem adequate but, in practice and as a perspective runs against tradition for the countries concerned. Some critics argue that the MERCOSUR as an effective "common market" is and remains yet to be built. A relevant lacuna is, *inter alia,* the absence of an institutional framework for the settlement of disputes. Such choice may be politically justifiable but is legally cumbersome. An institutional framework for the settlement of disputes is a mandatory requirement for any cooperation and integration model, be it at regional or at world level. The existence of independent and sovereign states, not bound to each other except to the extent that such states agreed to that beforehand, through treaties, also including the possibility of binding secondary legislation, requires a channel for tuning up differences and controversies, i.e., a device for the settlement of disputes among such states, eliminating differences of interpretation and/or national practice, both at administrative and case-law levels.

Any attempt to evaluate the Brasilia Protocol system for the settlement of disputes should bear in mind that this was intended to be observed during the transitional period; its structure should have been replaced at the end of this period, on 31 December 1994. While this was schedule, a stronger and more consistent institutional framework for settlement of disputes did not seem to be acceptable at that point of time. In order to avoid a political - and institutional - deadlock, the provisory dispute settlement system stipulated by the Brasilia Protocol of 1991 has been extended, thus avoiding the implementation of the required dispute settlement mechanism, at least for the time being. While some acknowledge this as the best possible choice, others stress its shortcomings. Less easily can such device be managed since the end of the transition period, and during the years to come. Whether and how far this is workable remains yet to be ascertained.

15. Present Status and Perspectives for the Near Future

On 1 January 1995, a free-trade zone and a customs union came into force among the MERCOSUR member states, marking completion of the first phase of implementation of the MERCOSUR. Any attempt to evaluate the present status and the perspectives for the near future should distinguish, on the one hand, the MERCOSUR as a success story, considering that intra-regional trade has been doubling annually since the beginning of the nineties, while on the other hand, the way towards an effective "common market" is yet to be built, and shall remain so, at least during the next decade.

To the various and relevant 'internal' developments are to be added extremely interesting 'external' projections of the MERCOSUR – such as illustrated by the European Union –

MERCOSUR agreement signed in Madrid as of 15 and 20 December 1995 – reflecting the position of the European Union as the main trading partner of MERCOSUR, also promisingly setting up the framework for growing trade and closer cooperation. Something similar could be envisaged vis-à-vis the NAFTA, as being both timely and necessary to enhance trade relations between the two blocs.

16. Final Remarks

As this is an on-going process, where changes have been taking place at growing speed, it may seem hard, at this point of time to draw any conclusions. Although much is yet to be done, trade and economic integration of the four MERCOSUR countries is providing the basis for Argentina, Brazil, Paraguay and Uruguay to remove barriers among themselves while also paving the way to become more competitive at the international level. Chile, after considerable hesitation and bargaining, both with the MERCOSUR and elsewhere, seems now committed to join the MERCOSUR.

MERCOSUR may have a relevant role to play as an essential factor in the formation of a strong, politically coordinated economic bloc, apt to reach and maintain adequate levels of sustainable development, while making both industry and trade of the member States, both domestically and internationally more modern and competitive.

MERCOSUR has also been a factor of consolidation for the relations between Argentina, Paraguay, Uruguay and Brazil, not only in trade, as evidenced by the exceptional growth of intra-regional trade following the removal of internal barriers, but also, although yet in the making, for cultural and social ties in the Southern Cone. The consolidation of this integration effort may allow each of the MERCOSUR member States, and the economic bloc as a whole, to offer new and more attractive investment opportunities, building a more solid economic potential in a wide range of activities in various economic sectors.

While the pace of changes taking place make it hard to follow closely the progresses taking place within the MERCOSUR and to intimately know its rules and how to take advantage of the opportunities offered, such a common market may represent a substantial innovation for operators both within and coming from outside the MERCOSUR area. A market of nearly two hundred million people, due to its sheer size, may not be neglected and makes itself relevant enough for any company wanting to develop trade or manufacture there.