



Kjersti Elisabeth Østhus

“The Trade Negotiations between the EU and Mercosur, 2000–2013”

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Kjersti Elisabeth Østhus

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Supervisor: Espen Storli

The Department of History and Classical studies

NTNU

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Abbreviations

APEC – Asia Pacific Economic Cooperation
BNC – Bi-Regional Negotiations Committee
CAN - Andean Community of Nations
CAP – Common Agricultural Policy
CELAC - Community of Latin American and Caribbean States
CMC – El Consejo del Mercado Común/ The Common Market Council
CUSFTA – Canada – United States Free Trade Agreement
DG – Directorate-General
ECSC – European Coal and Steel Community
EEC – European Economic Community
EC – European Community
EMIFCA – EU-Mercosur Interregional Framework for Cooperation Agreement
EU – European Union
FDI – Foreign Direct Investment
FTAA – Free Trade Area of the Americas
GDP – Gross Domestic Product
GMC – Grupo Mercado Común/ The Common Market Group
ICJ – International Court of Justice
IMF – International Monetary Fund
MEP – Member of the European Parliament
Mercosur/Mercosul – Mercado Común del Sur/ Mercado Comum do Sul (The Common Market of the South)
NAFTA – North American Free Trade Agreement
NATO – North Atlantic Treaty Organization
SAARC – South Asian Association of Regional Cooperation
SCC – Subcommittee on Cooperation
TEC – External Common Tariff
TG – Technical Groups
TIFA - Trade and Investment Framework Agreement
WTO – World Trade Organization

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1. Introduction

"Given Mercosur's economic growth, I see important opportunities for EU exporters, investors and service providers in this region in the coming years. [...] A balanced and ambitious free trade agreement between the EU and Mercosur could therefore bring substantial economic benefits to both sides and contribute to the economic recovery."

EU Commissioner for Trade, Karel De Gucht, 2010¹

Thirteen years after the European Union (EU) and the Common Market of the South (Mercado Común del Sur – Mercosur) officially launched the negotiations on an Association/Free Trade Agreement (FTA) the two blocs have still not been able to come to an agreement, nor does it seem like that an agreement will be reached in the closest future. Even though the EU and Mercosur have not yet been able to come to an agreement, the case of their interregional negotiations and relations deserve special attention. An eventual FTA between the two blocs is a highly interesting case as it would be the first of its kind between two customs unions. Secondly it would be the biggest free trade area in the world.²

Representatives from the European Union and Mercosur have stressed the positive outcomes an association, or eventually a FTA between the European Union and Mercosur would have since the negotiations on an agreement were launched in 2000. When the negotiations were relaunched in 2010, after stalling in 2004, both blocs once again expressed their commitment to coming to an agreement. Why have the two blocs spent this much time coming to an agreement and not yet been able to make it? De Gucht's statement serves as an example of the belief in an association/FTA that has driven the two blocs to continue negotiating for such a prolonged time. Even though an association agreement/FTA would be beneficial for both blocs in many ways, an agreement would also have a negative impact on various sectors in the two blocs (for instance the agricultural sector in the EU and the service and automobile sector in Mercosur). The dense web of actors, differing opinions, intra- and inter-bloc friction make the negotiations highly complex and difficult.

¹ *Commissioner Karel De Gucht to discuss EU-Mercosur trade negotiations* (2013) Available from: http://brussels.cta.int/index.php?option=com_k2&view=item&id=4778:commissioner-karel-de-gucht-to-discuss-eu-mercador-trade-negotiations (Accessed 14.05.13); *EU Trade commissioner in Brazil to advance trade talks with Mercosur* (2010) Available from <http://en.mercopress.com/2010/09/13/eu-trade-commissioner-in-brazil-to-advance-trade-talks-with-mercador> (Accessed 10.04.13)

² Mahrukh Doctor (2007) "Why Bother With Interregionalism? Negotiations for a European Union-Mercosur Agreement" in *JCMS 2007 Volume 45. Number 2*. Oxford: Blackwell Publishing Ltd., pp. 281-314, p.282

Even though many aspects of the EU-Mercosur relations have been studied, there has not yet been done any larger study of the negotiations after the relaunch in comparison with the ones from 2000 until 2004. Most of the work that has been done upon the EU-Mercosur interregional relations has either focused on the rounds of negotiations before they stalled in 2004, or after they were relaunched in 2010. I have therefore investigated the following questions in this thesis: “Why did and do the EU and Mercosur want to negotiate an Association/Free Trade Agreement?” and “Why have the EU and Mercosur not yet been able to reach an agreement?”. This thesis therefore takes a deeper look into and compares the rounds of negotiations between the EU and Mercosur before they stalled in 2004, and the rounds of negotiation after the relaunch in 2010. The thesis will further analyze and discuss why the two blocs decided to engage in interregional relations in the first place, and why they have not yet been able to come to an agreement. The different contexts in which the rounds of negotiations took place when they were launched in 2000 and until they stalled in 2004, compared to the context in which the negotiations were relaunched in 2010 are important to understand the situation today. In order to discuss and analyze these questions, the theory of interregionalism will be used.

Interregionalism can be understood as a relationship between two regional groups in two different regions of the world, like the EU and Mercosur, or a comprehensive relationship that covers different pillars of cooperation through frequent work and meetings at various official levels.³ Interregionalism can also be perceived as a process of widening and deepening interactions between two regional groups.⁴ In general, interregionalism is built on a low level of institutionalism where the blocs rely on their own institutions.⁵

As the study of interregionalism from a theoretical perspective is in its infancy, there is not yet one common definition of the term, but rather various approaches and attempts to describe and explain the case of interregionalism. I have mainly used the theoretical work of the political scientists Jürgen Rüländ, Heiner Hänggi and Ralf Roloff in this thesis, as they represent a very important foundation in the study of interregionalism.⁶ Rüländ has presented

³ Alan Hardacre (2008) *The EU and Complex Interregionalism: The Case of Latin America*. Doctoral thesis. Loughborough University, p.IX

⁴ Ralf Roloff (2006) “Interregionalism in theoretical perspective. State of the art” in Hänggi, Heiner et al. (ed.) *Interregionalism and International Relations*. 1st edition. London: Routledge, pp.17-30 p.18

⁵ Jürgen Rüländ (2002) “Inter- and Transregionalism: Remarks on the State of the Art of a New Research Agenda” in *National Europe Centre Paper No.35*. Paper prepared for the Workshop on *Asia-Pacific Studies in Australia and Europe: A Research Agenda for the Future*. Australian National University.

⁶ Rüländ (2002); Rüländ (2006) “Interregionalism. An unfinished agenda” in Hänggi et al. (ed.) (2006) *Interregionalism and International Relations*. 1st edition. London: Routledge, pp. 295-313; Heiner Hänggi et al. (2006) “Interregionalism. A new phenomenon in international relations” in Hänggi et al. (ed) (2006) *Interregionalism and International Relations*. 1st edition. London: Routledge, pp.3-14; Ralf Roloff (2006)

five functions of interregionalism: *balancing, institution building, rationalizing, agenda-setting* and *collective identity-building*.⁷ These functions' main tasks are to explain underlying factors for why regional groups decide to engage in interregional relations, as well as factors that might cause stagnation or dead-locks. These functions are therefore important in order to understand why the EU and Mercosur decided to engage in interregional negotiations, as well as some of the factors that have made it hard to reach an agreement.

As the interregional relations between the EU and Mercosur represent a very interesting case, various efforts have been made to study it. For instance political scientists like Mahrukh Doctor and Sebastian Santander are among some of the researchers that have studied the interregional relations between the two regions, and some of the obstacles that have made the signing of an agreement hard or even impossible. Doctor has studied the negotiations before they stalled in 2004, reasons for why they stalled, and has put much emphasis on the impact that the negotiations of the Free Trade Area of the Americas (FTAA), and the changes that the post-Cold War presented and had on the EU-Mercosur negotiations. Santander has studied the EU-Mercosur relations and the EU's role as an "external federator".⁸ He has further looked more closely at Argentina and Brazil's roles in Mercosur and their impact on the negotiations. Santander has also investigated the interregional relations between the two blocs in 2010, and reported an increasing tendency in EU politics in increasing its focus on bilateral agreements with Latin American states, instead of interregional agreements.⁹

The political scientist Alan Hardacre did his doctoral thesis upon the EU and complex interregionalism, and has further studied the EU-Mercosur interregional relations in light of five functions of interregionalism developed by Rüländ. Hardacre gives most credence to the balancing function that can be understood in the light of the realist school of theory.¹⁰

I have also consulted work done upon the potential impact of an agreement and other possibilities for the two blocs to reach an agreement. The economist Patrick Messerlin has published a paper on the political importance of Mercosur for the EU's interests in the short and the medium run. Messerlin concludes that the EU and Mercosur should focus on

⁷ Rüländ (2006), p.300

⁸ Sebastian Santander (2002) "EU-Mercosur Interregionalism: Facing Up to the South American Crisis and the Emerging Free Trade Area of the Americas" in *European Foreign Affairs Review* 7. pp.491-505; Sebastian Santander (2005) *The European Partnership with Mercosur: a Relationship Base don Strategic and Neo-liberal Principles*. Journal of European Integration, 27:3, pp.285-306

⁹ Sebastian Santander (2010) "EU-LA relations: from interregionalism to bilateralism?" in *Working Paper #29, Programa de América Latina*. CAEI Centro Argentino de Estudios Internacionales

¹⁰ Hardacre (2008)

something more reasonably feasible for a decade or so, and rather focus on negating topics that are attractive to both and manageable to agree on and implement.¹¹

I have also chosen to focus on the work of political scientist Andy Klom and the Argentine politician Graciela Molle, which have both represented different sides in the Bi-Regional Negotiations Committee (BNC) as delegates representing the EU (Klom) and Mercosur (Molle) throughout various of the EU-Mercosur rounds of negotiations. The work of Klom and Molle represent different points of views of the rounds of negotiations until 2004, and have therefore been used in order to understand some of the friction that exists between the two blocs, as well as some of the reasons why coming to an agreement has been very hard. While Klom represents a more “pro-EU” approach, Molle clearly takes the side of Mercosur and Argentina in particular.¹²

In order to study the rounds of negotiation, I have studied the official statements from every BNC round of negotiation between the EU and Mercosur, as these are the main rounds of the negotiations. The EU and Mercosur have published common official statements from these rounds of negotiations that do represent rather technical descriptions of the negotiations. It has therefore been important to take the context of the negotiations under consideration, to fully understand and being able to interpret the standpoints of the two blocs.

As Argentina and Brazil are the most influential countries in Mercosur, I have chosen to mainly focus on these two countries out of the Mercosur members. These countries do to a greater extent impact the politics and decisions within the bloc in comparison with for instance Paraguay and Uruguay.

In order to answer the thesis’ main questions, the different theoretical aspects of interregionalism is first presented and analyzed. Secondly a background chapter outlines the international context of which the interregional relations between the EU and Mercosur took form and in which the rounds of negotiations were officially launched in 2000. Thirdly, the main chapter outlines the international context of which the rounds of negotiations after the relaunch in 2010 took place, and still take place. Finally, a concluding discussion chapter then aims to answer the thesis’ main questions in light of the theoretical aspects of interregionalism.

¹¹ Patrick, Messerlin (2013) *The Mercosur – EU Preferential Trade Agreement. A View from Europe*. No.377/February 2013. CEPS Working Document

¹² Andy Klom (2003) “Mercosur and Brazil: A European Perspective” in *International Affairs (Royal Institute of International Affairs 1944-)*, Vol. 79, No. 2, Blackwell Publishing, pp. 351-368; Graciela Molle (2008) “Negociación MERCOSUR-Unión Europea”, in *Revista del CEI, Comercio Exterior e Integración*. Mayo de 2008. Número 11, pp.95-120

As this thesis has a historical and political approach to the EU-Mercosur interregional relations, I have mainly studied and investigated openly accessible official sources. The material used in this thesis have been collected from official publications (for instance from the EU, Mercosur, other official statements from international institutions), web based news papers (for instance MercoPress, Página12, Reuters, The Economist), studies and research published on interregionalism, the EU-Mercosur relations and negotiations, as well as history of the EU and Mercosur/ Latin America. The material represents different aspects of the EU-Mercosur interregional relations, and I have tried to find publications that represent the general understanding of the negotiations, the public opinion, and information that is also colored by the EU point of view, or the Mercosur point of view. In this way it is possible to get a better understanding of the two blocs' different approaches towards the negotiations, as well as the public's understanding and opinion about the negotiations between the two blocs. It has been important to understand the friction that exists between the blocs, as the EU and Mercosur have not yet been able to come to an agreement. The sources have not been able to give a clear answer to one of the thesis' main questions: why the two blocs have not managed to come to an agreement, but on the other hand many hints to different possible reasons. The main task has therefore been to focus on the most important reasons that seem to have had most impact on the two blocs and their will to negotiate, as well as the lack of coming to an agreement.

2. Interregionalism from a Theoretical Perspective

In the 1980s and 1990s there was a chain of changes that affected international relations. One of the major changes was a *resurgence* of international regionalism.¹³ This means that there was a second wave of regional institution building. This second wave differed in several ways from the first wave of regional organizations in the 1950s and 1960s. While in the earlier period the regional organizations emerged primarily in Europe and Latin-America, in the second wave regional organizations proliferated all over the world, even in regions that were hitherto known as “regions without regionalism”, for example in the Asia-Pacific (for instance South Asian Association of Regional Cooperation-SAARC). As well as the emergence of new regional organizations, such as Mercosur, the 1980s and 1990s also saw a widening and deepening of older regional organizations, such as the EU. The economist and political theorist Walt W. Rostow spoke fittingly of the “Coming age of Regionalism”.¹⁴ Regional organizations began to develop their own external relations, and became actors in their own right in international relations. There was a clear increase in the number and intensity of interregional dialogues in the 1990s. One of the dialogues that have attracted much scholarly interest is the relationship between the EU and Mercosur. As the study of interregionalism is still in its infancy, the EU-Mercosur relation makes an interesting case.¹⁵

As there is not yet a lot of research on the aspects of interregionalism, theorists have not yet managed to gather around one leading definition of the term. In this chapter, some of the various definitions of the term will be closer studied and discussed. The theory of interregionalism will be important in the further discussion of this thesis’ main theme; the evolving relationship between the EU and Mercosur. The following main questions in this chapter will therefore be “what is interregionalism?” and “why is interregionalism important while studying the relationship between the EU and Mercosur?”

¹³ In international relations, regionalism can be defined as a “development of institutionalized cooperation among states and other actors on the basis of regional contiguity as a feature of the international system”; John Baylis, Steve Smith and Patricia Owens (ed.) (2008) “Glossary” in *The globalization of World Politics*. 4 ed. Oxford: Oxford University Press, p.586; Doctor defines regionalism as “*the conscious policy of states, a top-down process, seeking greater regional cooperation on a range of issues from security to the economy*”. Doctor (2007), p.286

¹⁴ Quoted in Hänggi et al. (2006), p.3-7

¹⁵ Hänggi et al. (2006), p.3-7

2.1 Theoretical aspects of interregionalism

Alan Hardacre has noted that interregionalism is not only a new concept, but also a concept that does not subscribe to one school of international relations. Accordingly, there are no commonly accepted definitions of the term, and there is a large and vibrant debate over a large number of issues surrounding the study of interregionalism.¹⁶ No school of theory of international relations can satisfyingly explain and analyze interregionalism alone, and one therefore has to look at, and use elements from different schools of thought. There are three main schools of international theory that deal with interregionalism: realism/neorealism, liberal institutionalism and social constructivism. It is mainly from these three theoretical approaches to international relations that interregionalism can be apprehended.¹⁷ Heiner Hänggi notes that there has been a change from mostly focusing on the realist and liberal-institutionalist schools of theory, to also including and focusing on social constructivism.¹⁸

According to the realist approach, states try to maximize their benefits, using diplomacy force, to balance out relations. For realists there is a division between high politics (military and security) and low politics (economics and social affairs). The neo-realist approach deals with the structure in the international political system, and its impact on the system itself. Interregional relations are viewed in terms of power, which is a main device of actors in order to maintain equilibrium amongst themselves and periphery regions and actors. According to the realist school of theory, international relations are part of a wider struggle for power.¹⁹ Hardacre suggests that according to realism/ neorealism, interregionalism is about balancing and gaining power advantages in international relations. This is seen as having purely commercial motivations, therefore suggesting that interregionalism is a strategy in order to dominate and expand new markets.²⁰ According to Doctor, one can use the realist approach if one focus on the dynamics of regional rivalries.²¹ Among some of the most influential theorists within this school of theory are Hans Morgenthau (classical realism), Kenneth Waltz (structural realism/defensive realism), and John Mearsheimer (offensive

¹⁶ Hardacre (2008), p.14

¹⁷ Hardacre (2008), p.22

¹⁸ Hänggi et al. (2006), p.8

¹⁹ Hardacre (2008), p.23-24

²⁰ Hardacre (2008), p.25

²¹ Doctor (2007), p.287-288

realism).²² Ralf Roloff and Alan Hardacre give more credence to the realist approach to interregionalism.²³

From the liberal and institutionalist interpretation, there is a need to institutionalize international relations. This institutionalization and development of cooperation is, according to this view, the main framework for interregionalism.²⁴ The liberal-institutionalist approach focuses on the cooperative efforts to manage complex interdependence.²⁵ For liberal institutionalists cooperation is the key to international relations.²⁶ The institutionalist perspective contains aspects from both zero-sum and positive-sum gains, and are characterized by the search for security and wealth. There are therefore cooperative as well as competitive impulses. There is a dense web of interdependence in international relations that results from the search for wealth through trade and investment abroad and this produce opportunities to both lower transaction costs and facilitate division of labor, as well as dependencies and vulnerabilities. Through cooperation, one can secure additional gains and reduce the risks and threats.²⁷ Due to the expansion of regionalism and globalization, there is a need to institutionalize at a new level of international relations. Hardacre sees interregionalism as a manifestation of this need.²⁸ Influential theorists within the liberalist/institutionalist school of theory are Joseph Nye and Robert Keohane (liberal institutionalists).²⁹

According to the constructivist theory, interregionalism can be understood as the manifestation of the search for and attempts to develop and create identities on behalf of regional actors and organizations.³⁰ If one focus on the identity formation through interregional interaction, the constructivist school of theory would be appropriate.³¹ Social

²² Tim Dunne and Brian C. Schmidt (2008) "Realism" in John Baylis, Steve Smith and Patricia Owens (ed.) *The Globalization of World Politics. An introduction to international relations*. 4 ed. New York: Oxford University Press, pp.90-106, p.95-99

²³ Roloff (2006), p.17-30; Hardacre (2008), p.289-297

²⁴ Hardacre (2008), p.25

²⁵ Doctor (2007), p.287-288

²⁶ Heiner Hänggi (2000), "Interregionalism: empirical and theoretical perspectives", Presented at "Dollars, Democracy and Trade: External Influence on Economic Integration in the Americas", Los Angeles, May 18, 2000, p.8-9

²⁷ Hanns W. Maull & Nuria Okfen (2006) "Comparing interregionalism. The Asia-Pacific Economic Cooperation (APEC) and the Asia-Europe Meeting (ASEM)" in Hänggi et al. (ed.) (2006) *Interregionalism and International Relations*. 1st edition. London: Routledge, pp.217-233, p.218-219

²⁸ Hardacre (2008), p.24

²⁹ Tim Dunne (2008) "Liberalism" in John Baylis, Steve Smith and Patricia Owens (ed.) *The Globalization of World Politics. An introduction to international relations*. 4 ed. New York: Oxford University Press, pp.108-122, p.110; Steven L. Lamy (2008) "Contemporary mainstream approaches: neo-realism and neo-liberalism" in John Baylis, Steve Smith and Patricia Owens (ed.) *The Globalization of World Politics. An introduction to international relations*. 4 ed. New York: Oxford University Press, pp.124-141, p.131-132

³⁰ Hardacre (2008), p.25

³¹ Doctor (2007), p.287-288

constructivism/ constructivism has a more social and cultural perspective of international relations. According to the constructivist school of theory, the materialistic assumptions that underline rationalism cannot explain rapid post Cold War changes. According to the constructivists, “the reality is constructed by behavior and beliefs and the spread of ideas that take form and subsequently become norms”.³² Interregionalism is the result of past experiences and interactions, and this again is a manifestation of norms and beliefs, as reality built over time. Identity creation and development is crucial for interregional relations according to this theory. Interregionalism and regionalism are mutually reinforcing.³³ Within the social constructivist school of theory, influential theorists are Alexander Wendt, Max Weber, and Karl Popper.³⁴

2.2 Defining interregionalism

Hardacre defines interregionalism as a relationship between two regional groups in two different regions in the world. He continues that interregionalism can be a relationship like the one between the EU and Mercosur; a relationship between two groups in two different regions in the world, or “a comprehensive relationship that covers trade, political and cooperation pillars through frequent work at all official levels”.³⁵ Roloff defines interregionalism as “a process of widening and deepening political, economic and societal interactions between international regions”. It is a state actor driven process where systemic (outside) pressures reinforce regionalism’s (inside) dynamics.³⁶

Rüland defines interregionalism as: “group-to-group dialogue with more or less regular meetings centering on the exchange of information and cooperation (projects) in specific policy fields (trade and investment, environment, crime prevention, narcotics trafficking etc.). It is based on a low level of institutionalization [...] no common overarching institutions, both sides exclusively rely on their own institutional infrastructure”.³⁷ According to the definitions of interregionalism, interregionalism has been defined both as a *relationship* or *dialogue*, or a *process*. The interregional relations between the EU and Mercosur cover

³² Hardacre (2008), p.25

³³ Hardacre (2008), p.25

³⁴ Michael Barnett (2008) ”Social Constructivism” in John Baylis, Steve Smith and Patricia Owens (ed.) *The Globalization of World Politics. An introduction to international relations*. 4 ed. New York: Oxford University Press, pp.160-173, p.164-166

³⁵ Hardacre (2008), p.IX

³⁶ Roloff (2006), p.18

³⁷ Rüland (2002)

dialogue on all official levels, though the two blocs have not yet managed to reach a “comprehensive relationship”. A lot of work remains on coming to an agreement on the trade pillar. Rüländ stresses that interregionalism is built on a low level of institutionalism, and that both blocs therefore rely on their own institutional infrastructure, while Roloff sees interregionalism as a *process* of deepening interactions between different regions.³⁸ The various definitions of interregionalism are somehow different, or more fittingly, rather focusing on different aspects of the theory of interregionalism. While Hardacre focus on the more tangible aspect of interregionalism (but at the same time also highlights that interregionalism can be a “comprehensive relationship”), Roloff sees interregionalism as a process where there is a focus on how systemic pressures reinforce the dynamics of regionalism. The different aspects of Hardacre, Roloff and Rüländ’s definitions will all be used in the analysis and discussion of the interregional relations between the EU and Mercosur.

None of the definitions presented above manage to go deeper into explaining *why* states and/or international organizations decide to get involved in interregional relations with other states/organizations. This might be the very problem why there is not yet a clear definition of the term, as no school of theory alone can explain interregionalism. Many schools of theories are trying, but only manage to explain parts of why interregionalism evolves. One of the reasons why neither neorealism nor neoliberal institutionalism can satisfyingly explain international relations or interregionalism is because of the growing insight that international relations are neither only driven by power nor exclusively by cooperative motivations.³⁹

Rüländ describes five major functions of interregionalism: *balancing, institution building, rationalizing, agenda-setting, and collective identity-building*.⁴⁰ These functions will also be important in the further discussions of this thesis.

Balancing is used to maintain or re-establish equilibrium among states. Such balancing games may take the form of “power balancing”, or “institutional balancing”.⁴¹ The power balancing describes a balancing if there is a military dimension, and an institutional balancing if the perceived disequilibria between regions *are countered by interregional*

³⁸ Rüländ (2002); Roloff (2006), p.18

³⁹ Hänggi et al. (2006), p.10

⁴⁰ Rüländ (2006), p.300

⁴¹ Rüländ (2006), p.300

*institution building or the activation of existing interregional forums.*⁴² The latter one is close to what has been termed “cooperative balancing” and “competitive cooperation”. According to Rüländ, the EU has triggered an “institutional balancing” through its single market and monetary union projects.⁴³ Rüländ mentions Asia Pacific Economic Cooperation (APEC), North American Free Trade Agreement (NAFTA) and the Canada-United States Free Trade Agreement (CUSFTA), all responses to the EU single market and monetary union. The social scientist Jörg Faust demonstrates that the EU-Mercosur relations have been a European response and closely linked to the US plans for a FTAA, and strategies by the US state and firms to invest in Latin America.⁴⁴ The Latin American countries, especially Brazil, have sought closer ties to Europe in order to reduce US influence.⁴⁵ Interregionalism has been interpreted as one of the responses to “an increasingly complex world of interdependence” and “important shifts in relative power in the international system as a consequence of the demise of the Soviet Empire”.⁴⁶

According to the realist school of international relations, interregionalism contributes to balancing. Examples of this could be balancing against the superior power in military, economic, financial and technological terms (for example the US). One can also balance against economic powers (for example of the EU or East Asia). From an institutionalist perspective, interregionalism is seen as a “vehicle to enhance “global governance”, i.e. to help manage both the opportunities and the risks inherent in the accelerating interdependence or “globalization” of international relations”.⁴⁷ Interregionalism seen from a constructivist point of view would be a way to “help build and solidify regional collective identities”.⁴⁸

The *institution building* refers to institutions and have been defined as “an enduring set of rules, norms, and decision-making procedures that shape the expectations, interests, and behavior of actors, make state behavior predictable, facilitate negotiated compromises, outlaw the illegitimate use of force, and this reduce the likelihood of interstate violence”.⁴⁹ International institution-building is viewed by the liberal institutionalists as a “key to mitigate the anarchical character of international relations”.⁵⁰ Norms, rules and international

⁴² Rüländ (2006), p.300

⁴³ Rüländ (2006), p.300

⁴⁴ Jörg Faust (2006) ”The European Union’s relations with Mercosur. The issue of interregional trade liberalization” in in Hänggi et al. (ed.) (2006) *Interregionalism and International Relations*. 1st edition. London: Routledge, p.165-166

⁴⁵ Rüländ (2006), p.301

⁴⁶ Maull et al. (2006), p.217

⁴⁷ Maull et al. (2006), p.218

⁴⁸ Maull et al. (2006), p.218

⁴⁹ Rüländ (2006), p.302

⁵⁰ Rüländ (2006), p.302

organizations are important institutions and are important in order to “legalize” international relations. International dialogues create a need for unified positions, and therefore intensified consultation and coordination.⁵¹

The term *rationalizing* refers to the increasingly complex and technical policy matters that the global multilateral institutions have to contend to, and the growing number of actors that often represents very different interests. This is an obstacle to the multilateral decision-making, and thereby reduces the efficiency of international forums and represents a threat to their legitimacy.⁵² The main idea of the rationalizing is that regional and interregional relations and dialogues may thus serve as “clearing houses for decision-making bottlenecks” in global multilateral forums. By first starting at the regional level, then the interregional level, instead of elevating directly to a global level, one might save time and prevent a paralysis of global institutions.⁵³

Agenda-setting, is closely related to the rationalizing function, and refers to when interregional institutions adopt agenda-setting means. This is in order for nation-states or regional groupings to instrumentalize interregional dialogues and advance policies or themes that at this point do not resonate in global forums. Most dialogue partners seek to confine political dialogues to a rather loose and non-committing exchange of information.⁵⁴ By the signing of a FTA, the interregional relations between the EU and Mercosur will be tied closer together.

The term *collective identity-building* refers to the more constructivist effect that interregional relations have. With the phrase “regionalism through regionalism” it is perceived that previous interactions of a region with another region (or states belonging to it) is reflected by interregional interaction. Rüländ states that experiences and mental representation by political leaders will shape a region’s self-identity, its interest and role perception of the other region in international relations. The way other regional groupings perceive a regional grouping has an impact on its own view of itself, its perceptions of its role and its interests. Collective identity-building through interregional interactions might just as well be unintended as intended. If one group for example offers incentives to another to strengthen the cohesion of the latter, it is intentional. When a relationship is “perceived by

⁵¹ Rüländ (2006), p.302- 303

⁵² Rüländ (2006), p.306

⁵³ Rüländ (2006), p.306

⁵⁴ Rüländ (2006), p.307 - 308

one side as a vehicle in the hands of the other to establish or consolidate superiority”, it is unintentional.⁵⁵

What is interregionalism? And how is interregionalism important in order to better understand the relationship between the European Union and Mercosur? Many theorists have tried to come up with a good definition of the term interregionalism. As discussed earlier in this chapter, there is no common definition of the term, but the different definitions that have been discussed are somehow focusing on different aspects of the theory. Interregionalism can both be defined as a *process* (according to Roloff), a relationship like the one between the EU and Mercosur or a comprehensive relationship that covers deeper cooperation (according to Hardacre), or a *group-to-group cooperation* with a low level of institutionalism (according to Rüländ).

As both the EU and Mercosur are regional blocs that have decided to engage in negotiations with each other in order to cooperate even closer, the theory of interregionalism is a handy instrument in order to understand some of the reasons for the relationship, what lies behind such a relationship and the wish to negotiate an association/ free trade agreement. The theory of interregionalism will be a very useful tool in order to approach the relationship and understand the nature of it, as it approaches some of the factors that drive regional blocs in its search for cooperation and closer relationships with other regional blocs.

⁵⁵ Rüländ (2006), p.308

3. Background: The Relationship between the EU and Mercosur

In light of the changes in the post-Cold War, Argentina, Brazil, Paraguay and Uruguay established Mercosur through the Treaty of Asunción in 1991. The main motivation behind the foundation of Mercosur was to establish a common market modeled on the European Community (EC, later EU).⁵⁶ As the Mercosur countries share close cultural and historical ties with some of the EU countries (Spain and Portugal in particular), the two regional blocs were in many ways “natural” partners. The EU and Mercosur formalized their interregional relations through the signing of the EU-Mercosur Interregional Framework for Cooperation Agreement (EMIFCA) in Madrid 1995. In May 2000, the negotiations on an Association agreement, or what could eventually become the biggest FTA in the world, as well as the first FTA between customs unions were initiated/launched.⁵⁷ Obstacles and difficulties have colored the rounds of negotiations, and even though state leaders from both blocs have expressed an interest in coming to an agreement, an agreement has not yet been reached between the two blocs. This chapter will outline the background for the negotiations as well as the rounds of negotiations until they stalled in 2004.

Differences in negotiation culture and opposing views regarding trade, have posed obstacles to the rounds of negotiations. As Andy Klom argues, while the Mercosur negotiators used a “top-down approach that consisted of formal consensus on objectives at the highest level within a kind of ‘framework’ agreement, leaving it to technical experts to flesh out troublesome details later on”, the EU approach was a more “down-top approach, where building agreements bottom-up on the basis of informal consensus on objectives”.⁵⁸ Even though the negotiations officially stalled in 2004, the two blocs continued negotiations/the contact aiming at relaunching the negotiations at a later point of time.

3.1 Mercosur – Mercado Común del Sur

El Mercado Común del Sur (Mercosur), or *Mercado Comum do Sul (Mercosul)*, was established through the Treaty of Asunción, March 26 1991 by Argentina, Brazil, Paraguay

⁵⁶ Álvaro Vasconcelos (2007) “European Union and MERCOSUR” in Telò, Mario (ed.) (2007) *European Union and New Regionalism. Regional Actors and Global Governance in a Post-Hegemonic Era*. Second edition. England: Ashgate Publishing, pp.165-183, p.166

⁵⁷ Doctor (2007), p.282

⁵⁸ Klom (2003), p.361-362

and Uruguay. Chile was added as an associate member in 1996, and Bolivia in 1997.⁵⁹ Peru was added as an associate in 2003, Colombia and Ecuador in 2004.⁶⁰ The purpose of the Asunción Treaty was the constitution of a Customs Union. The Treaty would assure the integration of the member states within a free trade zone through free circulation of goods, services and productive factors, and the establishment of an External Common Tariff (TEC). The treaty would also assure the adoption of a common commercial policy towards third states or groups of states, coordination of macro-economic, sectorial policies and harmonization of legislation in relevant areas affected by the Treaty.⁶¹ Mercosur is a political and economical project; the political defined by the democratic commitment of the participating countries, and the economic aiming at liberalization and commercial openness.⁶²

In the post-Cold War climate, collective approaches were favored in order to face the challenges of globalization and the end of the Cold-War bipolarity.⁶³ While the European Economic Area (EEC) developed under the protection of NATO, Mercosur developed under post-Cold War conditions. Even though the Mercosur countries never experienced the horrors and tragedies of the European wars, which *delegitimized* nationalism, the Mercosur region did experience years of military dictatorships. The dictatorship in Paraguay ended as late as in 1989.⁶⁴ The history of rivalry between Argentina and Brazil had been long, and all of the original member countries had earlier suffered long totalitarian rules. To overcome these problems from the past, as well as fit into the new Post-Cold War world, the main focus of Mercosur became trade. The process has been profoundly political.⁶⁵ This is mainly because Mercosur is aiming at reducing political instability in the region and making the ties and relations better among the member states.⁶⁶ As Mercosur have no supranational organs, the relationship between the Mercosur members is mainly dependent on political will and contact between the countries.

Mercosur has an intergovernmental nature and has no tripartite division of functions as found in many international organizations and modern democratic states. Though Mercosur

⁵⁹ Silvia Hunger (2008) *Die Freihandelszone zwischen Mercosur und EU. Eine von Hindernissen geprägte Kooperation*. Berlin: VDM Verlag, p.1

⁶⁰ *Introducción – Acerca del Mercosur* (2009) Available from <http://www.cnc.gov.ar/institucional/mercosur.asp> (Accessed 16.03.12)

⁶¹ *Structure* (2012) Available from <http://www2.uol.com.br/actasoft/actamercosul/ingles/estrutura.htm> (Accessed 20.01.12)

⁶² Vasconcelos (2007), p.170

⁶³ Doctor (2007), p.289

⁶⁴ Klom (2003), p.355

⁶⁵ Vasconcelos (2007), p.166-167

⁶⁶ Jaime Hancock (2012) "The Future of the Merosur-EU Free Trade Agreement" in *Journal of Political Inquiry*, New York University, Vol. 5, No.5

does not have this tripartite division of functions, the organization has several organs, guided by two essential goals; that of *building and administering institutions* (operational, prescriptive and coordination activities) and that of *dispute settlement*.⁶⁷ The Treaty of Asunción laid a basis for how disputes between states should be addressed. Disputes will first be addressed through direct negotiations between the litigants, and next through action by the Common Market Group or the Common Market Council. In general it covers disputes between Mercosur's member states, but through the Protocol of Brasilia, disputes between private persons and one of the member states can also be solved through the organs. Still, the Mercosur bodies' administrative and prescriptive powers are limited, mostly to the organization itself, and they have little effective power over member countries. There is a rule of unanimity; this is what allows the member states to express a common will.⁶⁸

The Common Market Council (CMC – El Consejo del Mercado Común) and the Common Market Group (GMC – Grupo Mercado Común) are the principal organs of Mercosur. The Mercosur Trade Commission, and the Mercosur Administrative Secretariat assist the principal organs in their work. The CMC and the CMG have the main responsibility of the administration and execution of the Treaty of Asunción. The Protocol of Ouro Preto states that the Mercosur Trade Commission also has decision-making powers with the CMC and the GMC.⁶⁹

The highest organ of Mercosur is the Common Market Council. The CMC has the responsibility for Mercosur's political leadership and for decision-making to ensure compliance with the objectives and time limits that are set for the final establishment of Mercosur/the common market.⁷⁰ The CMC meets at two different levels, presidential and ministerial.⁷¹ When it meets at ministerial level, it consists of the Ministers for Foreign Affairs and the Economic Ministers of the member states. The Council meets whenever its members deem appropriate, but the Protocol of Ouro Preto from 1994 requires that presidential meetings must be held every six months. The presidency of the Council rotates

⁶⁷ Luiz Olavo Baptista (year unknown) *Mercosur, its Institutions and Juridicial Structure*. Available from http://ctrc.sice.oas.org/geograph/south/mstit2_e.pdf (Accessed 25.07.12)

⁶⁸ Baptista (year unknown)

⁶⁹ Baptista (year unknown)

⁷⁰ Mercosur (1991) *Treaty Establishing a Common Market between the Argentine Republic, the Federal Republic of Brazil, the Republic of Paraguay and the Eastern Republic of Uruguay (Treaty of Asuncion)* [*], Article 10.

⁷¹ Aimee Kanner (2002) "European Union-Mercosur Relations: The Institutionalization of Cooperation" in *Jean Monnet/Robert Schuman Paper Series*, Vol. 1, No.8, p.3

among its members every six months. Even though the CMC is the highest executive body, it retains its character as a ministerial conference.⁷²

The Common Market Group is the permanent executive body, and is assisted by the Administrative Secretariat. The GMC has the power to delegate, in part, to subgroups.⁷³ The GMC consists of four members and four alternates from each country that are appointed by their respective governments.⁷⁴ Some of the GMC's main tasks are to enforce decisions adopted by the CMC, coordinate macroeconomic policies, and to negotiate agreements with third parties.⁷⁵

The Mercosur Trade Commission is responsible for assisting the GMC and to monitor the application of the common trade policy instruments that have been agreed by the member states in connection with the operation of the customs union. The Trade Commission shall also follow up and review questions and issues that are related to common trade policies, intra-Mercosur trade and third countries.⁷⁶ In addition to this there are also working groups, the Joint Parliamentary Group, Administrative Secretariat and the Judicial System. The Administrative Secretariat is located in Montevideo, Uruguay, and consists of official representatives from the member countries. The Judicial System is an ad-hoc arbitration committee that solves conflicts that cannot be solved within the intergovernmental framework. The Joint Parliamentary Committee is a representative body of the Mercosur states' parliaments, and has sixteen members from each member state.⁷⁷

Mercosur is first and foremost seen as the first integration project generated by globalization.⁷⁸ As both Argentina and Brazil were aware of the fact that it would be very difficult for developing nations to benefit from globalization on their own and overcome the economic and security challenges it brought, the two countries decided to overcome their history of rivalry and reconcile. The two Presidents Raúl Alfonsín (Argentina) and José Sarney (Brazil) led the political transition and the reconciliation of the two countries, something that was regarded as an underlying condition for democratic consolidation. This change in bilateral relations was fundamental in gaining international legitimacy for their fledgling democracies. The signing of the Asunción Treaty and the establishment of Mercosur was seen as a way of "establishing" democracy. According to the political scientist Álvaro

⁷² Mercosur (1994) Additional Protocol to the Treaty of Asunción on the Institutional Structure of MERCOSUR. Protocol of Ouro Preto, Article 6, 1-10

⁷³ Baptista (year unknown)

⁷⁴ Mercosur (1994)

⁷⁵ Baptista (year unknown)

⁷⁶ Mercosur (1994), Article 16

⁷⁷ Kanner (2002), p.4

⁷⁸ Vasconcelos (2007), p. 167

Vasconcelos, the way that Mercosur most resembled the European model, was a need felt by many states in South America in the end of the 1980s to overhaul the security concepts that were caused by the military regimes throughout many years of dictatorships, and consolidate their democratic structures.⁷⁹

3.2 The European Union

Based on the Schuman Plan, Germany, France, Belgium, Luxembourg, Netherlands and Italy established the European Coal and Steel Community (ECSC) in 1951 through the Treaty of Rome. The ECSC later changed into a European Economic Community (EEC) (1957), and the European Community (EC) in 1967. The EC was changed to the European Union (EU) through the Maastricht Treaty in 1992/93. Great Britain, Ireland and Denmark joined the EC in 1973, Greece in 1981, Spain and Portugal in 1986, Austria, Finland and Sweden in 1995, the Czech Republic, Cyprus, Estonia, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia in 2004, and lastly Bulgaria and Romania in 2007.

The EU has today the most advanced embodiment of supranational constitutionalism, meaning that the EU institutions can distribute and limit the power (with some exceptions) of the member states. This supranational constitutionalism was created as a response to secure the survival and reconstruction in the European States after the Second World War.⁸⁰

The underlying conditions in the two regions were very different. The EEC (later EC and finally EU), developed under the protection of the NATO, while Mercosur on the other hand developed under the conditions of the post-Cold War period as an embodiment of integration. Vasconcelos points out that there were many underlying conditions for the creation of the EC/EU. As a result of two world wars, there was disenchantment with national sovereignty, as well as specific conditions of the Cold War and the Soviet threat. The European integration was supported both politically and economically by the United States because of the Soviet threat.⁸¹

⁷⁹ Vasconcelos (2007), p.169

⁸⁰ Vasconcelos (2007), p.166; and Anna Vergés-Bausili (2007) *Constitutionalism. Supranational*. Available from <http://knowledge.sagepub.com/view/law/n123.xml> (Accessed 30.03.13); *Constitutionalism* (2009) Available from <http://www.thefreedictionary.com/constitutionalism> (Accessed 28.04.13)

⁸¹ Vasconcelos (2007), p.166

3.3 The road towards a closer relationship between the EU and Mercosur

The EU and Latin America share a long common history. This common history is mainly tied to Spain and Portugal, and it comes as no surprise that Spain and Portugal's incorporation into the EC in 1986 had an important role in the EC's/EU's focus on the Latin American region. For a long time the relationship between Europe and Latin America was on a country-to-country bilateral basis. According to Hardacre, the relationship with Latin America had *to bear a burden of neglect, frustrations, and missed opportunities*, as the EC mainly focused on Africa, Greece and Turkey.⁸² A "Memo of Intention" was issued by the EC to Latin American governments between 1958 and 1963, wherein the EC declared that it was seeking *close relations and cooperation with Latin America*.⁸³ The relations between the EC and Latin America advanced economically with the signing of non-preferential trade agreements between the EC and Argentina in 1971, Uruguay in 1973, Brazil in 1973 and Mexico in 1975. As almost all of the Latin American countries suffered under totalitarian dictatorships, the democratization process was a key factor to its entry into the multilateral world. Even though the EC and Latin America have had sporadic contact and relations, it was not really until the mid 1990s that the relationship took shape through the 1994 "Basic Document on relations between the EU and Latin America and the Caribbean".⁸⁴

In the beginning of the 1990s there was a shift in EC/EU policy towards Latin America. The post-Cold War world caused changes in international relations. The EU decided to move towards a closer relationship with Mexico, Chile and Mercosur through some form of associated status. Hitherto, this kind of associated status has been reserved for those states that historically or politically have been considered of top foreign policy priority status for the EU.⁸⁵ There are different reasons for why the EC/EU decided to intensify the relations to Latin America; some of which will be discussed later on in this chapter. The end of the Cold War, a fear of a strong US influence and power in the region, as well as a fear of loosing markets, were among the main reasons why the EU decided to focus on Latin America.

As Spain and Portugal always have had close ties to Latin America both historically and culturally, it is no surprise that these two member states pushed for a closer relationship with Mercosur and Mexico. It was during the Portuguese presidency in 1992, that the first informal ministerial meeting took place with the Mercosur countries, and under the Spanish

⁸² Hardacre (2008), p.139

⁸³ Hardacre (2008), p.139

⁸⁴ Hardacre (2008), p.139-147

⁸⁵ Hardacre (2008), p.139-147; Doctor (2007), p.290

presidency of the Union that the EU-Mercosur framework agreement and the project for an interregional free trade area were launched.⁸⁶

The EMIFCA was signed at the end of the Spanish presidency in the EU Council, in Madrid in 1995 and entered into force in 1999.⁸⁷ The signing of the EMIFCA was important to Spain for different reasons; the agreement was a milestone that was signed during the Spanish presidency; the agreement consolidated four years of political work that aimed at creating an integration process in South America, something that also in many ways reflected the same integration process that Spain had benefited from through the European integration process. Spain was focused on Europe for political and economical reasons, and focused on Latin America for cultural and historical reasons.⁸⁸ One can therefore say that Spain's main reason for tying Latin America closer to Europe and the EU are and were mainly cultural and historically rooted, though Spain also clearly had commercial interests as it became the number one European investor in Argentina, Brazil and Chile.⁸⁹ From 1996 to 2000, Spain stood for USD 9608,4 million in foreign direct investment (FDI) in the Mercosur region.⁹⁰

The EMIFCA outlines that both parties have “the political will [...] to achieve what will ultimately be a political and economic interregional association founded on greater political cooperation and progressive and reciprocal liberalization of all trade, taking account of the sensitivity of certain goods and complying with World Trade Organization (WTO) rules, and founded, finally, on the promotion of investment and closer cooperation”.⁹¹ The basis for the political dialogue between the two blocs was outlined in a joint declaration annexed to the Agreement. This political dialogue takes place regularly at Heads of State, Ministerial and Senior Official levels.⁹² The key objective of the EMIFCA was to prepare the negotiations for a EU – Mercosur Interregional Association Agreement between the two blocs that would include a liberalization of trade goods and service, with the aim of free trade in conformity with WTO rules. In addition to this, it was aimed at an enhanced form of

⁸⁶ Vasconcelos (2007), p.176

⁸⁷ *Mercosur – (Common Market of the South)* (2013) Available from http://eeas.europa.eu/mercosur/index_en.htm (Accessed 16.01.13)

⁸⁸ Klom (2003), p.353

⁸⁹ Klom (2003), p.355

⁹⁰ Roberto Bouzas, Pedro Da Motta Veiga, Ramon Torrent (2002) *In-depht analysis of Mercosur Integration, its Prospectives and the Effects thereof on the Market Access of EU Goods, Services and Investment*. Observatory of Globalisation. University of Barcelona, p.344

⁹¹ Official Journal of the European Union (1996) *Interregional Framework Cooperation Agreement between the European Community and its Member States, og the one part, and the Southern Common Market and its Party States, of the other part*”, No L 69/5. 19.2.96

⁹² *Mercosur – (Common Market of the South)* (2013)

cooperation as well as a strengthened political dialogue.⁹³ This agreement is the foundation of the relation between the two blocs.

One of EU's main reasons to encourage closer ties with Mercosur was the fear that the US would expand its activism in the area. There were several initiatives that proved that the EU's fear was reasonable; the Initiative of the Americas in 1990, the NAFTA in 1994, and the launch of the negotiations for a FTAA in 1999. The US and the EU has looked upon, and perceived Latin America differently.⁹⁴ While the US has considered the Latin American regional projects as merely temporary, the EU sees the Latin American regional projects as long term. It is therefore clear that there has been and still is a clear difference in how the EU and the US perceive Mercosur as a regional bloc, and not the least their belief in Latin America as a continent. The US has even tried to destabilize Mercosur, as it proposed that Argentina (under President Menem) should join the NAFTA. The US hoped that this would destabilize Mercosur, and that more Latin American countries would join the Agreement.⁹⁵ The EU and the USA have therefore also aimed at two different kinds of interregional relations with Mercosur. The EU aimed at developing a dialogue between regional groups and to make regional schemes stronger. The European objectives have been to conquer new markets, but just as important have been the ambition of exporting the EU's model of governance and to create new alliances. This has been done in order to create new alliances to shape a less asymmetric world. The US strategy has been to create macro-economic areas in order for goods, services and capital to move freely as well as where other regional schemes have to dilute themselves into these areas. The US trade strategy is linked to a power strategy and is aiming to guarantee the supremacy of the US economy in the global economy.⁹⁶

Between 1998 and 2001, many of the South American countries faced economic crisis, which distanced them from Mercosur and made the negotiations harder. The Argentine crisis broke out for real December 2001, followed by the International Monetary Fund's (IMF) decision to no longer extend loans to the country, despite the fact that Argentina for years had applied the IMF's monetary and liberal policies. Argentina had since the end of the 1980s implemented the structural reform policies known as the "Washington Consensus". The "Washington Consensus" puts a strong importance in opening up the economy to international competition and "the natural capacities of markets to guarantee stability and

⁹³ *Glossary* (2007) Available from <http://www.iconebrasil.org.br/en/?actA=16&areaID=25&secaoID=59&letraVC=E> (Accessed 01.03.13)

⁹⁴ Santander (2005), p.292

⁹⁵ Santander (2005), p.292

⁹⁶ Santander (2002), p.495

growth”.⁹⁷ The Washington Consensus is a set of ten neo-liberal policies that, according to the US government and the international financial institutions based in the US capital, were necessary elements in order to increase economic growth.⁹⁸ The government of Carlos Menem (Argentine president from 1989-1999) decided that Argentina was going to be one of the USA’s most important allies in South America, with the strategy to safeguard the opening of the economy. Before the presidency of Menem, Argentina’s foreign policy had mostly built on principles that underlined the importance of “territory, military balance of power, the power of the state and “autonomy” as the ultimate goal of foreign policy and national security”.⁹⁹ Argentina had long sought to become a regional power, but this strategy was questioned during and after the Argentine dictatorship between 1976 until 1983. The first democratically elected government decided to strengthen the ties with Brazil and Chile, and these were the first steps towards the establishment of Mercosur. But when Menem arrived in office there was a hyperinflation in Argentina, and Argentina entered a “dollarization” process and aligned the Argentine foreign policy with that of Washington/the US. The US tried to use this situation to destabilize the Argentine-Brazilian relation that was developed through Mercosur. The US did further what it could to destabilize Mercosur, and even proposed to sign bilateral trade agreements with Argentina during the Fernando De la Rúa government in Argentina (1999 - December 1, 2001).¹⁰⁰

The FTAA was and is an effort to unite the economies of the Americas into a single free trade area. The process began in 1994, with the Summit of the Americas that was held in 1994, but the negotiations were formally launched in 1998. The FTAA was to involve all countries in the Americas but Cuba. In the second round of FTAA negotiation that was held in Cartagena in March 1996, it was agreed that the FTAA Agreement would be a “balanced, comprehensive, WTO-consistent agreement that would constitute a single undertaking”.¹⁰¹ The FTAA negotiations stalled in 2005.¹⁰²

According to Doctor, peaks in EU negotiating seriousness tended to coincide with peaks in perceived US influence in the region.¹⁰³ One of the EU’s motivations behind tying a

⁹⁷ Santander (2002), p.492-493

⁹⁸ *Washington Consensus* (2013) Available from <http://www.who.int/trade/glossary/story094/en/> (Accessed 15.04.13)

⁹⁹ Santander (2002), p.493

¹⁰⁰ Santander (2002), p.493-494

¹⁰¹ *Antecedents of the FTAA Process* (2004) Available from http://www.ftaa-alca.org/View_e.asp (Accessed 18.04.13).

¹⁰² Martín Granovsky (2013) *Una relación consolidada por el No al ALCA*. Available from <http://www.pagina12.com.ar/diario/elmundo/4-215205-2013-03-06.html> (Accessed 28.04.13)

¹⁰³ Doctor (2007), p.290

closer relationship to the Mercosur countries has also been to export its institutional models with the preference for supporting liberal democracy, market economies with liberal economic governance structures and inter-regionalism as a framework for international co-operation.¹⁰⁴ Mercosur also used the EU-Mercosur negotiations to counter-balance US influence in the region and enhance Mercosur's position in other regional and multilateral fora.¹⁰⁵ While the Mercosur countries were still negotiating a FTAA, it was important to especially Brazil to keep these negotiations close to the EU-Mercosur negotiations, as this would put pressure on the EU and then possibly make the deal better for Mercosur. Especially Brazil used Mercosur as a political and economic alliance to confront these powers (USA through the FTAA negotiations, and the EU through the EU-Mercosur negotiations). The FTAA negotiations thus had an important impact on the EU-Mercosur negotiations.¹⁰⁶

The EU offered and provided political, technical and financial support for institution building in Mercosur, as it wanted to establish a regional integration in Latin America, based on European models.¹⁰⁷ Through the Ouro Preto Protocol in 1994, Mercosur extended its treaties, so that it could act as a single entity. The establishment of Mercosur and its signing of various treaties had a psychological effect, as foreign investment increased in the Mercosur countries.¹⁰⁸ As the EU was used as, and considered a model for Mercosur, it was important for the Mercosur countries to have close relations to the EU in order to strengthen their own regionalism.¹⁰⁹ If Mercosur sign an inter-regional agreement with the EU, this could accelerate the intra-regional integration process as well as serve as an impetus of consolidating Mercosur.¹¹⁰

After the signing of the EMIFCA in 1995, the two blocs started to prepare its successor agreement. Discussions on a draft began early in 1998. The EU strongly supported the integration and the common market of Mercosur, as the EU wanted to strengthen its relation to Mercosur as a bloc and not as four individual countries.¹¹¹ The EU and Mercosur had intensive negotiations in Buenos Aires in 1998, which laid the basis for a joint text. The “photography”, or text, was finalized and submitted in 1998. On the basis of the photography

¹⁰⁴ Doctor (2007), p.291-292

¹⁰⁵ Doctor (2007), p.291-292

¹⁰⁶ Klom (2003), p.352, 356

¹⁰⁷ Santander (2002), p.491; Klom (2003), p.353

¹⁰⁸ Klom (2003), p.353-354

¹⁰⁹ Doctor (2007), p.293

¹¹⁰ Colin Kirkpatrick & Clive George (2009) *Trade Sustainability Impact Assessment (SIA) of the Association Agreement under Negotiation between the European Community and Mercosur. Final Overview Trade SIA EU-MERCOSUR. Final Report*. The University of Manchester: Manchester 1824, p.22

¹¹¹ Klom (2003), p.358

report, the European Commission made an impact study, and then afterwards prepared a draft text for negotiating directives. Before the draft text could be submitted to the Council of Ministers, it had to be approved by the European Commission.¹¹² In order to start the negotiations with Mercosur, the European Commission needed a negotiation mandate from the Council. There were major differences between the Council's members, as some meant that a free trade area with Mercosur would harm the European agricultural sector. The French, Irish and Dutch ministers of agriculture and fisheries were especially opposed to this mandate under strong pressure from their domestic lobbies. The UK meant that the EU should not start any negotiations with Mercosur before the end of the following WTO round. The European agricultural lobby, Copa-Cogeca also supported the countries opposed to the negotiations as they were against any kind of trade agreement with Mercosur. The opposing parts managed to reach a compromise, which gave the Commission a mandate to start the negotiations with Mercosur on non-tariff barriers, but that delayed any discussion on customs duties until July 2001. The discussion could and should not be completed before the WTO round.¹¹³

There were various important events that put pressure on the EU to hurry up, as a EU summit in Berlin in March 1999 would be deciding on reform of the Common Agricultural Policy (CAP), and a EU-Latin America summit would take place in June 1999 in Rio de Janeiro that could help launch the EU-Mercosur negotiations to include free trade. The WTO round also started in November 1999 in Seattle. After a heated debate, the Commission approved the negotiating directives and the impact study; the majority wanted to go ahead with the association negotiations with Mercosur. Even though the Council initially was unenthusiastic towards the Commission's decision to propose negotiations, the Council decided to give the Commission green light to go ahead with the negotiations, as rejecting it would damage the relations with Mercosur. According Andy Klom, if one would reject the Commission's proposals one would damage relations with Mercosur, but one could also damage relations with Mercosur if neutering the proposals and rendering the free trade elements ineffective. To adopt the proposals without any objections could create unacceptable costs for some members. The preferences in the EU were somehow divided between those groups that preferred multilateral trade negotiations instead of regional negotiations with Mercosur. As the WTO round was under negotiation, it was not known if this could allow for greater gains and compensations to be obtained. The preferences varied from postponing the

¹¹² Klom (2003), p.358

¹¹³ Santander (2005), p.296-297

negotiations between the EU and Mercosur until the WTO negotiations had been concluded to being skeptical to any free trade discussion.¹¹⁴

The EU summit in Berlin 1999 failed to bring about a CAP reform, when France outflanked the German presidency. The EU was also struck by scandal as the Santer European Commission (January 1995 – March 1999), had to resign due to corruption.¹¹⁵ In 2000 the EU and Mercosur opened negotiations for an Association Agreement that included three chapters: political dialogue, cooperation and trade.¹¹⁶ The parties created three technical groups. The first group was dedicated to trade in goods, cover tariff and non-tariff measures, rules of origin, technical standards, trade protection measures and customs questions. The second technical group was dedicated to trade in services, intellectual property rights and investment. The third technical group was dedicated to public procurement, competition issues and dispute resolution.¹¹⁷

The negotiations between the EU and Mercosur mainly took, and still take place within the EU-Mercosur Bi-regional Negotiations Committee (BNC), a Subcommittee on Cooperation (SCC), that was going to conduct negotiations related to the topic of cooperation, a Coordination Department that was composed of representatives of the Mercosur's Presidency and the European Commission as well as several Technical Groups (TG) dealing with trade matters assigned through the trade negotiations between the EU and Mercosur.¹¹⁸ The BNC is responsible for the creation of technical groups and to implement activities related to trade negotiations.¹¹⁹

The dialogue between the parties takes place regularly at Heads of State, Ministerial and Senior Official levels. The basis for the political dialogues is found in a joint declaration annexed to the Agreement.¹²⁰ From April 2000 until October 2004, there were 15 rounds of negotiations between the EU and Mercosur. These negotiations were lead by the BNC, which consists of delegates from the two blocs, and were held three times a year. The BNC delegates from the EU were appointed from the EU Commission and the EU delegation in Argentina,

¹¹⁴ Klom (2003), p.358-359

¹¹⁵ Klom (2003), p. 359-360

¹¹⁶ *Mercosur – (Common Market of the South)* (2013)

¹¹⁷ Graciela Molle (2008), p.101

¹¹⁸ Andy Klom (2000) "Association negotiations between the Mercosur and the European Union: Rivalling Western Hemisphere integration or supporting Southern Cone integration?" Presented at "*Dollars, Democracy and Trade: External Influence on Economic Integration in the Americas*", Los Angeles, May 18, 2000, p. 9

¹¹⁹ Rosana Tomazini (2012) "Understanding the Association Agreement between the EU and Mercosur: its structure, course of negotiations and the involvement of the business sector" in *Mercosur European Union Dialogue*. Apex-Brasil. pp.10-17, p. 12-13

¹²⁰ *Mercosur – (Common Market of the South)* (2013)

while the Mercosur BNC-delegates were appointed from various governmental organs.¹²¹ In these negotiations the main focus has been on trade issues. Other key issues have been to identify obstacles and objectives, exchange of technical data, co-operation and non-tariff trade issues, trade and investment rules, etc. Attempts to finalize the negotiations were also made, but the negotiations broke down in 2004. In addition, the SCC met regularly to deal with a range of other issues including institutional support, customs harmonization, technical norms and standards, statistical harmonization, veterinary and phytosanitary rules and support for civil society organizations.¹²²

3.4 The Agricultural Sector; A sector bound to disagreements

One of the main issues in the negotiations between the EU and Mercosur is the agricultural sector. Mercosur is one of the biggest agricultural producers in the world, while the EU on the other hand is faced with heavy pressures to protect this sector in Europe.¹²³ As the Mercosur agricultural sector is more competitive than the EU one, as well as it would be able to develop faster, the agricultural sector in the EU clearly opposes an agreement that could hurt them economically.¹²⁴ The agricultural sector still continues to be the most important economic sector in some of the rural parts of the EU. France, Italy, Spain, Germany and the UK account for big parts of the agricultural value, and are as well representing some of the countries where the skepticism towards an agreement is stronger. The agricultural sector is a very central component in the economies of the Mercosur member states. This sector actually represents about 10% of the GDP of several of its member states, and the sector is growing. The EU fears the competitive and modern agricultural sector in Mercosur.¹²⁵

Mercosur want the EU to eliminate CAP barriers and subsidies, which are harming the Mercosur agricultural goods. Mercosur is interested in the EU agriculture market, while the EU is more interested in the Mercosur car, industrial and service markets. This shows that there is a strong North-South component to the EU-Mercosur negotiations. These different

¹²¹ Mercosur – European Union Bi-Regional Negotiations Committee (2010) *XVII BNC – Final Conclusions. Seventeenth Meeting of the Mercosur – European Union Bi-Regional Negotiations Committee*. Buenos Aires: BNC

¹²² Doctor (2007), p.285

¹²³ Doctor (2007), p.302

¹²⁴ The University of Manchester (2007) *EIS del Acuerdo de Asociación en Curso de Negociación entre la Comunidad Europea y el Mercosur. Informe mitad de Ciclo*. University of Manchester, p.1

¹²⁵ The University of Manchester (2007), p.1

interests could make the relationship more complementary, but both blocs are resisting in opening up their markets, as they both fear the other one's stronger competition.¹²⁶

As Mercosur is a lot more competitive than the EU when it comes to agricultural products, the farm and agri-business interest groups within the EU lobbied hard against the inter-regional negotiations between the EU and Mercosur as this posed a clear threat. They have argued that negotiations with Mercosur harm the CAP. When their arguments did not lead anywhere, they have done what they can to obstruct the progress in negotiations whenever possible, by arguing that negotiations with Mercosur would have a very negative effect on EU reform agendas (especially with respect to CAP), as well as overloading the multilateral trade. One can also say that they have succeeded in delaying the signing of any agreement that would give Mercosur freer access to the European market. On the Mercosur side, the agricultural interests have demanded that the EU guarantee market access for their products. As Mercosur's market has grown (especially in Asia), the demand has become less insistent. Regionally organized businesses, including agri-businesses, were the most active societal actors engaged in the political bargaining process, whether pushing for market opening or seeking to maintain protectionist policies. The industrial and service sectors within the EU that would gain from better access to Mercosur markets, lobbied for an agreement that would open up the markets. The manufacturing and service sector in Mercosur were more hesitant about a further liberalization of the markets, but at the same time they knew that more FDI would contribute to an upgrading of the competitiveness of regional exports.¹²⁷ Doctor describes that there was a careful balancing of benefits on offer with the concessions they were expected to make. The Mercosur governments were eager to get a greater access of their agricultural goods in the EU markets, as well as eager to attract more EU investment. This balancing of benefits is a typical realist position.¹²⁸

3.5 The EU-Mercosur Rounds of Negotiation from 2000 – 2004

The first round of negotiations was held at the level of the BNC in Buenos Aires in April 2000.¹²⁹ The negotiators reached conclusions on general principles, political dialogue, co-operation and trade matters. Even though the two parties managed to reach some conclusions,

¹²⁶ Santander (2002), p.297-298

¹²⁷ Doctor (2007), p.294 -296

¹²⁸ Doctor (2007), p.292

¹²⁹ The European Union (2000a) *First Meeting of the EU-Mercosur biregional negotiations committee*. Buenos Aires: BNC

it was during this meeting revealed that the Argentine negotiators especially aimed at a general framework in the short term, where they would fill in the details later, while the EU aimed at a general framework in the long term, and wanted to make the first phase until July 2001 as useful as possible.¹³⁰ Already at this early stage in the negotiations, there was a clear sign of differences in negotiation culture and how to approach the negotiations, which would be an important obstacle for the negotiations to come. Growing trade tensions and differences in negotiating made the negotiations harder. The Mercosur negotiators made negative public statements about the so-called “EU unwillingness to negotiate”.¹³¹ The EU team consisted in general of highly specialized technical experts, while the Mercosur negotiators were mainly high-level officials and politicians that were not as acquainted with the details of negotiations. As also mentioned in the introduction, the Mercosur negotiators used a “top-down approach that consisted of formal consensus on objectives at the highest level within a kind of ‘framework’ agreement, leaving it to technical experts to flesh out troublesome details later on”, while the EU approach towards the negotiations was a more “down-top approach, where building agreements bottom-up on the basis of informal consensus on objectives”.¹³²

The second negotiation was held in Brussels in June 2000. Mercosur presented a proposal with specific objectives for each of the areas of the working groups and the EU presented an initial list of non-tariff barriers in order to identify barriers to trade.¹³³ Information was exchanged on the CAP, the enlargement of the EU, on the progress of the integration of Mercosur and the Mercosur association agreements with Chile and Bolivia. When the third negotiation process started in Brasilia November 2000, Brazil was aiming to better the climate of the negotiations between the EU and Mercosur, as there was a growing trade tension. Technical expert negotiators from Mercosur engaged in lengthy discussions with the EU counterparts, something that resulted in a positive atmosphere and a step forward in the negotiations. The exchange of information continued and discussions around the specific objectives started. This discussion did however not advance, because the EU wanted a more pragmatic dialogue. The exchange of information went more smoothly in those areas that did not represent any difficulties for the future negotiations.¹³⁴

¹³⁰ Klom (2000), p. 11; Klom (2003), p.361

¹³¹ Klom (2003), p.361.

¹³² Klom (2003), p.361-362

¹³³ The European Union (2000b) *Second Meeting of the European Union - Mercosur biregional negotiations committee*. Brussels: BNC, and Molle (2008), p.101

¹³⁴ Klom (2003), p.362; The European Union (2000c) *Third meeting of the EU-Mercosur Biregional Negotiations Committee*. Brasilia: BNC; Molle (2008), p.102

The fourth negotiation was held in Brussels in March 2001, and here previously presented documents were considered. During the fourth round of negotiation, progress was made in issues concerning competition policy, intellectual property rights, public procurement, and dispute settlement. Mercosur faced hard internal tensions in this time that also affected the negotiations, especially when Domingo Cavallo was appointed the new Argentine economics minister. Cavallo wanted to transform Mercosur into a free trade area and then allowing Argentina to negotiate its own agreements with external partners. This did put a pressure on the internal dynamics of Mercosur.¹³⁵ The internal conflicts within Mercosur at the time affected the negotiations in a way that made it harder to focus on actually making a step closer to reach an agreement. As mentioned in the introduction, an issue that caused problems between the two blocs was the way of approaching the negotiations. The EU Commission has negotiated numerous regional agreements upon one method/matrix. The negotiators from the Mercosur countries saw that their proposed methods were rejected by the European negotiators with the same argument: that the EU had multiple agreements and could not design separate rules for each case. The Mercosur countries interpreted this as a lack of will and understanding from the EU to understand their interests. The EU has seen their way of approaching the negotiations the best possible way, while Mercosur wanted to discuss alternative ways of approaching the different positions.¹³⁶ This discussion around the methods and modalities has been a returning obstacle in the negotiations. Through the negotiations it seems like the Mercosur negotiators have used the argument of lack of common agreed upon methods as an obstacle, or even “excuse” to prevent the negotiations from moving forward. Whether this is a difference in negotiating culture, a need of Mercosur to make their voice heard, internal problems or other disagreements, is hard to predict. The feeling of being overrun by the more “experienced” or even “arrogant” European negotiators might be one reason, something that became clearer before the fifth negotiation round in Montevideo July 2001. In this new round, the EU negotiators wanted to accelerate negotiations and exchange offers on tariffs and services. From Mercosur’s perspective the EU presented, in a unilateral way, a tariff offer and negotiation texts covering goods, services and governmental purchases. From the European perspective, Mercosur was not able or willing to present a counter-offer, and wanted to delay the progress by discussing methodology. This was mainly because of Argentina not being able, and Brazil not willing. From Mercosur’s perspective, they were not

¹³⁵ Molle (2008), p.102; Klom (2003), p.362; The European Union (2001a) *Fourth meeting of the EU-Mercosur biregional negotiations committee*. Brussels: BNC

¹³⁶ Molle (2008), p.103

able to present their trade offer due to the lack of an agreement on methods and modalities of the negotiation. Again the excuse of a lacking agreement on methods and modalities were used as an excuse to drag out the negotiations, but thanks to good work of the Uruguayan presidency of Mercosur, the negotiation did have a positive outcome. The EU managed to present a negotiation offer, while Mercosur was supposed to do the same in October that same year. The EU presented a negotiation offer covering 90 per cent of agricultural trade and 100 per cent of industrial trade. The acceleration of the EU-Mercosur negotiations caught the Brazilian industry off guard. The EU also made it clear that if the negotiations were to break down, the EU would not sign a trade agreement with an individual country. This is a good example of how the EU and Mercosur were not really “equal” partners or that there were clear differences between the EU and Mercosur, and their bargaining power. As described earlier in this chapter, the political scientist Sebastian Santander mentions how the trade structure between the EU and Mercosur bears a strong resemblance to a North-South relation.¹³⁷

During the sixth negotiation in Brussels, October 2001, the presentation of Mercosur’s commercial offer was the main objective.¹³⁸ Mercosur only presented a limited counter-offer, with the same excuse of the lack of an agreement on methods and modalities. The offer only covered around a third of the EU-Mercosur trade, and it fell short of WTO standards as well. As the Mercosur countries did face hard times both economically and politically, the offer was still seen as significant in symbolic terms. Argentina was especially badly struck by the financial crisis. In December 2001, riots and political turmoil in Argentina was broadcasted to the whole world. The situation was grave, and as the world economy situation worsened during 2002 the negotiations had to be more realistic about the ambitions for the short term.¹³⁹

The seventh negotiation round in Buenos Aires April 2002 was of limited technical nature.¹⁴⁰ The trade negotiation was pending and no date was set to resume it. While the deals represented similar proportions of historical trade flows, the EU insisted that the Mercosur offer was insufficient regarding coverage, because it reached 90% of the value of trade and also rejected the conditionalities attached. Meanwhile, Mercosur on its side considered that fulfillment of these conditionalities were necessary for the European offer to mean a substantial improvement in market access. The conditionalities of the European offer ignored

¹³⁷ Klom (2003), p.363; The European Union (2001b) *Fifth meeting of the European Union – Mercosur Biregional Negotiations Committee*. Montevideo: BNC; Molle (2008), p.103; Santander (2005), p.296-298

¹³⁸ Molle (2008), p.104; The European Union (2001c) *Sixth Meeting of the European Union – Mercosur Biregional Negotiations Committee*. Brussels: BNC

¹³⁹ Klom (2003), p.363-364; Molle (2008), p.104

¹⁴⁰ Klom (2003), p.364; The European Union (2002a) *Seventh Meeting of the EU-Mercosur Bi-regional Negotiations Committee (BNC)*. Buenos Aires: BNC

the structural differences between the two blocs, and did not include elements of special and differential treatment for Mercosur. In sectors where Mercosur had a better chance of competing with EU production demands (textiles and footwear), strict reciprocal treatment was claimed by the EU, or did not grant significant improvement of access when it came to the agriculture sector.¹⁴¹

The eight round of negotiation was held in Brasilia, November 2002. The agenda was set to the completion of methods and modalities for negotiating market access for goods, including agricultural products, and a definition of methods and modalities for the negotiation of services. During these negotiations the parties did come to an agreement on these methodological issues.¹⁴²

At the ninth negotiation in Brussels, March 2003, the central debate was centered on the revised offers that had been exchanged a few weeks earlier.¹⁴³ During the tenth negotiation that was held in Asunción in June 2003, Mercosur decided to not present a revised offer on public procurement because there had not been an agreement on the methods and modalities for the negotiation in this area, and they waited for a better offer and conditions on the access to the community market for goods. The EU Commission responded by withholding its own bid on government procurement. Again a basic disagreement in methods and modalities colored the negotiations and was once again the formal obstacle.¹⁴⁴ In the eleventh negotiation that was held in Brussels in the end of 2003, offers were not even included in the agenda.¹⁴⁵ In November 2003, the European executive drew up the so-called “Brussels Programme”. This was an ambitious working plan that set out five negotiating sessions and two ministerial meetings before 2004, with the goal to reach and conclude the Association Agreement with Mercosur.¹⁴⁶

The twelfth negotiation was held in Buenos Aires in March 2004, and the thirteenth round of negotiations in Brussels in May 2004, a couple of days before the date for the

¹⁴¹ Molle (2008), p.105

¹⁴² Molle (2008), p.106; Klom (2003), p.364; Molle (2008), p.106; The European Union (2002b) *Eight Meeting of the European Union-Mercosur Biregional Negotiations Committee*. Basília: BNC

¹⁴³ Molle (2008), p.106; The European Union (2003) *Ninth meeting of the European Union - Mercosur Biregional Negotiations Committee. Final Conclusions*. Brussels: BNC

¹⁴⁴ Mercosur (2003a) *Mercosur-European Union Biregional Negotiations Committee. Final Conclusions*. Asunción: BNC

¹⁴⁵ Molle (2008), p.107-108; Mercosur (2003b) *Mercosur-European Union Biregional Negotiations Committee. Final Conclusions*. Brussels: BNC

¹⁴⁶ Santander (2006), p.301

exchange of improved offers were set.¹⁴⁷ Both parties referred to their expectations and the discussion revolved around how to estimate the values of the offers so far. The EU Commission orally described possible improvements of their offer without presenting anything written, which was more than what was offered in July 2001. In May the two blocs exchanged the last version of improved offers, with the goal to complete negotiations in October 2004 in Brussels. The offers were carefully studied, but were not sufficient for the blocs to continue negotiations and come to an agreement in October 2004 as planned.¹⁴⁸ In May 2004, the EU also faced its biggest enlargement ever, as ten new member countries were implemented in the Union. The former Directorate-General for Trade (DG Trade), in the European Commission, commissioner Pascal Lamy, asserted before the EU enlargement that this would not have any influence on the process of the EU-Mercosur negotiations. The great enlargement of the EU set the number of EU states at 25.¹⁴⁹

From the perspective of Mercosur there was an imbalance between the different offers, which made it impossible to continue the negotiations. In the Ministerial meeting in Lisbon in October 2004, the ministers publically announced the priority of the strategic relation between the two regions and the Association agreement to reinforce the economic, political and commercial ties. In December 2004 the coordinators from both regions met in Río de Janeiro and tried to identify some of the negotiation's obstacles. In March 2005, the coordinators met again in Brussels where they tried to define the starting point to relaunch the negotiations.¹⁵⁰

3.6 The stalling of the negotiations

Doctor describes three imbalances that emerged to hinder progress in signing an inter-regional trade and investment agreement between the EU and Mercosur.¹⁵¹ These imbalances lay in conflicts arising from differences in 1) state and societal interests in each region; 2) the distribution of producer gains and losses; 3) the relative importance of each region for the other's trade flows. The Europeans wanted to liberalize industrial products, but feared wider and greater liberalization in agricultural trade/ products. The South Americans on the other

¹⁴⁷ Mercosur (2004a) *Twelfth Meeting of the Mercosur-European Union Biregional Negotiations Committee*. Final Conclusions. Buenos Aires:BNC; Mercosur (2004b) *Thirteenth Meeting of the Mercosur-European Union Biregional Negotiations Committee*. Final Conclusions. Brussels: BNC

¹⁴⁸ Molle (2008), p.109-110

¹⁴⁹ Renato G. Flôres Jr. (2013) *In Search of a Feasible EU-Mercosul Free Trade Agreement*. No.378/February 2013. CEPS Working Document. p.1-2

¹⁵⁰ Molle (2008), p.110

¹⁵¹ Doctor (2007), p.297

hand wanted greater access to the European market and wanted less EU intervention in the agricultural sector. Imbalances between the two trading blocs made the negotiations more difficult, and made, how it seems, the blocs less and less eager to bother with signing an agreement.¹⁵² While the EU was (and still is) Mercosur's most important trading partner, Mercosur was not as important to the EU, and the negotiation status was therefore also uneven. This was made clear through the rounds of negotiations, as the EU in a greater extent could "threaten" Mercosur; an example of this is how the EU clearly stated that it would not sign any bilateral agreements if an agreement between the two blocs were to fail. In commercial terms, the two blocs did not share the same motivations and "sense of urgency to reach an agreement".¹⁵³

The negotiations between the EU and Mercosur stalled in 2004 for many reasons, which will be discussed more thoroughly in the next chapter. Still, one can probably say that the main reason for the suspension of the negotiations in 2004 was because of fundamental differences in the trade chapter. It is also important to take note of the different internal and external problems in and between the member countries under consideration.

Even though the main negotiations between the EU and Mercosur were suspended, the political relations continued.¹⁵⁴ The negotiations between the EU and Mercosur had in many ways come far by 2004, and the two blocs were ready to envisage a conclusion of negotiations, but it was decided in October 2004 that the offers on the table were not sufficiently ambitious, especially in the agricultural and service sector.¹⁵⁵

When the EU and Mercosur started the negotiations, there was an optimism that the two blocs would be able to sign an Association Agreement that would eventually lead to a FTA. The difference in negotiation culture between the two blocs should possibly have been treated at an early stage in order to make the rounds of negotiations go more smoothly, as the tendency through the different rounds of negotiations showed that a lot of time was spent, or even "wasted" discussing methods and modalities instead of actually focusing on the trade offers. This should be seen in light of the shifting context, as this obstacle also seems to have been used as a tactic by some of the countries. Through the different rounds of negotiations Mercosur in particular seems to have used the excuse for lacking agreements on the methods and modalities in order to drag out the negotiations. Brazil especially seems to have played strategically by working hard to keep the negotiations with the FTAA close to the

¹⁵² Doctor (2007), p.297

¹⁵³ Santander (2002), p.499; Santander (2005), p.298

¹⁵⁴ Doctor (2007), p.307-308

¹⁵⁵ Kirkpatrick et al. (2009), p.10

negotiations with the EU, in order to put pressure on the different negotiations. The EU feared that the US would get a stronger hold of Latin America, and this way tried to balance the power of the US. The FTAA negotiations might have stimulated the EU to try even harder to meet the needs and wishes of the Mercosur countries. Other general factors such as the terror attack on the US 9/11 might also have had an impact, as much of the US' attention moved towards the middle East/Asia. This shift of interest in US foreign policy towards Latin America had its impacts on the EU's interest in hurrying into coming to an agreement with Mercosur.¹⁵⁶ When the US interest in Latin America decreased as the US shifted their focus to the Middle East after the 9/11 attacks, the need for the EU to rush an agreement slowly changed. If one of the EU's main interests of reaching an Association or a FTA with Mercosur was to balance the US power, or make sure that the US would not get "a hold" of Latin America, the stalling of the negotiations are rather understandable or even logical as the US influence and activity was diminishing.

Through the work of Klom and Molle, two rather different views of the negotiations are presented.¹⁵⁷ While Klom is more skeptical, and maybe even seems to put some of the blame on the Mercosur countries for not coming to an agreement, Molle is talking the case for Mercosur. It is clear that Klom and Molle each represent one side in their discussions, or even rather the general views that can be found in each of the two blocs. This can also be put as another example of the difference between the EU and Mercosur that makes the negotiations even harder; the difference in approaching the negotiations and the issues and obstacles. The reason for this might be many things, but one factor is the general differences between the two blocs. While the EU consists of developed countries, Mercosur is formed by less developed countries. Another important difference is the degree of institutionalism within the two customs unions. The two blocs display a different degree of institutionalism, while the EU represents a very high degree of institutionalism and harmonization of rules. Mercosur represents only a low level of institutionalism.¹⁵⁸

In order to better understand the interregional relations between the EU and Mercosur, the theory of interregionalism is a very important tool. The post-Cold War area created in many ways a new world order, and there was a clear expansion of regionalism and globalization. According to the theory of interregionalism, this created a need to institutionalize at a new level of international relations. As the world has been closer tied

¹⁵⁶ Santander (2010), p.4

¹⁵⁷ Klom (2003); Molle (2008)

¹⁵⁸ Catarina Lang (2002) *The Trade Negotiations between the EU and Mercosur. Seminar paper.* Mainz: Grin, p.3

together by globalization, the world has also been tied together through regionalism. Interregionalism has been a way of handling this new world situation.¹⁵⁹ It is within this understanding of the theory of interregionalism that the interregional relations between the EU and Mercosur will be discussed and analyzed in the next chapters.

Even though the official negotiations stalled in 2004, representatives from the EU and Mercosur still met in order to try to relaunch the negotiations.¹⁶⁰ One can probably say that the interregional relations between the EU and Mercosur just went into a different phase between 2004 and 2010. From a neorealist perspective, the EU wanted to balance its power towards the US influence in the region, and they were therefore very eager to come to an agreement with Mercosur before the FTAA would become a reality. Seen from an institutionalist perspective one of the most important parts of the negotiations was the actual creation and development of cooperation.¹⁶¹ If one sees the relations and negotiations between the two from a constructivist point of view, the creation and development of identities on the behalf of the regional cooperation has been important. As the EU worked as an “external federator”, it is interesting to see how much time and effort the EU put on Mercosur and Latin America, in order to “secure the EU way” being implemented in the Mercosur region.

¹⁵⁹ Hardacre (2008), p.24

¹⁶⁰ Molle (2008), p.110

¹⁶¹ Hardacre (2008), p.25

4. The Trade Negotiations between the European Union and Mercosur from 2010

On May 4 2010, the EU and Mercosur decided to relaunch the negotiations that had lain dormant since 2004. Nine rounds of negotiation have taken place since then. The negotiations were officially reinitiated at the EU-Mercosur summit in Madrid May 17 2010, and the first round of negotiations was held July 2 2010 in Buenos Aires.¹⁶² The objective of the negotiations is to negotiate a comprehensive trade agreement, not only covering trade in industrial and agricultural goods, but also services, improvement of rules on government procurement, intellectual property, customs and trade facilitation, and technical barriers to trade. The rounds have mainly focused on the part of the agreement related to rules.¹⁶³ The negotiations would follow the general principles and objectives that were established by the two blocs during the first BNC in Buenos Aires, 2000.¹⁶⁴ Both the EU and Mercosur are still working on their market access offers – no date has yet been set for the exchange of these offers, though the plan is to exchange offers towards the end of 2013.¹⁶⁵

In this chapter these negotiations will be further discussed and analyzed, and the main questions of this thesis will be studied more thoroughly. What kind of difficulties and obstacles are the hardest for the EU and Mercosur to overcome? How has the relationship between the EU and Mercosur evolved, why did and do the two blocs want to negotiate, and why have the two blocs not yet been able to sign a EU-Mercosur Free Trade Agreement / Association Agreement?

¹⁶² *MERCOSUR – European Union. Background and negotiations* (2013) Available from <http://www.ft.com/intl/cms/s/0/6fbccd36-2bdf-11e1-b194-00144feabdc0.html#axzz2PKUrxJRv> (Accessed 15.01.13).

¹⁶³ *Countries and Regions. Mercosur* (2012) Available from <http://ec.europa.eu/trade/creating-opportunities/bilateral-relations/regions/mercosur/> (Accessed 10.10.12)

¹⁶⁴ Mercosur – European Union Bi-Regional Negotiations Committee (2010) *XVII BNC – Final Conclusions. Seventeenth Meeting of the Mercosur – European Union Bi-Regional Negotiations Committee*. Buenos Aires: BNC, p.1-11

¹⁶⁵ *El Mercosur iniciará para definir su oferta a la UE* (2013) Available from <http://www.notitarde.com/Economia/El-Mercosur-iniciar%C3%A1-en-marzo-negociaciones-para-definir-su-oferta-a-la-UE/2013/02/19/166845> (Accessed 20.02.13)

4.1 The Relaunch of the negotiations

“We relaunched the negotiations because we are quite convinced we can make them lead to an ambitious, balanced, association agreement,”

José Manuel Barroso, President of the European Commission.¹⁶⁶

EU Commission President, José Manuel Barroso’s statement and positive attitude towards the relaunch of the negotiations between the EU and Mercosur shows that there was a strong belief that the two blocs would be able to come to an agreement when the negotiations were relaunched. There was a general positivity and new belief in a EU-Mercosur Association agreement as the negotiations between the EU and Mercosur were officially relaunched at the EU-Mercosur summit in Madrid, 17 May 2010.¹⁶⁷ Barroso stressed the importance of getting the economy in the right direction after the downturn in the global economy, and therefore how important it would be to seize the opportunity of opening the negotiations with Mercosur and strive to reach an agreement. Such an agreement would strengthen the global economy, and would offer benefits for both the EU and Mercosur in form of jobs and economic growth.¹⁶⁸ On an initiative from the Spanish presidency of the EU and the Argentine Presidency of Mercosur, and a decision of the EU Commission College, the rounds of negotiations between the EU and Mercosur were therefore officially reinitiated.¹⁶⁹ If the two blocs manage to come to an agreement, the accord would encompass 750 million people and USD 130 billion of annual trade.¹⁷⁰

The two blocs have put an emphasis on “balance” as in a “balanced agreement”, while discussing a future agreement. The negotiations between the EU and Mercosur stalled in 2004 as a consequence of that the two blocs did not manage to come to an agreement when neither one could accept the other’s offers. One could therefore see this emphasis on a “balanced agreement” as a focus that both parties make on coming to an agreement that both parties will

¹⁶⁶ Bate Felix and Charlie Dunmore (2010) *EU, Mercosur relaunch trade talks, farmers opposed*. Available from <http://www.reuters.com/article/2010/05/17/us-trade-eu-mercursosur-idUSTRE64G6G120100517> (Accessed 20.12.12)

¹⁶⁷ *Countries and Regions. Mercosur* (2012)

¹⁶⁸ *European Commission proposes relaunch of trade negotiations with Mercosur countries* (2010) Available from http://europa.eu/rapid/press-release_IP-10-496_en.htm (Accessed 30.03.13)

¹⁶⁹ *EU & International Agriculture Policy Developments and Outlook* (2011) Available from <http://www.agriculture.gov.ie/publications/2011/annualreviewandoutlookforagriculturefisheriesandfood20102011/euandinternationalagriculturepolicy/euinternationalagriculturepolicydevelopmentsandoutlook/> (Accessed 01.05.13)

¹⁷⁰ Robin Emmott (2013) *EU, Mercosur to unblock trade talks, hurdles remain*. Available from <http://www.reuters.com/article/2013/01/27/us-eu-latinamerica-idUSBRE90P0GX20130127> (Accessed 26.01.13)

be comfortable with and from which both parties will be able to benefit.

The main objective of the negotiations between the EU and Mercosur is to reach an Association Agreement that would deepen the political relations and cooperation and to eventually reach a FTA. Another aspect of particular interest to the Mercosur is improved access of agricultural products to the EU market. The reforms of the CAP in 1998 and 2003 are not termed as sufficient to the liberalization and are of specific interest to Mercosur.¹⁷¹ The agricultural sector is still going to be one of the biggest obstacles on the roads towards an agreement. The agricultural sector in the EU has especially stressed that an agreement between the EU and Mercosur would have a negative impact, or as Copa-Cogeca (“The united voice of farmers and their co-operatives in the European Union”) describes it; “a devastating impact” on EU agriculture. Copa-Cogeca is naturally opposed to a trade agreement between the EU and Mercosur, and stresses that the EU already imports an equivalent of 35 million hectares of agricultural products, mostly and mainly from the Mercosur countries. An agreement would accentuate this dependency.¹⁷²

After the negotiations between the EU and Mercosur stalled in 2004, and until the relaunch of the negotiations in 2010, various events that would have a potential impact on the future negotiations emerged. The EU enlargement in 2004 and 2007, the world financial crisis, and internal problems in the two blocs (which will be discussed later on in this chapter), were among some of the problems that posed obstacles to the rounds and negotiations and made the negotiation climate harder, both within and between the two blocs. The EU has especially faced hard times due to the Euro-crisis. As the Uruguayan President José Mujica expressed, “El Mercosur anda mal, pero la UE anda peor” (Mercosur is doing bad, but the EU is doing worse).¹⁷³ Many Europeans have migrated and are still migrating to Latin America and the Mercosur region in search of jobs and to escape the Euro-crisis.¹⁷⁴ This also shows a shift in former power and strength. While the EU had a much stronger position in the negotiations before they stalled, the EU did relaunch the negotiations with Mercosur as a weaker union, as

¹⁷¹ Sandra Negro (2008) “Las Relaciones Externas del Mercosur: Intereses, Coincidencias y Divergencias”, in Leita, Francisco and Sandra C. Negro (ed.) *La Union Europea y el Mercosur: A 50 años de la Firma de los Tratados de Roma*. 1 ed. Buenos Aires: Facultad de Derecho UBA, pp.151-174, p. 162

¹⁷² *Copa-Cogeca Position on International Aspects of Agriculture* (2012) Available from http://trade.ec.europa.eu/doclib/docs/2012/july/tradoc_149837.pdf (Accessed 12.02.13)

¹⁷³ Alejandro Rebossio (2012) *El Mercosur entra en boxes: La Alianza de Países Debate su Futuro*. Available from <http://www.lanacion.com.ar/1470745-el-mercotur-entra-en-boxes-la-alianza-de-paises-debate-su-futuro> (Accessed 20.03.13)

¹⁷⁴ Maria Enrile (2012) *For Some Europeans, Latin America Is Once Again A Land Of Opportunity*. Available from http://worldcrunch.com/culture-society/for-some-europeans-latin-america-is-once-again-a-land-of-opportunity/c3s4547/#.UVmZBRk_3PA (Accessed 18.03.13)

it was struck by the financial crisis. Though the EU is still considered the stronger part, their clear stronger negotiation position has been weakened.

The EU had also been enlarged with 12 new member states since the negotiations stalled. The EU's Eastern Enlargement took place in May 2004, and this caused the EU to, in a greater extent, shift their focus towards the East.¹⁷⁵ The enlargement in 2007 took the number to 27 EU member states. The financial crisis took hold of the developed world shortly after, and posed great challenges to the international economy. Europe has still not been able to solve the problems related to the financial crisis. The WTO Doha Round also reached a climax in 2008.¹⁷⁶

Mercosur has also had some intra-bloc problems as Argentina and Uruguay clashed over Uruguay's plan to build two large pulp mills along the border between the two countries in 2006. This was the biggest foreign investment Uruguay had ever attracted, and understandably important to the country. Argentina fought the building of the pulp mills on the basis of fear of pollution and the negative impact the mills would have on both fishing and tourism. The matter went as far as to the International Court of Justice (ICJ), where the Court ruled in favor of Uruguay.¹⁷⁷ Angry over the pulp mill disagreement with Argentina, Uruguay went as far as signing a Trade and Investment Framework Agreement (TIFA) with the United States. This agreement set the stage for "future trade liberalization and economic relations with the United States". If Uruguay goes as far as signing a Free Trade Agreement with the United States, this would violate Mercosur's charter, which strictly forbids bilateral agreements with nonmember countries.¹⁷⁸

Another challenge for Mercosur is the question of Bolivian full membership. Today, Bolivia is an associate member. If Bolivia is to join Mercosur as a full member, this might pose some problems, especially as Bolivia's president Evo Morales has criticized Mercosur, saying "what I've discovered is that the CAN [Andean Community of Nations] as well as Mercosur are tools that only benefit businessmen and wealthy people, instead of the poor people".¹⁷⁹ Another problem that would be problematic if Bolivia was to join Mercosur is the case of the Bolivian tariffs, as they are lower than those of Mercosur. This would basically mean that Bolivia would have to increase those tariffs in order to join, which again would

¹⁷⁵ Santander (2010), p.5

¹⁷⁶ Flôres Jr. (2013), p.1-2

¹⁷⁷ *Profile: Mercosur – Common Market of the South* (2012) Available from <http://news.bbc.co.uk/2/hi/americas/5195834.stm> (Accessed 20.03.13)

¹⁷⁸ Joanna Klonsky (2012) *Mercosur: South America's Fractious Trade Bloc*. Available from <http://www.cfr.org/trade/mercosur-south-americas-fractious-trade-bloc/p12762> (Accessed 20.03.13)

¹⁷⁹ Klonsky (2012)

have a significant impact on prices within Bolivia. If Mercosur were to grant exemptions, this would again be a problem to Uruguay and Paraguay, which were refused similar exemptions. Augustin Cornejo of the Institute for International Economics in the *Wall Street Journal* questions this with “can Mercosur keep a straight face in exceptions to the common external tariff, but say it’s not OK for Uruguay and Paraguay to negotiate a bilateral free trade agreement with the United States, since that would undermine the common tariff?”¹⁸⁰ This is an important question, and the way Mercosur solves this question could have an important impact on the bloc’s future.

These different events have naturally had their impacts on the negotiation climate between the EU and Mercosur. By not only taking the inter-bloc issues, but also the large amount of intra-bloc issues under consideration, it is understandable that the negotiators from the two blocs have had their share of problems to overcome in order to reach an agreement.

4.2 The Rounds of Negotiation after the relaunch in 2010

The first round of negotiation was held June 29 to July 2, 2010, in Buenos Aires. Delegates from the EU and Mercosur met to relaunch the talks on the three pillars – political dialogue, cooperation and trade – of the future Association Agreement between the two blocs. The delegations were welcomed by the Argentine National Coordinator of the Common Market Group, Ambassador Alfredo Chiaradia, on behalf of the Pro Tempore Presidency of Mercosur. João Aguiar Machado, Deputy Director-General for Trade of the European Commission, headed the EU Delegation.¹⁸¹ This first formal round after the collapse of the negotiations in 2004 had key importance in “structuring a pragmatic, flexible and effective working method, so that substantive improvements could be reached in the following rounds”.¹⁸² The general principles and objectives established by the parties during the first BNC in Buenos Aires, April 2000, would remain the reference framework for the continuation of negotiations. The parties should also take advantage of past work and experience, something that was particularly stressed. The EU did however indicate that it would go in the direction of simplification of rules in some of the chapters. Both the EU and

¹⁸⁰ Klonsky (2012)

¹⁸¹ Mercosur – European Union Bi-Regional Negotiations Committee (2010) *XVII BNC – Final Conclusions. Seventeenth Meeting of the Mercosur – European Union Bi-Regional Negotiations Committee*. Buenos Aires: BNC, p.1

¹⁸² Mercosur – European Union Bi-Regional Negotiations Committee (2010), p.1-11

Mercosur indicated that they would either be willing to table new proposals or consider reviewing their already indicated positions. Both the EU and Mercosur also agreed that the last official texts were exchanged in June 2004. Mercosur presented a nonofficial document in September 2004, which only contained some articles of its proposal. The EU reversed its position to the entire document. In the Public Procurement chapter, both the EU and Mercosur recognized that it was inconvenient to focus on and continue working on the old drafts exchanged until 2004, but would rather focus on a new approach to the negotiations. New texts would therefore be required, and the EU informed that it would submit a text proposal. Mercosur would also submit a text as soon as possible. Even though the two blocs expressed a will and engagement in making the negotiations easier by simplifying rules, the general principles and objective established in 2000 would remain the reference framework, and there were not listed any changes upon methods and modalities.¹⁸³

Before the second round of negotiations in September 2010, EU Trade Commissioner Karel De Gucht visited Argentina and Brazil to discuss the EU-Mercosur trade negotiations. De Gucht expressed that he saw important opportunities for EU exporters, investors and service providers in the Mercosur region, as well as that a balanced and ambitious FTA between the EU and Mercosur would be able to bring substantial economic benefits to both parties and contribute to the economic recovery. De Gucht did also express a belief in the negotiations to come.¹⁸⁴

The second round of negotiations was held in Brussels, October 11-15, 2010. During this week of negotiations, progress was made in the normative part. Regarding market access, both sides began discussions to lay the foundation for the exchange of improved offers. Both sides agreed to continue the work in this field.¹⁸⁵ A report published in October 2010, showed that more than 330 trade restrictive measures had been taken by the European Union's major trade partners since the outbreak of the economic and financial crisis in 2008. From these, 62 were taken by Argentina, 12 by Brazil and 5 by Paraguay. As the EU was more strongly affected by the crisis than the global average, the impact of trade restrictive measures of EU trade was also larger than the WTO average. The Argentine import licensing system was of

¹⁸³ Mercosur – European Union Bi-Regional Negotiations Committee (2010), p.1-11

¹⁸⁴ *EU Trade Commissioner Karel De Gucht travels to Argentina and Brazil to discuss EU-Mercosur trade negotiations* (2010) Available from http://europa.eu/rapid/press-release_IP-10-1118_en.htm (Accessed 10.02.13)

¹⁸⁵ Ministerio de Relaciones Exteriores de la Republica del Paraguay (2010) *Boletín Diario de Informaciones. Unión Europea y MERCOSUR reafirmaron compromiso por un Acuerdo Comercial equilibrado*. Asunción: Ministerio de Relaciones Exteriores de la Republica del Paraguay

serious concern.¹⁸⁶ The report also showed that Brazil was among the countries that applied additional restrictions in the protection of domestic industry and jobs from foreign competition. The sectors in the EU that have been most affected by the trade restrictive measures are the agro-food, automotive, services, textile and clothing sectors.¹⁸⁷

The third round of negotiations was held in Brasília November 22 to December 7, 2010. Twelve working groups held meetings during this round and they achieved progress in the normative part of several areas of the negotiations, including market access, rules of origin, services and investment, technical barriers to trade and dispute settlement among others. Both parties agreed to work on exchanging improved offers. At the same time, both parties recognized that further work would be necessary in several key areas.¹⁸⁸ Before this round of negotiation, many were skeptical towards the negotiation, as none of the blocs wanted to be the first to offer concessions. Some of Latin America's emergent economies were fearful of "Europe's superior marketing and sales pitch for its goods and services" while the European feared "cheaper agricultural imports from South America".¹⁸⁹

The fourth round of negotiation was held in March 14 to 18, 2011 in Brussels. Eleven working groups held meetings during this negotiation round and there were once again made progress in the normative part of several areas of the negotiations, as in areas as rules of origin, public procurement, services and investment, competition, and dispute settlement, among others. Both sides decided to continue their internal work to prepare for improved market access offers.¹⁹⁰

The fifth round of negotiation was held May 2 to 6, 2011 in Asunción, Paraguay. Both sides reaffirmed their commitment to move the negotiations forward in order to reach a comprehensive, ambitious and balanced association agreement. The eleven working groups that worked within the trade pillar achieved considerable progress in the regulatory texts of

¹⁸⁶ A range of countries, like for example the US, the EU, Australia and Norway, have reported that their exports to Argentina have declined or been delayed by what has been described as "protectionist" licensing processes and requirements. Almost 600 products require individual approval in order to be imported. *Members continue to criticize Argentina's import licensing* (2012) Available from http://www.wto.org/english/news_e/news12_e/impl_27apr12_e.htm (Accessed 01.05.13)

¹⁸⁷ European Commission - Trade (2010) *Seventh Report on Potentially Trade Restrictive Measures. May 2010 – September 2010*. European Commission Trade Policy Committee, p.3-5

¹⁸⁸ Mercosul (2010) *Negociações MERCOSUL - União Europeia / MERCOSUR-EU Negotiations*. Nota nº 712. Brasília: Mercosul

¹⁸⁹ *Mercosur-EU trade talks marred by fear of the unknown* (2010) Available from http://www.upi.com/Top_News/Special/2010/11/18/Mercosur-EU-trade-talks-marred-by-fear-of-the-unknown/UPI-93711290087324/ (Accessed: 20.02.13)

¹⁹⁰ Mercosur (2011a) *Statement of the EU and MERCOSUR after the 4th round of negotiations on the future Association Agreement between both regions*. Press Release. Brussels: Mercosur

the Bi-regional Agreement.¹⁹¹ Before the fifth round of negotiations, the independent news agency MercoPress reported that sources from Mercosur claimed that EU represented the most obstacles, as it was recovering from the recession from 2008/2009, while the Latin American countries managed to skip the same full impact of the recession. Within Europe some countries (France, Ireland, Belgium and Poland in particular) were still strongly opposed to an agreement that would and will impact the EU agricultural sector. De Gucht on the other hand insisted there was a political agreement from all members of the EU Commission to advance with the negotiations.¹⁹²

The sixth round of negotiation was held in Brussels, July 4 to 8, 2011. The negotiators from both sides once more stressed their commitment to move negotiations forward to reach a comprehensive, ambitious and balanced agreement. Through this round, the two sides exchanged views on many issues. The two blocs described the discussions as “fruitful”, something that also lead to a better understanding of each other’s views and positions.¹⁹³ The round was completed without making any proposals over liberalized access of their products to the market. The two blocs should be aware of the different views and positions by now, as the negotiations had been going on for quite some time. This open and vague description of this round of negotiations might be a way of trying to cover up the fact that not much was really achieved. Unfortunately the two blocs did not manage to discuss the market access offers, as the EU signaled that this would not occur before the EU Commission had concluded an impact assessment of a future agreement and its impact on agriculture, which then would have to be read by the European Parliament. France, Belgium, Ireland and Poland in particular, were (and still are) skeptical towards the impact a future association agreement would have in the agricultural sector.¹⁹⁴

It is natural to ask the question why the EU put such an importance on this impact assessment. Why this emphasis at this stage? The opposition towards the relaunch of the rounds of negotiations has been quite strong within some of the EU member countries. The European Farmer’s Union, Copa-Cogeca has many times stressed the fact that an agreement between the EU and Mercosur would put further pressure on farmer’s incomes and even cause

¹⁹¹ Mercosur (2011b) *Statement of the EU and MERCOSUR after the 5th round of negotiations on the future Association Agreement between both regions*. Asunción: Mercosur

¹⁹² *EU/Mercosur Negotiations Resume in Paraguay* (2011) Available from <http://en.mercopress.com/2011/05/03/eu-mercursosur-trade-negotiations-resume-in-paraguay> (Accessed 13.02.13)

¹⁹³ European Commission Directorate-General for Trade (2011a) *EU – MERCOSUR, XXII Meeting of the Bi Regional Negotiations Committee*. Press Release. Brussels

¹⁹⁴ *UE y Mercosur cierran otra ronda de negociaciones en Bruselas sin avances en ofertas comerciales* (2011) Available from <http://www.ultimahora.com/notas/444715-UE-y-Mercosur-cierran-otra-ronda-de-negociaciones-en-Bruselas-sin-avances-en-ofertas-comerciales> (Accessed 01.03.13)

“an exodus” from the sector and from rural areas. The President of Copa-Cogeca, Paolo Bruni expressed that “the EU Commission’s proposal to relaunch the trade talks with Mercosur will cause a sharp rise in beef, poultry, wheat, citrus fruit/juice imports to the EU from these countries”.¹⁹⁵ At a meeting of EU agricultural ministers in Brussels, the French Agriculture Minister Bruno Le Marie expressed that “I don’t see why agriculture always has to be the bargaining chip in Europe’s trade negotiations [...] especially when a certain number of South American countries, notably Argentina, are putting new protectionist tariffs on food imports”.¹⁹⁶ In May 2010, the number of EU countries that signed a joint declaration in opposition to a deal reached the number of “about 15”. The parties managed to reach a consensus, that the European Commission should assess the impact of any deal between the two blocs before it is signed, as well as not undermine progress in the stalled Doha Round.¹⁹⁷ This impact assessment is therefore a part of this consensus.

The seventh round of negotiation was held in Montevideo, Uruguay, November 7 to 11 2011. Eleven working groups worked with the Trade Pillar, and managed to achieve progress in the regulatory texts of the Bi-regional Agreement. In areas such as public procurement, the blocs again described the discussions as “fruitful”. Mercosur presented a written contribution on the issue of sustainable development.¹⁹⁸ There were signals from Uruguayan officials before the round, that the expectations for important progress were low. Again the focus on agriculture was seen as the EU’s biggest obstacle to reach an agreement.¹⁹⁹

In December 2011, the Mercosur members announced that the trade bloc would ban any ship that were flying the Falklands flag from docking at ports in Argentina, Brazil, Uruguay and Paraguay. Even though this was mainly not taken too seriously, it still shows that Argentina used Mercosur in its disagreement with Great Britain.²⁰⁰ During the last few years the disagreement about the Falkland Islands /Islas Malvinas has escalated between

¹⁹⁵ *Farmers oppose relaunch of EU-Mercosur trade talks* (2010) Available from <http://www.euractiv.com/cap/farmers-oppose-relaunch-eu-merco-news-494278> (Accessed 07.03.13)

¹⁹⁶ *Farmers oppose relaunch of EU-Mercosur trade talks* (2010)

¹⁹⁷ *Farmers oppose relaunch of EU-Mercosur trade talks* (2010)

¹⁹⁸ European Commission Directorate-General for Trade (2011b) *Statement of the EU and MERCOSUR after the 7th round of negotiations on the future Association Agreement between both regions*. Press Release. Montevideo: European Commission

¹⁹⁹ *Mercosur y la UE inician una nueva ronda de negociaciones* (2011) Available from <http://www.interesteconomia.com/noticias-negocios/claves/mercosur-y-ue-inician-nueva-ronda-negociaciones-20111108> (Accessed 13.02.13)

²⁰⁰ James Blitz and John Paul Rathbone (2011) *Banging of Malvinas drum causes headache*. Available from http://www.ft.com/intl/cms/s/6fbccd36-2bdf-11e1-b194-00144feabdc0.Authorised=false.html?_i_location=http%3A%2F%2Fwww.ft.com%2Fcms%2Fs%2F0%2F6fbcc36-2bdf-11e1-b194-00144feabdc0.html&_i_referer=#axzz2PKUrxJRv (Accessed 20.03.13)

Great Britain and Argentina. There still does not seem to be any solution to the disagreement about the Falkland Islands/Las Malvinas. The dispute has been tense for a very long time, and 2012 marked the 30th anniversary for the Falklands/Malvinas war between the Great Britain and Argentina. The dispute between the Great Britain and Argentina about the claim of the island escalated around the anniversary.²⁰¹ The European Parliament has stressed that this issue is primarily a bilateral issue between Great Britain and Argentina.²⁰² Even so, the disagreement concerning the island is having a negative impact on the negotiation climate.

The eight round of negotiation was held in Buenos Aires from 12 to 16 March 2012. As in the seventh round of negotiation, the two blocs again used “fruitful exchanges of views” while describing the negotiation. This repeating use of “fruitful” and that the two blocs got “a better understanding of each other’s views”, while describing the round of negotiation, might be understood as another way of saying that the two blocs did not really make any clear steps forward in discussing concrete offers. The two sides continued the work within the trade pillar, clarifying positions and presenting new proposals.²⁰³ Even though the blocs made progress on the texts covering rules, competition, trade remedies, solution of controversies, government procurement, investment, rules of origin, technical barriers and sanitary measures, they still remain to exchange specific and concrete offers.²⁰⁴

There is a general tendency in the official summaries from most of the rounds of negotiations that the two blocs “better understands” each other’s views. Due to the long and “tiring” negotiations that have never really made any big steps forward in actually reaching an agreement, this focus on discussions and a better understanding of each other’s views seem to be nothing more than a way of expressing that there were not any real steps forward in this Round of Negotiations either.

In April 2012, Argentina expropriated 51% of YPF (Yacimientos Petrolíferos Fiscales). This resulted in great opposition from Spain, as the Spanish company Repsol

²⁰¹ *Cristina Fernandez targets UK ‘threats’ to keep escalating the Falklands’ dispute* (2013) Available from <http://en.mercopress.com/2013/01/10/cristina-fernandez-targets-uk-threats-to-keep-escalating-the-falklands-dispute> (Accessed 16.03.13); *La relación entre Argentina e Inglaterra tocó fondo por caso Malvinas* (2012) Available from <http://noticias.univision.com/america-latina/argentina/article/2012-04-04/relacion-argentina-inglaterra-malvinas-toco-fondo#axzz2PE7SC3no> (Accessed 16.03.13); *The New Falklands War* (2012) Available from <http://en.mercopress.com/2012/02/01/the-new-falklands-war> (Accessed 29.04.13)

²⁰² European Parliament (2012) *Parliamentary Questions. 13 February 2012*. Available from <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+E-2012-001722+0+DOC+XML+V0//EN&language=IT>. Accessed 16.03.13

²⁰³ Mercosur (2012) *Statement of the EU and MERCOSUR after the 8th round of negotiations on the future Association Agreement between both regions*. Brussels: Mercosur

²⁰⁴ Barral Welber (2012) “The possibility of a win-win: the liberalization of services between the Mercosur and the European Union” in *Mercosur European Union Dialogue*. Apex-Brasil. Ministry of Development, Industry and Foreign Trade, Brazilian Government. pp.64-71. p.64

controlled 57,4% of YPF.²⁰⁵ To get back on Argentina, Spain proposed to negotiate a bi-regional agreement with Brazil and Uruguay without Argentina, as a reprisal for the nationalization of YPF. Brazil and Uruguay rejected this proposal. This proposal shows the difficult relationship between Argentina and Spain. At the same time like the Argentine president of the Cámara de Importadores Argentina, Diego Pérez Santisteban expressed, the reaction of Brazil and Uruguay showed “un mensaje fuerte de seguir apoyando el bloque, más allá de las tensiones” (a strong message that one would continue to support the bloc despite the tensions).²⁰⁶

In the European Commission Directorate-General for Trade’s Ninth Report on Potentially trade restrictive measures, identified in the context of the financial and economic crisis and published in May 2012, the trade restrictive measures taken by the EU’s most important partners are described. As also the WTO has expressed earlier, the report describes how the number of potentially trade restrictive measures adopted since the beginning of the crisis reached 534 in May 2012. 123 new measures were added from September 2011 to 1 May 2012, while 13 measures were lifted. Even though the outlook seems to slowly improve, the number of trade restrictive measures steadily continued to increase, despite the pledges made by the G20 leaders. The report confirmed that there is a trend of third world countries using trade restrictive measures as part of new industrialization policies that are aiming at shielding their domestic markets from international competition. The report also highlighted that there are trends on trade related restrictive measures that cover foreign direct investment that has a potential negative impact on EU investors. An example here is, as mentioned above, the Argentine government’s decision to expropriate 51% of YPF shares owned by the Spanish company Repsol. Decisions like this do naturally substantially impact the investment climate for EU investors. While the unpredictability is increasing, the attractiveness to invest is getting limited. Argentina has also introduced other investment restrictions, such as a law established in October 2011, that foreign investments and assets of insurance companies cannot exceed 50% of their total capital. A consequence of this is that companies must repatriate investments from abroad. In addition to this, Argentina has also restricted the purchase of land by foreigners, and other discriminating measures against foreign investments. Out of the 534 trade restrictive measures taken by countries after the crisis in

²⁰⁵ *Argentina expropia el 51% de YPF y alega que los hidrocarburos son de interés nacional* (2012). Available from <http://www.eleconomista.es/energia/noticias/3898343/04/12/Argentina-nacionaliza-YPF.html>. (Accessed 07.03.13)

²⁰⁶ Rebossio (2012)

2008, 119 are taken by Argentina, 38 by Brazil and 4 by Paraguay.²⁰⁷ In order to not undermine the recovery, the trading partners were called to remove the remaining restrictions. As De Gucht expressed and encouraged "*with the economic recovery still fragile, the world's major economies must remove the trade restrictive measures that put a break on growth. For the world economy to move forward, we have to roll back these barriers. The G20 summit in Seoul needs to demonstrate leadership in this respect*".²⁰⁸ The EU seems to be taking trade restrictive measures mainly against "rough" states, or states that in one or another way is to be sanctioned out of political reasons.²⁰⁹ The Mercosur countries do not seem to have been hurt by the trade restrictive measures that the EU has adopted in comparison to the measures adopted by some of their own member countries.

The Brazilian business elites and diplomats have expressed their disappointment with Mercosur, and have urged Brazil to sign free trade agreements on its own with third countries, something that under Mercosur is forbidden. The "extreme positions" of Argentina that "only helps to put obstacles to an agreement with the European Union," are expressed to be one of the reasons for their disappointment with Mercosur. Lately there have been signs of a Brazilian negativism/skepticism towards Mercosur. If this evolves it might have fatal impacts on Mercosur, as Brazil is Mercosur's largest country. If Brazil really wanted they could probably reverse the clause that limits signing trade accords with third countries. Sergio Amaral, a former diplomat and official from the government of ex President Fernando Henrique Cardoso, expressed that "the weight of Mercosur has eased, and is far less important for Brazil".²¹⁰ From an EU perspective, the importance of Mercosur is largely related to the importance of Brazil. This is mainly because Argentina has taken a strongly protectionist stance and that way offering very little in prospect for "fulfilling the EU's general demand of deeper market access".²¹¹ There have also been tensions between the two most powerful countries within Mercosur; Argentina and Brazil. Argentina and Brazil have become more protectionist under the left-wing governments, especially Argentina. It is as if the Mercosur

²⁰⁷ European Commission – Directorate-General for Trade (2012) *Ninth Report on Potentially Trade Restrictive Measures. Identified in the Context of the Financial and Economic Crisis*. September 2011 – 1 May 2012

²⁰⁸ European Commission (2010) *The EU calls on trading partners to honour their commitment to remove protectionist trade barrier*. Available from <http://trade.ec.europa.eu/doclib/press/index.cfm?id=632> (Accessed 04.03.13)

²⁰⁹ Erik Zietse (2013) *EU Imposes More and More Sanctions and Restrictive Measures: Compliance is an Absolute Necessity*. Available from <http://www.globaltrademonitor.com/2013/02/08/eu-imposes-more-and-more-sanctions-and-restrictive-measures-compliance-is-an-absolute-necessity/> (Accessed 24.02.13)

²¹⁰ *Brazilian business community demands the country signs trade accords with third countries* (2013) Available from <http://en.mercopress.com/2013/02/16/brazilian-business-community-demands-the-country-signs-trade-accords-with-third-countries> (Accessed 20.03.13)

²¹¹ Messerlin (2013), p.1

members see Mercosur as a fortress rather than a bridge. Since the establishment of Mercosur, hardly any agreements have been made with countries or regions outside of South America. The only trade deals concluded by Mercosur in the last decade were with the Palestinian Authority and Israel. Mercosur has basically not evolved into the single market that its founders seem to have dreamt of.²¹²

In January 2011, Argentina started to increase the items for which import licenses are not automatic; this is a measure accepted by the World Trade Organization that allows countries to detain imports for up to 60 days. The main problem has been that the delays have stretched even longer, something that has caused and prompted a host of complaints against Argentina. Even the other Mercosur members have been affected by the measures Argentina has taken. In 2012 Brazil's exports to Argentina decreased compared to the same period in 2011. The same counts for Uruguay. Brazil responded by imposing some barriers on Argentine exports. This shows the difficult situation. Even the countries within Mercosur are harming each other with strict import measures.²¹³

An internal problem in Mercosur the last year was the impeachment of Paraguay's president, Fernando Lugo in June 2012. The Mercosur members rejected Lugo's removal as undemocratic. The impeachment of Lugo resulted in the suspension of Paraguay from Mercosur until the next presidential elections, which took place in April 2013.²¹⁴ Horacio Cartes from the conservative and nationalist political party, Partido Colorado, won the elections. Paraguay now has to decide whether or not they want to rejoin Mercosur as a member state.²¹⁵ When Paraguay was suspended, sources from the EU warned that the EU would not sign any trade agreements with Mercosur without Paraguay. The German ambassador to Paraguay Claude Robert Ellner expressed that "For the European Union, Paraguay continues being a full member of Mercosur".²¹⁶ Paraguay has been the strongest opponent to Venezuelan full membership in Mercosur, but as soon as Paraguay was temporarily suspended, Venezuela was admitted to Mercosur in July 2012 as a full member with complete access to the voting rights and the common market. Analysts have characterized this move as mainly benefiting Argentina and Brazil, and that this will further

²¹² *Mercosur RIP?* (2012) Available from <http://www.economist.com/node/21558609> (Accessed 15.03.13)

²¹³ *Mercosur RIP?* (2012)

²¹⁴ Klonsky (2012)

²¹⁵ Efrén Rodrigo Herrera (2013) *Paraguay necesita regresar al Mercosur*. Available from <http://www.larepublica.ec/blog/opinion/2013/04/23/paraguay-necesita-regresar-al-mercosur/> (Accessed 01.05.13)

²¹⁶ *No EU-Mercosur trade agreement without Paraguay: diplomat* (2013) Available from <http://www.globalpost.com/dispatch/news/afp/130223/no-eu-mercosur-trade-agreement-without-paraguay-diplomat> (Accessed 20.03.13)

politicize the union. The Mercosur countries decided the impeachment of Paraguayan President Lugo offended the “democracy clause” of Mercosur. The implementation of Venezuela could be legally questioned, as Mercosur’s rules require all decisions to be unanimous. Paraguay’s foreign ministry denounced its suspension as “not only illegal but illegitimate and in violation of due process”.²¹⁷ There have also been raised questions regarding Venezuela’s democracy. One of Mercosur’s main intentions was to advance free trade in South America. Former Venezuelan President Hugo Chávez was unenthusiastic about this cause, while calling for a “new Mercosur” where one would “decontaminate neoliberalism” and instead “prioritize social concerns”.²¹⁸ Venezuela’s oil wealth has offered opportunities to the bloc, especially Argentine and Brazilian companies and particularly in government contracts. The entry of Venezuela therefore had a strategic interest. The admission of Venezuela as a full member has been called “perhaps the most serious institutional wound in Mercosur’s history” by Uruguay’s vice-President, Danilo Astori.²¹⁹ There seems to be a tendency that the governments of both Argentina and Brazil in a greater or lesser extent, share the view of Chávez that Mercosur should mainly serve as a political union, and maybe even as a “rival project to what they see as the free-trade agenda of the United States in Latin America”.²²⁰ The former Brazilian diplomat Rubens Barbosa, who was involved in the creation of Mercosur, said, “the founding idea that Mercosur would be an instrument of trade liberalization has disappeared [...] What we have today is a political and social forum, and micromanagement of trade”.²²¹ While some have expressed that Mercosur now exists of little more than “bear-hugs and kisses among *compañeros*,” others have stressed that there should be put more stress on market opening trade diplomacy and competitiveness to revive economic growth.²²² Even though Mercosur have had a stronger negotiation position compared to the negotiations between 2000 and 2004, it can seem like regional bloc is going in a bad direction, where it to a greater extent is leaning towards a political union rather than a customs union.

The ninth negotiation round was held in Brasília, October 22 to 26 2012. This was the XXV negotiation round since the negotiations formally started in 2000. As in former negotiation rounds, both sides reaffirmed their commitments to move negotiations forward to reach a “comprehensive, balanced and ambitious Association Agreement”. In the final

²¹⁷ Klonsky (2012)

²¹⁸ Klonsky (2012)

²¹⁹ Klonsky (2012)

²²⁰ Klonsky (2012)

²²¹ *Mercosur RIP?* (2012)

²²² *Mercosur RIP?* (2012)

conclusions from the XXV Mercosur – European Union Biregional Negotiations Committee it was noted that “*while progress had been made on the normative framework thus far, there is not enough scope for further progress under the current approach*”. By expressing this, it is clear that the two blocs have to make some clear steps forward in order for the rounds of negotiations to have a chance to actually reach an agreement. Therefore, the EU underlined that it was now necessary to move to the exchange of market access offers on goods, services and investment, and government procurement. Mercosur considered that the negotiation had reached a point where it was necessary to seek guidance at ministerial level. This means that the negotiators had to look for guidance at a higher level to be able to present offers that are adequate and good enough for the other part to accept. The governments of the member states should therefore be involved to a greater extent. Both sides concurred that the Mercosur-European Union Ministerial Meeting, to be held in parallel with the CELAC-EU Summit in Santiago, Chile, in January 2013 could provide such an opportunity. Mercosur did emphasize the importance of capacity building on customs cooperation. The EU on their side, agreed to define its position and provide information on this issue before the next round of negotiations. The parties agreed that the EU would send its proposals to Mercosur before the end of 2012 while Mercosur would make its “best endeavours” to send its proposals to the EU at the latest one month before the next round.²²³ During this negotiation round, both sides reaffirmed their commitment to advance negotiations in order to reach an agreement. The negotiations centered on the future of the association agreement between the two blocs, and were held in the Political, Trade, and Cooperation Pillars of the future Agreement.²²⁴

In December 2012, EU Trade Commissioner, Karel De Gucht expressed with a certain irritation, that he could not understand why Mercosur insisted in reopening negotiations in 2010, while now some of its member states displayed a behavior that did not help the negotiations at all. Further he complained over how the EU was forced to go against Argentina in many complaints in the WTO. This was definitely not exactly adequate for making the climate in the negotiations for an Association/FTA better.²²⁵ De Gucht did however also express hopes that the ministerial meeting in Santiago the following year would

²²³ Mercosur – European Union Biregional Negotiations Committee (2012) *XXV Mercosur – European Union Biregional Negotiations Committee. Final Conclusions*. Brasilia: Mercosur/ EU. 9. p.1-6

²²⁴ *Mercosur and EU committed to continue advancing in trade and political talks* (2012) Available from <http://en.mercopress.com/2012/10/29/mercotur-and-eu-committed-to-continue-advancing-in-trade-and-political-talks> (Accessed 23.03.13)

²²⁵ *‘Argentina’s behaviour’ main obstacle for EU/Mercosur trade talks says Brussels* (2012) Available from <http://en.mercopress.com/2012/12/14/argentina-s-behaviour-main-obstacle-for-eu-mercotur-trade-talks-says-brussels> (Accessed 12.01.13)

have positive outcomes but pointed out that “the ball is now in the South American court”.²²⁶ The debate and complaints from many WTO members were emphasized when the EU25 decided to formalize a consultation process with Argentina on the issue. The administration of Argentine President Cristina Fernandez followed this up by nationalizing a majority of the stakes in the Spanish oil corporation Repsol, as described earlier.²²⁷ This has made the negotiations harder and from the tone of De Gucht's words, one can sense that the EU is getting tired of the Argentine way of “going solo” by ignoring the WTO standards and rules.

In January 2013, the Heads of State and Government of the Community of Latin American and Caribbean States (CELAC) and the European Union (EU), and the Presidents of the European Council and the European Commission met in Santiago de Chile.²²⁸ During the ministerial meeting, Argentina in particular took a very tough position towards Europe. While Argentina on its side has been strongly criticized for the strict controls on imports, Argentina on its side signaled that there should be a renegotiation of the conditions of the trade negotiations. Argentine President Cristina Fernandez stressed that Mercosur should discuss and “rework” new proposals for submission to the EU and this way reactivate the negotiations for a Free Trade Agreement. Fernandez said that the member states of Mercosur should work more closely together, not only Argentina and Brazil, but also Paraguay, Uruguay and Venezuela, and in this way build a new scheme of premises. It was also stressed that the situation today is very different than the one in 2004 when the negotiations stalled.²²⁹ Again, Mercosur's lack of being able to speak with one voice was visible, as Argentina once again was allowed to “run the show”.

The European countries on their side stressed the importance of open markets and that one should try to prevent protectionist measures. German chancellor, Angela Merkel stressed this at a meeting of business people, and used the situation in the 1920s and 30s as an example. The pro free trade presidents of Mexico and Chile supported the EU and Merkel's point of view. Argentina and Brazil went on to promise the EU to revive stalled talks on the free trade agreement.²³⁰ It is very important to the EU that the Mercosur countries do not impose strict protectionist measures, especially now that Europe and the EU are facing hard economical times. The EU therefore warned them “not to revert to the kind of protectionism

²²⁶ ‘Argentina's behaviour’ main obstacle for EU/Mercosur trade talks says Brussels (2012)

²²⁷ ‘Argentina's behaviour’ main obstacle for EU/Mercosur trade talks says Brussels (2012)

²²⁸ Council of the European Union (2013) *Santiago Declaration*. Available from http://www.eeas.europa.eu/la/summits/docs/2013_santiago_summit_declaration_en.pdf (Accessed 03.05.13)

²²⁹ Natasha Niebieskikwiat (2013) *Merkel presionó por un acuerdo con el Mercosur y Cristina puso límites*. Available from http://www.clarin.com/politica/Merkel-presiono-acuerdo-Mercosur-Cristina_0_854914579.html (Accessed 30.01.13)

²³⁰ Emmott (2013)

of the 1930s that deepened the Great Depression”.²³¹ As De Gucht expressed: “A tremendous effort has been made to install new momentum into the discussions”.²³² The EU is frustrated by Argentina and Brazil’s policies to protect local industry. It appears that Argentina and Mercosur are less eager to reach an agreement now compared to earlier, especially in comparison to the time when the Mercosur countries were in negotiations with the US of a FTAA. Mercosur and the EU have now agreed to exchange offers by the end of the year, and then one will see how far they will be willing to go in opening up sectors that are tied to extra “protection”, like services and agriculture.²³³ There seems to be dissatisfaction over the slow pace in the negotiations and the lack of a real breakthrough. The European Parliament has called for speeding the EU – Mercosur trade negotiations, as it called on both sides to “prove that negotiations have the sufficient political motivation” and “the significant political support to ensure an exchange of propositions sufficiently ambitious regarding access to the market for goods, services and investments and the other aspects of the agreement’s trade chapter”.²³⁴ In order to reach an agreement, the European Parliament stressed the importance that both sides have to address the discussions with “an open mind and mutual trust.”²³⁵ This might be a reaction to several factors; the general tendency of the rounds of negotiations that manage to “get lost” in talk about rules and modalities instead of actually making clear steps forward in order to present offers; the protectionist stance that especially Argentina and Brazil have showed the last years after the financial crisis; or a general lack of interest in reaching an agreement soon. The fact that the Argentine President, Cristina Fernandez started talking about a renegotiation of the terms might be seen as a way of dragging the negotiations further out.

Members of the European Parliament (MEPs) see the recent protectionist measures that have been adopted in trade and investments by some of the Mercosur countries recently, as “troublesome”. The declaration from the EP also highlighted the importance of including “abundance with democratic principles, human rights, fundamental rights and rule of the law as well as regulations referred to social and environment issues”.²³⁶ One important question is

²³¹ Emmott (2013)

²³² Emmott (2013)

²³³ Emmott (2013)

²³⁴ *European Parliament calls for speeding EU/Mercosur trade negotiations* (2013) Available from <http://en.mercopress.com/2013/01/17/european-parliament-calls-for-speeding-eu-mercursosur-trade-negotiations> (Accessed 18.01.13)

²³⁵ *European Parliament calls for speeding EU/Mercosur trade negotiations* (2013) Available from <http://en.mercopress.com/2013/01/17/european-parliament-calls-for-speeding-eu-mercursosur-trade-negotiations> (Accessed 18.01.13)

²³⁶ *European Parliament calls for speeding EU/Mercosur trade negotiations* (2013)

whether the Mercosur countries are sufficiently interested in reaching an agreement or not, or to what extent they are willing to make sacrifices. In 2012 Brazil launched a second phase of the "Plano Brasil Maior"; a plan that is meant to stimulate the Brazilian economy, where national goods and services take priority on imported goods. Argentina, as discussed earlier, has also adopted various trade restrictive measures that are hurting the EU economy. Argentina has attracted a lot of bad press recently, by imposing import restrictions that most probably violate the global trade rules. The United States, the EU and Japan have all complained about the import restrictions, and the WTO has now agreed to investigate Argentina.²³⁷ Lately, Brazil as well has expressed concerns with Argentina for not complying with understandings reached in previous meetings between the two countries, regarding limitations, restrictions and other obstacles that have been implemented by the Argentines.²³⁸

During the meeting in Santiago de Chile in January, the two blocs decided to exchange offers towards the end of 2013. This exchange of offers will be very important in order to see whether the two blocs are serious about their intentions of reaching an agreement.²³⁹ In February 2013, Argentina and Brazil announced that Mercosur would start the negotiations to define their offer to the EU in March.²⁴⁰ In a memo from the EU Commission from February 2013, it is highlighted that it is now time for the two blocs to proceed to the exchange of market access offers if the two blocs want to "give a renewed impetus to this negotiation with the objective of concluding a balanced and ambitious trade agreement".²⁴¹

Even though the EU-Mercosur negotiations on a FTA have lasted for quite some time, there have not been done many studies of the impact of such an agreement when it comes to trade flows. Some of the studies that have been made have highlighted that while the EU gains will be more widespread than the Mercosur gains, in form of being able to distribute themselves among various manufactured goods. Mercosur will rather have advantages from a few number of commodity exports. The economist, Renato G. Flôres Jr. suggests that it should not be very difficult to get a minimally acceptable agreement regarding the flow of goods. According to Flôres Jr., the EU has to be bold and liberalize half a dozen of

²³⁷ Jennifer M. Freedman (2013) *WTO Judges to Probe Legality of Argentina's Import Curbs*. Available from <http://www.bloomberg.com/news/2013-01-28/wto-judges-to-probe-legality-of-argentina-s-import-curbs.html> (Accessed 02.02.13)

²³⁸ *Brazil furious with Cristina Fernandez non-kept promises freezes relation* (2013) Available from http://en.mercopress.com/2013/05/04/brazil-furious-with-cristina-fernandez-non-kept-promises-freezes-relation?utm_source=facebook&utm_medium=social&utm_content=main&utm_campaign=facebook (Accessed 04.05.13)

²³⁹ *El Mercosur iniciará para definir su oferta a la UE* (2013)

²⁴⁰ *El Mercosur iniciará para definir su oferta a la UE* (2013)

²⁴¹ *The EU's free trade agreements – where are we?* (2013) Available from http://europa.eu/rapid/press-release_MEMO-13-113_en.htm (Accessed 10.04.13)

agricultural goods, most in the meat category. Mercosur should try to make immediate or short-run liberalization of “about 50-100 manufactures, for the outcome to move quickly to the neighborhood of a Pareto optimum”.²⁴² Flôres Jr. continues with that this would be feasible, provided that two mechanisms are successfully at work: a) “the EU couples its nice words to its gestures and really ensures the liberalization of the few commodities. The evolution – or optimistically, progressive dismantling – of the CAP and the present crisis might be intelligently used in favor of this argument;” and b) “Mercosur mainly selects recalcitrant Brazilian protectionists and quite a few sectors of Argentina’s vanishing manufacturing industry and manages to agree to an upfront liberalization that would nevertheless still give room for protecting so-called “sensitive items” with longer liberalization periods”. As these conditions might not be easy to fulfill, it is important that both sides lower their expectations and “work towards the possible, the ideal agreement”.²⁴³

The economists Vera Thorstensen, Emerson Marçal, and Lucas Ferraz on the other side argue that the EU-Mercosur negotiations should concentrate on non-tariff barriers as customs practices, facilitation, rules of origin etc., in other words, on rules to reduce the differences between the partners’ practices. Only after the two blocs have managed to reach a solution to neutralize the effects of exchange misalignments in tariffs, the two blocs can move on to resume discussions on tariff reductions.²⁴⁴ Flôres and Thorstensen et al. therefore have different conceptions on how the two blocs should best tackle the negotiations and be able to come to an agreement.

Mercosur is conscious of its needs for infrastructure upgrading and better logistics, something that has made Mercosur understand that it needs “the know-hows of sophisticated ancillary services for the functioning of the manufactures and commodities production networks, if not the whole productive system”.²⁴⁵ Protectionist trends have been promoting the revival of state champions in key service sectors in Mercosur, such as in telecoms. The euro crisis has probably been a factor for protectionist views on the European side in certain important sectors. An example of this can be found in the financial and insurance domains where the European Commission has been a “fierce advocate of the conservative positions of

²⁴² In economics, a Pareto optimum is a condition where “a situation in which the welfare of the community is at its maximum, and it is therefore impossible to increase the welfare of one individual without making another worse off”. *Pareto optimum* (2013) Available from <http://www.businessdictionary.com/definition/Pareto-optimum.html> (Accessed 01.05.13)

²⁴³ Flôres Jr., Renato G. (2013) *In Search of a Feasible EU-Mercosul Free Trade Agreement*. No.378/February 2013. CEPS Working Document, p.3

²⁴⁴ Vera Thorstensen, Emerson Marçal and Lucas Ferraz (2013) *EU-Mercosur Trade Relations: Impacts of Exchange Rate Misalignments on Tariffs*. No 372/February 2013. CEPS Working Document, p.2

²⁴⁵ Flôres Jr. (2013), p.3

individual member states”.²⁴⁶ With today’s situation, it might be hard to see what could be possible in the EU-Mercosur relations/negotiations in the immediate future. Flôres suggests that the approach must aim at the feasible, and aim at liberalization in some areas, instead of aiming at many at the same time. Examples of feasible areas could for example be industrial services, some aspects of telecom.²⁴⁷ Whether the approach of Flôres, or the approach of Thorstensen et al. would be the best for the EU and Mercosur is hard to say. But as the two blocs are struggling to come to an agreement, the approach of Thorstensen et al. might be the best in light of today’s situation.

While Europe is now suffering high unemployment rates in many member countries, there is a strong motivation for the EU to “close any prospects along this line”.²⁴⁸ Particularly Brazil faces, at the same time, “shortages of qualified people, partially owing to its demographic evolution”.²⁴⁹ Flôres suggests that Mercosur could use this as a bargaining asset, and an innovative compromise could be struck.²⁵⁰

4.3 The EU-Mercosur interregional relations from a theoretical perspective

The EU and Mercosur have been negotiating an agreement since 2000. Why did, and still do, the two blocs wish to negotiate an EU-Mercosur Association/FTA, and why have the two blocs not yet been able to come to an agreement?

The post-Cold War climate stimulated an expansion of regionalism and globalization, and the need to institutionalize at a new level in international regionalism emerged. It was in light of these events that the EU and Mercosur decided to engage in closer interregional relations and start rounds of negotiations in order to eventually reach an association agreement, or even a FTA.²⁵¹ So far, these rounds of negotiations have not lead to the signing of an association, nor a FTA, but the two blocs have expressed a positive attitude and belief that the negotiations will eventually lead to the signing of an agreement. In order to understand why the two blocs decided to engage in negotiations with each other, and why the rounds of negotiations have not yet lead to the signing of an agreement, it is important to take a closer look at the context in which the rounds of negotiations have taken and still take place. The world situation, not

²⁴⁶ Flôres Jr. (2013), p.4

²⁴⁷ Flôres Jr. (2013), p.4

²⁴⁸ Flôres Jr. (2013), p.5

²⁴⁹ Flôres Jr. (2013), p.5

²⁵⁰ Flôres Jr. (2013), p.5

²⁵¹ Hardacre (2008), p.24

the least the situation within and between the two blocs, is different today than what it was in 2000 and when the negotiations stalled in 2004. In order to get a better overview, the negotiations from 2000 until 2004 and the rounds of negotiation after the relaunch in 2010 will be analyzed separately using a top-down and bottom-up approach. Finally I will compare and analyze the different reasons for why the two blocs have decided to engage in negotiations. Different reasons for why the two blocs have not yet managed to come to an agreement will also be discussed.

The two blocs had various different reasons for engaging in interregional relations with each other in 2000. The context in which the EU and Mercosur first decided to engage in interregional negotiations was an interesting time in international relations. The post-Cold War climate presented more opportunities, Mercosur was established, and the EC/EU decided to put more emphasis on their relations with Latin America, mainly the Mercosur countries. This increased EC/EU interest in Latin America had various reasons. First of all, Spain and Portugal worked hard to make the EU relationship with Latin America and especially Mercosur closer, both for historical, cultural and economical reasons.²⁵² Even though Spain and Portugal in particular were eager to have closer relations to Mercosur, the EU also had other reasons than cultural, historical and economical interest in engaging in closer relations with Mercosur. This common cultural heritage is one of various factors that made the EU put more emphasis on tying closer bounds to the Mercosur countries. According to the lawyers Roberto Dromi and Carlos Molina del Pozo, the importance of the EU-Mercosur common cultural history, not only stems from the colonization period, but also the large amount of immigrants that have arrived in Latin America since then, as well as the large amount of immigrants from Latin America to Europe. This continuous contact has produced similar political, historical, economic and cultural traditions, which has connected the blocs even further.²⁵³ Andy Klom also stresses the importance of the common EU-Mercosur cultural, historical and linguistic references.²⁵⁴

In order to get a better overview over the different reasons, the top-down and bottom-up approaches will be used to categorize the different reasons for the two blocs to engage in an interregional relationship. According to Doctor, the main reasons for why the EU and Mercosur engaged in interregional relations and desired to sign an EU-Mercosur agreement

²⁵² Klom (2003), p.353-355

²⁵³ Quoted in Kanner (2002), p.2

²⁵⁴ Klom (2000), p.10

were: a) the international context in the 1990s, and the challenges posed by globalization and the post-Cold War bi-polarity; b) strategic preferences of political actors in both regions; c) interests of economic and other societal actors that wanted to minimize losses from integration and reform, and harness gains. The globalization encouraged state and trans-national actors to coalition building.²⁵⁵ Among the most important EU top-down approaches to the interregional relations with Mercosur, were a fear of expanding US activity in the region, both through the Initiative of the Americas (1990), the NAFTA in 1994, and the launch of the FTAA negotiations in 1999.²⁵⁶ It was indeed very important for the EU to counterbalance the US influence.²⁵⁷ Sebastian Santander has also stressed the fact that the EU was afraid the US would become too influential in Latin America, both through the NAFTA and the FTAA.²⁵⁸ The fear of a too strong US influence drove the EU to engage in closer relations with Mercosur. One of the instruments used by the EU in securing that the US would not become too influential in the region was the export of EU institutional models in order to support liberal democracy, market economies with liberal economic governance structures and interregionalism to work as a framework for the interregional relations with Mercosur.²⁵⁹ The EU would this way be the part influencing Mercosur at the greater extent. According to the EU ideals and experience, it was very important to institutionalize the relationship with Mercosur in order to succeed. The signing of the EMIFCA in 1995 was therefore a very important step for the EU.²⁶⁰ According to a liberal institutionalist approach, institutionalism is an instrument to lock-in a relationship and “set rules of conduct which both sides have to ratify and adhere to”.²⁶¹ The cooperation between the two blocs enabled the EU to export its regional governance model, and that way also managed to increase its reputation as an international actor. The group-to-group strategy has also “encouraged the harmonization of economic rules at the regional level so that Mercosur could create its own customs union”.²⁶² As Hardacre, puts it: “Interregionalism, as a concept, plays to EU strengths, where institutional and commercial power is the key to promoting its own values and institutional forms abroad”.²⁶³

²⁵⁵ Doctor (2007), p.289-290

²⁵⁶ Doctor (2007), p.290

²⁵⁷ Hardacre (2008), p.113-117

²⁵⁸ Santander (2005), p.292

²⁵⁹ Doctor (2007), p.291

²⁶⁰ Kanner (2002), p.5

²⁶¹ Hardacre (2008), p. 39

²⁶² Santander (2005), p.292

²⁶³ Hardacre (2008), p. 124

The EU intentions of exporting their values and institutions can also be seen from a rival interregionalist view (a combination of realist and liberal institutionalist approaches), where the EU clearly used the interregional relations with Mercosur to “export their values and concepts of order” to Mercosur. In this way, interregionalism becomes an “institutional mechanism to export values, ideas and ideals”.²⁶⁴ By exporting its own institutions, values and norms, the EU hoped to gain a certain control over Mercosur.²⁶⁵

The EU also searched for a solution to its growing unemployment problem, and saw cooperation with the Mercosur region as a good strategy.²⁶⁶ The EU therefore clearly had underlying economical and commercial interests for securing the Mercosur market, not only securing EU goods, but also to gain better access to jobs in Mercosur for the EU population.

From a bottom-up approach, there were also regionally organized businesses that were active in the process of the interregional relations between the EU and Mercosur, whether pushing for market opening (for instance the service sector/ automobile sector), or seeking to maintain protectionist policies (for instance the agricultural sector). The industrial and service sector in the EU lobbied hard for a further liberalization of the Mercosur market, while the farm and agribusinesses within the EU did everything they could to prevent the launch of the interregional negotiations. In the EU there were therefore, both from a top-down and a bottom-up approach, many parties that wanted to engage in interregional relations with Mercosur. The reasons varied from social constructivist reasons (common cultural references), to commercial interests, a liberal institutionalist driven interest to export the EU institutions, and more strongly realist driven interests as balancing the US influence.

Mercosur, from a top-down approach, also had clear advantages in engaging in closer interregional relations with the EU. By keeping a parallel on the different negotiations with the WTO, FTAA and EU-Mercosur, Mercosur could play off the EU against the USA in order to obtain better bargaining results from both negotiations. The Mercosur negotiators knew that the EU would have to yield on the issue of agriculture, and the Mercosur negotiators therefore became less “inclined to bargain in an exchange for a reform that was anyway on the cards”.²⁶⁷ Many political actors in Mercosur saw interregionalism as a way of mitigating the impact of market liberalization. Mercosur governments were eager to attract more EU investment as well as to get a greater access for their agricultural products. At the same time

²⁶⁴ Hardacre (2008), p. 39-40

²⁶⁵ Hardacre (2008), p. 39-40

²⁶⁶ Claudia Sanchez Bajo (1999) “The European Union and Mercosur: A Case of Inter-Regionalism” in *Third World Quarterly*, Vol.20, No.5, New Regionalisms in the New Millenium (Oct., 1999), pp.927-941, p.934

²⁶⁷ Doctor (2007), p.290

they were carefully balancing the benefits they would gain from an agreement with the concessions they would have to make. The Mercosur took in other words a realist position in this case.²⁶⁸ Mercosur also used the negotiations with the EU to counter balance US influence in the region, and at the same time enhancing its own position in other fora. From a social constructivist and liberal-institutionalist argument, the Mercosur countries identified with the EU model, which also served as a model for Mercosur. By tying closer relations with the EU, Mercosur could strengthen their own regionalism.²⁶⁹ As the EU represented a big market for Mercosur agricultural goods, Mercosur wanted the EU to eliminate CAP barriers and subsidies, which were harming the Mercosur agricultural goods.²⁷⁰

From a bottom-up approach, the manufacturing and service sector in Mercosur understood the importance of EU FDI.²⁷¹ At the same time, the manufacturing and service sector in Mercosur were more hesitant to further liberalize and open their markets for EU businesses.²⁷² The farm and agricultural sector in Mercosur demanded that the EU should guarantee access for their products. Over time, Mercosur did become less insistent on this issue; both as there was an increasing demand for Mercosur agricultural products in China as well as the Mercosur agri-business lobby became less insistent on an immediate agreement on the matter.²⁷³

There is not one, but many factors that lead the negotiations between the EU and Mercosur to stall in 2004. The two blocs did not manage to present sufficient offers that the other part could accept, but other events and factors were just as important in causing the negotiations to reach a dead-lock. One of the main reasons could be understood from the theoretical aspects of interregionalism. The concept of *balancing* seems to be one of the main factors for both regions to engage in interregional negotiations in the first place. The EU wanted to balance the US influence and power in Latin America, in order to prevent losing markets and influence in the long term, while Mercosur wanted to counterbalance the US influence and power with the one of the EU. Even though the liberal-institutionalist and social constructivist concepts had their impacts on the will and decision of the two blocs to start the negotiations, the one of the realist balancing seems to be the one concept that was determining the will of the two blocs to negotiate. When the FTAA negotiations stagnated and the US foreign policy

²⁶⁸ Doctor (2007), p.292

²⁶⁹ Doctor (2007), p.292-293

²⁷⁰ Santander (2002), p.497

²⁷¹ Doctor (2007), p.293-294

²⁷² Doctor (2007), p.293-294

²⁷³ Doctor (2007), p.295-296

and attention in a greater extent shifted towards the Middle East after 9/11, one of the EU and Mercosur's main reasons for negotiating slowly diminished. The EU as well downgraded Latin America in its external agenda. According to Santander, the EU has to a greater extent focused on security, whereas most Latin American countries have focused more on trade and economic issues.²⁷⁴ The EU's economical interests in Mercosur should though not be downgraded. The EU wanted to secure that the USA did not manage to become too influential in the Mercosur region, and one of the reasons for this was to prevent losing markets to the US in the long term. The EU had managed to somehow secure its commercial interests through FDI and export of their institutional framework. The internal opposition within the EU towards an agreement was also strong, especially from the agricultural sector. In a situation where there was not a "urgent need" to come to an agreement, the EU showed signs of not doing its best in order to come to an understanding with Mercosur concerning offers. Mercosur as well did in many ways lose one of its main reasons to rush an agreement when the FTAA negotiations stalled. The EU was not needed in the same extent to counterbalance the US influence, as the US influence and activity diminished. The negotiations with the EU had already secured increasing EU FDI in the Mercosur countries, and as the EU was not willing to fully open their barriers for Mercosur agricultural goods, it was not pressing to come to an agreement. The liberal institutionalist reasons for continuing the rounds of negotiations were not strong enough alone, as the balancing part was not as eminent. Even though the social constructivist approach had an influential impact at launching the interregional negotiations (as Spain and Portugal, the two EU countries with closest cultural and historical ties to Latin America, pressed to initiate the negotiations), this approach was not important enough to prevent the negotiations to stall. The reasons for rushing an agreement at that point of time were simply not as important any longer. Through the rounds of negotiations, there was a clear tendency that the two blocs lost some of the will and reason to come to an agreement, in comparison with just letting them stall. Both blocs had gradually lost their main reasons for coming to an agreement if that meant making offers that would cause strong internal opposition. Both blocs also had shifting interests and as the US activity and influence slowly decreased, so did the will and engagement of the two blocs.

When the two blocs decided to relaunch the negotiations in 2010, the context of which the rounds of negotiations were launched in 2000, had changed in many ways. Since the

²⁷⁴ Santander (2010), p.4

negotiations stalled October 2004, until they were relaunched in May 2010, a lot had happened and changed in the international arena. The financial crisis that broke out in 2008 caused more harm in Europe than in the Mercosur region. The Doha Round reached its impasse in 2010, and there were no agreement in sight in the short term. This is one reason for the two blocs to relaunch the EU-Mercosur negotiations.²⁷⁵ According to Patrizia Luíza Kegel and Mohamed Amal, the impasse in the Doha Round of discussions suggested that it is unlikely that a “a new agenda for international trade relations in which the strengthening of institutions, namely the strengthening of legality” will be adopted in the short term”.²⁷⁶ As the Doha Round stagnated, the EU sees an even greater need to rationalize the EU-Mercosur interregional relations in order to rationalize international relations.²⁷⁷ A rationalizing approach in the EU-Mercosur relations could maybe work as a mechanism that in a greater extent would harmonize the EU and Mercosur interests, regulations and rules, and that way work as a “zone of retreat” when multilateralism is slow.²⁷⁸

From a top-down approach, the EU searched for ways to stabilize and improve the economical situation in Europe after the financial crisis broke out in 2008. While the EU was (and still is) suffering, the Mercosur region had not been affected to the same extent. As the political scientist Jamie Hancock notes, “liberalization would be especially beneficial for the debt-stricken EU, as the added appeal of budget constraints also tends to encourage liberalization”.²⁷⁹ Even though the EU budget spending on the CAP has shown tendencies of decreasing, the CAP still receives around 40 % of the EU budget today.²⁸⁰ The agricultural lobby within the EU, led by French farmers, has been the most vocal group in opposition towards an agreement with the Mercosur. Over the last years, however, there has been a shift in European public opinion when it comes to farming subsidies. The public opinion has turned away from supporting farming subsidies at the same extent as earlier.²⁸¹

The EU agricultural sector has been one of the most sensitive issues in the EU-Mercosur negotiations. While the EU has faced hard opposition from traditional agricultural countries like France in particular, the issue of opening the EU markets to Mercosur

²⁷⁵ Tomazini (2012), p.14

²⁷⁶ Patricia Luíza Kegel and Mohamed Amal (2012) *Mercosur and its Current Relationship to the European Union. Prospects and Challenges in a Changing World*. Discussion Paper. Zentrum für Europäische Integrationsforschung. Rheinische Friedrich-Wilhelms-Universität Bonn. p.30

²⁷⁷ Hardacre (2008), p.40

²⁷⁸ Hardacre (2008), p.40

²⁷⁹ Hancock (2012)

²⁸⁰ *Agriculture and Rural Development* (2012) Available from http://ec.europa.eu/agriculture/faq/index_en.htm#5 (Accessed 04.05.13)

²⁸¹ Hancock (2012)

agricultural products has so far been avoided in the negotiations after 2010. France ranks as the most protectionist country in the EU when it comes to trade, and the French attitude has usually been explained as a consequence of the influence and strength of the agrarian lobby. The social scientist Dieter Konold interprets this excuse or explanation as simply a French excuse to achieve its own political agenda. The reality shows that agricultural reforms have been successfully implemented over the last ten years against the opposition of the farm lobby. The French government has had an impact on the EU-Mercosur negotiations, as it has fended off demands for liberalization, using the farm interests as an excuse.²⁸² Through his investigations of the theme, Konold discovered that the French farmer's association has lost its former influential power to shape the agrarian politics. Konold further explains the high degree of unanimity between the interest of the agricultural sector and that of the government, as common interest and as a bargaining tactic of the French government in international negotiations. The French government wants to protect and maintain the generous system of subsidies that the country receives through the European Common Agricultural Policy (CAP). The subsidies that France receives through the CAP do not only benefit the farmers, but also the French treasury. Farm groups in France do not longer have the same place within the political system as they had earlier, and the lobby's ability to exercise influence all depends on the willingness of the government.²⁸³ France has a clear advantage if it is perceived that there is a strong domestic opposition, as this can help the government take a tough stance of controversial topics, as for example the "maintenance of high level protection". If it seems like moving away from the bargaining position will threaten the ratification, the negotiation partners are more likely to accept more than they would do in another situation.²⁸⁴ If Konold's studies are applicable to the other EU member states as well, it might just be a question of time before the EU could go through with greater CAP reforms and eventually open up the EU markets for Mercosur agricultural goods. If it is "revealed" that the French government is hiding behind excuses of strong opposition from the agricultural sector, and at the same time ignoring the opposition if it does not serve the cause of the government, then these "excuses" might not be that important that they cannot be ignored by the EU in the long run. The EU has in other words shown signs of moving towards greater reforms and liberalization of the agricultural sector.

²⁸² Dieter Konold (2010) "Farm Interests as Bargaining Chips: France in the EU-Mercosur Free Trade Negotiations" in *Jnl Publ. Pol.*, 30, 3, pp.321-343, p.321

²⁸³ Konold (2010), p.322-326

²⁸⁴ Konold (2010), p.322-326

It was important for the EU to secure new markets to make the economy heal faster. One of the EU's main reasons to relaunch the rounds of negotiation with Mercosur was therefore economically driven. The securing of markets, as well as gaining a better access to a larger job market was also important, as the unemployment rate in some parts of Europe was unreasonably high (for instance in Spain and Greece).

The aspect of balancing was once again an important aspect for the EU when deciding to relaunch the negotiations. This time it was not the US influence in Latin America that was the problem, but rather an increasing Chinese activity.²⁸⁵ As one of EU's main factors for focusing on the Mercosur region before the launch of the EU-Mercosur negotiations in 2000, were in fear in increasing US influence and power, the situation had changed, as China now was the state posing an underlying threat to EU influence and power in the region. This commercial balancing was important for the EU to secure their interest and future commercial gains in the area. Even though one of the EU's main reasons for relaunching the negotiations were commercially driven and had a clear balancing approach, the situation today is still slightly different in comparison with the situation when the two blocs launched the rounds of negotiations in 2000. The EU clearly both had an approach of commercial balancing and institutional balancing. By influencing and stimulating harmonization and institution building in Mercosur, the EU will be able to strengthen its own reputation as an international actor.²⁸⁶ By influencing and securing its institutional model, the EU will be able to exert influence.²⁸⁷ As the main aspect of relaunching the negotiations, the EU used the balancing and institutionalist approach in order to secure their commercial interest and try to find a way out of the financial crisis by achieving liberalization of markets in Mercosur. One important aspect, that should be mentioned, is that while the EU had a clear advantage being the stronger one out of the two blocs in the former negotiations, the EU's role had diminished by the relaunch. One of the reasons for this can be blamed on the position that the financial crisis puts the EU and the EU's need for liberalization of markets. According to Santander, new interregionalism as well as new regionalism encourage and legitimize the policies of liberalization, deregulation and privatization as part of the development of a globally integrated market. Yet interregionalism also perpetuates trade arrangements with a strong North-South bias. The type of interregionalism between the EU and Mercosur is mainly

²⁸⁵ Kegel et al. (2012), p.33

²⁸⁶ Santander (2005), p.292

²⁸⁷ Hardacre (2008), p.38

skewed towards economic affairs that aim to open up markets.²⁸⁸ Even though there is still a North-South aspect to the EU-Mercosur negotiations, the financial crisis and the EU urge and need to heal its economy, have caused a weaker EU bargaining position compared to the former negotiations.

From a liberal institutionalist approach, the EU still has a need to secure and export its institutions, rules and norms. Santander discusses how the EU cannot really be seen as an international actor, as it is not a sovereign entity (it lacks a centralized decision-making authority and has no real military capacity of its own). Yet in the field of “low politics”, when it comes to foreign trade and cooperation with other countries or regional blocs, the EU has a great influential role worldwide. Today, the EU is among the leading trading powers in the world.²⁸⁹ Many Europeans consider Mercosur a child of the EU process and structures, and should therefore follow the EU model of integration.²⁹⁰ The interregional relations with Mercosur are also important to the EU in order to, at a greater extent, be perceived as an important international actor. According to a paper written by Kegel and Amal, an agreement with Mercosur would make it possible for the EU to expand its influence outside of traditional geographic areas. This could also be seen as an extension of the EU’s goal of “the construction of a multi-polar world, with emphasis on regional integration and which is open to the actions of its economic agents”.²⁹¹

From a bottom-up approach, the same regionally organized businesses as before were either eager (for instance the service sector and the automobile sector) to relaunch the negotiations with Mercosur, while the agricultural sector was strongly opposed to an agreement. Even though the agricultural sector was strongly opposed, the studies of Konold, as discussed earlier, show that the agricultural sector has a weaker voice and influence than earlier. The EU approach towards relaunching the negotiations was still strongly top-down, as the EU is doing its best to get out of the financial problems that the crisis caused.

The Mercosur top-down approach also mainly had balancing and commercial reasons for relaunching the negotiations with the EU. Over the past years, Asia has become one of the main markets for products from Mercosur, something that has also reduced the importance of the US and EU markets, but at the same time has led to a concern among the Mercosur member states that they will become overly dependent on exports to Asia. As the EU wanted

²⁸⁸ Santander (2005), p.302

²⁸⁹ Santander (2005), p.288

²⁹⁰ Marcos Aurelio Guedes de Oliveira (2005) ”Mercosur: Political Development and Comparative Issues with the European Union” in *Jean Monnet/Robert Schuman Paper Series*. Vol.5 No.19, July 2005, p.1

²⁹¹ Kegel et al. (2012), p.30

to prevent a too strong Chinese activity and influence in Mercosur and its market, Mercosur wanted the EU in order to counter balance the Chinese influence. According to Kegel and Amal, Mercosur has a need to diversify markets, and this makes Mercosur reduce the resistance to opening up their industry sector. This may further also reduce the ambitions that Mercosur has in the agricultural sector negotiations with the EU. In the EU, it is hard to articulate an internal consensus among the member countries.²⁹² Mercosur did in other words still have some of the same main reasons for relaunching the negotiations as it had while the negotiations were launched in 2000; counter balancing.

Mercosur is focusing on creating a regional legitimacy and in that way reach a better strategic positioning in the region.²⁹³ By coming to an agreement with the EU, this might help Mercosur's regional legitimacy. In the interregional relations with the EU, the Mercosur member states are under pressure to speak with one voice. This do involve that the member states have to do their best to harmonize their positions. In the words of Sebastian Santander: "The prospect of concluding an ambitious agreement with the EU increases both the deepening and the international credibility of Mercosur".²⁹⁴ According to Santander, "interregionalism is, thus, closely linked to the EU's intention to play a greater role internationally. The emergence of interregionalist relational arrangements should be seen in the light of this intention".²⁹⁵ The political scientists Karl Kaltenthaler and Frank O. Mora, have in their work concluded that it is not very likely that Mercosur will develop the kinds of supranational governance institutions as those present in the EU. The reason for this is that the Mercosur member states were primarily driven by domestic political considerations when they decided to further the integration process.²⁹⁶ According to Kaltenthaler and Mora, the main motivations for the Mercosur countries to integration, were originally to resolve the security dilemma between Argentina and Brazil, as well as domestic, political and economic liberalization. The member states sought to achieve domestic political and economic ends through international rules and/or institutions. The Mercosur member states want the "maximum economic and political benefits from integration while foregoing as little sovereignty as possible".²⁹⁷ This lack of institutionalism, or rather supranational institutions in Mercosur have had its impact on the negotiations between the EU and Mercosur. While the

²⁹² Kegel et al. (2012), p.33

²⁹³ Kegel et al. (2012), p.30

²⁹⁴ Santander (2005), p.302

²⁹⁵ Santander (2005), p.302-303

²⁹⁶ Karl Kaltenthaler and Frank O. Mora (2002) "Explaining Latin American economic integration: the case of Mercosur", in *Review of International Political Economy* 9:1 March 2002. pp.72-97, p.72

²⁹⁷ Kaltenthaler et al. (2002), p.92

EU in a greater extent was able to speak with one voice, Mercosur did not have the same possibility. The political scientist Mario E. Carranza has also stressed the importance of the Mercosur member states, Argentina and Brazil in particular, to coordinate macroeconomic policies. There is also a need for supranational institutions and effective dispute settlement systems.²⁹⁸ The lack of institutionalism has been a clear problem in the negotiations, as single countries (Argentina in particular) has been able to impact the negotiation climate, both within Mercosur and between the two blocs. In 1997, Eduardo Casullo, the executive director of the Argentine Industrial Union (UIA), expressed that the lack of institutionalism in Mercosur is bad for the union.²⁹⁹ While Mercosur has been criticized or rather questioned for its lack of supranational institutions, the political scientist Marcos Aurelio Guedes de Oliveira criticizes the way Mercosur is being criticized for not having the same political structures, or how the lack of supranational institutions in Mercosur is perceived as being weak. He argues that one cannot perceive or study the EU and Mercosur in the same way, with the same theoretical framework, as the historical background and context of the two blocs are so different. He further stresses that Mercosur is moving in the right direction, and that Mercosur is going through an important progress through its intergovernmental structures and mechanisms. There is a slow, but steady transition, and the member countries are moving in the right direction regarding democracy and economic stability.³⁰⁰ Yet, Guedes de Oliveira sees the need for a dispute-resolution mechanism that is empowered and capable to deal with conflicts, that will make the presidential and ministerial meetings within Mercosur to go more smoothly.³⁰¹

From a bottom-up approach, Mercosur's agricultural sector is still greatly in favor of an agreement with the EU, as the EU represents a significant market. Mercosur wanted and still wants the EU to eliminate CAP barriers and subsidies, which are harming the Mercosur agricultural goods.³⁰² Mercosur is interested in the EU agriculture market, while the EU is more interested in the Mercosur car, industrial and service markets. These different interests could make the relationship more complementary, but both blocs are resisting in opening up their markets, as they both fear the other one's stronger competition.³⁰³

²⁹⁸ Mario E. Carranza (2003) "Can Mercosur Survive? Domestic and International Constraints on Mercosur", in *Latin American Politics and Society*, Vol. 45, No.2 (Summer 2003), pp. 67-103, p.67

²⁹⁹ Bajo (1999), p.936-937

³⁰⁰ Guedes de Oliveira (2005), p.4

³⁰¹ Guedes de Oliveira (2005), p.8

³⁰² Santander (2002), p.497

³⁰³ Santander (2002), p.498

5. Conclusion

After all these years and all the time and energy spent on negotiating an EU-Mercosur Association Agreement/FTA, why have the two blocs not yet managed to come to an agreement? From the theoretical perspective of interregionalism, the realist, liberal institutionalist and social constructivist approaches have been used in the discussion of the EU-Mercosur interregional relations. But can they explain the reason for why the two blocs not yet have managed to come to an agreement?

Even though commercial interests, that can be closely tied to the realist approach, have clearly been one of the main motivations for both blocs in engaging in interregional relations, the reasons that have been explained from a liberal institutionalist and social constructivist approach have also been important. According to the theory of interregionalism, there should be nothing hindering a EU-Mercosur association agreement, as both blocs clearly would, and still will gain benefits from such an agreement. Even though both blocs express a wish to come to an agreement, they still do not seem to have a strong enough pressure to be able to present good offers that both are willing to accept. There seem to be too many obstacles and internal opposition towards an agreement. Even though both blocs would benefit from an agreement, an agreement would also have a negative effect on certain sectors in both blocs. For instance the agricultural sector in the EU would experience great competition from Mercosur agricultural products (in particular Argentine and Brazilian agricultural products) that are far more competitive than the EU agricultural products. Sectors within Mercosur, for instance the manufacture, service and automobile sectors, would also face strong competition from these EU sectors. In some cases the EU sectors would even pose a threat to outdo some of these sectors in Mercosur. The many different actors (often with differing agendas) involved in the negotiations in one way or the other make the negotiations even more complex and harder. This might indeed be one of the reasons why there still does not exist any interregional agreements like the one the EU and Mercosur are negotiating. This might be the weak point of the theory of interregionalism; it does not manage to explain why blocs that have much to gain, still does not manage to reach an agreement, as it does not handle the problem of the complexities in interregional negotiations in a sufficient way. As an interregional relationship have a low level of institutionalism, there is a greater chance for single actors, and/or countries to obstruct and pose obstacles to the negotiations.

Karel De Gucht, expressed as late as in December 2012, an irritation over the Argentine behavior the last years, especially aiming at the large amount of trade restrictive measures that the country have implemented after the financial crisis in 2008.³⁰⁴ Argentina has also been in the center of many other disagreements, both internally with Uruguay (the pulp mill disagreement), as well as with EU countries Spain (over the Argentine expropriation of Repsol stakes); Great Britain (the disagreement concerning the Falkland Islands/ Las Malvinas), and EU itself (considering trade restrictive measures enforced by Argentina, where the EU has been forced to go against the country in the WTO). The Argentine behavior has caused friction and irritation within Mercosur. Brazilian business people have also expressed their discontent with the Argentine way of “going their way”.³⁰⁵ The Argentine “way” of going unilaterally has therefore not only caused irritation within Mercosur but also in the EU. Even though it is not fair to blame the lack of an agreement on the Argentine behavior, the situation even more so highlights the Mercosur’s lack of institutions and not being able to speak with one voice in the same way as the EU. It is also a good example of how one country can pose a potential threat, or even prevent the parts of coming to an agreement. This lack of “one voice” or even “unity” within Mercosur has posed many obstacles to the negotiations, and still seem to be one of the main problems and obstacles in order to reach an agreement. As long as single countries can influence the negotiations to such an extent, as has been a tendency especially in the negotiations after the relaunch in 2010, it might be hard to be able to reach an agreement in the closest future. Argentina and Brazil often seem to have run Mercosur out from their countries’ interest and economical benefits, something that was highlighted when Venezuela was implemented in Mercosur as a full member in December 2012.³⁰⁶

As discussed earlier, Thorstensen et al. argue that the EU-Mercosur negotiations should concentrate on non-tariff barriers, or on rules to reduce the differences between the partners’ practices. They further argue that only after the two blocs have managed to reach a solution to neutralize the effects of exchange misalignments and tariffs, the two blocs can move on to resume discussions on tariff reductions.³⁰⁷ Hancock has argued that the trade talks between the EU and Mercosur have failed so far, because of “the failures of the Doha Round and the FTAA, the opposition within the EU, the fragility of inter-Mercosur relations, and the

³⁰⁴ *‘Argentina’s behaviour’ main obstacle for EU/Mercosur trade talks says Brussels* (2012)

³⁰⁵ *Brazilian business community demands the country signs trade accords with third countries* (2013)

³⁰⁶ Klonsky (2012)

³⁰⁷ Thorstensen et al. (2013), p.2

changing global economic climate, that especially affects the EU”.³⁰⁸ The approach of Thorstensen et al. is probably the most realistic approach considering the situation today.

The interregional relations between the EU and Mercosur represent a very good case of interregionalism. As a matter of fact, the interregional relations between the two blocs can be perceived as a *dialogue* (according to Rüländ’s definition of the term), where the cooperation and exchange of information covers various areas (public procurement, services and investment, dispute settlement etc.). At the same time, the EU-Mercosur interregional relations can also be perceived as a *process* (according to Roloff’s definition of the term), seeing the interregional relation between the two blocs as through the rounds of negotiations consistently moving towards a more advanced and deeper relationship. This is of course dependent on that the negotiations do not stall again. Hardacre’s definition of interregional relations as a “comprehensive relationship that covers trade, political and cooperation pillars through frequent work at all official levels” seems to be like a perfection of interregional relations, and is basically what the two blocs are trying to achieve.³⁰⁹ The two blocs are aiming at reaching a comprehensive agreement, as are struggling in the trade pillar/chapter of the negotiations. As Rüländ stresses, interregionalism is built on a low level of institutionalism and both blocs therefore have to rely on their own institutional infrastructure.³¹⁰ As the lack of institutionalism in Mercosur has proven to be one of the difficulties in reaching an agreement, this lack of institutionalism might indeed be one of the main problems of interregionalism. Because of this low level of institutionalism, there will also be low levels of rationalization and agenda setting. These functions are therefore hard to find empirical evidence for.

³⁰⁸ Hancock (2012)

³⁰⁹ Hardacre (2008), p.IX

³¹⁰ Rüländ (2002)

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