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**The European Integration Model: A Commodity for Export?
Perspectives of Integration in MERCOSUR**

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Index

1. Introduction.....	3
2. Theories of European Integration.....	6
2.1. Phase 1: Classical Approaches.....	6
2.1.1. Federalism.....	6
2.1.2. Functionalism.....	10
2.1.3. Transactionalism.....	12
2.2. Phase 2: Building of a dominant paradigm.....	13
2.2.1. Neo-functionalism.....	13
2.2.2. Neo-functionalism and its applicability to other regions.....	16
2.3. Phase 3: Critics to the Neo-functionalist approach	17
2.3.1. Intergovernmentalism.....	17
2.3.1.1. Liberal intergovernmentalism.....	18
2.3.2. The Marxist contribution.....	19
2.3.3. Other views and critiques.....	20
2.3.4. Modern viewpoint on European Integration	21
3. MERCOSUR.....	23
3.1. Precedents of cooperation in the region and origins of the bloc.....	23
3.2. Institutional structure	27
3.3. Dispute settlement system.....	31
3.4. Practical aspects of the system and rule of law.....	33
3.5. Citizen participation.....	36
3.6. Internal asymmetries.....	37
3.7. Concrete approaches to integration, practical examples, latest developments.....	39
3.7.1. Dispute settlement (<i>ad hoc</i> court): a practical case.....	39
3.7.2. Cultural <i>rapprochement</i>	41
3.7.3. IV EU-MERCOSUR Summit 2010 and its possible effects on the integration process.....	42
4. Applicability of the reviewed theories to the MERCOSUR area.....	44
4.1. Federalism applied to MERCOSUR.....	44
4.2. Functionalism applied to MERCOSUR.....	47
4.3. Transactionalism applied to MERCOSUR.....	50
4.4. Neo-functionalism applied to MERCOSUR.....	53
4.5. Intergovernmentalism applied to MERCOSUR.....	58
4.5.1. Liberal intergovernmentalism applied to MERCOSUR.....	60
5. Conclusions.....	63
6. Bibliography.....	68
7. Annex.....	74

1. Introduction

“For many Europeans, MERCOSUR is a child of the EU process and structures and should closely follow its model of integration: for many North-Americans it is being portrayed as nothing more than a regional political arrangement in order to better negotiate with the US. “

Marcos Aurelio Guedes de Oliveira (2007: 9)

In the last years it would seem to the eyes of many observers that the current tendency in international relations consists in regionalization: a great part of the inter State negotiations and exchanges is being conducted within the framework of regional blocs (BBC News, 09.12.2005).

It does not seem an isolated phenomenon, since it can be noted in different parts of the world: with the European Union as the champion of integration, other blocs of regional cooperation have emerged. Even if they haven't achieved such a high level of integration as that of the EU, they are not less meaningful in the world stage: ASEAN, the Pan-African Union, MERCOSUR, seem to be gaining more importance in the international scene. To some extent NAFTA, of a purely economic dimension, could be included in this scheme.

This last assertion leads us to the existing conflict between two models of integration: the American model and the European one. The first one aims to a simple economic cooperation, based on tariff reduction, with the consolidation of a free-trade zone as a goal; whereas the EU model goes beyond the idea of the free-trade zone in its aim to achieve a bond with the intention to construct a system based in the sharing of sovereignty.

“The EU has realized the four freedoms as part of the internal market (...) None of the other integration schemes have gone so far in establishing a common market, but at least the MEROCUSR aims in that direction” (Laursen, 2009: 7).

It is also to be considered one of the most significant areas of Latin America, since „MERCOSUR encompasses 50% of Latin America's GDP, 43% of its population, 59 % of its total land area, 50 % of its industrial production and 33 % of foreign trade.“ (ECLAC, 2008: 7).

This all represents “an estimated population of 240 million inhabitants in 2007 and a GDP of about US\$1.3 trillion (at the end of 2006). Foreign trade data show that it accounts for over 50% of all

South American imports and exports.” (Termansen, 2010: 1)

Moreover, in the study of regional blocs, this work will focus on MERCOSUR rather than in UNASUR, since the latter's goal, however ambitious and maybe more integrative (with a more political scope), does not yet find itself in an advanced stage down the integration path. For instance, it still lacks a number of ratifications -nine out of twelve- to be able to enter into force; it also lacks international legal personality, and it does not constitute a legal engagement for the countries who committed themselves to it, as is the case in MERCOSUR. (Peña, 2008).

Within the study of European Integration, its history and its structure, the question should arise (and has done so among the academics) about the applicability of the success story of the EU model in any other of the emerging integration experiences.

One must be careful when comparing two highly complex systems (politically, economically, socially; in other words, multidimensional systems, that cannot be comprehended with the analysis of one single aspect). However it seems clear that despite the big differences, there are also evident similarities between the integration process in MERCOSUR and that put in place in the EU (seen for instance among others in the tendency of the Southern bloc to emulate the European institutional structure, at least in theory)

This work does not consist in a compared integration analysis between the two blocs. The main question is not merely that of seeking for the reasons and explanations for why the Southern bloc hasn't emerged quite as fast, or why it hasn't shown as many and obvious successful results as the EU has (or had done in its first 20 years).

The idea behind this investigation is directed towards a question of a deeper nature: would it be in fact at all possible to apply the European model (later if not sooner) considering the developments that have taken place ever since the foundation of MERCOSUR and its current *status-quo*?

It could be studied whether the creation of MERCOSUR could have responded to the theories of European integration and achieved a success comparable to that of the EU. However, as the model put in place resulted in a different reality, it could be more productive to consider the possibility of reshaping the current system (or not) than to wonder why reality is not what was expected.

The chosen method for this investigation will not be that of comparison of the two blocs. This work will rather concentrate on studying the applicability of the EU model in MERCOSUR by means of

the existing theories of European Integration (a way to approach a complex, multidimensional reality), which will be laid out and briefly explained in the first part of the work.

We will then proceed to present and explain the system of MERCOSUR, its origins, institutional structure and current *status quo*, with the aim of being able to establish whether the developed theories could be applicable considering its current situation.

Theories seek to solve problems, to explain situations, to shed light on unknown or not so well understood facts. Therefore a chronological study of the theories provides a better idea of their essence and the problem that they seek to solve. We can better understand the issues that the theorists had in mind if we analyze them in the context in which they were conceived.

Moreover, the first chapter will follow the structure of Rosamond (2000) and Bieling / Lerch (2005) in the presentation of the integration theories, since they provide a clear and succinct analysis of the theories while avoiding the loss of its scientific nature.

The theories to be analyzed are federalism, functionalism, transactionalism, neo-functionalism, intergovernmentalism and liberal intergovernmentalism, since they are considered the most traditional and far reaching theories. The scope of the models, approaches and further theories developed after the emergence of liberal intergovernmentalism is somewhat more limited, in that they do not seek to provide explanations for all the integration aspects and spheres.

European integration, and for that matter, also integration in the framework of MERCOSUR cannot be thoroughly explained through these approaches (such as that of multi-level governance), which is why they will not be considered in the analysis of applicability to MERCOSUR.

As for the sources consulted, alongside the scholarly literature, I consider the testimonies of media coverage to constitute a very valuable source for this kind of analysis, since in my opinion they reflect the specific local situations and the views of the main actors in the realities that we are intending to analyze in a scientific manner.

2. Theories of European integration

2.1 Phase 1: Classical Approaches

To better understand the logic of the three classical approaches to European Integration that are to be presented here, it is important to grasp the context in which they came up, namely the inter-war period (1919-1939) and particularly the post war period (1945 onwards).

The emergence of theories as a way towards peace-keeping did not necessarily occur, as it is commonly believed, exclusively at the aftermath of the Second World War.

There were academic and political discussions about an optimal organization of Europe well before the Second World conflict.

While some advocated for a restitution of the old European states system, others argued that the war experience had resulted not as a consequence of human nature but because of the lack of authority beyond the existing nation states.

In line with this reasoning, there were already in the inter-war period many supporters of the idea of a united Europe, not necessarily all with the same concrete project.

One of them, was Aristide Briand, French foreign minister, who issued a “Memorandum on the Organization of a Regime of European Federal Union”, of relevance for being, as Rosamond (2000) points out, the first twentieth-century proposal for a European Unity by a European government.

However, this kind of thinking was reborn and particularly reinforced after the Second World War, the original concerns having been intensified. During this time is that the classical approaches were conceived, mainly as an answer to the question of peace-keeping in the post-war context, this time rather as theories.

The classical theories to be dealt with are Federalism, Functionalism and Transactionalism.

2.1. 1. Federalism:

As Rosamond (2000: 42) rightly notes, we must first clear out the fact that, throughout the history of its emergence, the theory of federalism has tended to be more identified with a political project than with a theory in itself, in that it has a particular goal in mind.

Among the definitions of federalism that the community of scholars of Political Sciences has produced, one of the clearest is that of Reichardt: “an organized structure of social, political or state aggregations within which all units dispose of specific rights, autonomy and legitimacy.” (Reichardt 1995: 102, quoted in Fischer / Große Hüttmann, 2005: 42)

Most people come up with the idea that the federalism theory aims at the setting forth of political systems with a clear division between a central and two or more regional governments, who coexist. However it should be understood not only as a theory “describing a certain constitutional structure, but also, and mainly, as a part of the political conflict over the goals of European unification.” (Fischer/ G. Hüttmann, 2005: 42)

This statement can be explained by the conflicts that arose during the negotiations over the contents of the Maastricht Treaty, when the mention of the *F-Word*, generated strong concerns on the part of some Member States, whose prerogative consisted rather in omitting the word 'federal' and replacing it with the construction 'ever closer union': "This Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe..." (TEU, 1991, Art 2)

As an integration theory, the emergence of federalism is closely related to the initial years of the European Integration project. The devastation of the whole continent after the Second World War was total. This time all the participating forces were losers, since destruction knew no limits. Societies needed to be practically rebuilt from scratch. Not only infrastructurally, but also economically and politically. It was the perfect time for the reorganization of the European project, since everything was possible.

One of these projects was that presented by civil population as well as by some political elites at the European Congress in the Hague (1948), which came up with a federation of States as the new option for Europe (“the United States of Europe”), proposing political unity by means of a “big-bang approach” (Dinan 2004: 23 quoted in Fischer / G. Hüttmann, 2005:46), striving for a political, economic and monetary Union of Europe.

Even if the project of the Hague Congress was never translated into concrete plans of action (and was accordingly considered by many as a failure), it resulted in success in creating the European Council in Strasbourg, which embodied the compromise made by the different participants.

The next steps towards European Integration, however and partly because of this previous “failed

attempt”, were taken according to a completely different approach, opposed to the 'big-bang' concept: The Schuman plan. Conceived by Jean Monnet, the plan proposed the creation of the European Community for Coal and Steel (ECSC), as a first step leading to more complete stages of integration. This is considered by many authors the ground work for the development of European Integration.

Despite the fact that this concept of sectoral integration belongs more to the functionalist (or neo-functional) approach (to be dealt with later on), it is believed that there was a federalist goal in Schuman as well as in Monnet's proposal (Burgess, 2006: 227, Dinan, 2005: 16), since the project of the ECSC was presented by Schuman as the “first stage of the European federation” (Lipgens 1986: 294 quoted in Fischer / G. Hüttmann, 2005: 46).

This is also the view of Burgess (2006: 226-246), who signalizes the 'Monnet Method' as a way of realizing the federal project. His conception of the applicability of federalism to European integration is thus different than that of the classical federalists (since he seems to believe in the adoption of gradual steps instead of prioritizing institutionalization): “(...) by forming functional links between states in a way that does not directly challenge national sovereignty in a formal sense, the door to federation would gradually open.” (Burgess, 2006: 230)

On the other hand, according to many scholars, the theory of federalism can trace its origins back to the organization of the United States of America as a federal country in 1787, even if previous influence from authors like Kant and Montesquieu can be quoted (mentioned as early sources to the theory by Fischer / G. Hüttmann and Rosamond).

It is then not casual that the applicability of the American model still lies in the center of many political and academic discussions over the possible shaping of the European Union.

One of the main proponents of federalism as a theory of integration was Carl J. Friedrich, whose idea of a federal system is seen more as a dynamic process than as an accomplished institutional structure. Namely as “the process by which a number of separate political communities enter into arrangements for working out solutions, adopting joint policies, and making joint decisions on joint problems, and, conversely, also the process by which a unitary political community becomes differentiated into a federally organized whole.” (Friedrich 1968: 7f. quoted in Fischer / G. Hüttmann, 2005, 49).

His different approach to the federalism theory (as a process and not as a static system) is what actually makes it applicable to a space where many States coexist, instead of only to single States

and their federated regions.

As Friedrich himself explained it, federalism should be understood as “a Process through which specific, independent, politically organized units -be it States or other organizations- reach an agreement, in order to find political solutions to work on common problems through a common policy and common decisions.” (Friedrich, 1964: 40)¹

His conception of the federal system, lacked, despite of all, a clear reference to the political structures and the power division between them. This is a shortage that Spinelli -by some considered the champion of federalism- also saw in the 'Monnet Method' as he argued that its' fundamental weakness “lay in its failure to deal with the organization of political power at the European level.” (Burgess, 2000: 58, in Burgess, 2006: 231)

Consequently, the concept of federalism has later been conceived as a way of bringing together autonomous territorial units, previously separate and independent from each other, to constitute a new kind of union that is based on principles that could be summarized in the dictum 'unity in diversity' (official motto of the EU), in that it is a voluntary union whose “principal purpose is to recognize, preserve and formally accommodate distinct interests, identities and cultures” (Burgess 2004 :26)

Even without any concrete mention to power and competence, Friedrich's theory bases its proposal on the existence of an institutional triangle, embodied, in Fischer and G. Hüttmann's opinion, in the actual institutional structure of the EU (European Council, European Commission, and the European Court of Justice).

The role of the European Court of Justice, seen by many authors as fundamental motor of European Integration -through its interpretation and enforcement of the community law- , was already within Friedrich's theory of essential importance.

Advocates of the federalist theory as an option for Europe have given various reasons that justify their defense of federalism as the most adequate system. These reasons have been very well comprised and summarized in Fischer and G. Hüttmann's work (2005, 54) as follows:

-It allows the adoption of proper conflict management policies, since the regions are in many cases better qualified to take more efficient and effective measures for local problems.

¹ Original text: “(...) Prozess durch den bestimmte, unabhängige, politisch organisierte Einheiten, seine sie Staaten oder andere Verbände, ein Übereinkommen schließen, um politische Lösungen zu finden, eine gemeinsame Politik und gemeinsame Entscheidungen über gemeinsame Probleme zu erarbeiten (...)”

- Related to the previous point, and as a consequence to it, comes the principle of subsidiarity into the argument, sustaining that decisions should be made at the lowest effective regional level.
- Federalism also offers the possibility to apply a system of 'checks and balances', which allows its institutions to exercise a certain mutual control tending to avoid abuses of power and promote democracy and transparency.
- From the previously stated can be gathered that federalism also represents one of the most favorable systems to the defense and acknowledgment of (political, social, ethnic, religious, etc) minority rights.
- It presents as well the stimulation of creative “competition” between the federated regions and the federal State, or even between the regions themselves, in the strive to find the best solution to any given problem.
- Last but not least, it is specially in truly heterogeneous societies (such as could be the European Union itself) that federalism can serve as an integration factor, namely aggregating smaller communities different from each other into a bigger system.

To this list of attributes of federalism, two important advantages can be added, which were defended by its advocates (assembled in Rosamond 2000, 26):

- It prevents the domination of the system on the part of one group (and therefore by totalitarian regimes)
- It strengthens the federated state as a unit in the face of external threat.

2.1.2. Functionalism:

The functionalist school is usually identified with the liberalist approach, whose arguments begin with the assumption that human nature in itself is good.

Its main proponent was David Mitrany, who, as most of his contemporaries, worked towards the aim of achieving peace. In this spirit, he wrote *A Working peace system* (1943) during the inter-war period, which didn't get published until the end of the second war. He strove to stay away from idealistic normative visions and sought to answer not to the question about the “ideal *form* of international society, but about what its essential *functions* should be” (Mitrany, 1933:103 quoted in Rosamond 2000: 32)

In this sense, as Rosamond points out, “Functionalism (...) does not begin from a rigid set of foundational propositions that are shared by all functionalists.” (Rosamond 2000: 32,33)

However, there is a main focus common to almost all the functionalist thinkers: it is the apparent inability of the nation-states to provide welfare and the basic human needs in general. Their conclusion is that human beings need to respond to these shortages in the policies of the nation-state by being rational about their needs and creative in performing the functions that are required of them.

Being as it is that the satisfaction of human needs is the main objective of the functionalist analysis, Mitrany's approach suggests that, for the sake of a better performance in the fulfillment of these needs, the boundaries of national territories should be ignored, leaving the task to transnational institutions whose performance would be decisively more efficient.

This idea has also been very clearly explained by Kurt as follows: "Functionalists vehemently criticized the nation-state as opposed to the realists, as an irrational actor and value-laden concept. They think that the important task is to find the most efficient method of managing to the real material necessities of people. Therefore, they argued that post-national or post-territorial basis is the best way to serve human welfare." (Kurt, unknown date: 3)

This postulate by Mitrany would have according to Rosamond (2000) two likely effects: a) the transfer of loyalties from the national State to the transnational organization due to its efficiency in the creation of welfare, b) reducing of possibilities for international conflict.

In this aspect of Mitrany's work is where the technocratic aspect of functionalism came together with its rationalism.

Moreover, the functionalist mantra can be resumed in the idea that form follows function. If function is more important than form, it means that the net of institutions has to be put forth in a flexible way, to adapt itself to the required functions.

As Mitrany himself put it "activities would be selected specifically and organized separately-each according to its nature, to the conditions under which it has to operate, and to the needs of the moment" (Mitrany, 1966: 70 quoted in Rosamond. 2000: 35)

In accordance with this, Rosamond (2000: 34) points out that functionalism is then not necessarily a theory of integration in itself but that integration is an end stage achieved with its application. This is due to the fact that the construction of national institutions is first of all accessory to the emergence of a function to perform, and second subordinate to transnational institutions in terms of efficiency in the fulfillment of human needs.

As opposed to the federalist approach, institutions should then be created accordingly to the social needs and not as a foundation to the system itself.

As for the practical instrumentation of the integration process, his logic relies on the idea of inter-regional (or state in this case) cooperation in specific economical sectors, and creating the necessary institutions for its coordination. As Kurt explains it: “Functionalists deal with the internal dynamic of cooperation. This is principally founded on the idea that if states work together in certain limited areas or sectors by designing new bodies to direct that particular cooperation, they will diffuse it by working together in other sectors by means of an 'invisible hand' (metaphorically) of integration. “ (Kurt, unknown date: 4).

If analyzed closely, this construction seems to be an anticipation of the concept of spill-over, later on studied by the neo-functionalist approach.

It is when it comes to his views on the contemporary projects of integration that his logic becomes clear. Even though the functionalist theory saw integration as an inescapable consequence of its application, Mitrany considered that there should be a distinction between mere integration through the creation of a 'continental union' and what he called a 'universal league': “The one would proceed in the old way by a definition of territory, the other by definition of functions: and while the unions would define their *territory* as means of *differentiating* between members and outsiders, a league would select and define *functions* for the contrary purpose of *integrating* with regard to the interests of all (Mitrany, 1933: 116 quoted in Rosamond, 2000: 37)

This type of organization was also criticized by Mitrany for keeping the previous decision making structures of nation-states but at a supranational level, leading this way most likely to domination by the most powerful states (Mitrany, 1966: 45-6 in Rosamond 38).

2.1.3. Transactionalism

If there is one endemic problematic in international relations it is the problem of war. Like the previously analyzed approaches, the transactionalist (or pluralist) theory also seeks to find a way towards peace-keeping. In this context, integration can be measured by the sense of security achieved in a region, by the elimination of the possibility of war.

For the main advocate of this approach, Karl Deutsch, international integration could be defined as

“the achievement of security within a region or among a group of states. (...) being about the radical reduction in the likelihood of states using violent mechanisms to resolve their differences” (Rosamond, 2000: 42).

Deutsch builds up the concept of integration based on that of security. For him, integration is to be defined in terms of the “sense of community and of institutions and practices” (Deutsch, 1957 in Rosamond, 2000: 43) entrenched enough for its population to be able to expect a long term peace.

However, according to Deutsch, there is a distinction to be made between different levels of integration. He categorizes the integrated communities in two types: amalgamated and pluralistic security communities. The first involve “formal merger of separate units into a larger unit through some sort of institutional fusion. Pluralistic communities are those where each component keeps their own legal identities and where integration does not involve an institution to rule the parts and the functioning of the system (Deutsch, 1968 in Rosamond, 2000: 43).

Of these two types of integrated communities, Deutsch explains pluralistic ones to be the most stable, for their existence requires, in contrast with amalgamated communities, only three conditions; Namely compatibility of major values, capacity on the part of each politically relevant group of non-violent reaction to stimuli coming from others, and “mutual predictability of the relevant aspects of each other's political, economic and social behavior” (Deutsch, 1968 in Rosamond, 2000: 43)

This aspect makes pluralistic communities far more stable than amalgamated ones, since the bond uniting the parts is more than merely institutional (values are bound to have a stronger significance to the parts than institutions).

The main thesis sustaining Deutsch's theory consists in the affirmation that said sense of community results as a function of the level of communication between the parts (in the European case, States). Thus, the way to achieve a pluralistic community is to establish a rich network of mutual transactions, which will increase the trust of each in one another.

2.2 Phase 2: Building of a dominant paradigm

2.2.1.Neo-functionalism

The theory of neo-functionalism is one of the fundamental ones for the study of European integration. It has been said to be of high importance, since the approach has been taken by many as synonym of integration theory. Another reason is the evident bond between the neo-functionalism

theory and its apparent translation into the strategies used by the architects of the EC (often referred to as the “Monnet method”).

The fact that this theory has not only remained on paper, but rather applied in reality, makes the study of this approach particularly interesting. Even if it may not constitute the theoretical response to all the issues that arose in reality, it is nonetheless clearly appealing for analysis.

This previous argument can also be contradicted by suggesting (as it has been done by many) neo-functionalism to be the attempt to theorize the strategies of the elites who founded the ECSC.

The fact is that, even if creation of an integrated Europe could have been a goal of the approach, it seemed to be clear to its theorists (among which we find the most important neo-functionalist proponent: Ernst Haas) that this was not going to be achieved by applying rational arguments and constitutional design (as the federalist approached had proposed). Instead, they suggested a path based on incremental strategic means.

In line with the previously stated, the strategy for the building of the European communities is, as described by Rosamond (2000: 51-52) based on the following propositions:

- 1) Integration process should start in areas of “low politics” in the first instance, making sure that they are key strategic economic sectors (for instance, coal and steel)
- 2) Creation of a high authority without any national interests, which will sponsor the deepening of the integration process.
- 3) Creation of functional pressures for integration of economic sectors related to the particular sectors that have already been integrated (here, the high authority would have an important role as a guide). As a consequence of this last, a gradual entangling of national economies would be achieved.
- 4) Slow shift of meaningful authority towards the high authority, because of being considered the most effective to deal with the new problematic.
- 5) deepening of institutionalization need, produced by the increase in economic integration .
- 6) Political integration as inevitable
- 7) Economic integration would come with supranational institutionalization, leading to a long-term system of peace in Europe.

In this context, Monnet's figure is highly controversial. As pointed out by Rosamond (2000), it is discussed if Monnet himself is to be attributed this long-term plan. He is as labeled by many as a

federalist, by many others as a functionalist, and by many (ex. Burgess, 1989 in Rosamond, 2000: 52) as a hybrid of the two.

As its name indicates it, neo-functionalism brings about many of Mitrany's ideas, even if refined and friendly criticized or deviated. For instance, it is in terms of the driving force of the integration process that Haas saw the strive of certain actors for the achievement of self-interest, putting emphasis on the actors and their interaction. In his view, the political system consisted on the constant competition of actors or groups with different interests over their influence on the policy outcomes.

Nevertheless, Haas did coincide with Mitrany in his assumption that the key issues to be subject to integration fields should not be those of “high politics” but those related to the satisfaction of the population's material needs.

From this point of view, it is easy to understand the importance attributed by him to supranational decision-making, seen , as described by Rosamond (2000: 56), as an inevitable outcome of rationalization and at the same time a solution to the organizational problems.

Moreover, it is also to be highlighted that according to Haas, it is through the central institutions' autonomy that the integration process will succeed, eliminating the tendency of nation-states to strive for more control. As he himself put it, the common institutions have to be “capable of overcoming the built-in autonomy of functional contexts and of surviving changes in the policy aims of the Member States” (Haas, 1961: 376 quoted in Rosamond, 2000: 62). According to him, this constitutes one of the central reasons why some regions integrate and some don't.

The reason why this school of thinking is associated with the actual strategies applied by the founders of the ECSC (and later the EC) is that it was the neo-functionalist approach that developed and officially studied (in academic terms) the concept of Spill-over: the idea that after coordinating integration between two regions (or countries in the European case) in one key field for economic development, cooperation (and later further integration) will be required in other related sectors, leading up to the development of a supranational authority for decision-making.

Interestingly enough, Lindberg produced a very clear definition of spillover which renders it almost inescapable. It consists, according to him, in “a situation in which a given action, related to a specific goal, creates a situation in which the original goal can be assured only by taking further

actions, which in turn create a further condition and a need for more action and so forth” (Lindberg, 1963: 10, quoted in Rosamond, 2000: 60)

In Haas' opinion, however, this inevitability is not so much of a given. In his view, it is not only the field of economics which can be held as sole accountable for the integration process: political action is as well required in this context, to guide spill-over towards the wanted results.

Consequently with what has been exposed as the strategy of European integration in its early years, it is clear that theory and practice are bound in some way.

2.2.2. The neo-functional approach and its applicability to other regions

Even though many aspects of the neo-functional theory were conceived in order to conceptualize the European reality during its evolution, it was questioned in the mid 1960s whether it was possible to attribute it any applicability to other contexts whatsoever (as there was a clear tendency towards integration in other regions of the world).

Haas himself wrote about this, developing a range of background conditions that would make up for a successful integration process in any region. Rosamond summarizes them as follows:

- a) pluralistic social structures
- b) substantial economic and industrial development
- c) common ideological patterns among Member States
- d) creation of supranational agencies with tasks that respond to the common interests.

(Haas, 1961, 377-8, in Rosamond, 2000: 69-70)

Moreover, with views to the contemporary founding of the LAFTA (ALADI)- Latin American Free Trade Area- Haas and Schmitter (1964) analyzed the possibilities of integration in this region, concluding that “background conditions may have been partially conducive, but a mixture of ambiguous governmental purposes and weak powers for the putative regional institutions were suggestive of minimal advance beyond a simple free trade area” (Rosamond, 2000: 71)

The main assumption of their work was that politicization of technical-economic tasks via mechanisms of spill-over was the key to a successful integration process, no matter what region was at stake. Along this line of thought, they developed a scheme that pointed out the background

conditions, the conditions at the time of economic union and the process conditions that were necessary to integrate a region successfully.

Their conclusions were however challenged by Joseph Nye (1965) who developed a theory of his own concerning the required conditions for integration in other extra-European regions. As much important as background conditions are, they entail many dimensions. He spoke then of two sets of conditions:

- a) Structural conditions; namely symmetry of the units, their capacity to respond and adapt, levels of pluralism, complementarity of values)
 - b) Perceptual conditions, highlighting the importance of subjective interpretation of objective contexts. In this way, “advances in integration could be explained by common perceptions of external threat combined with agreement about appropriate policy strategies (Rosamond, 2000: 72)
- Additionally, accidental historical factors were also considered important within his theory.

2.3. Phase 3: Critics to the Neo-functional approach

Up until the mid 1960s', the arena of integration theory was dominated by functionalist ideas, which, as explained, were still proving to be in many cases a truthful explanation to the developments in European integration.

However, the setbacks suffered by the integration process during the emergence of nationalist tendencies (embodied for instance by French president Charles DeGaulle and the “empty chair crisis” in the 1960s'). It was clear in light of such events that the Luxembourg Compromise was representing a trend towards intergovernmentalism as opposed to supranationalism.

In this way, the criticisms to the neo-functional theory were posed with the development of new theories, whose foundations contradicted the neo-functional principles.

2.3.1. Intergovernmentalism

In the described context, the first serious criticisms to neo-functionalism were developed by scholars like Stanley Hoffmann, whose claims were based in the realist argument that holds states as basic units in the international scene.

His main criticism to neo-functionalism was, as explained by Rosamond (2000: 77), that the attempt

to apply a supranational approach on controversial fields would raise tensions among the participants. This leads to his differentiation between high and low politics, which explains why integration is possible in some fields but a source of conflict in areas where the core sovereignty and national identity issues of member states were put at risk.

Following from this logic, he argued that the Monnet-Haas method would only be viable as long as integration guaranteed perpetual positive sum outcomes.

In his own words: “The functional process was used in order to 'make Europe'; once Europe began being made, the process collided with the question: 'making Europe what for?'. The process is like a grinding action that can work only if someone keeps giving it something to grind. When the users start quarreling and stop providing the machine stops” (Hoffmann, 1966: 886 quoted in Rosamond, 2000: 78)

This quote also implies the idea that the growth (in tasks, importance, etc) of supranational institutions with their own agendas could pose a threat to the national institutions, who might react against them.

Based on Hoffman's work, Roger Hansen proposed a list of three theoretical errors of neo-functionalists, enumerated by Rosamond (2000: 79) as follows:

- a) denial of the problem presented by the difference between high-low politics
- b) failure to analyze the European experience in terms of an appropriate international perspective (the external factors and the international situation)
- c) denial of the fact that supranational institutions didn't necessarily imply mutual economic gains.

2.3.1.2.. Liberal intergovernmentalism

Within the modern debate on integration theories, Moravcsik's critique on the intergovernmentalism theory -coined *liberal intergovernmentalism* or *LI*- is perhaps more debated than that of the 1970's. Consequently with the International Relations realist approach, LI considers the States as the unitary actors (Schimmelfennig, 2004: 77); nonetheless, as opposed to realist beliefs that the intergovernmental theory is based on, liberal intergovernmentalism bases its claims on the idea that national preferences are dynamic, and arise in the contexts of State-society interaction (and are not fixed, coming from the sovereign State's self-perceptions).

Then, as explained by Rosamond (2000: 136-137), these interests (also known as integration supply,

embodying the restrictions of possible integration outcomes) are weighted against the integration demand (perceived advantages of cooperation and coordination of policies). Both sides function in a complex manner. However, it is to be pointed out that, although dynamic and varying from case to case, the supply side usually depends on the desire of governments to stay in office and consequently the orientation of their actions towards this goal -or at least not against it-, taking actions that will not diminish their decisions to be re-elected.

The outcome on this bargaining (whether and how cooperation will take place) will depend on the distribution of information between the actors and on the benefits that possible agreements could bring them (Schimmelfennig, 2004: 77).

In other words, Moravcsik's development consists in three phases: formation of national preferences, bargaining between the States and institutional choice. The result of this will be determined by the demands from society and the supply from politicians (Laursen, 2009:4).

In Moravcsik' view, EU integration can be seen as a “series of rational choices made by national leaders (...) responding to constraints and opportunities stemming from the economic interests of a powerful domestic constituents.” (Moravcsik, 1998: 18, in Schimmelfennig, 2004: 78).

This is to say that governments seek to cooperate with others and delegate part of their sovereignty as a means to obtain advantages for local producer groups.

Contrary to the belief of classic intergovernmentalists that the participation in an integration process would only weaken the State's influence, liberal intergovernmentalism sustains that the effect can give the opposite result. This ideas were summarized by Milward, whose proposition consists in the hypothesis that integration helps preserve the national governments' capacities at national level and not diminish them. (Rosamond, 2000:139).

2.3.2. The Marxist contribution

Even if theory of integration has been dominated since the mid 1960s' by the debate between neo-functionalism and intergovernmental approaches, there have also been attempts to explain the integration process in terms of the influence of capitalism and the instrumentation of an historical change.

In this sense, it was Ernest Mandel who first developed an argument that placed the developments of the EC in the dynamics of capitalism. As Rosamond describes (2000: 82), Mandel argued that the

EC was a consequence of and a means for capital concentration in Europe.

One of his fellow scholars, Peter Cocks followed this first assessment and developed it further, to find, as Rosamond illustrates (2000: 84), that European integration should be associated with interdependence, where this last is conceptualized as a capitalist phenomenon. In this context, integration can be understood as “an attempt to deal with dilemmas arising in the course of capitalist development (...) and could be seen as an exercise in state-building where the growth of political institutions represented an attempt to impose capitalist state functions” (Rosamond, 2000: 84-5) adequate to capitalist relations of production.

2.3.3. Other views and critiques

Along with the events of the 1970s there was a clear tendency to criticism and review of the theories of integration, since, as it has been explained, none of them managed to account for the European reality.

From within the specialized scholarship emerged many observations and critiques to the already established theories, leading in many cases to the construction of models, which without necessarily constituting theories of integration, rather focused themselves on the general nature of EU studies and the way they should be approached, with the nature of the EU (or EC before 1992) political system as their main concern.

With the publication of Donald Puchala's paper (1972), came the popularization of the idea that no existing theoretical model can fully describe the integration process accurately. In his view, this is due to the fact that “all the models present images of what integration could be or should be rather than here and now” (Puchala, 1972: 276, quoted in Rosamond, 2000: 89)

His reading of reality in turn showed the EC as what he called *concordance system*, which consists in a complex entity that holds the importance of the nation state as the main actor in most cases, but where there are many spheres of political action, with the state's level of influence changing according to the area. (see Rosamond, 2000: 89)

The social and institutional context is described as a very complex network where actors relate to each other and collaborate with each other, named by authors such as Haas *turbulence system*. As

he himself explains it: “Each actor is tied into a network of inter-dependencies with other actors which are as confused as the first. Yet some of the objectives sought by each cannot be obtained without co-operation from the others.” (Haas, 1976: 179, quoted in Rosamond, 2000: 92).

For Haas, the EC comes up then as a strategy to cope with this turbulence in a more effective way. On the other hand, the lack of interest in the exogenous factors, recurrent criticism to the neo-functional theory, triggered a series of observations and shifted the focus of scholars towards the external context. In this way it was also Haas who in the spirit of self-critique established, as Rosamond explains, that in fact external factors are even decisive in the integration process, since they can be used to account for the failure of other non-European integration experiences.

Another factor towards which scholars turned their attention was the interdependence of the parts, as Haas asserted that “the study of integration (...) should become an aspect of the study of interdependence” (Rosamond, 2000: 94), opposing this way to the dominance of the realist image of the state as the center of the international system.

2.3.4. Modern viewpoint on European Integration

With the obvious revitalization of the integration process brought by the advent of the Single European Act in 1986 and the following activism of the institutions (embodied by the single market program carried out by Jacques Delors' Commission), came naturally a revival of the academic interest in European integration.

These events clearly triggered a revision of the old paradigms: the long-standing debate between neo-functionalism and intergovernmentalism. Despite the self-critique by the founding fathers of neo-functionalism, there were realities that indicated that the theory was not obsolescent as Haas had argued (Rosamond, 2000: 100)

For instance, it was obvious to Jeppe Tranholm-Mikkelsen that the concept of spill-over was still -and more than ever- present in reality. As Rosamond illustrates (2000: 100), he spoke of three forms of spillover: functional spill-over (e.g. in the negative integration strategy posed by the removal of barriers and regulatory controls apposite to positive construction of a common market space), political spill-over (positive orientations of the common market program made by interest groups) and cultivated spill-over (intentional sponsorship of integration initiatives, seen in the

approach of Commission under Delors).

Even if this was shown to be accurate, it was also clear that European integration -and furthermore, the EC/EU political system itself- could not be explained solely with the two extreme scenarios, since they are not able to completely capture the complexity and dynamism of the European polity.

As rightly expressed in Rosamond's work (2000: 106), to focus only on history-making moments or crises, leaving out the day-to-day aspects of politics in the EU would be a very simplistic and narrow approach.

Along these lines of thought is that the contemporary scholars devote themselves to the study of the *sui generis* character of the EU, not only analyzing the theories of integration but also attempting to comprehend the political system as a whole with all its complexities.

3. MERCOSUR

“(...) to create a true community and not a mere economic association”

Raúl Alfonsín (2001: 6 , in Malamud / Shmitter, 2006)

3.1. Precedents of cooperation in the region and origins of the bloc

In many aspects MERCOSUR is often compared to the EU in its origins. However, perhaps one of the most explicative (and probably most overlooked) aspects in the study of both integration processes is the dimension of the historical context.

Guedes de Oliveira develops further on this point, asserting that the security implications of the first step towards integration in the case of the EU (the ECSC) were for instance not present in the Latin American experience. In this sense, it can be said that the meaning of integration itself is different in both cases: “for European nations a matter of life or death; for Latin America (...) a facilitator to overcome backwardness (...), and indicates a way to overcome its past and to foster economic and social development” (2007: 10)

In his view, it is vital to grasp that not only are both views on integration different, but also their self-perceptions (as generator for the respective integrative conducts) are completely different: European States saw themselves as States in decay (who's best option was to unite and create in principle a common economic network), and Latin American States thought (and still think) of themselves more in terms of States “under construction” with concrete economic and political goals.

According to Guedes de Oliveira (2007), this is one of the key issues that define the main difference between the intergovernmental MERCOSUR and the (mostly) supranational EU.

In the case of MERCOSUR, even if it comes to countries with a short history and whose democratization processes are not yet entirely consolidated, there has been a record of cooperation between them before the formal and outspoken integration process was put in place.

Said cooperation could even be dated back to the start of the decolonization process, when South America sought independence from Spain (except for the Brazilian case of voluntary concession of independence on the part of the Portuguese), and formed freedom coalitions.

However, I feel that it is more appropriate to refer our analysis to economic cooperation, with or without the vision of an integrative future, in areas such as energy, infrastructure, etc; namely those which present a precedent of economic integration in the area.

This way, the first relevant event of the sort came up in 1979, with occasion of the Tripartite Agreement, which was signed by Argentina, Brazil and Paraguay with the object of sharing their hydroelectric dams Itaipú and Corpus Cristo.

Back then, the cooperation in particular project took place as a stabilization policy, since Argentina and Brazil were involved in bilateral conflicts regarding energy sources in the context of military dictatorships in both countries (ECLAC , 2009: 22)

After this, the agreements for bilateral cooperation between Argentina and Brazil did nothing but to increase. “Only between 1984 and 1989 both countries signed twenty-four bilateral protocols” (ECLAC, 2008: 22), mostly of economic association. The most relevant of them was the signing of the Program of integration and economic cooperation in 1986, with the political goal of strengthening their freshly attained democracies.

The signing of a joint Act on the need for integration, leading up to the Integration, Cooperation and Development Treaty (1988), in which they both engaged themselves to form an economically integrated region within the period of 10 years. This would be achieved through the elimination of tariff and non-tariff barriers and gradual liberalization of bilateral trade. (Dabène, 1995: 4-6)
The liberal-oriented presidents in power in both countries at the beginning of the 1990's made significant progress in terms of integration, and even decided to reduce the ten year deadline for the achievement of a common market to five years through the Buenos Aires Act (1990).

These last developments led to the creation of the Common Market of the South in 1991, when Uruguay and Paraguay decided to join the until then bi-national integration project. In a similar way to the European Community, MERCOSUR then saw its origins with the signing of a multilateral Treaty: the Treaty of Asunción.

This treaty established the creation of a framework for integration of its four members (Argentina, Brazil, Paraguay and Uruguay), while fostering their own and each other's economic and social development, increasing the dimensions of their respective national markets through integration, a fundamental condition and “keeping in mind (...) the importance of achieving an adequate

international insertion for its countries” (Treaty of Asunción, 1991: preamble).

Interestingly, along with these declared aims (not at all modest in my view), the Treaty itself establishes the goal of creating a Customs Union with the perspective of achieving a Common Market (Treaty of Asunción, 1991, Art. 1).

In this opportunity, some transitional institutions were created, with the prerogative of the definition of a permanent structure by the end of 1994 (date in which the common market would be in place). The provisional institutions served to the gradual preparation for the functioning of the common market, and were to be redefined more concretely (in terms of functions, norms, structure) through a subsequent Treaty.

More concretely, the Treaty of Asunción (1991, Art.5) put in motion four mechanisms to move towards the common market: 1) a program of trade liberalization, to be concluded before end of 1994; 2) adoption of a common external tariff from the beginning of 1995 (that is to say the evolution into a customs union); 3) macroeconomic and sectoral coordination; 4) deepening of liberalization of intra-regional trade flows through sector agreements. Of all these mechanisms, however, only the first one entailed a detailed enforcement system, specifically regulated by the Treaty, including concrete deadlines and the practical treatment for controversial products. (ECLAC, 2009: 23)

On the other hand, the Protocol of Brasilia was signed at the end of the same year, and set a system for the dispute settlement -completed later on by further provisions- whose nature was conceived from the beginning to be intergovernmental (see *Dispute Settlement System*).

Within the integration surge, this short period saw very positive predictions for the development of the bloc. This attitude, along with the stipulated by the Treaty of Asunción, lead to the signature of the Protocol of Ouro Preto (1994), where the institutional structure of the MERCOSUR was consolidated and thanks to which the bloc was granted international legal personality.

By 1995, tariffs on most goods had been removed (except for some sensitive products like automobiles and sugar), the external tariff structure was set (also with exceptions which were not included), and an anti-dumping regulations had been introduced. (Ochoa, unknown date: 4; Gazel / Paiva, 2003: 8).

Up to this point (that is to say, halfway into the integration process), it becomes clear to me that not

only the goals but also the nature of the project started out being far too ambitious and perhaps not realistic, specially if the European experience was to be considered as an example. It would seem, judging by this, that the Member States were either in agreement to the big loss of sovereignty that this would suppose, or that otherwise, if the project featured more formalities than political will, it was likely to fail from the start.

However I find important to note that, even with an institutional structure that resembled that of the EU (one that had taken a long time to achieve and consolidate), its functioning was conceived in an intergovernmental fashion, since the control of all the institutions was kept by the Member States.

In this sense it can be said that “MERCOSUR characterizes itself for an internal asymmetry between its ambitious constitutive purpose and the fragile means that were put in its disposition by the Member States”(Ventura, 2005:56), view also sustained by Bouzas (2005)

Be the institutional structure suitable or not, in economic terms the first period (that started in 1991 and ended in 1998, with the impact of the Russian and Asian crisis) showed a considerable growth in the indexes of the Member States in particular as well as in those of the bloc as such.

However, with the increase of exports within the region, the Member States soon started to tend to the use of non-tariff taxes (since the simple taxing couldn't take place in the free trade area).

This led to a period of consultations before the CCM (489 between 1995 and 2003) and claims before the GMC. This in part, led up to the need to perfect the dispute settlement system crystallized in the Protocol of Olivos. (Ochoa, unknown date: 5-12)

Within this growth period, in 1998 the Protocol of Ushuaia was signed, of considerable importance for the consolidation of the bloc as an engaged defender of the democratic principle and the respect for human rights. Another step towards the building and keeping of a peaceful region.

It was with the Protocol of Olivos (2002) that the first institution with a semi-supranational orientation was created: the Permanent Review Court (TPR) for the settling of commercial disputes and the object to serve as an appeal court. Nonetheless, due to its structure and functioning (to be developed under *Institutional structure*), its supranational character is to be questioned.

In 2006 a new Protocol was signed in Caracas (Venezuela), which regulates the latter's accession to the bloc as a full member (its previous status was that of an observing country, along with Bolivia, Chile, Peru, Ecuador and Colombia, with the right to participate in the framework of the

institutions' meetings without the right of vote). The ratification of this Protocol has been seen through in Argentina, Brazil, Uruguay and Venezuela, and lacks to the date the ratification of the Paraguayan Congress.

Up to date, the commercial situation in MERCOSUR is very similar to that of 1995. Some progress has been made in terms of advancing towards a common market. Despite these, the Common Market of the South paradoxically still needs to harmonize its way towards the realization of a common market (e.g. by concluding negotiations on mutual recognition of university diplomas, facilitating labor mobility) and continue to achieve convergence of many products within the common external tariff schedule to consolidate the customs union. That is to say, MERCOSUR is nowadays a half reality.

3.2. Institutional structure

The main institutions within MERCOSUR are:

a) the Common Market Council (CMC), the highest decision-making institution, which exercises the political leadership of the group, made up by the foreign affairs and economy ministers of the Member States, with a *pro-tempore* presidency (rotating every six months). Together in summit with the heads of State (twice a year) they deliberate and create decisions (MERCOSUR law, binding for all Member States).

The Council's meetings are significant from a political point of view for “sending political signals within and outside MERCOSUR” (Pena / Rozemberg, 2005: 2)

b) the Common Market Group (GMC), as the executive organ, has four permanent and four substitute members, representatives of the ministries of Foreign Affairs and of Economy as well as of the central banks of each of the Member States.

Their main role is to regulate and enforce the compliance to the decisions that the Council adopts and to ensure that the integration process works properly, controlling the technical work necessary to further economic integration (the co-ordination of macroeconomic and sector policies included), by means of issuing mandatory resolutions that will aid consolidate MERCOSUR.

However, the ability of the GMC in this field has diminished ever since the Council delegated a number of its responsibilities to it (Pena / Rozemberg, 2005: 5).

Within the explicit competences of the GMC also falls the ability to negotiate with third countries, although it has to be done under the explicit mandate of the CMC.

In order to be able to follow through all these tasks, the Group works closely with consultative and negotiating teams, known as Working Subgroups (currently 14 in total), constituted by officials of the four countries.²

There are also many Specialized Groups and Committees and auxiliary organizations on many, diverse issues (ranging from drugs, science and tourism to woman's issues and family). The coexistence of such a wide variety of disciplinary groups has led to great coordination problems and an “overload of decision-making in the GMC” (Pena / Rozemberg, 2005: 2-3)

c) the Trade Commission of MERCOSUR (CCM), which supports the GMC with its four permanent representatives for each country (plus four substitutes). It proceeds to create mandatory directives and also proposals in its monthly meetings. The CCM is responsible for developing proceedings for consultations and claims for the resolution of conflicts.

Its main role is the enforcement of common trade policies, the administration of intra-regional trade-related issues.

It also constitutes a consultative institution for the Member States, who can consult before it on trade -related issues as an instance before the use of the dispute settlement system. Between 1995 and 2008 a quarter of these consultations were referred to discrimination and tax measures. (ECLAC, 2008: 63). This reinforces Ochoa's assessment that non-tariff barriers constitute a real menace to the functioning of the free-trade zone. (unknown date: 11-12)

The work is divided between technical work teams (committees), who take care of the technical negotiations necessary to enforce common trade policy instruments, and who perform the follow-up on cases, but whose effectiveness suffered from similar problems as that of the GMC structure due to coordination issues. (Pena / Rozemberg, 2005:3; Bouzas / Soltz, 2001: 3).

In its directive C.M.C. 18/96, it approved the Protocol for the Defense of competition, through which the CCM gains jurisdiction in order to judge over competition defense issues, this time including individuals (mostly firms) in this context through the Committee for the defense of competition (CDC).

² The existing subgroups are: communications, institutional aspects, technical rules and regulations, financial affairs, transport, the environment, industry,

agriculture, energy and mining, labor affairs, healthcare, investments, electronic trade, and follow-up of the economic and trade situation

The difference it presents to the processes began at the arbitration courts is that the CCM would acquire enforcement competence and guarantee direct access to individuals, making it the first non-declared step towards a more supranational system. (Deluca, 2003: 205-206).

However, even if this could be for the moment affecting a small number of individuals, until present there have been no evident advances in said way towards supranational institutions, since the protocol still lacks ratification on the part of Argentina and Uruguay, and has thus not entered into force yet.

d)the Parliament of MERCOSUR (PM), consists in the evolution of the Joint Parliamentary Commission (JPC), which had been created as a consultative organ, mainly in charge of ensuring the incorporation of the MERCOSUR secondary law into the national legislation. It was originally made up by 16 officials for each Member State.

In accordance to the Parliamentary Protocol (2005), the JPC gives way to the PM, whose main purpose will consist in popular representation, with the goal to achieve “civil society actors' participation in the integration process, and to stimulate collective conscience and community values.” (Parliamentary Protocol, 2005, Art. 2 Sections 4-5). This is conceived to take place by submitting the choice of the Parliament officials to universal suffrage.

The evolution towards universal suffrage has been conceived in a very gradual manner, consisting in many stages. According to the Protocol, 18 parliamentarians for each State will be appointed by their respective national Congress from the end of 2006 until the end of 2010. By 2014 the first popular elections will be held, and by end of the following year they will occur simultaneously in the four countries.

Its functions are not legislative, but rather those of vigilance of the rule of law, human rights and democracy, as well as control of the rotating presidency of the CMC. It is within their competence to elaborate recommendations and to formulate non-binding law proposals to for the CMC.

However, as seen in the European experience, it is quite possible that the PM will evolve to progressively encompass more tasks and gain more legitimacy through the popular elections.

Interestingly enough, it will have its own budget, coming out of contributions from the Member States (in accordance with their respective GDPs and their own national budgets). The similarity to the European Parliament cannot be overlooked in this aspect, since the EP evolved out of the Parliamentary Assembly, which had no own budget; and did not gain its economical independence until almost 20 years after its creation.

f) the Secretariat of MERCOSUR constitutes an assisting body for consultancy and technical as well as administrative support for the rest of the institutions. It is divided in several areas run by experts (administration, legal advisory, production, support, etc) and headed by a director and his coordinator.

Among its responsibilities it is important to mention the register and archive of decisions made by the other institutions, the publishing of the MERCOSUR Official Bulletin and the provision of operating and logistical support for the meetings of the different groups. (Jarnagin / Pang, 2008: 106).

Its budget proceeds from community sources (contributions of the member States) and its officials are exclusively dedicated to their tasks within the Secretariat.

g) the Economic and Social Consultative Forum (FCES) was originated in 2003 with the intention to create a channel for citizen participation, crystallized with the meeting of the different economic and social sectors of the Member States. For this purpose it was granted consultative functions. However their level of influence is fairly low in the context of a mere exchange of opinions, reason for which those sectors that can afford it prefer to exercise their influence at the national level. (Bouzas / Soltz, 2001)

e) the Permanent Review Court (TPR), which was added to the MERCOSUR structure with the Protocol of Olivos (2002) in order to complete the dispute settlement system. Unlike the *ad hoc* Arbitration Courts, the post of arbiter at the TPR lasts three years and their availability must be permanent.

The purpose of the TPR is to constitute a channel through which any parts in the arbitrating process described in the Protocol of Brasilia can claim a revision of the resolution of said arbitrage. This renders the dispute settlement system a contestable one, since through the revision of its resolutions, the TPR can dictate contradictory sentences that will be final and mandatory.

On the other hand, just like in the case of the Protocol of Brasilia system, the TPR is not completely independent. Despite the fact that its arbiters should be “unbiased and independent of their governments” (Protocol of Olivos, 2002: Art.35, section 2), the access to the court and its ruling depends for the individuals on their “national sections” in the GMC.

On cases when the parts are two Member States, the court's effectiveness is also to be questioned on

the basis of the weak enforcement competence it possesses. In the case of non-compliance of the court's resolution, compensatory measures can be taken by the winning part only lasting a year long; period after which their application is no longer valid, even if the violation persists.

As we can see, the structure characterizes itself for its notably intergovernmental nature. The fact that the Member States hold the control of all institutions could suggest that the principles of the founding Treaties were contradictory to the structure they created, since -even if at first sight the institutional network shows clear traits of the European influence-, it would appear that there is no intention of achieving a deepening of the integration process through the creation of supranational entities.

However, it is asserted by many experts, that the Protocol of Ouro Preto based itself in a philosophy which intentionally held these structures as temporary, contemplating possible future changes towards a more supranational network. This was probably done for the sake of local stabilization, seen as a necessary previous step to a deeper integration: “Those politically responsible for the integration process were aware that any 'supranational jump' in this preliminary phase of implementation could compromise national macroeconomic stabilization objectives or alter the delicate equilibrium existing between national and collective decision-making powers” (Almeida, 2002 in Pena / Rozemberg, 2005: 2).

According to some (Bouzas / Soltz, 2001:18-19), it must also be kept in mind that the flexibility of the institutional system has not deprived its Member States to make “hard policy” decisions, and turned out very effective in the first stages of integration, as a deeper interdependence level was still to be achieved. Nonetheless, with the decreasing credibility gap of the institutions, and the fact that the concrete benefits brought by the process are perceived as diminishing, the structure is facing a sizable demand for re-structuring (specially on the part of the smaller States), which competes with the tendency to favor flexibility on the part of the bigger States (due to the asymmetrical level of interdependence).

3.3. Dispute settlement system

The dispute resolution system in MERCOSUR was first introduced by the Protocol of Asunción in its III Annex. At this stage, however, it was conceived in a very primitive matter, since it only contemplated resolution of conflicts through diplomatic negotiations (leaving out the regulation of possible complaints of individuals, and those originating from the application of secondary law and

non-compliance).

It was through the Protocol of Brasilia (which entered into force in April 1993) that the system was modified, to regulate those areas that had had been absent from the previous framework. The procedure hereby established is simple enough. It consists on three phases: the first one features direct diplomatic negotiations between the countries involved. Should this fail, there is a second phase in which the GMC intervenes with a conciliatory purpose, and is able to issue recommendations. In the case of failure of this last stage, comes a third one, where an *ad hoc* Arbitration Court is created. It is composed of three arbiters (two of them chosen by the parts in conflict and the third one appointed by mutual agreement).

The ruling of this *ad hoc* Arbitration Court is reached by majority, binding and was not subject to appeal (except for explanation purposes) until the Protocol of Olivos (2002) introduced the TPR to the dispute settlement system.

In case of non-compliance of the *ad hoc* Court's resolutions, the possibility for compensatory measures is open (for instance, the suspension of concessions), although these don't contribute to the definite solution of the controversy that originated the claim, since these “retaliatory measures” can be applied for a limited period of time and don't assure compliance. (Bouzas / Soltz, 2001)

In short, “the dispute resolution format was (...) characterized by the search for diplomatic or negotiated answers, rather than solutions based on rules, with an intergovernmental-type institutional design in which those that negotiated or litigated were the States themselves, with individuals maintaining a marginal function.” (Pena / Rozemberg, 2005: 1)

The role that the ECJ played in the development of the integration process of the EU does not seem to be that of the TPR or the *ad hoc* arbitration courts. In the first place due to the unnecessary bureaucracy that characterizes their processes which are not able to find definite solutions for the problems presented. (Deluca, 2003) The main issue according to the author is the lack of access to the system for the civil society. However in my view, the main shortage in the role of the TPR vis à vis that of the ECJ consists in the limitation of its functions to a mere appeal court, instead of granting it a role of guardian with competence to enforce its ruling independently of the sphere of the Member States.

3.4. Practical aspects of the system and rule of law

Even if not with the ambition to undertake neither an analysis in matters of comparative studies nor a juristic posture, it is still of importance to briefly take some technical facts into consideration; namely the main features of Community Law (specially keeping in mind their significance in the EU experience), since it is through the legal framework and its applicability that many aspects of the current situation can be explained.

According to Deluca (2003, 21-93), there are four main qualities that Community law should fulfill in order to be conducive to a successful integrated area (using as comparison means the European legal system). These are:

- Autonomy *vis à vis* the Member States' own legal systems. However, different to the nature of ordinary international treaties, the Treaty of Rome and the subsequent ones which added to it and modified it, create a legal system of their own, that has to be integrated to the State's own legal systems.
- Preeminence before the law of the parts (impossibility for the Member States to create opposing laws or to keep those existing ones that oppose community law)
- Immediate application and direct effect on its subjects (either States or individuals, since it is ultimately they who are the subjects of community law and it is expected that it will create value for them), independently on each Member State's fulfillment or not.
- Responsibility of the State towards the individuals in the case of violation of the community law.

In analyzing these features of community law, one can note that each of them finds itself present in the EU legal system, where Member States are obligated to fulfill the mandates of both constitutive treaties and those of secondary law (norms coming from EU institutions) are guaranteed to be not only respected but anchored in the Member States' own legal systems.

On the other hand, it becomes harder to make such an assertion in the case of MERCOSUR, where its system is undoubtedly based in an intergovernmental structure rather than a supranational one (Deluca, 2003; Laursen, 2009; Guedes de Oliveira, 2007) even if, as it will be developed further, the system shows some tendencies to a supranational functioning.

Concerning the preeminence of community law, for instance, it is in the first place already

surprising that there is no provision in the two main constitutive treaties of MERCOSUR (Asunción Treaty and Protocol of Ouro Preto) of the relation between the community legal system and those of the Member States.

Even if they could (and in my opinion should, considering the commitment they assumed with the signing of the constitutive treaties) make constitutional guarantees for the preeminence of community law *vis à vis* the national law, the Member States do not make any mentions to this supremacy, except for the Paraguayan and the Argentinean Constitution in its 1994 reform (Art. 75, section 24)³

As Deluca (2003: 68) rightly notes, this constitutional recognition was also absent in the case of the then EC. However, here is where the integration process has been empowered by the ECJ's rulings, which from the very beginning supported this principle and saw to its enforcement. This analysis then renders the constitutional differences between the Member States a secondary inconvenient in the application of MERCOSUR law.

This is, in the view of the author, a key element that the MERCOSUR system is lacking: a permanent court of justice in front of whom individuals as well as States can make their cases directly, and which will be vigilant of the fulfillment of all community norms. If these conditions are to be fulfilled, the TPR does not act as a watchdog for the compliance to MERCOSUR norms, and the access to individuals is limited as is the enforcement of its verdicts.

Moreover, as Deluca continues to explain (2003: 69-74), it is in analyzing the principle of direct applicability of community law that another key shortage can be found in the system put in place by the Southern bloc: the Protocol of Ouro Preto provides the MERCOSUR institutions with competence to legislate obligatory norms with no direct applicability, since the actual subjects of these norms are the member States and not the individuals.

On this point, Pena and Rozemberg seem to agree: “An agile and transparent mechanism to incorporate MERCOSUR norms and to make them operative has not yet been attained, nor has a system guaranteeing the hierarchy of these norms over national ones.” (Pena / Rozemberg, 2005: 5)

This responds to the dual nature of the system, by which the individuals are only bound by

3 Section 24 of Art. 75 of the Argentinean Constitution stipulates that the national Congress will have the competence to “pass integration treaties that delegate competences and jurisdiction to supranational organizations in conditions of reciprocity and equality, and which respect the rule of law and human rights. The norms dictated in its consequence will have a hierarchy superior to that of national norms.”

MERCOSUR law only after their States sanction internal norms that will reproduce it, making the Member States the only subjects of community law and also leaving the individuals unprotected, since not being the direct subjects of these norms, the procedure to appeal against them becomes complicated, bureaucratic and in most cases ineffective (Deluca, 2003)

This was also noted by the ECLAC (2008: 4): „The main institutional characteristic of MERCOSUR, unlike the European Union and the Andean Community, is the lack of automatic imposition of decisions, resolutions and directives originating from its main MERCOSUR organs into the national laws”.

By 2005 of the regulations approved by MERCOSUR institutions only about 45% come finally into force, even when Art. 40 of the Protocol of Ouro Preto had created an enforcement system, which apparently have not been enough to guarantee that all actors and individuals in the four States be bound by the same obligations and contract the same rights simultaneously (Cozendey, 2001 in Pena / Rozemberg, 2005: 6)

These facts seem to help shed light on the discrepancies between MERCOSUR's formal structure and its reality, since the integration practice is very closely related to the way in which the Member States' systems (willingly) submit part of their sovereignty and unify their legal systems, conditions that are barely present in the Southern bloc.

Moreover, it is striking at first sight that, as presented previously, the institutional structure of MERCOSUR responds to a profoundly intergovernmental logic, since nearly all its institutions are controlled by the heads of state and different functionaries of high ministerial level (mostly the ministers of external relations and those of economy for each Member State).

This also helps explain the (according to many) slow progress of the bloc in integration terms, since, as Guedes de Oliveira (2007: 15-16) pointed out, presidents and ministers do not have such a free schedule that permits them to gather so frequently, which leads them to be obligated to deal with problems that could very well be solved by lower levels of authority within the blocs instead of being able to discuss a positive agenda.

The fact that Brazil is clearly a leading force of an integration process that is occurring mainly in the basis of intergovernmental structures, its government could, according to the concerns of some, become tempted to use its influence unilaterally to favor its own individual interests.

3.5. Citizen participation

As can be extracted from the given layout of the institutional settings and their functioning, the margin for citizen participation (in the framework of the MERCOSUR system at least) is rather narrow.

As Deluca (2003) detailed, the judicial system in MERCOSUR is lacking the proper and effective legal ways for the individuals to resolve their conflicts with the Member States or with other individuals in a bloc scale. (despite the fact that they have access to the *ad hoc* courts and the TPR, this occurs in a context of great dependence from the Member States).

As for the Protocol for Defense of Competition, the Trade Commission and the Committee for the Defense of Competition could play an essential role, as both a channel for citizen participation (because the Protocol provides access to this new instrument for the individuals) and a sort of guardian of the integration process (even if only on what refers to trade and competition), as did the ECJ during the European process. However, keeping in mind that it has not yet been ratified by all Member States, it is still not certain what kind of application it will be given -or even if it will ever enter into force at all-.

Regarding the involvement of civil society and the private sector in the decision-making process, there was an attempt tending to its strengthening: the Economic and Social Consultative Forum. However, as explained above, its effectiveness when it comes to enabling the active involvement of the private sectors is fairly low.

In this sense, it probably becomes important to mention that the role of NGOs in the process has increased radically since 2003 and during the First Meeting of the Social Umbrella of MERCOSUR in 2006 (in my opinion, a very positive sign of interest on the part of the citizens).

As a conclusion to this meeting came out the need to strengthen the active participation of NGOs. Consequently, many networks have started to gain more importance in the bloc's scene, such as the MERCOSUR Cultural Network (which works for the circulation of cultural products in MERCOSUR) as well as that of the Coordination of Trade Union Centers of the 'Cono Sur' (present at all official MERCOSUR meetings). The areas in which NGOs have more prominent participation are mainly urban, and in the education, social promotion, habitat development, assistance and research. (ECLAC 2008: 20-28).

This -together with the forthcoming parliamentary elections- is an important step towards the increase of citizen involvement in the system, although it is to be noted that if the European integration process is to be taken as a paradigm and example, citizen participation wasn't at all active for the first 20 years of the process, and is still one of the issues to improve under the current Commission.

3.6. Internal asymmetries

Ever since the conception of MERCOSUR, its nature has been asymmetrical, mainly to be noticed upon superficial study of its Members, who differ greatly one from another.

From the point of view of total population alone, Brazil holds 78% of the total MERCOSUR population and nearly 65% of its size in territory. These factors have conducted among others to a very uneven economical development between the big States (Argentina and Brazil) and the small ones (Paraguay and Uruguay).

The importance of the bloc and its functioning is as uneven between its Member States as are their internal structures. One evidence of this is presented by the local press in each of the four countries. Paraguayan press refers to MERCOSUR daily and makes it the main subject of many communications. The process is here observed with a great deal of interest, specially in comparison with that in the Brazilian press, where news about the Brazilian situation in the world stage seems to be more recurrent.

The argument raised by many authors (Ochoa, unknown date, Bouzas 2005, ECLAC, 2008, Deluca, 2003; Jarnagin / Pang, 2008) that these asymmetries constitute some of the main reasons for which MERCOSUR has not achieved a better stage in the integration process -also contested by others (Guedes de Oliveira, 2007)-, has been taken up by the CMC in an attempt to provide a solution to them. In this context, the Fund for structural convergence of MERCOSUR (FOCEM) was created in 2004.

In any case, there are also experts (Malamud / Schmitter, 2006) who assert that the asymmetries between the Member States should not be considered the main problem for the development of the process of integration, since it was also the case in the EU with the inclusion of members like Greece, Spain, Portugal and Ireland) which were clearly not as prosperous as Germany or France.

From this point of view, if the European experience is to be kept in mind, the EU enlargement resulted in the improvement in the structures where the cohesion funds were applied. In this sense it could be said that MERCOSUR could be in the way to a more effective cohesion.

However, according to the authors the main issue in MERCOSUR are not the differences between its regions but within them, since the four countries harbor big gaps between the rich and the poor.

Be that as it may, the FOCEM program aims at the “financing of programs in order to develop competitiveness, promote social cohesion, particularly in the smaller economies and the less developed regions to support (...) the strengthening of the integration process”

(<http://www.MERCOSUR.int/focem/index.php?id=focem>, unknown date).

These goals constitute also the essence of the projects that are developed in the framework of the FOCEM, whose budget is made up of contributions from the Member States (Argentina 27%, Brazil 70%, Paraguay 1% and Uruguay 2%).

Even if this structure coincides with the lines traced by the example of the European Cohesion Fund, the FOCEM's effectiveness is still contested by the scholars (Arce, 2010, no page given) and by the Member States themselves -e.g. Paraguayan minister of foreign affairs Lacognata (ABC-Paraguay 03.11.2009)-. According to their claim the fund, however a good idea, is insufficient to overcome the huge gaps between the national structures that compose MERCOSUR.

In the course of this year so far the total of the budget has not been yet assigned in terms of approved projects Paraguay has presented 14, Uruguay has presented six, three have been presented by the Secretariat of MERCOSUR, one by Brazil, another one of a regional (pluri-state) nature has been approved, and none on the part of Argentina (<http://www.MERCOSUR.int/focem/index.php?id=focem>, unknown date).

Despite the fact that Paraguay is the Member State with the biggest need for funding of projects, and clearly its main target, the system does not represent absolute gains, in that the beneficiaries of the projects have to finance a part of their realization (even if in percentage a small one, it usually represents an important economical effort).

In this sense, I subscribe to Arce's view (2010, no page given), according to which the FOCEM system is not entirely effective, due to the contradiction in the fact that the regions who most need the means to finance their projects, have to provide a part of those means, while probably not being able to afford them, which created the need for the funding in the first place.

For the time being, even if Paraguay has benefited from the funding program, many asymmetries are still present. For instance, the country pays an over-cost of 44% in transportation in comparison to the other three Member States, that seems not to be ameliorated by the abundant projects approved to be realized (or in progress) in its territory. (ABC Paraguay 03.11.2009).

If the persistence of these internal differences (in part due to the -by some invoked- failure of FOCEM) is a product of the lack of political will on the part of the bigger States, or to their (mainly Brazil's) fast growth compared to its slow paced nature in the small ones, is still in debate.

3.7. Concrete approaches to integration, Practical examples, Latest developments

3.7.1. Dispute settlement (*ad hoc* court): a practical case

One of the most concrete proofs of the effectiveness -or ineffectiveness- of a system is constituted by the way in which its legal dispositions are applied in reality. Consequently with the assessment made on the arbitrating courts and its lack of enforcement mechanisms, a practical example of consistent and ongoing non-compliance to the legal resolutions can be illustrated.

This segment will show the application dispute settlement system in practice, showing the basis of its ineffectiveness.

The case presented is that of the ongoing dispute between Argentina and Uruguay over the settlement in 2003 of a pulp mill of European origin on the Uruguayan side of the Uruguay river bank , which both countries share.

Argentinean environmentalists from the border region (mainly the city of Gualeguaychú) raised the argument that the mill would cause grave damage to the river and its surroundings, and demanded the cancellation of the settlement. However, after some environmental investigation, it was concluded on the part of Uruguay that the project would have no impact on the region, and decided to carry on with its development.

In 2005 the presidents of both countries agreed to settle a control group to perform a follow up of the environmental situation in the area. Nonetheless, the Argentinean government continued to express its disagreement with the fact that this activities were authorized unilaterally, in violation of a 1975 Treaty (Uruguay River Statute) where both countries had engaged themselves to consult any such measures involving the shared river.

As a response to this violation and the consistent inaction on the part of both governments, the environmentalists from Gualeguaychú raised a 45-day block in the access routs that joined Argentina with Uruguay in their latitude, independently from the negotiations at a governmental level.

This unilateral measure on the part of the civil society hindered the free movement principles established on the Treaty of Asunción and the Protocol of Ouro Preto, and was according to the Uruguayan claim, in violation of them. The claim consisted in compelling the Argentinean government to take measures to dismantle the block. This led Uruguay to initiate the procedure of dispute settlement stipulated by the Protocol of Brasilia, according to which -after failed diplomatic negotiations of the parts and intervention of the GMC- the case was handled by an *ad hoc* court in September 2006, whose verdict established that Argentinean government had acted in “good faith” (Arbitration verdict, 06.09.2006, Section IIG, Art 142) and decided not to impose any sanctions.

However its resolution was fairly contradictory, in that the court also recognized that the blocks and the government's inaction towards them were in violation of the Treaty of Asunción (Section II E, Art. 111-115) , and declared that the method had been losing legitimacy (Section II I, Art.158) because of the great loses that it originated in Uruguayan tourism and transport, and due to the fact that the protest had been sustained in time and did not respond to urgency anymore. On the other hand it raised no sanctions and refused to establish a compulsory pattern of reaction on the part of the Argentinean government, under the argument that future actions of the governments do not correspond with its jurisdiction. (Section III, Art 191).

With the mill project still advancing and unsatisfied with the development of events, the environmentalists in Gualeguaychú raised a new block at the end of 2006, this time for an “indefinite period” of time. (LA NACION 17.04.2007). The block is still ongoing, and both governments have restarted diplomatic negotiations in a friendly manner.

Up to this point it can already be concluded that the dispute settlement system is inefficient, since in a case where the verdict was vital to the resolution of an internal problem concerning the respect and enforcement of the Treaty of Asunción, the *ad hoc* court did no more than to recognize a violation without punishing it, providing no enforcement of the legal basis that it is supposed to favor. Moreover, this shows that despite the utilization of this legal instrument, controversies within MERCOSUR can very well last for indefinite periods of time.

3.7.2. Cultural *rapprochement*

Over the past few years, there has been an outstanding strengthening of the cultural bonds that unite the countries of MERCOSUR, more so than in the first ten years of its existence. Be this due to the external context or to the governments' actions tending to it, the traits of union in the cultural sphere have grown perceptively.

Paraguayan minister of foreign affairs Lacognata commented on this as follows: “(...) in the last summits there have not been significant improvements on the economic and commercial areas, as opposed to the cultural and social ones” (ABC Paraguay 03.11.2009).

Another example of the cultural engagement of the MERCOSUR governments can be seen in the ratification of a new law regulating Argentinean media. In its text, the new law binds radio and television channels to broadcast in their emissions a richer content originating from MERCOSUR countries, as an encouragement to the creation of the MERCOSUR culture and identity: “The television services that work by subscription will have to include among their broadcast channels a minimum originated in MERCOSUR countries” (Argentinean Law N°26.522, 2009, Art 65, Section h).

Even if the law has been perceived by the private sector as somewhat arbitrary on the part of the government (involving limitation of their freedoms), this measure undoubtedly shows a certain commitment on the part of the Argentinean government to the creation of a closer cultural bond between the MERCOSUR countries.

Additionally to these signs of a closer cultural bond between the MERCOSUR members, a tendency to closeness within Latin American countries has emerged in the last five years. This has lead States even surpassing the MERCOSUR borders to debate the possibility to achieve joint positions on current affairs and to associate with each other. A practical example of this is the agreement reached in the last summit of the Community of Latin American and Caribbean States (February 2010) that ended up with the support of all Latin American countries to the Argentinean claim to Britain in the matter of Malvinas -or Falklands-. (LA NACION; 22.02.2010)

With the support of the other MERCOSUR Member States, Argentina has put forward this claim in the framework of MERCOSUR negotiations with the EU. Situations like this create a community conscience (of belonging to MERCOSUR or in turn to Latin America).

There are also some more every-day phenomena that leads to the thought that the forming of some kind of MERCOSUR identity is in the making, since needless to constitute grand statements of

political content, they are gaining importance. This refers mainly to the organization of cultural festivals or fairs featuring MERCOSUR productions. Concretely the organization of the *Raymundo Glayser* contest on the part of the INCAA (Argentinean Institute for audiovisual arts), with a conscription including the other MERCOSUR countries as participants. (Oglobo, 10.04.2010; <http://www.incaa.gov.ar/castellano/index.php>, unknown date).

Also interesting in this context is the organization of MERCOSUR commercial fairs on the part of the private sectors of landworkers and breeders. One of such events was the "Brangus MERCOSUR" fair, set on the 16th of April 2010. (ABC Paraguay, 16.04.2010)

3.7.3. IV EU-MERCOSUR Summit 2010 and its possible effects on the integration process

The summit that took place on the 17th and 18th May in Madrid constituted another step forward for MERCOSUR. In the first place because its Member States participated as a bloc and not as isolated negotiators, which signals their willingness to continue consolidating the integration process.

Moreover, it meant the reactivation of negotiations between the EU and MERCOSUR with the goal to construct a free trade area between the two regions. These negotiations had been suspended since 2004, because of the impossibility to make large concessions on both parts. The fact that both blocs decided to restart negotiations and promised to offer concessions also shows a great deal of political will and could have very positive impact on both economic systems.

There have been a number of optimistic statements coming from the political sector in MERCOSUR, where the general opinion considers that should the agreement be achieved it would not only provide economical benefits for MERCOSUR but also serve as a boost for the integration process.

According to the EU Press release on the summit, cooperation between these two regions would result on mutual advantages and "positive spillovers at global level" (IV EU-MERCOSUR Summit Joint Communiqué, 2010)

The Uruguayan foreign affairs minister recently declared to believe that the deepening of the bloc's relations to the world will contribute to diminish some of the internal imbalances. (EL PAIS, 17.05.2010)

On a recent radio interview with the program *Hora América* broadcast on Spain's external radio ("Radio exterior de España"), Carlos Alvarez -part of the MERCOSUR COREPER until December 2009- discussed his views on a possible agreement.

Among other statements, Alvarez declared that an agreement would be very important for "both blocs because there are presently certain questionings of the integration processes -in Europe with

the Greek situation and in MERCOSUR with the deficit of commercial agreements with important countries or regions-” (Alvarez, 2010). In his view this would also guarantee a more important role of the two regions as international actors.

Alvarez also spoke of the political will he sees “for the first time after a long period” on the part of the MERCOSUR governments (specially Argentina and Brazil), pointing out the fact that in his view they are more ready to leave aside commercial differences for the sake of a possible agreement. (Alvarez 2010). This also shows that the bloc could indeed be moving forward into a growth stage, since the advances in the integration process will depend in a great measure on the willingness of the governments to make concessions.

In providing his assessment as to what a positive result could be for the summit, Alvarez pointed out that the greatest success would consist in the awareness on the part of the involved citizens, business and political sectors that there is a perspective to come to an agreement in the shortest time possible. (Alvarez 2010).

This also highlights the need that the bloc -in my opinion- has of creating a collective consciousness with the final object of citizen involvement in the process and its legitimation.

4. Applicability of the reviewed theories to the MERCOSUR area

4.1. Federalism applied to MERCOSUR

The debate presented about the use of the *F-word* is as controversial in the area of MERCOSUR as it is for the EU, exactly for the same reasons: the sovereignty issue imposes itself, be it on higher or lower stages of the integration process.

It has been shown in the analysis of the MERCOSUR structure that the bloc's conception was from the beginning intergovernmental rather than supranational, and that this has remained unchanged until today (in a general scope).

The fact that the national governments haven't submitted major aspects of their sovereign dominion explain why the application of the theory of federalism would be too hard to achieve in the Southern bloc.

Meanwhile, even if the federalist model cannot be applied entirely in the EU structure (at least at present), there are certain elements in the European integration process that could be attributed federal-like characteristics.

One of them is the application of the principle of subsidiarity (placing competences in the lowest level possible unless they are more efficiently managed by higher levels), ever present in the EU discussions. Even if just of political philosophy and not legal nature, it is enunciated in the treaties of Maastricht and most importantly Lisbon, and always considered of vital importance to the Member States.

In the case of MERCOSUR, the analysis is less clear. To begin with, the subsidiarity principle is not expressed “on paper” as it is in the European case. Considering the institutions and their working, it is to be noted that, even though most tasks are performed by lower levels (mostly within each individual Member State), this does not obey the principle of effectiveness, since in many cases the subjects would be better managed at a community level (in my opinion the transport sector would represent one such sector. The same can be said about the way in which the MERCOSUR law is applied and enforced at a local level).

A second federal-like characteristic to be found in the EU structure is the institutional triangle to which Friedrich referred himself. This could be considered fulfilled through the European Council,

the European Commission and the European Court of Justice. The Council constitutes the intergovernmental organ who represents the Member States, whereas the Commission represents the interests of the European Union and its deputies are fairly independent from their governments. The same supranational character can be attributed to the ECJ, whose judgments neither depend on any of the Member States nor seek to favor any of them.

In the federalist view, as explained above, institutions need to exist and be already in place to enable the whole process. Without them the construction of a federal State or Super-state. According to this logic, the integration will become closer and unfold by itself once the institutions are functioning.

When it comes to MERCOSUR, the institutional triangle could be crystallized in the CMC, GMC and the TPR. In this case it is important to differentiate their inclination and composition. Both the CMC and the GMC are (in theory and most importantly in practice) subject to the interests of the Member States rather than those of the Community (since their members act in behalf of their governments and decide unanimously). In the case of the TPR, even if its independence from any governmental control can be discussed, the Member States' interests are too strongly represented for the institution to fulfill the supranational role of Friedrich's triangle foresees, since it possesses no proper enforcement mechanism, and its access to individuals depends on the Member States.

On the other hand we can find in MERCOSUR the thought that an institutional setting will bring about an integrative boost by itself, as can be seen in the Treaty of Asunción and in the Protocol Ouro Preto, where the institutions are carefully described and laid out without referring to their content: that is to say the way in which the economies will relate to each other, the process through which interdependence will grow along with integration. In other words: the real dimension of the bloc and its every-day reality.

Another characteristic of Friedrich's theory of federalism is its transparency and democratic character achieved thanks to the system of checks and balances that federalism entails. This takes me back to the previous point; in my opinion checks and balances between institutions as well as between Member States can work effectively only if said institutions are not entirely controlled by the Member States thus reproducing the scheme of strong vs. weak states. This, however, is the case in MERCOSUR.

Within the argument about institutionalism in MERCOSUR there are also many (Guedes de Oliveira, 2007; Roy 2009) who seem to believe that, with the non-completion of the democratic

systems which form the bloc, the contents of the founding Treaties has not yet found accurate fulfillment in reality, being rendered merely formalities that differ a great deal from reality.

In my opinion, however valid this arguments might be at present, it is the institutional system that is lacking proper enforcement capacities (due to the fact that they are majorly controlled by the Member States, whose presidentialist character cripples the integrative initiatives).

Fourthly, Friedrich claims that a federal system favors the defense of minority rights, thanks to the federalist tendency (and even promotion) to pluralism and inclusion of all kinds of groups into the social landscape.

If we supposed the EU to be a federal-like integrative process, this assumption would fit perfectly into the European orientation to “unity in diversity” (also presented by Friedrich himself), seen not only in various programs of social and cultural integration (ex. Erasmus program) but also declared as its official motto.

Concerning MERCOSUR, there is in my opinion a clear tendency to cultural integration (crystallized in various joint contests, expositions, courses, festivals, etc), and at the same time it could be said that each individual culture has been so far preserved. The “MERCOSUR identity” is not yet a reality, but there are signs pointing towards its consolidation. Nonetheless in this matter it should be noted that the intergovernmental setting that the bloc still preserves also shows signs of perseverance. In this sense, the complete cultural integration could take some time, due to the displayed protectionist tendencies for instance (the Argentinean intention to limit imports of products with local manufacture is only one example), which will clearly slow down the process.

The last aspect of federalism to which Friedrich makes reference is the guarantee that stronger groups will not be able to dominate the small ones. It is clear in the European case that there are countries such as Germany, France and Italy whose size and economic situation place them in an advantageous position *vis à vis* the smaller, poorer States.

These differences, however evident, play a decreasing role in the political structure, thanks to the balance kept in the institutional network and the role played by the structural funds among others (especially since the extension of the triple majority voting method to more fields of decision-making).

In the case of MERCOSUR, there is still not a truly viable system in place, through which these

differences can be overcome. The asymmetries between the Member States are evident, and in some cases cripple the negotiations. The creation of MERCOSUR's own structural fund program (FOCEM) is a clear step towards the solving of this issue, but for the moment there is reason enough to believe that it is not going to be enough to solve the original problem.

To sum up, it can be said that (as in the case of all the integration theories, that intend to explain real integration processes), the applicability of federalism to the evolution or to the present situation of the European Union is somewhat subjective. There are some who see many traits of a federalist structure in the current system, and many others who do not identify its realities with this logic (either because it implies a greater concession of their sovereignty or because they rather recognize other theories as more valid).

The same can be then said about MERCOSUR. However, it must be admitted that the utilization of the *F-word* could not be easily applied to MERCOSUR. This is true not only when it comes to sovereignty submission, but also considering that the current institutional structure, with its intergovernmental nature, differs so much from that required to make a federal system work (even if the Member States decided to submit sovereignty on a new issue, for instance defense, it would be treated in within an institutional structure that places the national interests over those of the bloc altogether).

The federalist belief that the creation of institutions will necessarily conduce or contribute to the achievement of a working system has also proved not to apply to the process of integration in MERCOSUR, since even with the whole institutional network in place, some of the determinations of the founding Treaties as well as some of the resolutions of the arbitrating court are not fully respected (see above).

4.2. Functionalism applied to MERCOSUR

The talk about institutional re-structuring has been present in the context of the EU ever since its creation. Not only was the first institutional blueprint grounds for ideological and practical discussions (with the existence of various models and plans for Europe). The years that came after the institutional consolidation also showed that many saw the need to reinvent the EU structure, which lead up to the failed Constitutional Treaty and finally to the Lisbon Treaty, now in force.

The case of MERCOSUR does not present so far much of a difference when it comes to institutional debates, being this a very discussed issue. Although there is a discrepancy between this and the EU case: the Southern bloc concentrates most of the re-structuring discussion in its academic field and not that of politics (where nonetheless discussion is always present in the form of public declarations that usually don't go any further than that stage).

Many of the consulted bibliographical pieces suggest that it would be preferable, if not imperative, that the institutional settings of MERCOSUR be reconsidered and adapted to better fit the needs that the real situations present -for instance Deluca's suggestion to generate a new system for controversy solving (2003), or Bouzas's suggestion to prioritize its policies and design new policy-making instruments (2003)-.

On the other hand, the European attempts for reinvention, when not in line with clear political issues, have in some measure responded to the same urge: that of the actual need for change (many examples can be brought up in this respect: for instance, the creation of Miss Ashton's position for more consistency, the extension of the co-decision procedure for more legitimacy and transparency, etc)

This tendency clearly corresponds to Mitrany's core idea: that for the creation of an institutional setting there is one principle that should be respected, which is the idea that form follows function. That is to say that institutions need to be created after the assessment for their need, and it needs to be done accordingly.

In this sense, it could be said that the applicability of this principle could be analyzed twofold: on one hand, it can be said that the proceedings of the MERCOSUR founders were more in accordance with the federalist idea that institutions make their own functions and help develop the process, since, as explained above, its institutions were put in place before the need for their functions came up.

Although on the other hand, there is a current tendency to question the structure (seen for instance in Brazil's presidential candidate Serra, who declared believing that the bloc should be set back to a free-trade zone, or the academic contributions in the study of institutions). This trend suggests that there is some thinking being done about how institutions can serve the actual needs presented in reality. In this respect MERCOSUR is both in line and not in line with the functionalist logic.

Another functionalist cornerstone is actually the idea that, as laid out above, that Nation States can

no longer fulfill the needs of their individuals, which implies that in the functionalist view they should step aside in certain fields and relinquish their sovereignty to a rather supranational entity (whose structure shall be discussed according to the functions that need to be fulfilled).

In relation to this, it is not clear whether the Nation States in the case of the consolidation of the ECSC and later the EC responded so much to a concrete need of the European citizens, or if its creation had to do more with political reasons (namely the attempt to recompose the Franco-German relations, reducing the probability of another conflict). It is true, however, that with the level of destruction left by the II War, that of the ECSC was the best (and most importantly most feasible) plan for the economic revival (an option that corresponds more to the satisfaction of the population as opposed to political relations with the neighboring country).

In any case, the current EU system does respond to the citizen's needs, even when there is not a clear all-encompassing consensus in that respect, since it has contributed -among many other things- to sustaining the economies it involves (taking for instance the aid plans for the re-financing of the Greek debt, or even the situation of Germany who, as main contributor to the EU budget, also benefits from the advantages of the EU market, as well as subsidies in different sectors of its economy).

Even if with a high political content, the EU institutions play their roles in a way that renders each of them essential to the fulfillment of the population's needs (crystallized in the Parliament's function as representation of the people, the Council as representation of the interests of Member States and the Commission representing those of the EU as a whole).

In the case of MERCOSUR, the same reasoning leads to contradictory answers: on one hand, there is a number of particulars who benefit from the structures put in place within the bloc (namely, the beneficiaries of the approved FOCEM projects, or a number of importing-exporting companies, whose every day work has been fairly simplified in some aspects).

However, it cannot be said with the same certainty that said structures respond to functionality rather than form: as it has been stressed, the institutional network that was put in place from the founding of MERCOSUR is still standing today with very little modifications.

If we assume that situations -and therefore the needs- have changed in the last 20 years, then the MERCOSUR experience has not been responding to a very functionalist logic.

Nonetheless, the latest tendencies towards change cannot escape this analysis. The fact that the parliamentary assembly was replaced by the parliament (whose members will start being chosen in

universal suffrage in the next years) shows that there is a shift in the political attention, into an approach that focuses more in the individuals.

In other words, the fact that institutions have been created and maintained functioning almost in the same way since 1994 shows that the fulfillment of the functionalist logic was not the intention of the founding fathers of MERCOSUR. However, considering the current situation, it is not at all unviable to apply it in the future, specially with the latest developments in mind (evolutions in the Parliament's structure, increasing cultural ties between the Member States, etc).

4.3. Transactionalism applied to MERCOSUR

Along with the tendency to regionalization comes inevitably that of comparison of the integration experiences that each of the blocs has made. In this respect, the assessment of the integration level sometimes becomes relative, since it can be measured according to more than one criteria.

Economic interdependence between the forming Member States, cultural unity among them, Percentage of trade within the bloc in regards to external trade. These are some of the factors considered by those who intend to study integration experiences.

Even when nowadays scientific integration studies point to the multidimensional nature of this kind of phenomena, there has been over the years some discussion concerning the evaluation of the level of integration.

Deutsch's transactionalist theory claims that integrated communities are mainly formed with the object of achieving a sense of security *vis à vis* possible external threats. Communities, regions or countries unite in order to eliminate the possibility of conflict with each other, and to defend themselves from those who are not part of the new community.

This theory puts emphasis on the security motivations more so than any other. This would mean that the consolidation of integrated blocs responds primarily to security needs. In these terms it can be understood that this model's measurement of integration is based on the sense of security achieved by the united communities.

Up to this point it can already be noted that in the case of the ECSC this was partly true, specially considering the circumstances: the union of the two most powerful countries in Western Europe in the midst of the Cold War, even with a more economic perspective, was clearly a strategic step

towards security and avoidance of future possible conflicts.

The two sectors regulated by the ECSC were not only two of the most important ones for their economies, but they are also typically strategic sectors for the war industry. In short, the creation of the ECSC did respond primarily to security purposes (at least as an underlying cause).

On the other hand, it is also true that the first official defense initiative drawn from within ECSC (the European Defense Community, proposed in 1952 and finally rejected in 1954) could serve as an evidence discrediting the applicability of Deutsch's premise to the European integration process.

However, even when the experience of European Integration did not yet bring as a result a concrete working security strategy that can be applied at a community level, the consolidation of the EU and its enlargements has brought its members closer to each other (reflected for instance on their resulting interdependence at many levels -economic, social, etc-), rendering violent conflict an improbable scenario.

In the case of MERCOSUR, since the context in which its integration process was set in motion was completely different to that in Europe, its creation also responded to another set of reasons; namely the strive for protection and competitiveness in the increasingly globalized world economy in the 1990's.

However there is a fact that shouldn't be overlooked: the emergence of democracy in the four founding members of MERCOSUR after a long period of authoritarian dictatorships. It is along their democratization processes that the MERCOSUR Member States start putting in place a set of mechanisms to ensure that democracy will remain (for instance the Protocol of Ushuaia and the Parliament of MERCOSUR, whose initial purpose is to stay vigilant in favor of democratic institution in each of the States).

The signing of the Treaty of Asunción was in a way a response to the different governments' political will to tie their hands to consolidate the democracies and at the same time accelerate the economical reforms (Dabène, 1995: 3). This fact shows that, even when the concept of 'security' does not carry the traditional implications of the word in this case, the creation of the Southern bloc clearly harbored a tendency to the preservation of democracy and stability, thus security in the region.

Given the current *status quo*, this logic could -as well as in the European case- be applied to

MERCOSUR, since, as it has been pointed out, its forming democracies are still not completely consolidated as such, and their governments still strive to commit to the process integration. Such attitude can be seen for instance in the negotiations that the bloc is conducting with other economic units -Israel (Oglobo, 15.03.2010), Egypt (Oglobo 14.04.2010), the EU (IV EU-MERCOSUR Summit Joint Communiqué, 2010) - or the re-submission of the Parliament membership to universal suffrage.

Another aspect developed by Deutsch consists in the differentiation between amalgamated and pluralistic communities, being the latter those where each part holds on to their own legal identities -and where there is no creation of overarching institutions to control the system-, as opposed to the institutional fusion that characterizes amalgamated communities.

From this point of view in my opinion the European Union could be considered a hybrid between the two types of communities, alternating supranational traits with intergovernmental ones. On one hand it rules itself through common, independent institutions which create common legislation to which all Members are bound. This could be seen as an institutional merger in a way. On the other hand, each of the States still holds on to their own institutional system, preserving their special features when this does not contradict community law.

Therefore, based on Deutsch's theory, if pluralistic communities are more stable (for they entail compatibility of certain values, non-violent reactions and mutual-predictability of each other's behavior), the EU could be used as an example in which the theory would prove at least partially applicable, since it has proven to be a stable system, not only from the security perspective but also in commercial and economical terms.

The case of MERCOSUR is somewhat more complex for the analysis. Its structure is in a way simpler than that of the EU (in that it is almost purely inter-governmental), but it constitutes a challenge to produce judgments on its stability.

It is evident that it cannot be considered to be an amalgamated community. From the institutional point of view, MERCOSUR is clearly a pluralistic community. As for the requirements for such communities, these three concepts are present in the Southern bloc: The cultures that compose it are very compatible with each other, with multiple common traits and even common historical origins. The reactions of the Member States towards each other have proven not to be violent. In the event of controversies, their resolution has always responded to peaceful, diplomatic -rather than violent- methods. The predictability of each other's behavior is also fulfilled in this context, probably derived from mutual knowledge and cultural similarities.

This last assessment that MERCOSUR constitutes one of Deutsch's pluralistic communities does not necessarily imply that it represents a stable one. In strictly security-related issues, the possibility of engaging in an armed conflict -with each other or with others- seems fairly low.

But if security was to be understood in a wider sense of the term, the result would be different. If we compare the social, economical and commercial stability of the EU -taken as a hybrid between the two models- and the stability on the same terms in MERCOSUR -taken as a purely pluralistic community-, it would be clear that a hybrid can be in reality more stable than a pluralistic community, thus making the theory only partially applicable.

With this contrast, a question then presents itself in the applicability of the transactionalist theory: should stability be opposed to a supranational system? In my opinion, none should necessarily exclude the other. The development of a supranational integrated community, based in no common values or mutual knowledge would clearly exclude the stability factor; whereas a community which shares common values but whose Members do not merge their institutions in any way (thus remaining purely inter-governmental) cannot be considered in my view fully integrated.

On the other hand, I find that a community could succeed in organizing an institutional merger -independently of the degree of fusion- and still meet Deutsch's criteria for a more stable -pluralistic- community. The EU is a clear example of this, and MERCOSUR, given its current *status quo*, could eventually achieve its integration potential by addressing the issue of its intergovernmental nature and creating supranational institutions.

From this point of view it can be said that the transactionalist theory can only be partially applicable in reality, and particularly in that of MERCOSUR. On one hand, the creation of the bloc did respond in part to the strive for security, as the theory suggests. The distinction between amalgamated and pluralistic communities can also be applied to the current MERCOSUR *status quo*, only in considering security stability. If stability in further areas is pursued, then a certain merger of its institutions would be required.

4.4. Neo-functionalism applied to MERCOSUR

As it has been pointed out, the neo-functionalist theory is based in a set of principles, which constitute the cornerstone of its logic, and explain how the process would occur. Going through

them again shortly will facilitate the analysis:

- a) start of the process with areas of “low politics”
- b) independent institutions (who will sponsor integration)
- c) gradual entanglement of economies
- d) sovereignty shift
- e) more institutionalization
- f) political integration
- g) economic integration

Concerning the start of the process with areas of “low politics”, this does not necessarily apply to the approach used by the founding fathers of MERCOSUR, who (probably inspired by the successful European experiences) started the process with very ambitious goals, contradicting the logic of the gradual approach behind the idea of the creation of a “low politics” integrative area.

That being said, it must be also noted that even if this aspect of the theory wasn't addressed from the beginning of the process, it could still be applied in the current context. The application of such a measure (taking an economic field and regulating it by means of one of the community institutions) would definitely boost the integration process, including the citizens (all those who participate directly in the chosen field, and those who see themselves influenced by this growth) and creating closer bonds between regions and even Member States, and opening the possibility to achieve integrative depth in other areas, delegating more and more sovereignty to the common institutions.

In terms of the principle of independent institutions, the European experience showed that a successful integration process needs at least one supranational authority to which competences will gradually be delegated. That was the case of the High Authority for Coal and Steel in the ECSC, conceived as a supranational entity from the start, evolving later under the EEC into the European Commission, who guards the community interests instead of the national ones. The same goes for the European Parliament, which gradually gained competences and budget control, until its members started to be elected by the citizens and gained independence from the Member States as well.

On the other hand, it is in the matter of the principle of independent institutions where the MERCOSUR system differs the most with the ideals of the neo-functionalist approach. As it has been laid out above, most (if not all) the institutions put in place by the Southern bloc depend on the Member States, since it is their ministers and heads of government who compose them.

The two -seemingly- most independent bodies in the institutional structure are the MERCOSUR Parliament and the TPR. At least for the moment (not knowing how the popular elections of the parliamentarians will change the workings of this institution), both of them have a certain degree of dependence from the governments. In the case of the Parliament, its officials are still selected by their governments, and there has been no manifestation of any independent action on their part. (Again, this could, and most likely will, change with the inclusion of the civil population by means of suffrage).

As for the TPR, it does not constitute an overly independent body in regards to the access granted to the civil society. Their claims need to be first accepted by their “national sections” in the GMC, who can decide to undermine the claim in case they don't consider it pertinent. In other words, the citizen participation in the framework of the TPR (and for that matter in the whole MERCOSUR framework) is subject to the sovereignty of the Member States.

This shows that the institutions in fact lack independence from the Member States, if the neo-functional logic is to be applied. Up to this point, even if the current structure of MERCOSUR still shows deep traits of intergovernmentalism, this aspect could still be modified, specially if the process starts with the Parliament.

The next principle, progressive entanglement of the forming economies, is to be seen in my opinion mainly as a result of the application of the previous principles. According to the neo-functional logic, when creating the mentioned conditions, a spill-over phenomenon will be created. This means that externalities would result from the common activities in one sector, making it easier and even more convenient to extend the cooperation and the bond between regions on to other related sectors, creating and deepening an interdependence between the participating economies.

This was clearly the case for the ECSC (and later -more so than before- with the EEC and its subsequent evolutions), whose economies -mainly France and Germany- became dependent of each other. The same interdependence is now applicable to the entire EU, where each Member State needs the others as well as the community as a whole.

In the case of MERCOSUR, the entanglement of the economies is not as clear as in the European case, since there are signs pointing both ways. In the first place, as we have noted before, there is a certain mutual dependence of the States in terms of exports and imports, since most of their exports

occur within the bloc (this is specially the case for Uruguay and Paraguay). The only Member State who may be considered as fairly independent from the rest is Brazil, but the amount of exports to the rest of the bloc is not so modest, and as such also necessary for the Brazilian economy (Bouzas / Soltz, 2001: 24-25)

However, the fact that they are very close export-partners does not necessarily mean that the economies of the MERCOSUR Member States are entangled. It is very clear (specially in reading local press) that each economy is managed by its State independently of the rest, and each attempts in many spheres to enhance its own capacities regardless of the bloc.

A very illustrative example to this is the tendency to close bilateral commercial agreements which are not contained in the framework of the bloc but which only concern one State; namely trade agreements that Brazil seeks to close with Mexico, and with China; or other tendencies to unilateralism, for instance on the part of Argentina, with its apparent intentions to impose commercial barriers (measure that would go against the founding Treaties of MERCOSUR and perhaps also against the principles of the WTO). (LA NACION, 13.05.2010)

This leads me to the conclusion that, even being export-partners, the MERCOSUR Member States still haven't achieved a deep entanglement of their economies. In my opinion this is mainly due to the fact that the two previous principles (specially the first one) have still to be achieved.

The next principle implies a sovereignty shift towards the already existing supranational institutions. Again in this aspect the European case proves to adjust to this logic (since as it has been pointed out, this theory was also developed in response to the practical events), for instance in the slow delegation of competences within the institutions to the Community level (very visible with the creation of the Eurozone, or of the AFSJ).

The Southern bloc, on the other hand, hasn't yet fulfilled the creation of independent, supranational institutions in the first place, which renders it impossible to get to this stage on the neo-functionalist gradualist approach. However, according to the logic of the reasoning made above, it would not be unviable to get started on such an approach by picking up an area of low politics in which common action is possible (for example, transports) and giving more independence to at least one of the institutions of the bloc.

As for the last three principles (further institutionalization, political integration and economic integration), the same reasoning may be applied to the MERCOSUR *status quo*, since they all build

up from the previous steps, that need to be achieved in order to create a deepening of the institutionalization, and a more consolidated integration in the political and economic fields, as was the case for the European Union, whose complete integration in said fields is not yet complete, but is advancing gradually.

After analyzing the main principles of the neo-functional approach it can be concluded that, even if they were conceived to be applied from the first stages of the integration process (in order to make it more coherent and consolidate it better), it could also be employed in the MERCOSUR (whose development has not responded to a gradualist logic) by granting further independence to one of its institutions.

In what concerns the formulations of the neo-functional scholars about the applicability of their model to other regions, Haas came up with a set of preconditions for the success of integrative models in a more general sense: a) pluralistic societies; b) a certain economic and industrial development; c) common ideological patterns; and d) supranational institutions to protect community interests.

Going briefly through these conditions, we note that the societies in the Member States of MERCOSUR are pluralistic enough to support an integrative attempt and insert themselves in it, as much as they share common ideological patterns. This is not only a result of a common historical background, but also in the declaration made in the official statement of the MERCOSUR Secretariat as follows: “the four Member States that constitute MERCOSUR share a set of values that are expressed in their democratic, pluralistic societies, which defend fundamental freedoms, human rights, protection of the environment and sustainable development, as well as in their commitment to the consolidation of democracy, juridical security, the fight against poverty, and equitable social and economic development.” (www.MERCOSUR.int, unknown date).

The MERCOSUR Member States enjoy as well a certain level of industrial development, in part reflected in the economic indicators for Latin America, who show that MERCOSUR holds a big share of the whole region's exports; and assembles a large part of the total GDP of the area. (ECLAC, 2008: 7)

The only aspect in which the schemes of MERCOSUR do not adapt to those proposed by Haas is that of the existence of supranational institutions who defend the community interests, subject that has been previously analyzed.

As for Nye's distinction between structural and perceptual conditions, the aspect that seems to defy this logic the most is that of the asymmetries within MERCOSUR. In this respect, it has also been signaled that some mechanisms have been recently put in place (FOCEM), which will attempt to resolve this question. The proof of their success or failure is now a matter of time, although since its inception in 2006, there haven't been great advances in the resolution of the existent asymmetries, due to the way in which the Structural Funds program is organized (Arce, 2010).

4.5. Intergovernmentalism applied to MERCOSUR

The logic of the intergovernmental approach relies on the thought that the Nation State holds the highest level of sovereignty and will strive to keep it from being delegated to other entities; namely supranational organizations or institutions. The most practical example of this can be observed in the European experience. First in the early stages of integration (within the ECSC), with the failed attempt to create the European Defense Community (being defense a core sovereignty issue).

This tendency is also to be seen in the current organization of the EU, impersonated by the Council of Europe and at another level the Council of Ministers, both guardians of the interests of Member States (even when the latter relies more and more in QMV instead of unanimity). This argument can be strengthened by the fact that not all issues have become competence of the community institutions and still need to be regulated at a national level. An example of this is the matter of foreign policy, energy, etc.

However, even if the intergovernmental tendency is present in the behavior of the component States who try to hold on to their sovereignty in many areas, it is in my opinion clear that the EU model does not consist in an intergovernmental integration scheme, since its institutional structure also contains supranational entities, which act independently of the Member States and hold a good deal of influence within the EU keeping a fair balance of power.

In the MERCOSUR structure this becomes even clearer, since its whole institutional network has been designed in accordance to an intergovernmental logic, not including any institution of a supranational nature, independent of the Member States, who hold most of the competences for the decision-making. This was probably designed this way in order to “guarantee that agreements could then be carried out in each of the countries; and, on the other hand, to allow for 'Mercosurizing' the respective governmental administrations.” (Pena / Rozemberg, 2005: 1-2)

In Hoffmann's view, the agreement on the part of the States to forming such integrative experiences will limit itself to the guaranteed perpetual positive sum outcomes. This means that they will stay in the project as long as they all obtain larger benefits than losses in the process.

This is clearly the case in MERCOSUR, whose members don't perceive the integration process in the same way.

Two examples may be taken to illustrate this thought: on one hand, Brazil is experimenting a notable growth of its economy and as an international actor, and one of the most prominent reactions is that of Serra, candidate for president on the next elections, in whose view the integration process should be taken back to the stage of Free Trade Area (as opposed to the Customs Union that the founding Treaties establish). (ABC Paraguay 25.04.2010)

On the other hand there is the Argentinean Minister for Economy, who, in light of the current economic crisis that the country is experimenting, has recently proposed to arise commercial barriers for goods that compete the national production -a measure that would be contrary to the principles in the founding Treaties of MERCOSUR-. (LA NACION 13.05.2010)

In other words, the Member States do not see the integration process as a way to boost their economies or to overcome crisis periods. This is specially valid when it comes to the big States (Argentina and Brazil), since there are many signs of concern shown in the press of Paraguay, the State with the weakest economy in the bloc.

The fact alone that the subject of MERCOSUR is treated with a notable amount of frequency and concern (as opposed to the Brazilian press, where the subject is rarely treated, and mostly with regards to the national interests), shows that the perspective of the Member States is indeed different, since they seem to be short-term oriented.

As for the European experience in this respect, the British case comes to mind, with their opt-out option when it came to the Euro, and their reluctance to embark into a federalist approach. However, even if the initial predisposition of the States may have tended to mistrust in terms of integration, nowadays the status quo proves that a further integration -beyond what seemed immediate positive sum outcomes- did provide long term gains for those who were part of it.

It can be then concluded, in my opinion, that the intergovernmental approach does reflect the MERCOSUR reality very accurately. However its applicability does not imply any change perspective of the current *status quo* towards a better functioning or a more integrate structure.

The fact that the reality adjusts to the model does not mean that its situation is ideal and that it shouldn't be changed. In fact most of the bibliography (on the part of the scholars as well as on the part of the press) points out the need for change, whether with negative connotations -change is imperative if MERCOSUR wants to be persist as a bloc (Deluca 2005)- or with positive ones -the situation will reach its consolidation in the future and is now a “work in progress” (Guedes de Oliveira 2007)-.

The classical intergovernmental model presents in my view a viable model fitting for the first stages of integration, but ceases to be conducive to any substantial evolution if the goal of closer integration is considered- as it is in the Treaty of Asunción: “The free movement of goods, services and factors of production between countries (...); the establishment of a common external tariff and the adoption of a common trade policy in relation to third States or groups of States, and the coordination of positions in regional and international economic and commercial fora; the coordination of macroeconomic and sectoral policies between the State Parties in the areas of foreign trade, agriculture, industry, fiscal and monetary matters, foreign exchange, services, customs, transport and communications(...); the commitment by State Parties to harmonize their legislation in the relevant areas in order to strengthen the integration process.” (Treaty of Asunción, 1991: Art. 1)

Therefore, once that deep institutionalization emerges (and in the case of MERCOSUR institutionalization independent from Member States, with the competence to enforce its mandates), this model should not be able to be applied in a global analysis of an integrated bloc.

4.5.1. Liberal intergovernmentalism applied to MERCOSUR

On the other hand, the model of liberal intergovernmentalism provides a different analysis as to how integration can occur, which does not discard a structure that tends to be supranational in the event of it being convenient for the participating States.

This point changes the focus of the analysis, since unlike its classical variation, liberal intergovernmentalism seems to hold a more optimistic view on the possibility of the submission of sovereignty -dependent on national preferences, but still not necessarily considered as conflict issues-.

The institutional choice in the framework of regional integration comes from previous formation of each State's preferences and the bargaining between them. On the other hand, these preferences will

be defined by the bargain between society's demand for integration and politicians' supply of it. The strive for the governments to stay in office must also be kept in mind when analyzing the measures taken.

At first sight it looks like that this theory seems to explain the gap between the MERCOSUR objectives (explicitly mentioned in the Treaty of Asunción and the subsequent Protocols) and the outcomes that have resulted in reality.

The weak institutionalization can probably be accounted for by means of the analysis of the supply and demand for deeper integration in the MERCOSUR societies and governments.

As has been pointed out, the interdependence between the bloc's economies is still fairly low -though growing-, which renders the demand for further integration consequently low. This could be contemplated as one of the reasons why the MERCOSUR institutional structure is so extremely intergovernmental.

On the other hand, aside from this fact, there is also the self-perception factor that Guedes de Oliveira (2007) describes as fundamental: the MERCOSUR countries perceive themselves as democracies and economies "under construction", which could constitute another reason for the low demand (and also for the low supply) for integration: the Member States seem to perceive their economical processes separately from that of MERCOSUR. This can be induced by the treatment that the local media. As pointed out -specially in the case of Brazil and Argentina- short-term national interests come before MERCOSUR when at stake (Mattli, 1999:160 in Laursen, 2009, 17).

Two practical examples could illustrate this thought. On one hand, an agreement between the EU and MERCOSUR in the framework of the April 2010 summit would objectively benefit all parts economically speaking. There have been however insinuations about the motives pushing the State leaders to negotiate the agreement: For instance, from the Argentinean position there seems to be fear that Brazil will turn away from the bloc to negotiate its own agreements should this not be achieved here. The government could also very well profit from a triumph in the foreign affairs sphere. The rotating presidency of Spain may also see this as one of the last chances to optimize its mandate.

From this point of view, the theory of liberal intergovernmentalism seems to apply to MERCOSUR as well as classical intergovernmentalism does, except that providing a deeper analysis on why States have been choosing to shy away from further integration.

However, this would not help account for the recent approaches to integration that have been

discussed above, specially those taking place in the political field, such as the Parliamentary Protocol of 2005 -choice that in principle does not seem to be in line with Moravcsik 's reasoning on the bargaining between demand and supply, for there is clearly no demand from society and the governments would have little to gain in the short term-, or the Argentinean Law for audiovisual media of mass communication (2009), or the various attempts to conduct negotiations as a bloc rather than separately (for instance crystallized in the EU-MERCOSUR summit).

There is also another aspect that renders the theory only partially applicable. This is the fact that the Treaty of Asunción and the Protocols put in place a set of goals and legal standards to which the signing countries are bound to. This may or may not have been a product of their internal bargaining and preference formation, but either way it is independent from the changes in those preferences that, according to Moravcsik, are bound to take as the contexts evolve.

The goals in the founding of MERCOSUR were long-term oriented, and even if they could have played an important role in the shaping and growth of the democracies and economies involved, it is not certain if the demand for such a commitment was present on the part of society.

The current leaders are now bound to these legal commitments made 20 years before their administrations, whether the national preferences change or not. This seems to contradict the liberal intergovernmentalism theory.

This being said, it is to be concluded that liberal intergovernmentalism is also partially applicable, for it provides very coherent explanations to the workings of the system and its intergovernmental nature, but it tends to only focus on the more economical terms, whereas it cannot very well account for the progress and commitments made in the political of the process.

This is also insufficient if we are to consider all areas of integration and if we are to expect any further progress in this process on the part of the Common Market of the South.

5. Conclusions

At first sight, it is natural that confusion would arise as to why a bloc whose GDP is the world's fifth and which has been described to hold the perspectives (and certainly the potential) for becoming the next integration success story, has not yet after more than 20 years reached as much depth as that of European integration.

It possesses a functioning institutional structure, a handful of integration projects and its Member States have made sovereignty compromises that involve areas that the EU has not yet even formally debated, as is the marking of passports from the four States as MERCOSUR passports next to the identification of their country of origin.

Moreover, the Protocol of Ouro Preto has granted MERCOSUR with international legal personality only three years after the bloc's creation; achievement that was only possible for the EU with the ratification of the Lisbon Treaty.

All this seems contradictory. However a closer look into the Common Market of the South shows that its institutional structure, although functional is far from perfection, lacking proper instruments of citizen participation, supranational bodies and enforcement mechanisms.

It would seem that the main contradiction is not to be found between MERCOSUR's institutional structure and its reality, but between its institutional structure and its goals, since the former do not correspond to the latter.

The observer of the phenomena in MERCOSUR will surely be torn between the assertion that the political will among the Member States has grown over the past five years, and the assertion that there was never a true political will, reason for which the institutions don't cease to be exclusively controlled by the Member States, the same way as most of their economic policies.

It can be concluded in this respect that the literature on the subject makes way to contradictory assessments and prognosis for the future of the integration process in the Common Market of the South.

The Common Market -main goal of the Treaty and Protocols- is a half reality. MERCOSUR primary as well as secondary law regulates various aspects leading to it, and could be sufficient in principle, except that they are applied differently in each Member State, in accordance to their respective internal legislation. For the moment there is no body that is entitled or capable to control or enforce the simultaneous compliance to them.

It would seem that the writers of the Treaty and the Protocols- and mainly those who negotiated them- either didn't see or didn't care about the contradictions between such ambitious and grand goals and the tools and procedures that they appointed for their attainment.

Concluding this investigation, my belief is that such statements and commitments, as were made in the framework of the Treaty of Asunción and the successive Protocols, indicate that a will to put forth a successful process of true integration was and is present in the minds of the leaders that were a part of them.

Naturally, the sovereignty issue is a very delicate one. I have to agree with Guedes de Oliveira in his affirmation that the forming States constitute after all democracies and economies under construction. This includes tendencies to strong presidentialism -as Roy (2009) points out- and in some cases even populism, aside from the instinctive impulse of national leaders to attempt to hold on to their sovereignty.

The changes will surely need to be gradual and include more and more citizen participation. With a legitimization of the process, any further steps taken by the higher spheres of power towards further and deeper integration would probably be welcomed and expected, making the leaders more likely to take risks in that direction. This obviously requires a stress on the concrete benefits that the process will bring to civil society, to justify and strengthen their demand for integration.

In this sense, the process is moving at a slow pace but it seems to be advancing little by little. I find that the key to its future success relies on the role of the Parliament elected by the citizens and that of the Trade Commission and the Committee for Defense of the Competition as a kind of unofficial court with access for the individuals. It is in my view mainly up to their performance, since the existing legal mechanisms do not seem likely or able to adopt big changes on their own (paradoxically, among other reasons, because the resolutions taken cannot be enforced).

As stressed before, Member States are prone to strive for the protection of their sovereignty.

Therefore the biggest changes are more likely to come by initiative and if necessary pressure of a non-state entity. Since the Member States themselves haven't created any that is capable to take or sometimes to enforce its own decisions independently, those existing ones with some traits of or potential for supranational nature will need to act, as well as the population.

As for the question leading this investigation - Can the European model be applied given the current *status quo* in MERCOSUR?- the various theories point towards different directions.

The federalist theory seems not to be suitable, at least for the moment, in the context of the

Southern bloc, due to the always present sovereignty issue -a very strong force in MERCOSUR apparently-, and to an institutional structure which does not seem to be mature enough to suddenly change its *modus operandi*.

The fact that institutionalization did not result in the creation of a federal-like system- as the theory suggests- points to the possibility that this theory may not be entirely applicable in the context of MERCOSUR.

The functionalist theory, on the other hand proved its possible viability in this context, although this judgment may be subject to the result of processes that have not yet been put in place (such as the popular election of parliamentarians). It is also not clear what kind of measures would concretely need to be taken in order to apply the functionalist logic to the MERCOSUR situation, which makes its envisaging more complex.

As for the transactionalist approach, its applicability to MERCOSUR is only partial, for as has been established, since on one hand, the bloc does respond to the security-lead purposes, although for the creation of a veritably stable integrated system, I consider that the Member States' mutual knowledge and respect is not sufficient. This would thus defy the transactionalist logic, according to which institutional fusion is not necessary. In my opinion, it is a (gradual) institutional fusion that the bloc requires in order to advance down the integrative process and ensure its stability as such.

The intergovernmental theory, on the other hand, matches the reality in MERCOSUR with impressive accuracy. Nonetheless as it has been suggested, the persistence of its applicability constitutes one of the main reasons why the bloc hasn't yet achieved a higher stage of integration between its Members. However applicable, this model should then in my opinion be replaced by a more strategic supranational system.

The same can be said about liberal intergovernmentalism, theory that helps explain accurately many of the phenomena taking place within MERCOSUR in the economic sphere, but seems unable to account for the present proofs -however modest- of willingness to achieve a deeper integration.

The neo-functionalist theory, on the contrary, appears to be more suitable for application if the real intention is to have the bloc move forward in the integrative path. As for its applicability, the basis for its success could be found in MERCOSUR, although there are some conditions that need to be changed for it to succeed (mainly the existence of a supranational, independent entity to boost the integration process and control the sectors of common dominion).

Considering the current situation, with an already working institutional system not having fulfilled

the funding Treaty's goals, the most realistic means to advance in this direction would be in my view the application of the neo-functionalist logic. The choice of a 'low politics' field for joint development with common authorities to regulate its working would be a good way to ensure the gradual nature of the process and at the same time its advance without threatening the Member States' sovereignty.

The existence of an already functioning institutional structure (an intergovernmental one) may not render the application of neo-functionalism simple, in that there may be resistance and even power conflicts among the institutions, however I imagine the transition to be significantly easier than it would be if, for instance, a federalist system would be attempted to put in place.

In matters of integration, it is undoubtedly that the European Union has become an icon, which makes it in the view of many an example to follow. However if MERCOSUR could or should apply the European model is still clearly a question with no single answer. It is evident that the circumstances in which the ESCS was formed -and later evolved in what turned out to be the EU- are not the same as those that pushed the Southern leaders to join each other in an integration project. The historical factors cannot be ignored, since they contributed greatly to the successes and failures within the process.

In order to be able to find an answer to this question, we have focused this study on the various theories that have tried to explain the requirements, nature and meaning of integration processes. Each of them has contributed to some extent to the understanding of this moving target that is the phenomenon of an integrated Europe. However, as pointed out by Michael Burgess (2006: 245-246), none of them can reflect the working of such a complex, changing structure with absolute accuracy.

The reading of specialized literature on MERCOSUR cannot provide absolute answers either, for scholars and involved actors themselves don't have the same reading of events and provide different prognosis that sometimes are even contradictory of each other.

There is no such thing as a recipe for integration, and our view cannot be so simplistic as to believe that the application of the same method will result in the same outcome in two completely different contexts. However, as has been pointed out, the neo-functionalist theory -which has been the one to come closest to accounting for the actual development of the process in Europe- is in my view the most suitable one for the Southern bloc (sharing the opinion of Malamud and Schmitter, 2006: 20), because it proposes a process that, while gradual, will most likely boost the involved economies,

making them also more interdependent.

This is probably not casual, and would then bring me to the conclusion that, even if the European model is not to be considered a commodity for export of standard applicability, no matter the region and its context, its experience remains undoubtedly an example to follow by the rest who envisage an integration scheme of any kind.

Some of the main traits of European integration were emulated in the Southern experience (for which the then EC was surely an inspiration), and the fact that European Integration theory reflects some realities and could serve as a practical solution for some others, points to the fact that in a way, saving all differences, the European model may be exported, even if not as a “standard product”, but as an ideal, an example and a set of experiences that may serve define the integration strategies of those regions with the ambition to become a success story in their own context.

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7. Annex

7.1. Broadcasting station: Radio exterior de España

Program: Hora América

Interview with Carlos Alvarez (Argentinean ex-vice president and president of the MERCOSUR COREPER until December 2009) ⁴

29th April 2010

-Question: What are the expectations in achieving an agreement between the EU and MERCOSUR?

-Answer: It would be very important for the two blocs to advance, in principle because nowadays there are certain questionings to the integration projects (Europe with the Greek situation and MERCOSUR with the deficit of commercial agreements with important countries or regions). It would be important to advance because this would consolidate or help at least give a strong feeling of advance of regional agreements, and it would constitute the first bi-regional association, a great macro-region, which would have more weight in international politics, specially in a moment of transition, where the world power is going through changes and re-configurations. Europe has had difficulties to be an actor in this new world. And Latin America, or South America will not have a significant presence either if it is not consolidated, despite being present in the G-20 or including Brazil and Mexico as very important countries.

I think the upcoming world is a world of giants. The world will have 3 Asian countries among the 5 first economies in the world (China, India and Japan). A strategic association between the EU and MERCOSUR would open very interesting perspectives from the strategic point of view, not only considering the smaller, commercial issues (which are not less important because of the existence of a lot of interests and lobby behind these issues).

But there should be a more inclusive, complete and strategic look. If this look prevails among the current leaders, one of a more political view, one can be more optimistic about the success of this summit.

-Question: It is certain that the EU had shown interest in MERCOSUR on previous summits; but this coincided with moments in which the countries that constitute MERCOSUR couldn't come to internal agreements. Do you think that in this moment MERCOSUR may be in position of reaching agreements with the EU?

⁴ Translation by author

-Answer: I presided the COREPER of MERCOSUR until December and in that context I came to Spain to meet the representatives of the “Alternativas” Foundation, and I had an interview with chancellor Moratino and I told him that for the first time after a long period, I see in the region -and specially on the part of Argentina and Brazil- a political will that I hadn't seen before.

The agreement was always rejected due to commercial differences (how much would MERCOSUR open its economies to the industrial and the services sectors, and how much would Europe open its economies for raw materials). And this time I see a more strategic view, that considers how many externalities and how many advantages would this agreement imply. How much impact, how many benefits -direct or indirect- the agreement could have; specially in time.

On top of this, not in so many opportunities do the rotating presidency of Spain in Europe coincide with the *pro tempore* presidency of Argentina in MERCOSUR. Afterward comes the Brazilian presidency; and with the Belgian one it will be harder. So I think that there has to be a hard stance and show the real possibilities in this summit, because -I insist- I saw much more willingness on the part of the MERCOSUR countries.

-Question: In Spanish-speaking America there is MERCOSUR but there also is the Asociation of Andean Countries, Mexico, ALBA...Is it possible to achieve positive results for everybody with so many disperse organizations?

-Answer: The EU has been strongly advancing on Central America and the Caribbean, it has agreements with Chile, it has also initiated agreements in the Andean Community with Colombia and Peru. This means that an agreement with MERCOSUR would greatly help render the bond between Europe and Latin America more homogenous. Why? Because the agreement with MERCOSUR involves two of the three most important countries in Latin America. If the three most important countries are Brazil, Mexico and Argentina, MERCOSUR brings two of them together. So the agreement with MERCOSUR would be a sort of key, an accelerating factor for agreements between Europe and Latin America, because -as I was saying- it would have very positive externalities. It would accelerate agreements with the Andean Community and with other regions, which, as you say, speaks of a very diverse and pluralistic Latin America.

Latin America is not a region that can be qualified as homogeneous. It is very asymmetrical, it includes very different processes and we are regions that have different special features.

All of this can be resumed in agreements with Europe; because we have democracy, we are a region of peace, we are greatly improving economical sustainability, we have faced the deepest international crisis that capitalism has seen and we have done it reasonably well.

Latin America is growing again.

But we do have the unfinished business of achieving social cohesion and social equality, because the threats on Latin America are no longer the *coups d'état*- as they were until not so long ago- but poverty, marginality, inequality, drug traffic, crime, insecurity. That is to say we have other types of threats and the great challenge of building more equal democratic societies.

So in a sense an agreement with Europe must strengthen this: the sustainability of a growth process and also head towards social cohesion.

And in this Latin America does have the same features, because all countries are asymmetrical; we are the most asymmetrical region in the world, so all the progress we can make on agreements with more developed regions has to serve not only to grow in terms of trade, but also to be able to share the fruits of that growth in a better way.

-Question: The summit comes at a time when, as you have said, the EU is not going through its best moment. There is the crisis in Greece. Do you think that this can have negative effects on the May summit?

-Answer: I think that we have to look beyond the current situation, if the EUROPE-MERCOSUR dialog gets stuck in the short-term and a neatly commercial vision prevails, we will miss a great chance. I think that there has to be a middle-term vision, one of a more political, more strategical nature; because this agreement has to be one to also make of the two regions a more important actor in the international scene.

We have seen what happened in the summit on climate change. Europe's role was questioned as too relative, too secondary. The same can be said for the Latin American role, except for Brazil who played a role next to China and the BRICs.

If we don't make any progress in deepening the agreement, we are not going to have an important role in this world that is being re-configured and becomes multi-polar.

Take a look at the role that the rating agencies play despite the crisis the world has gone through. The judgments of the rating agencies, who have been responsible for the international economic and financial situation, generate panic, a terrible fear. And this can only be tackled with a political view, subordinating the markets to politics. If we let the markets act as the center of decisions, leaving politics in the background, we are going to be recurrently experimenting these kinds of crisis. So I think that we need to have a view that goes beyond the current situation and not over-determined by the commercial issues. If we fight each other or we refrain from making progress over a 1% of industrial trade of service or of raw materials, I think that we are making a mistake; that we have to have a more transcending view and take a look at how the international power is being re-configured and the world economic geography.

-Question: From your point of view, what would make for a good result in the summit?

-Answer: That MERCOSUR and Europe could transmit not only that negotiations are back in track but also that the possibility to reach an agreement between the two regions is seen with optimism. Not only that we have recovered dialog, because this dialog comes from 1995. That is to say, for me a successful summit would not be one reach the agreement 3 or 4 months from now, but that the citizens, business people and politicians involved understand that substantial steps have been taken, and that there are perspectives to reach an agreement in the shortest time possible.