An Introduction into the Regional Economic Integration Process of the Americas

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"Integration is not a value per se, it has no intrinsic connotation; its value lies in what it achieves; it becomes noteworthy only to the extent that it works and produces results. This may be a hard line to draw, but is the only realistic one".**

A. Introduction

In the past decade, the economic integration process in both North and South America has gradually gained momentum and is currently geared up to a new level.[1]
The creation of NAFTA between Canada, USA and Mexico in 1994 and its success in boosting trade between these countries constitutes an important test case for further economic integration in the Americas. Similarly, the recent agreement between the Andean Community and Mercosur to create a Free Trade Area (FTA) encompassing virtually the whole South American continent shows that the trend towards further regional economic integration is accelerating. Besides these two examples, numerous other interesting developments have recently taken place, which warrant a closer look. For instance, the European Community (EC) and Mercosur are currently negotiating an Association Agreement between them. Simultaneously, Chile is negotiating an Association Agreement with the EC along the same lines, while Chile has already established FTAs with Mexico and Canada as a first step towards joining NAFTA. Meanwhile, the negotiations for the creation of a Free Trade Area of the Americas (FTAA) are making substantial progress and it is intended to be established in 2005.[2]
These and various other initiatives have created a complicated legal and institutional situation.[3] Interestingly enough, quite little is known or written about these recent developments, particularly in Europe. This is surprising because the EC and Europeans in general have many economic and political interests in both North and South America and therefore should pay much more attention to what is going on there.
Accordingly, the aim of this contribution is to give an overview of the most recent developments regarding the regional integration process in North and South America.
In the first part, the three main regional trade blocs (NAFTA, Mercosur and Andean Community) will briefly be described and analysed. On that basis, the second part will focus on several specific integration initiatives. In particular, I will discuss the planned creation of a Free Trade Area of the Americas (FTAA), the planned FTA between Mercosur and the Andean Community, the Association Agreement between Mercosur and the EC, as well as the Cooperation Agreement between the Andean Community and the EC. In addition, the various link-ups of Chile and Mexico - two strategically important countries - will be discussed.

B. Regional Economic Integration in the Americas

I. North American Free Trade Agreement

(NAFTA)

1. Current Status of NAFTA

The NAFTA, creating an FTA between Canada, USA and Mexico, was signed in December 1992 and entered into force on January 1, 1994.[4] NAFTA brings three countries together that differ substantially in many aspects. The first obvious aspect is the dominance of the USA in terms of population and economic power. The second aspect is that NAFTA links-up a developing country (Mexico) with two developed countries (USA, Canada).[5] Despite these differences, after 5 years, it can be concluded that NAFTA has been successful in achieving its main objective, namely, to eliminate tariffs and substantially boost trade between its three members.[6] The success of NAFTA raised the interest of Chile in joining NAFTA as the first Latin American country. Accordingly, Chile established FTAs with Mexico and Canada, hoping thereby to facilitate its accession to NAFTA.[7] However, so far the negotiations between Chile and USA have been unsuccessful, because of the lack of fast-track authority of the US President and resistance by the US Congress.[8]

2. The Objectives of NAFTA

As Article 101 NAFTA states, this agreement establishes a Free Trade Area consistent with Article XXIV of the GATT.[9] According to Article 102 NAFTA, the main objectives of NAFTA are to eliminate barriers to trade, to facilitate the movement of goods and services and to promote conditions of fair competition. In addition, NAFTA shall increase investment, provide effective protection and enforcement of intellectual property rights, create effective procedures for the implementation and application of the treaty as well as provide rules for dispute resolution. Moreover, NAFTA shall establish a framework for further trilateral, regional and multilateral cooperation to expand and enhance the benefits of this agreement. The establishment of the FTA shall be achieved primarily through the elimination of tariff- and non-tariff barriers as well as the granting of National Treatment to imports from the NAFTA member states.

3. The Institutions of NAFTA

Right at the end of the treaty, Chapter 20 deals shortly with the institutions of NAFTA. In contrast to the other regional trade blocs discussed below, the parties to NAFTA have been reluctant to create organs for NAFTA.[10] Hence, NAFTA establishes only two organs: the Free Trade Commission and the Secretariat.

a) The Free Trade Commission

Article 2001 NAFTA creates the Free Trade Commission, compromising cabinet-level representatives from each Party. The Commission meets at least once a year and all its decisions are taken by consensus. The tasks of the Commission are, *inter alia*, to supervise the implementation of the agreement, to resolve disputes that may arise regarding its implementation or application and to oversee the work of all committees and working groups established under NAFTA. Essentially, all major decisions as regards NAFTA are taken by the Parties in the Free Trade Commission. Moreover, the Commission plays a particularly important role in the dispute settlement system of NAFTA.[11]

b) The Secretariat

The Secretariat of NAFTA is established by Article 2002 and consists of national Sections of each Party. Each Party establishes a permanent office of its Section and is responsible for the operation thereof and all costs arising therefrom. The main task of the Secretariat is to provide assistance to the Commission, panels and committees. Besides, the NAFTA enumerates several Committees and Working Groups dealing with specific sectors or topics.[12]

4. The Dispute Settlement

The NAFTA treaty emphasises the importance of effective dispute settlement. Accordingly, the treaty contains numerous provisions regulating in detail the dispute settlement procedures. It is not the purpose of this contribution to discuss the NAFTA dispute settlement system in detail.[13] Therefore, I will limit myself to giving a short overview in order to compare it with the dispute settlement systems of Mercosur and the Andean Community.

From the outset it should be noted that NAFTA was negotiated at the same time that the Uruguay Round was taking place leading to the WTO Agreement and the Dispute Settlement Understanding (DSU) of the WTO.[14] Consequently, many similarities can be found in the two treaties, although substantial differences between the two remain.[15] One of the obvious differences between the WTO dispute settlement system and the one of NAFTA is that NAFTA does not have one integrated dispute settlement mechanism but rather five main procedures. [16] However, so far disputes have only arisen under two procedures, namely, Chapter 19, which contains the provisions specifically applying to disputes in Antidumping and Countervailing Duty matters (Article 1901), and Chapter 20, which provides the general rules for the settlement of disputes in all other matters falling under NAFTA.[17]

Essentially, Chapter 20 contains three main stages that can be distinguished: (i) consultation, if the consultation remains unsuccessful after 90 days, (ii) mediation by the Commission starts and if that also fails after 90 days, (iii) the Parties can request the establishment of a panel. The panel consists of five members that are selected from a roster of up to 30 individuals having experience in law, international trade or dispute settlement. Within 90 days after the last panellist has been selected, an initial report is presented to the parties. The Parties to the dispute can react to the initial report and the panel shall produce its final report 30 days after the initial report. The final report is then transmitted to the Free Trade Commission, in which the Parties to the dispute negotiate how to implement the report. If within 30 days the losing Party fails to implement the panel report, the other Party can suspend benefits under NAFTA of equivalent effect until the dispute is settled. Finally, if a Party considers the suspension of benefits ‘manifestly excessive’, it can request the establishment of a panel to determine whether the suspension of benefits is indeed excessive or not.

This brief overview indicates that the NAFTA dispute settlement is based on detailed rules, a panel adjudication system with strict time limits and panel reports that are not directly binding on the parties. In other words, the panel report serves only as a basis for further negotiations between the Parties involved in the Free Trade Commission. Consequently, one can say that the NAFTA dispute settlement system is much more ‘power-orientated’ than the DSU of the WTO which is a quasi-judicial ‘rule-orientated’ system.[18] Moreover, the NAFTA dispute settlement system lacks the main innovations of the WTO dispute settlement system, such as the possibility to appeal to the Appellate Body and the binding character of its rulings. However, one advantage of NAFTA is that its procedure is quicker than that under the DSU: after only 8 months suspension of benefits is possible, whereas under the DSU it takes more than 31 months before suspension of benefits is authorised.[19]

5. Summary

NAFTA has accomplished its main aim of creating a functioning FTA in a very short period of time, despite the large economic differences between Mexico and the other two member states. It is undisputed that NAFTA has significantly boosted trade between the NAFTA states.[20] Nevertheless whether NAFTA has really been successful is still debated, especially in the USA.[21] In particular, it is widely agreed that the environmental and labour side agreements of NAFTA have remained largely ineffective.[22] The environment as well as the living and working conditions at the US-Mexican border have continuously been deteriorating since NAFTA entered into effect.[23]

Politically speaking, NAFTA has failed to serve as a ‘hub’ that would invite other Latin American states to join NAFTA. In particular, the failure of the USA to let Chile accede to NAFTA has sent a negative signal in terms of the grand plans of establishing a FTAA.[24]

Institutionally speaking, NAFTA remains firmly in the hands of the member states. NAFTA has no explicit international legal personality and exists with practically no organs. In addition, all decisions are taken by consensus and the dispute settlement system

is not directly binding on the parties.

II. Andean Community

1. Current Status of Andean Community

The history of the Andean Community is long and dates back to 1969.[25] The Andean Community started as the Andean Group on the basis of the Cartagena Agreement compromising Bolivia, Chile, Colombia, Ecuador and Peru. The purpose of this agreement was the establishment of Customs Union (CU) with a Common External Tariff (CET) by the end of 1980. In the meantime, Venezuela joined the Andean Group in 1973, while Chile withdrew from it in 1976. However, due to political and economic difficulties, the Andean Group never came close to achieving its objectives.
But this changed in the beginning of the 1990s when new initiatives were taken to strengthen and enhance the Andean Group with the intention of finally achieving the original aims. Accordingly, in 1993 a Free Trade Zone between Bolivia, Colombia, Ecuador and Venezuela became operational - albeit with many exceptions. Peru had temporarily suspended its obligations, but joined the Andean Group again in 1995.[26]
In 1995, the CET at last entered into force, while in 1996 the name of the Andean Group was changed into Andean Community, reflecting a new stage of cooperation between the member states. Moreover, with the Protocol of Trujillo[27] signed in 1996, the member states agreed to substantially improve the institutions of the Andean Community as well as to speed up the integration process.[28] This Protocol created a comprehensive treaty of more than 150 Articles revealing many parallels to the EC Treaty.[29] More recently, in 1998, the Andean Community and Mercosur signed a Framework Agreement[30] regarding the creation of a Free Trade Area, encompassing practically the whole South American continent. Indeed, as a first step, agreement has been reached between on the one hand, the Andean Community and on the other hand, Brazil and Argentina on a Tariff Preference System.[31] Similarly, in 1998, a Framework Agreement on Cooperation[32] between the EC and Andean Community member states was signed that could become the basis for the creation of an FTA between the two trade blocs. Most recently, the Andean Community has also launched negotiations with El Salvador, Guatemala and Honduras (which are members of the Central American Common Market) to establish an FTA.[33]

2. The Objectives of Andean Community

The main objective of the Andean Community is the elimination of barriers to trade and the adoption of a Common External Tariff (CET) leading towards a Customs Union (CU).[34] Moreover, the agreement seeks to facilitate the participation of the Andean Community in the regional integration process, leading towards the gradual formation of a Latin American Common Market. Likewise, this agreement aims at reducing external vulnerability and improving the position of the Member Countries within the international economic context. Article 3 of the Protocol of Trujillo describes, *inter alia*, the mechanisms and measures to be employed. The objectives are to be attained through the gradual harmonisation of economic and social policies and the approximation of national laws in relevant areas. Moreover, further trade liberalisation and the application of a CET are envisaged. The recent Sucre Protocol signed in 1997,[35] reflects the commitment to enhance the integration efforts by adding a new provision calling for the intensification of integration with the other regional economic blocs as well as closer cooperation with other extra-regional systems.[36]

3. The Institutions of Andean Community

Before the entering into force of the Protocol of Trujillo, the Andean Pact consisted only of two main bodies, namely the Commission and the ‘Junta’. In addition, in 1979 the Court of Justice and the Andean Parliament were established.[37] However, these institutions were replaced and improved by the so-called Andean Integration System (AIS) which is modelled on the EC institutions. The Andean Integration System consists of the following bodies:

- The Andean Presidential Council

- The Andean Council of Ministers of Foreign Affairs
- The Commission of the Andean Community
- The General Secretariat
- The Court of Justice of the Andean Community
- The Andean Parliament

as well as some other advisory councils and institutions.[38]

a) The Andean Presidential Council

The Andean Presidential Council is the highest-level body of the AIS.[39] It consists of the Presidents of the Member Countries and is essentially responsible for defining the Andean integration policy.[40] For this purpose, it issues Guidelines that must be implemented by the other bodies of the AIS.[41] The Presidential Council meets once a year and the chairmanship rotates every year between the Member Countries. At the latest Presidential Council Meeting in June 2000, the Council adopted the 'Act of Lima' outlining the enhancement of the integration process in various policy areas.[42] In particular, the Council repeated its determination to create an Andean Common Market by the year 2005, thus allowing the free circulation of goods, services, capital and persons. Even more important is the launching of a Common Foreign Policy of the Andean Community.

b) The Andean Council of Foreign Ministers

The Council consists of the Ministers of Foreign Affairs of the Member Countries. According to Article 16 Protocol of Trujillo, the Council is responsible for formulating the Member Countries' foreign policy in matters of subregional interest as well as for coordinating the external relations of the organs of the Andean Integration System. Furthermore, the Council shall execute the Guidelines issued by the Presidential Council and formulate the general policy of the integration process. In view of the newly established Common Foreign Policy, the Council becomes particularly important for the coordination of joint positions of the Andean Community Member Countries in international forums and negotiations.
The Council meets twice a year and the chairmanship rotates every year in accordance with the chairmanship of the Presidential Council.[43] It can issue Declarations and Decisions of which the latter shall be binding and become part of the Andean Community Law.[44]
In May 1999, the Council issued Decision 458[45] containing the Common Foreign Policy Guidelines of the Andean Community. According to these Guidelines, the Common Foreign Policy is broadly understood as aiming at 'defending and promoting the common identity, values, rights and interests'. More specifically, the Common Foreign Policy aims at strengthening peace and security and enhancing the negotiating position of the Member Countries in order to accelerate subregional integration. In addition, the consolidation of democracy and the rule of law, the promotion and respect of human rights, sustainable development and the fight against drugs, corruption and terrorism are mentioned. The Common Foreign Policy shall be executed through the adoption of common positions, joint actions and single spokesmanship.

c) The Commission of the Andean Community

The Commission is the main policy-making body of the Andean Integration System. It is made up of one plenipotentiary representative from each Member Country.[46] The Commission shares the legislative role with the Council of Foreign Ministers and is responsible for preparing, carrying out and evaluating the integration process. For this purpose it takes the necessary measures to accomplish the objectives of the Cartagena Agreement and to carry out the Guidelines of the Presidential Council.[47] It also coordinates the joint positions of the Member Countries in international forums and negotiations.[48] Finally, the Commission approves the annual budget and sets the contributions of each Member Country. A chairman coming from the Member Country that chairs the Presidential Council also chairs the Commission for one year. The Commission meets on a regular basis three times a year. According to Article 26 Protocol of Trujillo, the Commission adopts its Decisions by affirmative vote of the absolute majority of the Member Countries.[49]

d) The General Secretariat of the Andean Community

The General Secretariat is the executive body of the Andean Community and as such acts solely in accordance with the interests of the Andean Community.[50] It is headed by a General Secretary who is appointed by consensus for a five-year period with the possibility of re-appointment once. He shall act only in the interest of the Community and may not seek or accept instructions from any government.[51] The main task of the General Secretariat is to ensure the proper application of the Cartagena Agreement and the rules that make up Andean Community Law.[52] Furthermore, the General Secretariat shall present drafts of Decisions to the Council of Foreign Ministers and the Commission.[53] The legal acts issued by the General Secretariat are called Resolutions.[54]

e) The Andean Parliament

The Andean Parliament was established already in 1979 in Santafé de Bogota, Colombia. The Andean Parliament is the deliberative body of the AIS representing the peoples of the Andean Community. According to Article 43 Cartagena Agreement, the task of the Parliament is to participate in the integration process by suggesting to the other institutions actions or decisions to be taken in order to achieve the aims of the Andean Community. In other words, the Andean Parliament is only allowed to make non-binding recommendations to the other institutions, but is for the rest excluded from the decision-making process. Currently, the Andean Parliament consists of representatives of the national parliaments of the Member Countries. The Parliament meets twice a year; the representatives are elected for a two-year period and may be re-elected. In an Additional Protocol signed in 1997[55], the Member Countries agreed to improve the electoral representation of the Andean Parliament. According to the Additional Protocol, the representatives of the Andean Parliament shall be elected on the basis of a direct and universal vote, which should be held within five years. In each Member Country five representatives shall be elected for the Andean Parliament.

f) The Court of Justice of the Andean Community

Like the European Community, the Andean Community has created a Court of Justice situated in Quito, Ecuador.[56] The Court of Justice consists of five judges who must be nationals of the Member Countries and fulfil the conditions for the highest judicial functions of their countries.[57] The judges are appointed by unanimous decision from a list of three candidates submitted by each Member Country.[58] They are appointed for a six-year term, they shall be renewed in part every three years and may be re-elected only once.[59] Quite interestingly, the Amending Protocol also foresees the possibility of creating the position of an Advocate General similar to that of the European Court of Justice.[60]

4. The Andean Community Law

Firstly, it should be mentioned that Andean Community is explicitly granted international legal capacity.[61] Secondly, the Amending Protocol enumerates what makes up Andean Community Law.[62] Thirdly, and more importantly, the Amending Protocol explicitly defines the legal effect of the various legal acts. Accordingly, Decisions approved by the Council of Foreign Ministers or the Commission become binding on the Member Countries as of the date of approval.[63] In addition, Decisions of the Council of Foreign Ministers or the Commission and Resolutions of the General Secretariat are directly applicable in the Member Countries as of the date of publication in the "Official Gazette"[64], unless specified otherwise.[65] Furthermore, when their text so stipulates, Decisions must be incorporated into national law through an express act stipulating the date of entry into force.
Finally, Article 4 Amending Protocol obliges Member Countries to take such measures as may be necessary to ensure compliance with the provisions of the Andean Community Law. The same provision also requires Member Countries to refrain from measures that might be contrary to or restrict the application of Andean Community Law. Thus, the Andean Community Law has supranational features that are quite similar to those of the European Community.

5. The Dispute Settlement

All disputes between the Member Countries involving Andean Community Law must be settled before the Court of Justice of the Andean Community. The Court of Justice can be involved in five different procedures, which to a certain extent resemble those of the European Court of Justice (ECJ). The three most important ones will be briefly outlined.[66]

a) Nullity Action Procedure

In a nullity action, a Member Country, the Council of Foreign Ministers, the Commission or the General Secretariat can request the Court to declare the nullity of Decisions of the Council of Foreign Ministers and the Commission or Resolutions of the General Secretariat or international agreements.[67] Also, natural or legal persons may bring a nullity action against Decisions taken by the Council of Foreign Ministers or the Commission, Resolutions of the General Secretariat or international agreements that affect their subjective rights or their legitimate interests.[68] The nullity action must be brought within a two-year time limit. If the Court finds a total or partial nullity of the challenged decision, the body which enacted that decision is required to take appropriate measures in order to effectively implement the judgement.[69]

b) Non-Compliance Procedure

In the Non-Compliance Procedure, the General Secretariat can bring a Member Country before the Court of Justice if it considers that a Member Country failed to comply with its obligations under Andean Community Law.[70] Before that, the General Secretariat has to send its observations to the Member Country, which has the possibility to respond within 60 days. After the lapse of the 60 days, the General Secretariat issues an administrative ruling that must include its reasoning. If the Member Country does not implement the administrative ruling, it can be brought before the Court of Justice. Also, natural or legal persons whose rights have been affected by the failure of the Member Country may appeal to the General Secretariat and to the Court.[71] In this context Article 30 Amending Protocol should be noted, which states that a verdict of non-compliance shall constitute sufficient grounds for the natural or legal person affected to ask the national judge for compensation for any damages or losses that may be due.

c) Prejudgement Procedure

Article 32 Amending Protocol confers on the Court the responsibility for giving prejudgement interpretations of Andean Community Law in order to ensure its uniform application in the Member Countries.[72] Thus, national judges hearing cases in which provisions of Andean Community Law should be applied or are litigated, may directly request the Court's interpretation of such provisions, provided that the verdict is susceptible to appeal under national law.[73] In proceedings in which no appeal under national law is possible anymore, the judge, either at his/her initiative or at the request of one of the parties, shall suspend the proceedings and directly request the Court's interpretation[74], which the requesting judge must respect in his ruling.[75]

6. Summary

From the analysis above, it can be concluded that the Andean Community has finally made substantial progress towards achieving its aims and objectives.[76] Although in theory the Andean Community looks impressive, in practice several unresolved points remain.[77] Economically speaking, the establishment of the FTA drastically increased the trade volume within the Andean Community as well as with countries outside, in particular the USA and EC.[78] Despite that, the FTA is still not yet fully operational between all participating states, though Peru is on its way to becoming a full member of the FTA soon. Also, the Customs Union is still incomplete, as only three states (Colombia, Venezuela and Ecuador) have adopted the Common External Tariff (CET).[79] Despite these shortcomings it can be expected that the establishment of a FTA with Mercosur as well as the FTAA will

eventually eliminate the remaining trade barriers.
Politically speaking, the Andean Community is now able to develop an international profile by seriously developing a Common Foreign Policy. The ability to formulate joint positions and speak with one voice on the international plane will be particularly important in the ongoing negotiations as regards the creation of the FTAA. Institutionally speaking, the Andean Community has taken the appropriate steps to ensure that the integration process can continue smoothly.[80] Legally speaking, the most exciting aspects are the supranational features of Andean Community Law (already the existence of this term is remarkable).[81] In particular, the fact that most Decisions of the AIS are directly applicable and the existence of a Court of Justice that has the power to annul them are unique in Latin America.[82]

III. Mercosur

1. Current Status of Mercosur

In the Treaty of Asuncion[83] signed on March 26, 1991 between Argentina, Brazil, Paraguay and Uruguay, the States Parties agreed to create a Common Market (Mercosur) by 1995.[84] The final institutional structure of Mercosur was defined in the Protocol of Ouro Preto[85] signed on December 17, 1994.[86] Besides enhancing its institutional structure, the States Parties of Mercosur have recently taken various measures regarding the harmonisation of laws in areas such as investment, competition law, recognition of diplomas and judicial cooperation.[87] Furthermore, Mercosur has been very active in extending its links to other regional trade blocs. As mentioned above, Mercosur is currently negotiating a unique Association Agreement with the EC. In addition, Mercosur has signed a Framework Agreement to establish an FTA with the Andean Community.[88] Furthermore, Chile and Bolivia have become associated members of Mercosur, having concluded an agreement to establish an FTA with Mercosur within 10 years.[89] Finally, Mercosur is actively involved in the negotiations to create an FTAA.

2. The Objectives of Mercosur

According to Article 1 Treaty of Asuncion, the States Parties establish a Common Market, which shall be operational by December 31, 1994. The Common Market shall compromise the free movement of goods, services and factors of production between the member states. To this end, the elimination of customs duties and non-tariff barriers is envisaged. Moreover, the establishment of a Common External Tariff (CET), the adoption of a common trade policy and the coordination of positions in regional and international economic forums are aims to be achieved.[90]

3. The Institutions of Mercosur

During the transitional period, Mercosur consisted of only two organs: the Council of Common Market and the Common Market Group.[91] However, with the Protocol of Ouro Preto the States Parties created several other organs.[92] Article 1 of the Ouro Preto Protocol enumerates the following Mercosur organs:

- The Council of Common Market
- The Common Market Group
- The Mercosur Trade Commission
- The Joint Parliamentary Commission
- The Economic-Social Consultative Forum
- The Mercosur Administrative Secretariat.

a) The Council of Common Market

The Council of Common Market is the highest organ of Mercosur having the responsibility for the political leadership of the integration process.[93] The Council consists of the Ministers of Foreign Affairs and Ministers of Economy and shall take all necessary decisions to achieve the objectives of Mercosur.[94] The Presidency of the Council rotates every six months and meets at least once every six months. Article 8 Protocol of Ouro

Preto specifies the tasks of the Council which, *inter alia*, has the duty to supervise the implementation of Mercosur law, to rule on proposals submitted by the Common Market Group as well as to adopt financial and budgetary decisions. The legal acts of the Council are called Decisions, which are binding on the States Parties.[95]

b) The Common Market Group

The Common Market Group is the executive body of Mercosur.[96] It consists of four members and four alternates from each country appointed by their own government. The Common Market Group has, *inter alia*, the tasks of monitoring compliance with Mercosur law, proposing draft Decisions to the Council of Common Market and taking the necessary measures to enforce the Decisions adopted by the Council of Common Market.[97] The decisions of the Common Market Group are called Resolutions and shall be binding on the States Parties.[98]

c) The Mercosur Trade Commission

The Mercosur Trade Commission is responsible for assisting the Common Market Group in monitoring the application of the common trade policy instruments.[99] The Mercosur Trade Commission also consists of four members and four alternates from each country. They meet at least once a year and its decisions are either in the form of Directives or Proposals, the latter shall be binding on the States Parties.[100]

d) The Joint Parliamentary Commission, the Economic-Social Consultative Forum, the Secretariat

The Joint Parliamentary Commission is the organ representing the parliaments of the Mercosur member states.[101] It consists of equal numbers of representatives from each State Party and the members are appointed by their respective parliaments.[102] The main duty of the Joint Parliamentary Commission is to speed up the internal procedures of their respective parliaments in order to ensure prompt implementation of the decisions of Mercosur organs.[103] Additionally, the Joint Parliamentary Commission can submit Recommendations to the Council of Common Market through the Common Market Group.[104] The Economic-Social Consultative Forum represents the economic and social sectors and is made up of equal numbers from each State Party. It shall issue Recommendations concerning economic and social issues of Mercosur.[105]
Finally, the Administrative Secretariat of Mercosur is situated in Montevideo, Uruguay. It is responsible for all organisational and administrative tasks of Mercosur.

4. Legal Aspects of Mercosur Law

First, Article 34 Protocol of Ouro Preto bestows on Mercosur legal personality under international law. Second, Article 41 Protocol of Ouro Preto enumerates the legal sources of Mercosur Law, which are the treaties and protocols, the decisions of the Council, the Resolutions of the Common Market Group and the Directives of the Mercosur Trade Commission. Third, the decision-making process within all Mercosur organs takes place on the basis of consensus and in the presence of all States Parties.[106] Fourth, Article 38 Protocol of Ouro Preto requires the States Parties to take all necessary measures to ensure compliance with decisions adopted by the Mercosur organs. The legal acts of the Council of Common Market, the Common Market Group and the Mercosur Trade Commission are published in the "Official Journal" of Mercosur.[107]
Finally, Article 40 Protocol of Ouro Preto provides for a special two-step mechanism for the implementation and entry into force of Mercosur decisions.[108] In the first step, after a Mercosur decision has been adopted, all four States Parties incorporate it into their domestic legal system and inform the Secretariat about it. In the second step, the Secretariat informs all States Parties that the decision has been incorporated in the legal system of all States Parties. After 30 days the decision becomes effective. In other words, before a Mercosur act can enter into force, it must first be incorporated in the national law of all States Parties (system of simultaneous implementation). This special mechanism excludes any supranational features of Mercosur law, such as primacy over the domestic law of the

States Parties or direct effect of Mercosur acts.[109]

5. The Dispute Settlement

The States Parties to Mercosur opted for the following dispute settlement procedure agreed upon in Decision No. 1/91 of the Council of the Common Market (also referred to as the Protocol of Brasilia for the solution of controversies).[110] Essentially, one can distinguish two different procedures: complaints by States Parties and complaints by private parties.[111]

a) Complaints by States Parties

The basic principle of the Mercosur dispute settlement process is to solve controversies through direct negotiations.[112] However, Article 3 (2) Protocol of Brasilia limits the time for negotiations to 15 days. If no agreement can be found, any of the States Parties involved can submit the dispute for consideration to the Common Market Group.[113] Within 30 days the Common Market Group must conclude the procedure by presenting its Recommendations to the States Parties suggesting a solution.[114] However, if the Recommendation does not solve the dispute, any State Party involved in the controversy can inform the Administrative Secretariat that it wants to resort to the arbitral procedure. [115] Through Article 8 Protocol of Brasilia, the States Parties recognise as obligatory, *ipso facto* and without need of a special agreement, the jurisdiction of the Arbitral Tribunal, which is established on a case-by-case basis.
The *ad hoc* Arbitral Tribunal is composed of three arbitrators, one of which is designated by each State Party to the dispute, the third one is chosen upon common agreement between the States Parties. The arbitrators should be named within 15 days and the third one shall preside over the Arbitral Tribunal.[116] The arbitrators are chosen from a list of 10 possible arbitrators submitted by each State Party.[117] A second list of 16 arbitrators is put together by the Common Market Group from which the third arbitrator is selected in case the States Parties can not agree.[118] For both lists, Article 13 Protocol of Brasilia requires that the arbitrators must be "jurists of recognised competence in those matters which can be the subject matter of a controversy". The Arbitral Tribunal has to issue its decision within 60 days, which can be extended for an additional time limit of 30 days.[119] The decision can be adopted by majority vote, but no dissenting opinion is allowed and the voting in the Tribunal is kept confidential.[120] According to Article 21 Protocol of Brasilia, the decisions of the Arbitral Tribunal can not be appealed; they are binding on the States Parties to the dispute and must be complied with within 15 days unless otherwise stipulated in the ruling. Finally, Article 23 Protocol of Brasilia allows a State Party to adopt temporary compensatory measures, such as the suspension of concessions, if the other State Party to the dispute fails to comply with the decision of the Arbitral Tribunal within 30 days.

b) Complaints by Private Parties

The Protocol contains a specific procedure allowing private parties (natural or legal persons) to file a complaint. The complaint must be a "result of the sanction or application, by any State Parties of legal or administrative measures which have a restrictive, discriminatory or unfairly competitive effect", thereby violating Mercosur Law.[121]
According to Article 26 Protocol of Brasilia, the affected private party must file its complaint, containing all relevant information, with the National Section of the Common Market Group of the State Party wherein they maintain their usual residency or where the company headquarters is based. The National Section can either initiate direct contact with the National Section of the State Party to which the violation is attributed, or it can refer it to the Common Market Group.[122] If the Common Market Group does not reject the complaint, it will convene a group of three experts who shall issue a report within 30 days.[123] The report of the experts is then forwarded to the Common Market Group. If this report supports the complaint, any other State Party can demand that corrective measures be adopted or that the disputed measure be annulled. If this demand is not met within 15 days, the State Party that demanded appropriate measures can then proceed directly to the arbitral procedure.[124] Despite the existence of this dispute settlement system, it should be noted that so far only one arbitration award has been issued.[125] Basically, the lack of an independent permanent organ that can issue enforceable and directly binding decisions is

responsible for this situation.[126] In addition, the fact that Mercosur organs themselves can not bring procedures against States Part ies that violate Mercosur Law, limits the effective enforcement of Mercosur Law.

6. Summary

Since intra-Mercosur trade surged substantially between 1991-1998,[127] the main aim of Mercosur, namely, boosting trade between the member states, has been achieved. However, the FTA is not working entirely because many trade barriers between the States Parties have not yet been eliminated.[128] Therefore, Mercosur is still labelled as an 'incomplete' CU.[129] Indeed, States Parties have failed to implement a CET that applies to all products and sectors[130] and still many exceptions remain in force.[131] Moreover, due to the recent economic crisis in Brazil, the dominating country within Mercosur, the integration progress has slowed down. [132] Nevertheless or indeed because of the current crisis, Brazil and Argentina have recognised that the completion of the Mercosur integration project has become even more urgent. Accordingly, plans have been launched for increased harmonisation of economic policies and even the creation of a monetary union ('little Maastricht') has been mentioned.[133] Politically and institutionally speaking, Mercosur lacks supranational elements and therefore depends on the will of the States Parties, in particular, the Presidents of Brazil and Argentina. This is seen as one of the most important shortcomings of Mercosur.[134] Moreover, the lack of an independent and effective dispute settlement system enables the member states of Mercosur to undermine the creation of a fully functioning Common Market.[135] Therefore, it remains to be seen whether Mercosur is sufficiently prepared for the ongoing negotiations as regards the FTAA and as regards the Asso ciation Agreement with the EC.

C. Specific Integration Initiatives

On the basis of the previous part, this section will focus on several integration initiatives that have been launched recently. Firstly, I will deal with the proposed establishment of a Free Trade Area of Americas (FTAA). Secondly, the establishment of an FTA between Mercosur and the Andean Community will be discussed. This is followed up by an analysis of the Association Agreement between Mercosur and the EC as well as the FTA between the Andean Community and the EC. Finally, I will deal with Chile and Mexico, two countries that pursue various interesting strategies in linking up with the various other trade blocs.

I. Free Trade Area of Americas (FTAA)

1. Overview

The FTAA was launched with great pomp at the Miami Summit of the Americas in December 1994 under the auspices of the American President Clinton.[136] The enthusiasm in the Western Hemisphere to establish a FTAA was immense after the initial success of NAFTA, the successful conclusion of the Uruguay Round resulting in the establishment of the WTO and the substantial progress achieved by both the Andean Community and Mercosur in establishing a Common Market.[137] The creation of the FTAA would stretch from Alaska to Argentina, with a population of 730 million and a combined GDP of US Dollar 10 trillion, thus constituting the largest trading bloc in the world.
However, the FTAA is intended to go beyond the creation of a simple FTA. The 'Declaration of Principles' of the Miami Summit[138] states that the FTAA shall constitute a 'partnership for development and prosperity', leading towards democracy, free trade and sustainable development in the Americas. In other words, the FTAA encompasses, in addition to free trade, a number of different components. There is a political and security component in the sense that further economic integration would preserve and strengthen the democratic foundations of the participating states. Further, there is the prosperity component, implying that the creation of the FTAA will help to remove barriers to trade, thereby boosting trade and thus resulting in the elimination of poverty in the Americas.

Finally, there is the sustainable development component, which shall ensure that further economic integration is facilitated in a way that is not detrimental to the environment. Moreover, the FTAA also aims at combining forces in order to fight against drugs and terrorism. To achieve all these aims, a detailed 'Plan of Action'[139] was attached to the 'Declaration of Principles' of the Miami Summit. In the meantime, the preparations for starting the negotiations were finalised between 1995 and 1998, so that the negotiations officially started at the second Summit of the Americas held in Santiago in 1998.[140] The negotiations are taking place in nine Negotiation Groups under the guidance of the Trade Negotiation Committee (TNC).[141] It is planned that the negotiations shall be concluded before 2005. Indeed, drafting has progressed swiftly and a draft text of the FTAA will be discussed at the third Summit of the Americas taking place in Québec, on April 20-22, 2001.[142]

2. Prospects

Although a draft text of the FTAA does not yet exist, it is possible - on the basis of the available negotiation results - to discuss several potentially problematic issues.[143] A good indication of what the FTAA might look like can be found in the 'General Principles and Objectives' agreed to in the Ministerial Declaration of San José de Costa Rica in 1998.[144] The following points are of particular interest in the context of this contribution:

- the FTAA shall be consistent with Article XXIV GATT (which means that substantially all tariff barriers must be eliminated between the FTAA members)
- different trade liberalisation timetables may be negotiated
- agriculture will be covered by FTAA, in particular, elimination of export subsidies
- the aim is to establish a fair and transparent dispute settlement taking into account the WTO DSU and to promote the use of arbitration and alternative dispute settlement
- the outcome of the negotiations of the FTAA shall be treated as parts of a single undertaking
- the FTAA can co-exist with bilateral and sub-regional agreements
- decisions in the FTAA negotiating process will be made by consensus.

Past experience concerning the elimination of tariffs differs substantially as regards NAFTA, Mercosur and the Andean Community. Whereas the states parties of NAFTA were quite successful in reducing tariffs quickly, it took member states of Mercosur and the Andean Community much longer to reduce them substantially. Indeed, it is generally recognised and most likely - considering the vast differences in the economies of the FTAA member states - that variable timetables will be agreed upon for the elimination of tariffs within the FTAA.[145]

The existence of a negotiating group on Agriculture for the FTAA shows that participating states are seriously intending to cover this sector as well. However, past experience within the GATT 1947, the WTO and the EC indicate that agriculture remains a problematic issue in many trade liberalisation projects. This is even more the case with regard to the FTAA, because most potential members of the FTAA are highly dependent on agriculture. Thus, it is reasonable to assume that progress will be slow on agriculture and stretched over a long transitional period.

Moreover, due to the huge economic differences of the participating states, the environmental and social impact of an FTAA will be of particular importance. The example of Mexico joining NAFTA reveals that the elimination of trade barriers between developed and developing countries can have negative effects on the environment as well as on the living standards of the local population.[146] The freeing of markets can easily result in a movement of companies to countries with the lowest environmental standards or with the least effective enforcement of environmental laws. The *'maquiladora'* program is a clear example of this scenario. The purpose of the *'maquiladora'* program was to limit environmental damages by concentrating plants at the US-Mexico border thereby enabling efficient enforcement of environmental laws. However, due to the lack of enforcement, this program turned into an environmental disaster because the emissions of the plants are concentrated at a relatively small area. Moreover, no infrastructure was provided for all the workers living next to the plants where they work. The situation has not been improved by NAFTA since the side agreements on environmental and labour standards have remained virtually ineffective.[147] Therefore, the NAFTA side agreements are not useful models for regulating these issues within the FTAA negotiations.[148]

Moreover, any regional integration model needs a fair and effective dispute settlement system.[149] As has been discussed above, the dispute settlement systems of the three trade blocs are substantially different, ranging from non-binding panel decisions to binding decisions of a Court of Justice.[150] Therefore, the question arises which dispute settlement model will be chosen for the FTAA. If one takes into account the dominant position of the USA within the FTAA negotiations, the dispute settlement system will probably be a panel-based model. However, the question remains whether it will be more a NAFTA-based system (non-binding, power-orientated) or more a WTO DSU-based system (binding, rule-orientated). Considering the aversion of the USA to binding legal adjudication by judicial or quasi-judicial international bodies, it seems to me, that the FTAA dispute settlement system will be modelled on the NAFTA system.[151] Such a non-binding panel mechanism would clearly be an advantage for the biggest participating FTAA member states such as USA and Brazil.[152]

Finally, one important institutional issue that is still unresolved concerns the question of how the FTAA should be created.[153] At the beginning of the negotiations it was generally assumed that Latin American states would successively join NAFTA, which at the end of the process would be converted into the FTAA. But, due to the failure to let Chile join NAFTA as the first Latin American country, this option has become unrealistic. Rather, it seems now that FTAA will probably be built on the two main regional blocs NAFTA and Mercosur, and the smaller Andean Community.[154] However, the analysis above has shown that the three blocs differ considerably in many aspects. For instance, NAFTA has no international legal personality, whereas both Mercosur and the Andean Community have. Moreover, the objectives of the three regional trade blocs are clearly different. The Andean Community and Mercosur are - albeit incomplete - Customs Unions (CU) applying a Common External Tariff (CET), whereas NAFTA establishes only a FTA. Since the FTAA is intended to be only an FTA, the question arises: What will happen with the CET of Mercosur and the Andean Community?[155] Additionally, in contrast to NAFTA, the other two blocs have sophisticated institutional structures, so the question arises: Is the FTAA going to remove them or will it establish comparable FTAA organs? However, probably the most critical point is the commitment of the USA to create the FTAA, which has become doubtful since President Clinton failed to obtain fast-track authority from the US Congress.[156] In September 1998, the House of Representatives rejected the bill, thereby preventing the US President from negotiating a treaty alone, thus allowing the US Congress only to either accept or reject the negotiated treaty as a whole.[157] Consequently, whatever the 34 nations agree on, the FTAA will *de facto* stand or fall with the vote of the US Congress.[158]

II. Mercosur-Andean Community FTA

1. Overview

In April 1998, Mercosur and the Andean Community signed a Framework Agreement for the creation of an FTA between them.[159] This agreement stipulates that until September 30, 1998 a Tariff Preference Agreement should be negotiated, which will be followed by negotiations for the creation of an FTA that should enter into force on January 1, 2000. However, so far these negotiations have remained unsuccessful. Consequently, in March 1999, Brazil - as the most powerful member state of Mercosur - decided to negotiate unilaterally a Tariff Preference Agreement with the Andean Community.[160] In fact, Brazil and the Andean Community have concluded such an agreement, which entered into force in August 1999. This Tariff Preference Agreement provides for the reduction of tariffs for a large number of products.[161] Similarly, Argentina has recently concluded a comparable Tariff Preference Agreement with the Andean Community that entered into force in August 2000.[162]

2. Prospects

Economically speaking, the link-up between the Andean Community and Mercosur is the next logical step in reducing barriers to trade, thereby integrating the economies of the South American continent. However, the negotiations are not progressing as expected,

because many member states of both blocs are unwilling to open up their markets. In particular, the agricultural and automotive sectors are obstacles in the negotiations. But the Tariff Preference agreement with Brazil and the almost completed negotiations with Argentina could facilitate the conclusion of similar agreements with the rest of the Mercosur member states, thus paving the way for an FTA. Politically speaking, it would be very useful if both blocs could establish a functioning FTA soon. The FTA would force economic and legal convergence that could serve as preparation for joining the FTAA. This would also increase their bargaining-power against NAFTA in the FTAA negotiations. Despite these obvious advantages of further regional integration, the volatile economic and political situation in many Latin American countries makes it impossible to forecast whether and when the various negotiations will turn into results.

III. Mercosur-EC Interregional Association

1. Overview

Formal links between Mercosur and the EC date back to the Interinstitutional Cooperation Agreement between the Common Market Council and the EC Commission of May 1992.[163] The main purpose of that agreement was the transfer of know-how as regards the integration process from EC institutions towards Mercosur institutions.[164] Soon afterwards, the next stage of cooperation was reached in December 1995 by the conclusion of the Interregional Framework Cooperation Agreement between Mercosur and the EC and its Member States.[165] The main objective of this agreement is to prepare the conditions enabling an interregional association between the EC and Mercosur.[166] In particular, it should be noted that the agreement is not limited to trade only, but rather calls for cooperation in a large variety of policy areas such as transport, energy, environment, education, drug-trafficking etc. [167] In order to attain these objectives, the treaty establishes a Cooperation Council composed of the members of the EC Council and the EC Commission as well as members of the Common Market Council and Common Market Group.[168] However, it took about 4 years before the agreement entered into force and the first meeting of the Cooperation Council took place.[169] The negotiations are managed by the Biregional Negotiations Committee, which oversees the negotiation process in the Subcommittee on Cooperation as well as in the Technical Groups.[170] So far, the Biregional Negotiations Committee has met three times. In the first meeting, held in April 2000, the Committee agreed on several basic points. [171] In particular, the parties agreed that the negotiations should not exclude any sector and should be in accordance with WTO rules. Moreover, the results should constitute a single undertaking and be implemented as an indivisible whole. To this end, the Committee set up three Subgroups specifying general orientations for each of them.[172] In the second meeting held in June 2000, the discussions have focused on several issues that seem to be particularly problematic. As regards the EC, the common agricultural policy and the enlargement process were at issue, while as regards Mercosur, the service sector and public procurement were discussed.[173] In the third meeting of the EU-Mercosur Negotiations Committee which took place in November 2000, substantial progress on the negotiations has been reported with first draft texts being circulated and discussed.[174]

2. Prospects

Considering the fact that the EC is the most important trading partner of Mercosur and that Mercosur is the largest Latin American market for EC exports, it is only logical that the two trade blocs are seeking closer economic relations.[175] For the EC it is even more important to ensure that it consolidates its position on the Mercosur market, because the creation of the FTAA could give the USA a powerful position in Latin America, which could challenge the dominant trade position of the EC.[176]
Comparing the FTAA initiative with the link-up between the EC and Mercosur, it seems at first sight that the latter might be easier to achieve. One reason for this is that fewer countries are involved in the negotiation process and no fast-track problems arise. Second, the historic, cultural and economic links between Spain, Portugal, Brazil and Argentina might help the negotiation process. Also, there is a certain distrust and fear of American dominance in some Latin American countries, which makes the EC an attractive alternative

partner. Third, Mercosur has an institutional structure that slightly resembles the one of the EC, which would facilitate the cooperation with the comparable EC institutions. Moreover, the final aim of Mercosur of establishing a Common Market involving the free movement of goods, services, capital and workers is complementary to the single market of the EC. However, there is one important stumbling block and that is agriculture.[177] Despite the agreement that no sector shall be excluded in the negotiations between the EC and Mercosur, pressure within the EC to exclude agriculture from the negotiation agenda is huge.[178] This is especially so since 60 per cent of all Mercosur exports to the EU are agricultural products.[179] Consequently, the elimination of tariff and non-tariff barriers to agricultural imports from Mercosur would substantially increase the pressure on European farmers. Considering the fact that the EC itself has still not tackled the problem of eliminating subsidies for its agricultural sector, this issue could indeed slow down the negotiation process. Therefore, it seems reasonable to assume that agriculture will be excluded or included only with a long transitional period. Also, the preoccupation of the EU with enlargement towards Eastern and Central Europe inevitably puts the integration process with Mercosur in second place.[180]
In sum, the Association Agreement would be highly interesting because it would constitute the first association between two trade blocs. Without doubt, the economic and political gains for both sides would be enormous, although politically, not all EC Member States support it. Also, the fact that no deadline for the negotiations has been fixed creates the impression that this will be a long-term project. Finally, it has so far remained unclear what exactly this association would entail.[181] Nevertheless, the FTAA negotiations might increase the pressure, particularly within the EC, to conclude the negotiations before the FTAA is established.

IV. Andean Community-EC Framework Cooperation Agreement

1. Overview

The member states of the Andean Community started formal cooperation links with the EC in 1984 with the conclusion of a Cooperation Agreement.[182] This agreement which contained rather general programmatic intentions, was recently replaced by a more far-reaching Framework Agreement on Cooperation between the EC and the Andean Community member states.[183] The main aim of this Framework Agreement is to strengthen economic cooperation between the two trade blocs. Moreover, additional areas of cooperation are mentioned such as industrial cooperation, investment, technology, transport, telecommunication, environment etc. The Joint Committee established already under the Cooperation Agreement is also going to manage the implementation of the Framework Agreement.[184]

2. Prospects

Although, this cooperation initiative is far less ambitious then the establishment of an FTA, it is nevertheless an important step for the EC to strengthen its position on the Andean market. Admittedly, Mercosur is a much larger and thus more important market, the Andean Community is nevertheless of strategic importance for the EC. Conversely, the Andean Community is interested in improving its economic relations with the EC, because it remains uncertain whether and when the planned FTA with Mercosur and the FTAA will be implemented. Although currently the Andean Community is concentrating more on the negotiations for the FTA with Mercosur and the FTAA, it has expressed hopes that the General System of Preferences (GSP) which the EC applies to all Andean Community member states could be transformed permanently into an association agreement in 2005.[185]
In sum, the Andean Community is lagging behind Mercosur regarding its economic relations with the EC. However, the many legal and institutional similarities between the Andean Community and the EC might facilitate the development of closer economic and political ties. This would especially be the case, if the Andean Community and Mercosur succeeded in establishing an FTA and the EC finalised the Association Agreement with Mercosur. In that case, it would make sense for the EC to conclude a similar Association Agreement with the Andean Community. In this way, the EC would be able to ensure that EC exports have free access to the whole South American market.

V. Chile and Mexico

1. Chile

Chile has one of the most robust economies of all Latin American countries.[186] Accordingly, Chile has long been tipped as one of the first Latin American states to join NAFTA. However, resistance by the American Congress resulted in a halt to the negotiation process.[187]

Despite this, Chile has concluded FTAs with Mexico and Canada in order to gain access to the NAFTA market and to facilitate its membership in NAFTA.[188] Besides the establishment of an FTA between Chile and Canada, both countries have also concluded environmental and labour cooperation agreements similar to the NAFTA side agreements.[189] In addition to its efforts to join NAFTA, Chile started to look around for other attractive partners. Thus, Chile has been an associated member of Mercosur since October 1, 1996. It is a comprehensive treaty[190] that contains a detailed timetable for the elimination of all tariffs within 10 years, which would result in an FTA between Chile and Mercosur.[191] Nontheless, there are a number of annexes attached to the treaty containing lists of exceptions and special provisions for sensitive products.
However, the interests of Chile are not confined to the Western Hemisphere. Accordingly, Chile is currently negotiating an Association Agreement with the EC, on the basis of the 1996 Framework Cooperation Agreement[192] between Chile and the EC. In November 1999, the first EU-Chile Joint Council meeting took place to prepare the ground for the negotiations.[193] In April 2000, the EU-Chile Negotiations Committee met for the first time. Similar to the ongoing negotiations between the EC and Mercosur, the EU-Chile Negotiations Committee has also established three subgroups and the same general principles and objectives have been agreed upon.[194] In the meantime, the second meeting took place in April 2000[195], while in the third meeting which was held in November 2000, first draft texts were discussed.[196] Parallel to the next meeting between the EU and Mercosur, the EU-Chile Negotiation Committee will also meet in March 2001 in Brussels. In sum, it becomes apparent that Chile is trying to strengthen its links with all three major trade blocs (NAFTA, Mercosur and EC), thereby ensuring maximum advantages for its economy.

2. Mexico

Mexico is also busy broadening its access to various regional trade blocs.[197] As mentioned above, Mexico established an FTA with Chile, which entered into force in August 1999.[198] The treaty contains a detailed timetable for the elimination of tariffs until the end of 2005. Moreover, the treaty is comprehensive, covering all trade areas as well as containing rules for dispute settlement. The FTA with Chile is particularly important in view of Chile's association with Mercosur, which would also give Mexican exports access to the large Mercosur market. This is especially important, because the negotiations between Mexico and Mercosur to become an associate member of Mercosur have so far remained unsuccessful. Consequently, Mexico has switched over to bilateral negotiations with individual Mercosur member states in order to achieve tariff reductions.[199]
Further, Mexico has also strengthened its links with the EC. Formal relations between Mexico and the EC date back to the Cooperation Agreement of 1991.[200] In December 1997, Mexico and the EC signed a comprehensive Economic Partnership, Political Coordination and Cooperation agreement (also referred to as Global Agreement) in order to liberalise trade and increase high-level contacts.[201] For the purpose of speeding up the application of the parts of the Global Agreement concerning trade and trade-related matters, the parties signed an Interim Agreement on Trade and Trade-related aspects, which entered into force in July 1998.[202] This Interim Agreement launched formal Mexican-EU negotiations for establishing an FTA within 10 years. Hence, negotiations took place between 1998 and 1999, which were grouped in three main areas: (i) trade in goods, (ii) services and capital movements and (iii) public procurement, competition, intellectual property rights and dispute settlement. On 1st July 2000, Decision 2/2000 of the EC-Mexico Joint Council entered into force adopting the negotiation results regarding the establishment of an FTA between the EC and Mexico.[203] This decision lays down detailed provisions as regards the

reduction of tariffs, public procurement, cooperation in competition, intellectual property rights and dispute settlement. In particular, the Decision contains a detailed timetable for the subsequent elimination of all customs duties for non-agricultural products by 2007 at the latest. This will, in effect, put EC non-agricultural imports into Mexico on the same footing as imports from the other NAFTA states. Concerning agricultural products, a review is planned within 3 years after entry into force of the Decision in order to determine steps for the liberalisation of this sector. As for the resolution of disputes, the Decision embodies a panel-based system comparable to the NAFTA dispute settlement system.
In sum, Mexico is applying a similar diversifying strategy as Chile. However, after its initial success in joining NAFTA, Mexico has so far not been able to forge similar ties with Mercosur. But the FTAs with Chile and in particular with the EC will over time broaden its access to other markets, thereby reducing its dependence on NAFTA.

D. Outlook

As this contribution has shown, the past decade has tremendously changed the integration architecture of the Americas. The next years will be even more important in shaping the economic, social and political future of the Americas.
At the subregional level, the first priority will be to further reduce and eliminate tariffs and non-tariff barriers to trade in order to establish a fully operational FTA, and at a later stage a CU between Mercosur and the Andean Community. This would be a first important step towards the creation of an FTAA. Therefore, Mercosur and the Andean Community must enhance their integration efforts in order to prepare the South American continent to face the competition of the NAFTA member states. Apart from the economic side, the strengthening of democracy, human rights and the rule of law as well as the improvement of the social and environmental situation are equally important. The Mexican experience is a clear example that growth alone is - in the long run - not enough.
At the regional level, for the EC as well as for the USA, the South American continent offers huge economic possibilities in terms of exports and investment. Thus, it is only logical that a race has started between the two to ‘conquer’ Latin America.[204] The negotiations on the FTAA and the Association Agreement between Mercosur and the EC are the ‘cars’ used in this race and the critical deadline is set at the year 2005. As regards the FTAA, its realisation will depend on political and economic factors. Politically, the election of George W. Bush as the new US President as well as the traditional resistance of the US Congress will probably slow down the FTAA negotiation process in Québec.[205] Economically, the crisis in Brazil, which has affected the rest of Mercosur, makes further tariff concessions and the liberalisation of markets much more difficult to implement.[206]
At the global level, the proliferation of all these planned FTAs and CUs could endanger the position of the WTO as the global trade system. In particular, the recent failure of the Seattle Ministerial conference indicates that progress may be achieved more easily on the regional or subregional level. However, the WTO itself is partly responsible for the unprecedented increase in proposed FTAs and CUs, because no serious review of them takes place within the WTO as is required by Article XXIV GATT.[207] This is quite logical since the EC and the USA are actively involved in creating many of the new FTAs and therefore prefer not to be constrained by the WTO.[208] Be that as it may, the legal cohesion between WTO rules and the provisions of the numerous FTAs and CUs could be seriously undermined.
In conclusion and referring to the remark in the subtitle, this contribution has shown that positive results have been produced and that the integration process in the Americas works - albeit not to the fullest extent possible. Thus - although a lot of work still has to be done - the integration process has been of value and will be even more valuable in the near future. Therefore, it is important for all who are interested in international trade law to follow the exciting developments in the Americas.

Fußnoten

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[*] *Paulo Borba Casella*, Integration in the Americas - An overview, (1996) 16 YEL, p. 409.

[1] See for an overview: *Schirm, S.*, Kooperation in den Amerikas, Baden-Baden, 1997.

[2] See: *Salazar-Xirinachs, J.*, Progress in the FTAA negotiations: A preliminary assessment of the first 18 months, background paper, September 1999, available at: http://www.sice.oas.org/ftaa/background/ jmscaf1e.asp.

[3] See for an overview of all current agreements: *Lopez-Ayllon, S.*, Beyond the Summit of the Americas II, Prospects for FTAA and future Western hemisphere integration: Mexico's expanding matrix of trade agreements - A unifying force?, (1999) 5 NAFTA L. & Bus. Rev. Am., pp. 241-260 (LEXIS/NEXIS); see also the overview provided by the OAS, available at: http://www.sice.oas.org/tradee.asp.

[4] The NAFTA is available on the internet site of the NAFTA Secretariat: http://www.nafta-sec-alena.org/; see for a historic overview of NAFTA: *Clement, N.* [et al.], North American Economic Integration, Cheltenham, 1999. It should be noted that the numbering of the NAFTA treaty is somewhat unusual as it starts with Article 101 instead of Article 1, which is commonly the case in treaties. Also, the numbering begins each chapter anew, i.e. Chapter two starts with Article 201, Chapter three with 303 etc.

[5] See generally: *Lopez-Ayllon, S.*, (note 3).

[6] See for economic statistics: *US-Mexico Chamber of Commerce*, The NAFTA at 5 years: What it means for the U.S. and Mexico, available at: http://www.usmcoc.org/naftafor.html.

[7] The preamble of FTA between Chile and Canada explicitly states that this agreement shall facilitate the accession of Chile to the NAFTA and contribute to the hemispheric integration process; see the Canada-Chile Free Trade Agreement, available at: http://www.nafta-sec-alena.org/english/cdn/canada.htm.

[8] See in general on Chile's accession to NAFTA: *Lax, J.*, A Chile forecast for accession to NAFTA: A process of economic, legal and environmental harmonization, (1999) 7 Cardozo J.Int'l & Comp.L., pp. 97-139 (LEXIS/NEXIS).

[9] See in general: *Abbott, F.*, The North American Integration regime and its implications for the World Trading System, Harvard Law School, Jean Monnet Paper 2/99, available at: http://www.law.harvard.edu/ programs/JeanMonnet/papers/99/990201.html.

[10] See: *Abbott, F.*, Integration without institutions: The NAFTA mutation of the EC model and the future of the GATT regime, (1992) 40 A.J.Comp.L., pp. 917-948.

[11] See below.

[12] Annex 2001.2 NAFTA enumerates 8 Committees and 6 Working Groups.

[13] See for a detailed analysis: *Marceau, G.*, NAFTA and WTO Dispute Settlement Rules: A thematic comparison, (1997) 31 J.W.T. 2, pp. 25-81; *Müller, H.*, Die Lösung von Streitigkeiten in der NAFTA insbesondere durch Schiedsverfahren, Dissertation, Münster 1999.

[14] See for the history of Uruguay Round, *Jackson, J./Sykes, A.*, Implementing the Uruguay Round, Oxford, 1997; *van den Bossche, P.*, The establishment of the WTO: The dawn of a new era in international trade?, (1994) 1 MJ, pp. 396-425.

[15] See on the DSU: *Petersmann, E.U.* (ed.), International Trade Law and the GATT/WTO Dispute Settlement System, The Hague, 1997. For an analysis of the case law of the Appellate Body see: *Vermulst, E./Mavroidis, P./Waer, P.*, The functioning of the Appellate Body after 4 years, (1999) 32 J.W.T., pp. 1-50.

[16] See for a detailed analysis: *Marceau, G.*, (note 13).

[17] Article 2001 NAFTA. The panel decisions and reports issued under NAFTA are available from the NAFTA Secretariat at: http://www.nafta-sec-alena.org/english/index.htm.

[18] See on the concepts of power- and rule-orientated dispute settlement systems: *Jackson, J.*, The World Trading System, 2nd ed., Cambridge, 1997, Chapter 4. It has been suggested that the NAFTA dispute settlement system favours the USA as the most powerful member of NAFTA, see: *Loungnarth, V./ Stehly, C.*, The General Dispute Settlement Mechanism in the NAFTA and the WTO System, (2000) 34 J.W.T.1, pp. 39-71.

[19] See: *Reisman, M./Wiedman, M.*, Contextual Imperatives of Dispute Resolution

19 Mechanisms, (1995) 29 J.W.T.3, pp. 7-35.

20 See for the economic statistics note 6.

21 See: *Wise, C.* (ed.), The post-NAFTA political economy, Pennsylvania, 1998; see also for a populist analysis: *Public Citizen Global Trade Watch*, NAFTA between 1994-1999, http://www.citizen.org/pctrade/ nafta/reports/5years.htm.

22 See: *McFadyen, J.*, NAFTA supplemental agreements: Four year review, Institute for International Economics, Working Paper 98-4, available at: http://207.238.152.36/CATALOG/WP/1998/98-4.htm.

23 See: *Mall, B.*, The effects of NAFTA's environmental provisions on Mexican and Chilean policy, (1998) 32 Int'l Lawyer, pp. 153-187 (LEXIS/NEXIS).

24 See below.

25 For a detailed historic account see: *O'Keefe, Th.*, How the Andean Pact transformed itself into a friend of Foreign Enterprise, (1996) 30 Int'l Lawyer, pp. 811-824 (LEXIS/NEXIS).

26 Instead of participating in the FTA immediately, Peru negotiated an agreement that postpones full participation in the FTA until 2005. In the meantime Peru shall gradually reduce its tariffs, see: Decision 414 of 30.7.1997 of the Commission of the Andean Community, available at: http://www. comunidadandina.org/NORMATIVA/DEC/D414.htm (in Spanish only).

27 The Protocol of Trujillo is available at: http://www.comunidadandina.org/english/andean/ande_trie1. htm.

28 See for an overview analysis: *Rodríguez Mendoza, M.*, The Andean Community in Motion: A progress Report, September 1998, available at: http://www.sice.oas.org/forum/non_govt/academic/mrod_e1. asp.

29 See: *Rossell, M.*, Institutional framework and juridical security in the Andean Community, available at: http://www.comunidadandina.org/english/documen/Canada.htm.

30 The agreement is available at: http://www.comunidadandina.org/document/acuerd/mercosur.htm (in Spanish only).

31 See: http://www.comunidadandina.org/english/relations/rela_merco2.htm.

32 OJ L 127, 29.4.1998, p. 11.

33 See: http://www.comunidadandina.org/english/documen/act-cantn.htm.

34 Article 1 Protocol of Trujillo.

35 The Sucre Protocol is available at: http://www.comunidadandina.org/english/andean/ande_trie4.htm.

36 See new Article 3 sub a) Sucre Protocol.

37 See: *O'Keefe, Th.*, (note 25).

38 Article 6 Protocol of Trujillo.

39 Article 11 Protocol of Trujillo.

40 Article 12 Protocol of Trujillo.

41 Article 11 Protocol of Trujillo.

42 See: 12th Andean Presidential Council meeting, Act of Lima, available at: http://www. comunidadandina.org/cumbre/i_agree4.htm.

43 Article 18 Protocol of Trujillo.

44 Article 17 Protocol of Trujillo.

45 See: http://www.comunidadandina.org/english/Dec/D458e.htm.

46 Article 21 Protocol of Trujillo.

Article 22 (b) Protocol of Trujillo.

Article 22 (c) Protocol of Trujillo.

The Decisions of the Commission are available at: http://www.comunidadandina.org/normativa/dec/ decnum.htm.

Article 29 Protocol of Trujillo.

Article 32 Protocol of Trujillo.

Article 30 (a) Protocol of Trujillo.

Article 30 (c) Protocol of Trujillo.

Article 29 Protocol of Trujillo. The Resolutions are available http://www.comunidadandina.org/normativa/res/and_resol.htm.

See: http://www.comunidadandina.org/english/andean/ande_trie5.htm.

Article 41 Protocol of Trujillo. See also the Amending Protocol which entered into force in August 1999, available at: http://www.comunidadandina.org/english/andean/ande_trie2.htm; see for the Bylaws of the Court of Justice, Decision 184 of the Commission, available at: http://www.comunidadandina.org/english/Dec/d184e.htm.

Article 6 Amending Protocol.

Article 7 Amending Protocol.

Article 8 Amending Protocol.

Article 6 (3) Amending Protocol.

Article 48 Protocol of Trujillo.

According to Article 1 of the Amending Protocol, the legal system of the Cartagena Agreement consists of the (i) Cartagena Agreement, (ii) its Protocols and additional instruments, (iii) its amending protocols, (iv) the Decisions of the Council of Foreign Ministers and the Commission of the Andean Community and (v) the Resolutions of the General Secretariat.

Article 2 Amending Protocol.

The Official Gazette of the Andean Community is available at: http://www.comunidadandina.org/ gaceta.htm (in Spanish only).

Article 3 Amending Protocol.

The case law of the Court of Justice of the Andean Community is available at: http://www. comunidadandina.org/andina.htm (in Spanish only).

Article 17 Amending Protocol.

Article 19 Amending Protocol.

Article 22 Amending Protocol.

Article 23 Amending Protocol.

Article 25 Amending Protocol.

Article 32 Amending Protocol.

Article 33 (1) Amending Protocol.

Article 33 (2) Amending Protocol.

Article 35 Amending Protocol.

See the detailed study by: *Mendoza/Correa/Kotschwar* (ed.), The Andean Community and the US: Trade and Investment relations in the 1990s, September 1998, available at: http://www.oas.org.

See the study by the *Institute for European-Latin American Relations*: The new Andean reality and the EU: Biregional relations to the year 2000, Madrid, May 1998.

See for details: Economic and Social Indicators of the Intra and Extra-Andean Community Trade in goods 1990-1998, available at: http://www.comunidadandina.org/english/stadis/sgdi215e.htm.

Currently, the CET is organised on four levels 5 per cent, 10 per cent, 15 per cent and 20 per cent, though many exceptions still exist. Bolivia was excused from implementing the CET and Peru reached an understanding that would allow it not to apply the CET when joining the FTA fully.

See most recently the adoption at the Presidential Council meeting in June 2000 of the Additional Protocol to the Cartagena agreement "Andean Community Commitment to Democracy", in which the suspension of membership of an Andean Community Member Country is introduced if a ‘disruption of the democratic order’ is established by the Council of Foreign Ministers, available at: http://www.comunidadandina.org/cumbre/i_agree2.htm.

See: *Rossell, M.*, (note 29).

Although, *O’Keefe, Th.*, at p. 814, footnote 18, claims that in practice the direct applicability principle is not always honoured, (note 25).

The Treaty of Asuncion is available at: http://www.sice.oas.org/trade/mrcsr/mrcsr1.asp.

See for a detailed analysis of Mercosur: *Wehner, U.*, Der Mercosur, Baden-Baden, 1999; *Borba Casella, P.*, Legal features and institutional perspectives for the Mercosur, (1998) 31 VÜR, pp. 523-536; *de Davidson, E.*, The Treaty of Asunción and a Common Market for the Southern Cone: A timely step in the right direction, (1992) 32 VJIL, pp. 265-283.

The Protocol of Ouro Preto is available at: http://www.sice.oas.org/trade/mrcsr/ourop/index.asp.

See for details: *de Aguinis, A. M.*, Symposium: NAFTA at age one: A blueprint for the hemispheric integration? The future of FTAA in the Americas: Can Mercosur accede to NAFTA? A legal perspective, (1995) 10 Conn. J. Int’l L., pp. 597-638 (LEXIS/NEXIS).

See for a detailed overview: *Samtleben, J.*, Das Internationale Prozeß- und Privatrecht des Mercosur, (1999) 63 RabelsZ, pp. 1-69.

Available at: http://www.comunidadandina.org/document/acuerd/mercosur.htm (in Spanish only).

The agreements of both Chile and Bolivia with Mercosur are available at: http://www.sice.oas.org/ tradee.asp#MERCOSUR/MERCOSUL (in Spanish only).

See: *Martins, R.*, Mercosur: Der Südamerikanische Gemeinsame Markt im Überblick, (1999) 11 RIW, pp. 851-856.

Article 9 Treaty of Asuncion.

See for details: *Wehner, U.*, pp. 83-93, (note 84); *Borba Casella, P.*, pp. 527-531, (note 84).

Article 10 Protocol of Ouro Preto.

Article 3 Protocol of Ouro Preto.

Article 9 Protocol of Ouro Preto. The Decisions of the Council are available at: http://www.sice. oas.org/trade/mrcsrs/decisions/indice.asp (in Spanish and Portuguese only).

Article 10 Protocol of Ouro Preto.

Article 14 Protocol of Ouro Preto.

Article 15 Protocol of Ouro Preto. The Resolutions of the Common Market Group are available at: http://www.sice.oas.org/trade/mrcsrs/resolutions/indice.asp (in Spanish and

Portuguese only).

99 Article 16 Protocol of Ouro Preto.

100 Article 20 Protocol of Ouro Preto.

101 Article 22 Protocol of Ouro Preto.

102 Articles 23-24 Protocol of Ouro Preto. Currently the Joint Parliamentary Commission consists of 64 members, see: *Wehner, U.*, p. 93, (note 84).

103 Article 25 Protocol of Ouro Preto.

104 Article 26 Protocol of Ouro Preto.

105 Article 28 Protocol of Ouro Preto.

106 Article 37 Protocol of Ouro Preto.

107 The Decisions of the Council of the Common Market are available at: http://www.sice.oas.org/trade/ mrcsrs/decisions/indice.asp (in Spanish/Portuguese only). Also the Resolutions of the Common Market Group are available at: http://www.sice.oas.org/trade/mrcsrs/resolutions/indice.asp (in Spanish/Portuguese only).

108 See for details: *Wehner, U.*, pp. 114-116, (note 84).

109 See on this point: *Wehner, U.*, pp. 116-119, (note 84).

110 Available at: http://www.sice.oas.org/trade/mrcsrs/decisions/AN0191e.asp.

111 See: *Wehner, U.*, pp. 98-108, (note 84); *Borba Casella, P.*, pp. 532-535, (note 84).

112 Article 2 Protocol of Brasilia.

113 Article 4 Protocol of Brasilia.

114 Article 6 Protocol of Brasilia.

115 Article 7 Protocol of Brasilia.

116 Article 9 Protocol of Brasilia.

117 Article 10 Protocol of Brasilia.

118 Article 12 Protocol of Brasilia.

Article 20 (1) Protocol of Brasilia.

Article 20 (2) Protocol of Brasilia.

Article 25 Protocol of Brasilia.

Article 27 Protocol of Brasilia.

Article 29 Protocol of Brasilia.

Article 32 Protocol of Brasilia. See above for the arbitral procedure.

See for details: *Ventura, D.*, First Arbitration Award in Mercosur - A Community law in evolution?, (2000) 13 LJIL, pp. 447-458.

See: *Samtleben, J.*, (note 87).

See the study by the *Institute for European-Latin American Relations*: Mercosur: Prospects for an emerging bloc, Madrid, August 1997; *Borba Casella, P.*, p. 535, (note 84); see also: Report of the *Inter-American Development Bank*: Mercosur Report No. 5 1998-1999, pp. 41-43, available at: http://www. iadb.org/intal/ingles/i-default.htm; see moreover the most recent Mercosur Report No. 6 1999-2000 available at the same website.

Currently about 90 per cent of intra-Mercosur trade is conducted at zero-percent tariffs, see: *Laird, S.*, Mercosur: Objectives and Achievements, WTO Staff Working Paper, June 1997, available at the WTO website: http://www.wto.org/english/res_e/reser_e/tp9702_e.htm.

See for a detailed analysis: *Tate, J.*, Sweeping protectionism under the rug: Neoprotectionist measures among Mercosur countries in a time of trade-liberalisation, (1999) 27 Ga. J. Int'l & Comp.L., pp. 389-424 (LEXIS/NEXIS).

Currently the CET applies to 85 per cent of the trade, see: *Laird, S.*, (note 128).

See for details: *Laird, S.*, (note 128).

See: *Tate, J.*, (note 129).

See the Report of *the Inter-American Development Bank*, pp. 41-43, (note 127); see also the statements of Brazilian and Argentinean officials at: http://www.mercopress.com/noticias/noticia_en_mercosur. htx?id=659 and the statement of the President of the Inter-American Development Bank at: http://www.mercopress.com/noticias/noticia_en_mercosur.htx?id=612.

See: *O'Keefe, Th.*, An analysis of the Mercosur economic integration project from a legal perspective, (1994) 28 Int'l Lawyer, pp. 439-448; *Martins, R.*, (note 90).

See: *Borba Casella, P.*, p. 535, (note 84); see also: *Tate, J.*, (note 129).

See generally on the FTAA: *Anderson, L.*, The future of hemispheric free trade: Towards a unified hemisphere?, (1998) 20 Hous. J. Int'l L., pp. 636-669 (LEXIS/NEXIS); *Bayer, B.*, Expansion of NAFTA: Issues and obstacles regarding the accession by Latin American states and associations, (1997) 26 Ga. J. Int'l & Comp.L., pp. 615-641 (LEXIS/NEXIS).

[137] See in general: *Wrobel, P.*, A Free Trade Area of the Americas in 2005?, (1998) 74 International Affairs 3, pp. 547-561.

[138] See: http://www.sice.oas.org/ftaa/miami/sadope.asp.

[139] See: http://www.sice.oas.org/ftaa/miami/sapoae.asp.

[140] The Ministerial Declarations of the meetings between 1995-1999 are available at the FTAA internet site: http://www.ftaa-alca.org/minis_e.asp; see also: *Wrobel, P.*, (note 137).

[141] The TNC is composed of the Vice Ministers of Trade of the participating states. The 9 negotiation groups cover the following areas: 1) Market Access, 2) Investment, 3) Services, 4) Government Procurement, 5) Dispute Settlement, 6) Agriculture, 7) Intellectual Property Rights, 8) Subsidies, Anti-Dumping and Countervailing Duties, 9) Competition Policy; see also: *Salazar-Xirinachs, J.*, (note 2).

[142] See: 'FTAA countries face tough talks on accord', *Financial Times online*, May 3, 2000, available at: http://globalarchive.ft.com/globalarchive/articles.html?id=000503000650&query=ftaa. See the website of the Summit of the Americas: http://www.americascanada.org/eventsummit/menu-e.asp; see also for an impression of the negotiation status from the US perspective: Summary of U.S. Negotiating Positions in the FTAA, January 17, 2001, available at: http://www.ustr.gov/regions/whemisphere/ftaa. shtml.

[143] See for a detailed analysis: *Devlin/Estevadoral/Garay*, The FTAA: Some longer term issues, Occasional Paper 5, August 1999, available at the Inter-American Development Bank website: http://www. iadb.org/intal/ingles/i-default.htm.

[144] Available at: http://www.ftaa-alca.org/ministerials/costa_e.asp; see also in detail: *Wrobel, P.*, (note 137).

[145] See for a detailed analysis: *Garcia, F.*, Beyond the Summit of the Americas II, Prospects for FTAA and future Western hemisphere integration: The integration of smaller economies into the FTAA, (1999) 5 NAFTA: L. & Bus. Rev. Am., pp. 221-239 (LEXIS/NEXIS). See also: *Blum, J.*, The FTAA and the Fast Track to forgetting the environment: A comparison of the NAFTA and Mercosur environmental models as examples for the Hemisphere, (2000) 35 Tex. Int'I L.J., pp. 435-457 (LEXIS/NEXIS).

[146] See generally: *Mall, B.*, (note 23).

[147] See: *Mall, B.*, (note 23).

[148] See in general: *Tiefer, Ch.*, "Alongside" the fast track: Environmental and Labor issues in FTAA, (1998) 7 Minn. J. Global Trade, pp. 329-373 (LEXIS/NEXIS); see also *Blum, J.*, The FTAA and the Fast Track to forgetting the environment: A comparison of the NAFTA and Mercosur environmental models as examples for the Hemisphere (2000) 35 Tex. Int'l L.J., pp. 435-457 (LEXIS/NEXIS).

[149] See for an extensive analysis: *Kupfer Schneider A.*, Getting along: The evolution of dispute resolution regimes in international trade organizations, (1999) 20 Mich. J. Int'l L. pp. 697-773 (LEXIS/NEXIS).

[150] See: *O'Neal Taylor, C.*, Symposium - Institutions for international economic integration: Dispute settlement resolution as a catalyst for economic integration and an agent for deepening integration: NAFTA and Mercosur?, (1997) 17 J. Int'l L.Bus., pp. 850-899 (LEXIS/NEXIS).

[151] See in general: *Abbott, F.*, The Maastricht Judgment, the democracy principle and US participation in Western Hemispheric integration, (1994) 37 GYIL, pp. 137-161.

[152] See: *Reisman, M./Wiedman, M.*, (note 19).

[153] See for a detailed analysis: *Anderson, L.*, (note 136).

See on the technical problems of enlarging NAFTA: *Bayer, B.*, (note 136); see also: *Salazar-Xirinachs, J.*, Implementing the Summit of the Americas: Promoting free trade in the Americas, December 1996, available at: http://www.sice.oas.org/ftaa/rela_doc/JMSala1.asp.

See: *O'Keefe, Th.*, Symposium: NAFTA and the expansion on free trade: Current issues and future prospects: Commentary: Potential conflict areas in any future negotiations between Mercosur and the NAFTA to create a FTAA, (1997) 14 Ariz. J. Int'l & Comp. Law, pp. 305-318 (LEXIS/NEXIS).

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See: *Lewis, F.*, House defeats fast-track trade bill, The San Diego Union-Tribune, 28.9.1998, available at: http://www.fasttrack.org/resources/news/opinion_editorial/980928sdx.html.

See: *Wrobel, P.*, pp. 558-561, (note 137); see for a more positive attitude towards the FTAA: *Hufbauer, G./Kotschwar, B.*, The Future of regional trading arrangements in the Western Hemisphere, paper, September 1998, available from the Institute for International Economics, at: http://207.238.152.36/ TESTMONY/gch6.htm.

The agreement is available at: http://www.comunidadandina.org/document/acuerd/mercosur.htm (in Spanish only).

See for a chronological overview of the Mercosur-Andean Community negotiations: http://www. comunidadandina.org/english/relations/rela_merco4.htm.

Available at: http://www.comunidadandina.org/document/acuerd/acdo_canbra.htm (in Spanish only).

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EC Bulletin 1992 (5), 1.2.32; see also: *Wehner, U.*, p. 189, (note 84).

Wehner, U., p. 189, (note 84).

Interregional Framework Cooperation Agreement between the EC, its Member States and Mercosur, OJ, L 69, 19.3.1996, p. 4, entered into force on July 1, 1999; see generally: *Wehner, U.*, pp. 190-196, (note 84).

Article 2 (1) Interregional Framework Agreement.

See: *Wehner, U.*, pp. 197-208, (note 84).

Articles 25 ff. Interregional Framework Agreement.

See: Press release of the EC Commission: First Cooperation Council EU-Mercosur meeting, available at: http://europa.eu.int/comm/external_relations/news/11_99/pres_99_371.htm.

See: Press release of the EC Commission: First Cooperation Council EU-Mercosur meeting, available at: http://europa.eu.int/comm/external_relations/news/11_99/pres_99_371.htm.

See: Conclusions of First meeting of the EU-Mercosur Biregional Negotiations Committee, available at: http://europa.eu.int/comm/external_relations/mercosur/ass_neg_text/concl_bnc1.htm.

The three Subgroup are on (i) Economic Cooperation, (ii) Social and Cultural Cooperation, (iii) Financial and Technical Cooperation.

[173] See: Conclusions of Second meeting of the EU Mercosur Biregional Negotiations Committee, available at: http://europa.eu.int/comm/external_relations/mercosur/ass_neg_text/concl_bnc2.htm

[174] Conclusions of the Third meeting of the EU-Mercosur Biregional Negotiations Committee, available at: http://europa.eu.int/comm/external_relations/mercosur/ass_neg_text/concl_bnc3.htm.

[175] See for an overview: *Page, S.*, The relationship between the EU and Mercosur, (1999), 34 The International Spectator, pp. 91-109; see also: *Institute for European-Latin American Relations*, The EU and Mercosur: Towards a new economic relationship?, Madrid, June 1996.

[176] See generally: Commission staff working paper concerning the establishment of an inter-regional association between the EU and Mercosur, available at: http://europa.eu.int/comm/external_relations/mercosur/bacground_doc/template_paper1.htm; see also: *Wehner, U.*, pp. 175-187, (note 84).

[177] *Wehner, U.*, pp. 185-187, (note 84).

[178] *Page, S.*, (note 175).

[179] *Wehner, U.*, p. 186, (note 84).

[180] See: *Wehner, U.*, pp. 183-184, (note 84).

[181] See on this point: *Wehner, U.*, pp. 197-234, (note 84); see most recently: *Wehner, U.*, EU und Mercosur: Auf dem Weg zur Freihandelszone?, (2000) 5 RIW, pp. 370-376.

[182] Cooperation Agreement between the EC and member states of the Cartagena Agreement, OJ L 153, 8.6.1984, p. 2.

[183] Framework Agreement on Cooperation between the EC and the member states of the Cartagena Agreement, OJ L 127, 29.4.1998, p. 11.

[184] Article 32 Framework Agreement.

[185] See speech of Secretary General of the Andean Community, *Alegrett*, on March 30, 2000, http://www. comunidadandina.org/english/press/np30-3-00.htm.

[186] See also: *Lax, J.*, (note 8).

[187] See: *Lax, J.*, (note 8); *Anderson, L.*, (note 136).

[188] See for the current status of the FTA Canada-Chile, Canadian news release, at: http://webapps.dfait-maeci.gc.ca/minpub/publication.asp?FileSpec=/Min_Pub_Docs/102796.htm.

[189] All these agreements are available at: http://www.sice.oas.org/tradee.asp#chimexFTA.

[190] The treaty is available at: http://www.sice.oas.org/trade/msch/mschind.asp (in Spanish only).

[191] See for an overview: *Menanteau-Horta, D.*, Chile, pp. 183-218, in: *Coffey, P.*, Latin-America-Mercosur, Boston, 1998.

[192] Framework Cooperation Agreement between the EC and its Member States, and Chile, OJ L 209, 19.8.1996, p. 5.

See: http://europa.eu.int/comm/external_relations/news/11_99/pres_99_372.htm.

Conclusions of the First meeting of the EU-Chile Negotiations Committee, available at: http:// europa.eu.int/comm/external_relations/chile/assoc_agr/nc1pdf.

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See for an overview: *Lopez-Ayllon, S.*, (note 3).

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See the study of *ALADI*: Evolución del proceso de integración regional durante 1999, p. 40, available at: http://www.aladi.org.

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See: *Schott, J.*, The FTAA: US interests and objectives, Institute for International Economics, available at: http://207.238.152.36/TESTMONY/ftaa.htm.

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See for details on the economic crisis: Report of the *Inter-American Development Bank*, (note 127).

In February 1996, the WTO Council established a Committee on Regional Trade Agreements. Currently, 72 agreements are under examination, but no report for adoption has been finalized so far, see: (1999) Report of the *Committee on Regional Trade Agreements to the General Council*, WT/REG/8, 11.10.1999, available at: http://www.wto.org/wto/ddf/ep/public.html.

See: *Abbott, F.*, (note 9).