GLOBALIZATION, REGIONAL INTEGRATION AND TAXES ON THE CONSUMPTION OF GOODS AND SERVICES IN THE MERCOSUR

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ABSTRACT: This article reconsiders historical, political and economic assumptions necessary to understand the processes of globalization and regional integration, by seeking to break down certain taboos on the subject matter. All phases to be completed by the States participating in a given integration process and the setbacks experienced along the path until achieving the intended degree of political & economic integration are also outlined herein. It is assumed that the economic integration entails a great deal of effort from players to adjust their domestic laws, in particular tax regulations, since the markets and taxes go hand in hand, with the first being to a great extent influenced by the latter with respect to market expansion and contraction. Hence, the more favorable the tax environment is the most the sector of manufacturing and movement of goods and services will grow. These sectors are critical to the financial health of any country and to the consolidation of the fundamental economic freedom in the block. In the case of MERCOSUR, one can affirm that the transformation from the current status of an imperfect Customs Union to a Common Market asks for, besides the elimination of the lists of exemptions from the Common External Tariff (CET) and the establishment of an universal trade policy, the prior harmonization of the taxes levied on the consumption of goods and services, likewise the internationally recognized Value-Added Tax (VAT), given that any inconsistencies among the States participating in an integration process can adversely affect the geographical allocation of funds within the block and stir predatory competition among them.


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Globalization and regionalization are very popular terms employed over the last years in a considerable number of areas of human knowledge. They are, in a manner of speaking, expressions with interdisciplinary connotation, whose plurality threatens any attempt of definition.

Nonetheless, the terminological imprecision of the subject of study does not purport to distance the observer from the analysis and description of its fundamental nature and exterior manifestation. The analysis of the container and content are two methods of scientific experimentation that facilitate phenomenological analysis without being influenced by the lack of rigor in the substantivization of the phenomenon.

Globalization and regionalization, even though their effects are experienced in other areas (cultural, technological/scientific, social and legal), are predominantly political and economic phenomena discernible in the international community primarily in the second half of the 20th century, following the 2nd World War.

At this time, it is possible to observe the rise of a new phase of development of the capitalist mode of production demonstrated by the Third Industrial Revolution, by a new international monetary system (*Bretton Woods Accord*) and by the neoliberal thoughts, among others, from Austrian economist Friedrich Hayek (one of the founders of the so-called *Mont Pelerin Society*), originally put into practice by the conservative

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2 The Mont Pelerin Society (1947) was composed of a multitude of scholars who supported the foundation of another type of a more authoritarian, unruly capitalism in the future. The members, following the steps of Hayek, were against any kind of constraint or restriction by the government on market mechanisms.

With the advent of the global economic crisis in the 70s, these neoliberal thoughts gained strength
governments of Margareth Thatcher, Ronald Reagan and Helmut Kohl.

In line with this new trend, the Nation States began to experience considerable changes in their domestic policy framework. The survival of the Welfare State was no longer viable, and the State’s *invisible hand* driving the economy, proclaimed in the lessons of Adam Smith,³ was no longer workable. The era of transnational business, of large commercial and financial corporations, of market deregulation and of mass dissemination of business worldwide had begun.⁴

The domestic protectionist barriers no longer harmonized with the economic dynamism observed in the international scenario and the State intervention in the market became more and more dispensable, whilst the corporate economic spaces grew in a fast pace.

Ricardo Seitenfus and Deisy Ventura call attention to two globalization aspects:

[...] on one side, its very essence embodies the concept that the process is not aware of domestic borders and introduces the ‘deterritorialization’ of production and consumption activities. On the other hand, decisions in the international environment stem from hubs

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³ Adam Smith, *A riqueza das Nações* (Juruá ed., 2009) (Br.).

⁴ The Classic International Law introduced by the *Peace of Westphalia* (1648) was conceived as the set of rules of States, “characterized by tightly sealed borders where powers are divided and split into enclosed spaces”, in contrast to the concept of *globalization* that “seeks to close spaces, diminish distances, eliminate obstacles to circulation, integrate markets, deregulate and standardize rules, impose values, homogenize consumer preferences, transform capital into a goal rather than a mean of exchange, make communication permanent without State intervention, build production structures with a transnational approach. It symbolizes a chaotic, decentralized world. Hence, either a world without laws or a ‘mosaic’ of laws” (Ricardo Seitenfus & Deisy Ventura, *Introdução ao Direito Internacional Público* 184 (Livraaria do Advogado ed., 2th ed. 2001) (Br.). Also regarding the legal framework in the international community, see Florisbal de Souza Del’Olmo, *Curso de direito internacional público* (Forense ed., 2002) (Br.).
The concept of *Minimum State Intervention* originates therefrom, whose assumptions rely on the constraint on government spending, privatizations, lessening of State intervention in the market, currency fluctuation and lack of interest in the development of social policies. It is the era of bytes, of volatile, speculative capital, where financial transactions were lifted up to the *Olympus*, in detriment to the production and job creation sector.

As observed, the period after the Second World War is a raging sea, whose effects undeniably shaped the history of mankind.

From this standpoint, the doctrinaire belief that states that the globalization phenomenon originates from the Classic Ancient era appears therefore to be unconvincing. In fact, in assuming this standpoint as true, one would be distorting numerous historical concepts, not only the globalization, and would be moving in the direction of the teratology.

The expansion of the concept of globalization to such a degree is not conceivable. After all, if any kind of cultural homogenization, of principle/philosophical reference to the unification of civilizations, of territorial expansion and economic growth, either achieved by political, religious or military means, is believed as a sign of the globalization (*verbi gratia*, the territorial occupations of the Roman Empire and the maritime expansion of Portugal and Spain) the full concept of globalization, which is interdisciplinary, as already asserted, would be misrepresented.

The globalization symbolizes a new milestone in the history of mankind likewise the feudalism, the mercantilism, the absolutism, the liberalism in 18th century, the global

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bipolarity and, more recently, the multilateralism. If the viewpoint of the system under discussion is believed to be correct, dispensing over any phenomenon the origin of globalization, in that case, it would be then necessary to consider a well-known geographic phenomenon as the origin of globalization.

The explanation is straightforward. It is unquestionable that in the beginning of the time the continents were confined in one single physical mass called Gondwana (Pangaea).

Over millions of years, as illustrated by the German scientist Wegener (1912), the continental drift (movement of continents and oceans’ bottom) provoked, and still provokes, the separation of continents by about 3 cm per year. At this pace, in a very distant future (another millions of years), continents are inclined to unite again making possible for mankind to coexist in one single physical space.

Hence, if the logic of that system is preserved, it would be then possible to truly detect the first sign of globalization taken place no less than 200 million years ago and whose effects protracted over time.

Just like it is obvious to the interlocutor how absurd (and it truly is) this theory is the system under discussion is equally absurd.  

In short, the globalization (or worldization) can be considered as a movement

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6 In the sense that the globalization is a concept of the 20th century, among others, see Ricardo Seitenfus & Deisy Ventura, supra note 4, at 180-184; Roberto Luiz Silva, Direito comunitário e da integração 21-28 (Síntese ed., 1999) (Br.); See also 1 Fábio Ulhoa Coelho, Curso de direito comercial 46-60 (Saraiva ed., 2th 1999) (Br.); Thaís Eleonora Guerra Rego, Globalização ‘versus’ regionalismo, BOLETIM DE DIPLOMACIA ECONÔMICA, 1994 (Br.); João Sayad & Simão Davi Silber, Comércio internacional, in Manual de Economia 479-481 (Saraiva ed., 3th 1998) (Br.).

intrinsic to the capitalist mode of production rather than conceivable outside such mode. This is one of the reasons for which the socialist collapse is believed to be one of the major drivers of globalization. And what is the consequence? The end of old-fashioned protectionist barriers through the stimulus of free market and of the internationalization of capitals leading the way for the regional integration processes.

The globalization and the regional integration process (regionalization) are, in the words of Celso Lafer, “phenomena that react to diverse political and economic factors”, and they could become two parallel and complementary (open regionalization) or opposite processes (closed regionalization); it will depend on the line of thought adopted.

In the first case, there will be no antagonism if the regionalization is used by the member states initially to prepare them to the globalization process through the combined effort to strengthen their domestic economies. It helps to place the member states in a more robust and competitive way in the global economy raising them to the status of global players as opposed to the passive position of global traders. It is, in the words of Celso Lafer, “an opportunity to expand the locus standi in the international arena by means of a combined action”.

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8 Celso Lafer, Globalização e regionalização, CARTA INTERNACIONAL, 1998, at 9 (Br.).

9 “This regionalism was originally defined as a movement alternative to the globalization. However, the latter privileged the emergence of regional blocks created to protect weaker economies and, therefore, insert them in the global context in a more condensed manner. In spite of such antagonism, it is possible to observe that the inclination to form these blocks has become at the same time a phase of the globalization” (Maurin Almeida Falcão, Elementos de reflexão para harmonização tributária no MERCOSUL (2000) (unpublished manuscript) (on file with author)) (Br.).

10 Celso Lafer, supra note 8, at 13.
The open regionalization complements the multilateral trade system, i.e., is open to trades outside the block with the other member states of the World Trade Organization (WTO). It is the case of MERCOSUR that adopted this line of thought because of:

[...] the weakening of the import substitution model and on account of the own nature of its economic size that is considerably inferior to that of the European Union and the NAFTA and, therefore, with insufficient dimension to form a combined block.\textsuperscript{11}

In case the closed regionalization is chosen, the relevant States will opt to suppress the trade multilateralism in violation of the rules set by the World Trade Organization (WTO). It is represented by the creation of barriers that aspire to expand intra-block trades and reduce (or even eliminate) trade with other States or regions. It is the case of the European Union.

In the European Union, between 1960 and 1993, in contrast to other blocks, the extra-regional trade dropped from 13\% to 11\%, owing to the introduction of protectionist policies in detriment to other countries, in particular in the agricultural sector, as observable based on the data from the General Agreement on Tariffs and Trade (GATT).\textsuperscript{12}

\section*{2 Phases of the Regional Integration Process}

Integration processes diverge to a great extent from region to region depending on the goals to be achieved, the geographic conditions where they are inserted, the reliability of the economies in the relevant States and the political-legal maturity shown

\textsuperscript{11} Id.

\textsuperscript{12} Thaís Eleonora Guerra Rego, supra note 6, at. 70.
by these countries domestically.

However, in what concerns these considerations, it is possible in general to identify five phases\textsuperscript{13} through which the regional integration process should go on the way to its accomplishment.

It is of the essence to emphasize that these phases are all gradual and their completion in full is critical to a healthy development of the block and that they should not be therefore suppressed.\textsuperscript{14} The phases are:

1) Preferential Agreement or Tariff Preference;

2) Free Trade Zone;

3) Customs Union;

4) Common Market;

5) Economic and Monetary Union.

The \textit{Preferential Agreement or Tariff Preference} represents the easiest phase in the regional integration process. It assures the relevant States a cutback in customs duties charged as opposed to those charged from other countries. This cutback is believed as partial because it can levy only on a few products or economic sectors.\textsuperscript{15}

\textsuperscript{13} It is normal to many times identify in the domestic and foreign doctrine the reference to only four phases of the regional integration process because some doctrinaires understand that the preferential agreement or tariff preference would fit in the Classic International Law rather than in the Integration Law. \textit{But see} Roberto Luiz Silva, \textit{supra} note 6, at 31 [already mentioned elsewhere, accepts the classification used herein, although using a slightly different denomination (preferential tariff areas, free trade area, Customs Union, Common Market and Economic/Monetary Union)].

\textsuperscript{14} The MERCOSUR has been criticized by many because it fails to follow this \textit{iter} on a straight-line basis. \textit{E.g.}, Augusto Jaeger Jr., \textit{MERCOSUL e a livre circulação de pessoas} 54 (LTr ed., 2000) (Br.).

\textsuperscript{15} \textit{See} Roberto Luiz Silva, \textit{supra} note 6, at 31.
Roberto Luiz Silva stresses that “the adoption of this type of integration does not entail other policies to adjust its viability and there should be no need to change the tariff policy in respect of other countries”.\textsuperscript{16} The Latin American Free Trade Association (ALALC),\textsuperscript{17} created on February 18, 1960, comprising Argentina, Brazil, Chile, Mexico, Paraguay, Peru and Uruguay (Colombia, Ecuador, Venezuela and Bolivia being admitted latter), is an example of this phase of integration.

In the \textit{Free Trade Zone}, the relevant States reach a reciprocal agreement to eliminate intra-block tariff and nontariff barriers\textsuperscript{18} in place in respect of the goods originating therefrom in order to enable the free circulation of these goods in their territories. The barriers in place are preserved only in what concerns other States that do not play a part in the integration process. However, in this phase, each States is permitted to freely keep a differentiated tariff policy with other countries. Hence, the need and importance to clearly define the prerequisites to assign the nationality of the goods circulating in the block by adopting an \textit{origin regime},\textsuperscript{19} i.e., by laying down

\begin{itemize}
  \item \textsuperscript{16} \textit{Id}.
  \item \textsuperscript{17} “ALALC was the main block of the first development of integration processes in America by designing the creation of a customs union and a common market for the future” (Augusto Jaeger Jr., supra note 14, at 26).
  \item \textsuperscript{18} Scholars stress the importance of eliminating nontariff barriers (\textit{economic, administrative, bureaucratic and cultural factors}) to achieve the free circulation of goods. It is worth mentioning that, regardless of the elimination of these barriers during the integration process, its effects should be steadily and promptly attenuated. \textit{See} Fábio Ulhoa Coelho, supra note 6, at 47.
  \item \textsuperscript{19} In the MERCOSUR, a product originating from the region is a product where at least 60\% of its value-added is regional. The products originating from the region are subject to a zero rate and the foreign products are subject to the rates adopted by the importing State in respect to the exporter in this phase. \textit{See} MERCOSUR, COMMOM MARKET COUNCIL [CMC], DECISION 01/04 (2004), available at http://www.mercosul.gov.br/normativa/decisos/2004.
\end{itemize}
common rules to decide whether the trade activity can be considered as intra-block and, therefore, exempt from import duties, or if it refers to mere re-export when it would be then taxed. The so-called origin certificates are used to this end.20

Fábio Ulhoa Coelho summarizes this situation splendidly:

[...] the development of the integration process relies highly on the discussion about the nationality of goods since each member country preserves, in respect of the goods imported from non-member countries, its own customs policy. Therefore, there could be major inconsistencies in the competition between corporations in two different countries in the ‘free trade zone’ if, for example, one is permitted to import goods manufactured in Asia for sale, as if they were domestic goods, in the consumer market of another member country of the free trade zone, by paying import duties lower than those paid by the corporations headquartered in the latter.21

After the signature of the MERCOSUR articles of incorporation on March 25, 1991 (Treaty of Asuncion), the Free Trade Zone was created in the aforesaid economic block, which was known as the period of transition to the Customs Union.

This phase does not assume the adoption of the Common External Tariff (CET) because, as mentioned above, each State can independently handle its domestic and foreign tax policy.

Also in respect of the Free Trade Zone, it is important to emphasize that its purpose is in summary to free the trade relations between the States participating in the regional integration process by eliminating, as explained above, the tariff and nontariff barriers in place among them. However, such elimination is not required to be completed in full in this phase, contrary to what is affirmed by many of those who study the MERCOSUR integration process.22

20 Origin certificate: It is a document used to attest the origin of a given product and specify the rules negotiated and set out in trade agreements among countries.

21 See Fábio Ulhoa Coelho, supra note 6, at 47.

22 In this regard: “In summary, currently, there is an undeveloped free trade zone but the MERCOSUR
In order to ratify the foregoing, Roberto Luiz Silva assumes the following standpoint: “What initially happens in general is the elimination for a given number of goods and the steady expansion of the list of goods with zero rate throughout the process”.\textsuperscript{23}

In light of the foregoing, even after the end of the \textit{transition period},\textsuperscript{24} on December 31, 1994, it was still possible to find lists of goods \textit{excluded from the} intra-block \textit{trade liberalization} and, consequently, domestically taxed as if originating from countries not participating in the integration process (standard import procedure).

On the other hand, the Customs Union presupposes that:

\begin{quote}
[...] besides the cancellation of customs duties, the consolidation of the tariff structure relating to other countries, thereby avoiding the problem of trade differences and implying a minimum degree of harmonization of tax, monetary and exchange policies.\textsuperscript{25}
\end{quote}

Therefore, the distinguishing feature of the Customs Union in relation to the Free Trade Zone is the adoption of the Common External Tariff (CET), either in respect of other countries\textsuperscript{26} or in relation to other regional blocks.

\textsuperscript{23} Roberto Luiz Silva, \textit{supra} note 6, at 30.

\textsuperscript{24} The \textit{transition period} ended on December 31, 1994, since beginning January 01, 1995 the Customs Union was in place in the MERCOSUR. The \textit{transition period} has ended as a result of the signature of the Ouro Preto Protocol (December 17, 1994), since this Protocol has set the block structures for the beginning of a new phase of the integration process: the Customs Union. \textit{See, e.g.}, BRAZIL, MERCOSUR, available at http://www.mercosul.gov.br.

\textsuperscript{25} Roberto Luiz Silva, \textit{supra} note 6, at 30.

\textsuperscript{26} “The goods from Free Trade Zones established in the Mercosur are treated as goods originating from other countries, i.e., the Common External Tariff (CET) does not levy thereon. The Free Trade Zones will be able to customs clear their goods in the Mercosur territory upon the full payment of the CET. Under a
In this phase, the criteria used to determine the nationality of goods sold (origin regime application) continue to be used in order to avoid inconsistencies when enjoying the trade liberalization already identified in the block. This nationality control is even more important when it refers to goods exempt from the Common External Tariff (CET), since a company in a given country could import the good with a tariff lower than in other countries, and thereafter re-export it to the Mercosur.

Hence, after the origin certificate validates that the good originated from a State comprising the block, it will circulate freely, without the imposition of any tariff or nontariff barriers. On the other hand, in case of a good imported from a country not participating in the block, the CET should levy thereon. For this reason, the origin regime should be preserved in the Customs Union.

The MERCOSUR adopted the Common External Tariff (CET), in conformity with Decision 22/94\(^\text{27}\) issued by the Common Market Council (CMC), which is based on Decision 07/94, issued by said Council. However, the adoption of the CET was not an effortless task, as observed by Elizabeth Acchioly:

> The creation of a Common External Tariff (CET) was one of the major problems posed by the Mercosur for the operation of a customs union, which is not yet fully consolidated – what is possible to perceive is an imperfect customs –, but the change of direction of such market was pondered by proposing the permanence in a free trade

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\(^{27}\) Decision 22/94 of the Common Market Council (CMC) conferred upon the Common Market Group (CMG) the authority to change the Common External Tariff (CET). See Ana Cristina Paulo Pereira, *MERCOSUL: o novo quadro jurídico das relações comerciais na América Latina* 128 (Lumen Iuris ed., 1997) (Br.).
zone, on account of the problems that the creation of a CET would entail. In November 1994, the Minister of Finance in Argentina, Domingos Cavallo, asserted that the Mercosur should choose between strengthening the customs union with the four countries in the search for a common market or expanding the market by means of a free trade agreement signed with other countries. However, the political aspiration of the Chiefs of State of the member countries was in the sense of applying a common external tariff, although with exceptions.28

Also in respect of the problems posed to set the Common External Tariff (CET), Marcos Simão Figueiras stresses that:

[...] the Brazilian government was adamant on a common external tariff of 35% on capital, petrochemical, electronic and IT goods, in contrast to the Argentinean government that accepted from 4% to 14% protection against imports originating from other countries. Paraguay and Uruguay, in turn, did not aspire to be ‘tied’ to the Brazilian technology if a high external tariff was set.29

The MERCOSUR is contemporaneously stagnated in the imperfect Customs Union30 because, in spite of the creation of the CET, it is possible to observe the non-elimination of its basic lists of exemptions,31 a practice that was expected to be achieved

28 Elizabeth Accioly Pinto de Almeida, MERCOSUL & União Européia: estrutura jurídico institucional 21 (Juruá ed., 1996) (Br.).


30 However, the creation of the Customs Union with an imperfect nature does not satisfy part of those who are dedicated in studying the MERCOSUR. Hence, in keeping his infamous critical standpoint, Fábio Ulhoa Coelho stresses his dissatisfaction: “In my opinion, while the differences in the taxation of goods originating from non-member countries are not eradicated, the Customs Union should not be considered as established, not even partially” (Fábio Ulhoa Coelho, supra note 6, at 49.

31 “The Council’s Decision 7/94, when introducing the basis for the creation of the Common External Tariff, also provides for the establishment of an exception regime. Consequently, initially only 85% of the goods imported from other countries will be subject to the CET (9,000 items), whose rates will range from 0% to 20%, based on each category of goods. The remaining 15% will comprise the difference exception categories set forth in conformity with the Council’s Decision 22/94” (Ana Cristina Paulo
by January 2006 when the phase of Customs Union would be then finished (completed), at least in theory, but which unfortunately was not accomplished. Thereafter, the anticipated Common Market should have been established.

These lists contain an assertive, limited catalog of goods temporarily\textsuperscript{32} exempt from the CET by the member States, which means that the import of certain goods will continue to be subject to the foreign tariffs of the importing country in the trade relations with States that do not take part in the integration process.

Ana Cristina Paulo Pereira states that these lists initially represented 300 goods for Brazil, Argentina and Uruguay, and 399 for Paraguay. Over the years, though, these lists were permitted to expand, which further expanded this catalog,\textsuperscript{33} as occurred, in particular, in the textile, electronic, chemical, IT, telecommunication and capital goods sectors.

Also in respect of the creation of the Customs Union in the MERCOSUR, one should not confuse the reasons that cause it to remain imperfect, especially in light of the ambiguous way that this subject is constantly addressed in the domestic and foreign doctrine.

It is of the essence to make clear that the fact that MERCOSUR is currently going through the still partially established Customs Union (imperfect, as mentioned) arises from the lack of perfection of a common trade policy on account of the existence of domestic lists of goods \textit{exempt from the Common External Tariff (CET)}.

It is however normal to find a few doctrinaires who assert that the existence of \textit{lists of exemptions} did not allow the full establishment of the Free Trade Zone and that,\textsuperscript{Pereira, supra note 27, at 126).

\textsuperscript{32} Temporarily because the member States agree to gradually converge their foreign tariffs relating to goods exempt from the CET. However, the dates set for the convergence with CET are always extended.

\textsuperscript{33} See Ana Cristina Paulo Pereira, \textit{supra} note 27, at 126.
for this reason, the MERCOSUR should not have moved ahead to the next phase: the Customs Union. On the other hand, other doctrinaires assert that the existence of lists of exemptions did not allow the full development of the Customs Union in the MERCOSUR and that the Customs Union was created and kept so far with an imperfect nature.

However, in adopting such standpoint, these doctrinaires allow two distinct principles observable in the MERCOSUR to be mistaken: 1) the lists of exemptions from the trade liberalization, created in the Free Trade Zone and maintained under a special regime through 1998, when they were eliminated; and 2) the lists of exemptions from the CET, created through the partial establishment of the Customs Union in the MERCOSUR.

The lists of exemptions from the trade liberalization, as described above, excluded the free transit of goods that, in posing a considerable threat to the fragile sectors of the domestic economy of one of the member States, were treated as if originating from other countries not comprising the block and were subject to import duties, however with the so-called preference margin.\(^\text{34}\)

On January 1, 1995, after the establishment of the Customs Union in the MERCOSUR, the member States were authorized to exchange goods among each other without giving rise to the obligation to pay previously prevailing import taxes. However, the tariff constraints\(^\text{35}\) continued to survive by means of a few lists of exemptions from the trade liberalization, which were adopted in the Customs Union.

\(^{34}\text{Preference Margin: percentage reduction of the prevailing tariff applied to other countries, which benefits one or a few countries without extending it to all trade partners.}\)

\(^{35}\text{According to MERCOSUR’s official website in Brazil (See BRAZIL, MERCOSUR, available at http://www.mercosul.gov.br), “the nontariff constraints, on the other hand, once identified by the member States, were equally eliminated ” (no emphasis in the original).}\)
under a special progressive elimination regime: the *Regime of Final Adequacy to the Customs Union*.\(^{36}\)

This adequacy regime sets forth that:

> [...] the goods comprising the last portion of the lists of exemptions, rather than falling into the global liberalization process on December 31, 1994, were entitled to enjoy a distinct tariff exemption program, beginning with an exemption percentage rate of 10% on December 31, 1994, which will be increased to 30% on December 31, 1995, 55% in 1996, 77.5% in 1997, and 100%, i.e., zero rate, in 1998 (the goods in the Paraguayan and Uruguayan lists follow the same procedure but beginning on December 31, 1995 through 1999).\(^{37}\)

These lists of exemptions were in place until January 1, 1998, in respect of Brazil and Argentina, and until January 1, 1999, in relation to Uruguay and Paraguay, when:

> [...] the last goods were removed from the list and the Adequacy Regime was completed, when a zero rate was charged for all intrazone trade, except for the goods from the sugar and automotive sectors, which are subject to specific, separate negotiation processes.\(^{38}\)

Consequently, in a given time during the Mercosur integration process, there were concurrently basic lists of exemptions from the trade liberalization and the Common

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\(^{36}\) The Adequacy Regime was introduced by Decision 5/94 of the Common Market Council (CMC) with the following basic features: “- The Regime allowed the maintenance of constraints already in place but under no circumstance allowed the creation of new constraints; - The tariffs charged in view of the Adequacy Regime were necessarily equal or lower than the tariff charged from countries outside the Mercosur; during the validity of the Regime, the tariff charged from countries outside the Mercosur remained invariable or converged with the Common External Tariff, and the tariff charged from countries inside the Mercosur was increasingly lower; therefore, there was a rising preference margin; - The schedule for the progressive elimination of these constraints was automatic, i.e., at the end of each year, each country was required to reduce the tariffs charged on the goods included in its list, without any possibility of renegotiation” (BRAZIL, MERCOSUR, available at http://www.mercosul.gov.br).


External Tariff, and these lists should therefore not to be mistaken, under penalty of reaching abrupt conclusions distant from reality.

Besides the creation of the Common External Tariff (CET), the MERCOSUR has adopted, in conformity with Decision 25/94 of the Common Market Council, the Common Customs Regulation, to control the receipt and shipment of goods to/from MERCOSUR.

The Customs Regulation of MERCOSUR “is the legal framework governing all customs operations carried out in this market, thereby allowing the actual implementation of the CET and other common trade policy instruments”.39

Finally, it is important to stress that the Customs Union also requires, for purposes of adjustment to the next phase (Common Market), the harmonization of taxes levied on the consumption of goods and services because only through it the full free circulation of goods will be achieved, which is the point of origin for the attainment of other fundamental economic freedom (freedom of establishment, of circulation of individuals and capital and free competition) and, consequently, the establishment of the Common Market.

The Common Market, among the phases of the regional integration process, is the ultimate goal of MERCOSUR, as deduced based on article 1, of the Treaty of Asuncion of 1991, which shall take place after 2006.40 Currently, only the European Union was successful in entering this phase.

In this phase, it is absolutely possible to identify in the relevant States the presence of fundamental economic freedom, besides the coordination of macroeconomic (tax, exchange, monetary, etc.) and sector policies (education,

39 Ana Cristina Paulo Pereira, supra note 27, at 131.

40 Elizabeth Accioly Pinto de Almeida, supra note 28, at 29.
transportation, communication, agricultural, industrial) in the block.41

A criticism faced by the MERCOSUR is that the failure to create supranational bodies under the scope of the block can hinder the development of the Common Market because the creation of these bodies would enable a homogeneous interpretation and application of the common law in the member States and would also allow the imposition of sanctions against the States that failed to comply with the rules enacted by these bodies. These measures would confer sustainability and reliability to the trade relations inside the block.

However, this standpoint is not homogeneous in the domestic and foreign doctrine42 since for a few individuals the intergovernmental nature of MERCOSUR is truly the most viable for their goals, in particular on account of the massive technical structure that the establishment of these bodies would entail, without taking into account the costs for implementation and continuous preservation.

Finally, the Economic and Monetary Union comprises the last phase that the States participating in an integration process can reach. It requires at least the harmonization of the laws in the member States in what concerns the economic, monetary and tax system and the establishment of supranational bodies to disseminate, interpret and apply the common law.

This phase presumes the full integration of the economies of member States, including the political unification. However, it does not necessarily entail the creation of a single currency, such as in the European Union, because it only symbolizes the

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41 See Frederico Padre Cardoso, Tributação no MERCOSUL: aspectos relevantes, in 2 Revista da Faculdade de Direito da Universidade Federal de Santa Catarina 52 (Síntese ed., 1999). (Br.).

consummation of that process.

The primary difference between the Common Market and the Economic and Monetary Union resides in the fact that in the Common Market macroeconomic policies are *coordinated*, whereas in the Economic and Monetary Union these policies are *combined*. This is where the European Union is inserted.\(^{43}\)

**3 Levels Of Regulatory Integration Of The States Participating In The Integration Process: Coordination, Harmonization And Uniformity**

In what concerns the regulatory integration of the States participating in the

\(^{43}\) The European Union consists of the most modern and successful regional integration process ever heard in the international community, even though it is still in the process of consolidation and incessant expansion. For this reason, it is perfectly possible to use the European Union as a paradigm, in the sense of completion of phases and the problems that, in general, the States aspiring for a similar process will face during the integrationist *iter*.

It is necessary to point out though that, in mentioning the European Union as an integrationist paradigm, the objective under no circumstance is to stimulate the idea that its steps should be followed indisputably. It is not the point.

Therefore, what is proposed is merely a descriptive analysis of the phenomenon so that, under a specific context observed in other regional integration processes (obviously including the MERCOSUR), the experiences already developed can be compared and, based on such analysis, seek alternative, adequate means (optimized) adjusted to local needs. As observed, comparing systems does not mean whatsoever freely importing them. The analysis has, in a manner of speaking, a conclusive, teleological scope.

integration process, it is possible to identify three levels: coordination, harmonization and uniformity.  

Coordination is related to the “establishment of common strategies between the States forming blocks or markets”, through the development of a certain balance between their regulatory provisions, “by means of separate measures taken by the relevant States”.

With respect to coordination, it should be pointed out that there is very little or even no regulatory similarity between the domestic legal doctrines of the States. Consequently, these States decide to apply certain measures that they mutually consider to be necessary for the achievement of the objectives of the integration process of which they are part.

In turn, the harmonization attempts to establish legislative principles to be obeyed by each country. The purpose of the harmonization is to suppress or mitigate the differences between (make compatible) the domestic law provisions. In thinking about the harmonization, the understanding of a legislative proximity between the relevant States is critical. After all, since the process is utterly gradual, the coordination set the

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44 In the domestic and foreign doctrine it is normal to identify different denominations for the levels of regulatory integration. Among the prominent studies about the matter, see Frederico Augusto Monte Simionato, Métodos de harmonização legislativa na União Européia e no MERCOSUL: uma análise comparative and Werter Faria, Métodos de harmonização aplicáveis no MERCOSUL e incorporação das normas correspondentes nas ordens jurídicas internas, in MERCOSUL: seus efeitos jurídicos, econômicos e políticos nos Estados-membros 117-142, 143-153 (Livrraria do Advogado ed., 2th, 1997) (Br).

45 Maria de Fátima Ribeiro, O preço de transferência (transfer-pricing): da coordenação à harmonização tributária no MERCOSUL, in IX Encuentro Internacional de Derecho de América del Sur – los procesos de integración en el nuevo milenio 230 (UCB ed., 2000) (Bol.).

46 Id.
basis necessary for such proximity. The actual implementation of this phase is crucial if the establishment of a Common Market is aspired because this is the very phase that indeed secures the fundamental economic freedom: the freedom of establishment, circulation of goods, individuals and capitals, and free competition.

In this regard, it is impossible to discuss a real integration in MERCOSUR if the real need for harmonization of international laws (in the block) with the domestic laws in the relevant States is ignored. However, it should be stressed that the full operation of MERCOSUR is not contingent on the elimination of all legislative differences that may otherwise arise between the domestic legal doctrines. It is sufficient to eliminate only those that can somehow negatively affect the regular operation of the block or that can hold back or deteriorate the already slow integration process in progress (negative harmonization). 47

In fact, it is necessary to praise, to a certain extent and subject to its limits, as useful or healthy to the block the preservation of certain regulatory asymmetries if they are related to the cultural-formative pattern, to the national identity of a population. This would denote a reconciliation of the objectives of the integration process (political and economic) with the highest duty of respect for national identities.

The uniformity, the last phase of the regulatory integration process that the relevant States can reach, presumes a full equality of domestic laws, assumes more than a proximity, requiring a distinctiveness of text, 48 i.e., a distinctiveness of common rules imposed to the member States.

Uniformize, semantically speaking, is to make it identical, to shape the subject being analyzed with an equal, invariable form which, in this case, is the domestic laws

47 About the negative harmonization, see Maurin Almeida Falcão, supra note 9, at 30.

48 Maria de Fátima Ribeiro, supra note 45, at 230.
of the States participating in the integration process. From the tax standpoint, it stands for the equality of tax burdens imposed on an equal taxable item, i.e., make laws relating to a given tax equal both in structural and technical-formal terms and in respect of tax rates.49

It is worth to also point out that the tax uniformity, owing to its difficult implementation, can only be identified in the phase of Economic and Monetary Union, the last phase in the integration process, through the unification of macroeconomic policies.

In this phase, the merely domestic tax objectives are replaced by the aspirations of the block as a whole. However, in order to make it possible, it is assumed that the block has established a single legislative production and interpretation mechanism, i.e., a body with full powers to preserve the preference of the member States, to edit rules that are directly valid within their territories and that are fully accepted and that prevail over their domestic legal doctrines, as already adopted in the European Union.

As described in the preceding paragraph, the uniformity requires a common legal framework (creation of supranational bodies) inside the block to be accomplished. For this reason, based on such assumption, it is possible to conclude that the MERCOSUR is far from uniformizing all laws, in particular, from the tax standpoint. After all, there are numerous obstacles to the creation of supranational bodies in the MERCOSUR since it has an intergovernmental nature.

It is the conclusion reached from reading the Treaty of Asuncion and the regulatory provisions laid down in the Brazilian and Uruguayan constitutions, specially these two constitutions because they incorporate prohibitions, for some implicit and for

others explicit, to the supra-nationality.

Consequently, discussing the level of regulatory integration (either from the tax standpoint or not) in the member States of MERCOSUR implies to confirm which degree of dedication each of the players of the integration process is determined to apply. It means to determine to which extent the member States truly wish to integrate.

To corroborate this fact, note that any more detailed, exhaustive comment, in particular on the tax harmonization, would be irrelevant if the member States of MERCOSUR were merely pursuing the establishment of a Free Trade Zone rather than a Common Market, as it has been attempted.\(^{50}\)

4 THE NEED TO HARMONIZE TAXES LEVIED ON THE CONSUMPTION OF GOODS AND SERVICES IN THE MEMBER STATES OF MERCOSUR: AN ANALYSIS OF THE VALUE-ADDED TAX (VAT)

The attainment of the main objectives of the Mercosur necessarily encompasses an exhaustive harmonization of the tax system in the member States. Any step ahead in the integration process without following this path is inconceivable since “the integration of markets leads to the harmonization of taxes”\(^{51}\).

\(^{50}\) To substantiate the foregoing, Umberto Forte highlights: “The idea inspiring the establishment of a common market has drawn the requirement to make identical, to the greatest extent possible, the tax regulations, in order to avoid any inconsistency that could be easily found in cases of considerable differences. ‘Harmonization’ means the elimination of the most severe incompatibilities between the different laws [...]” (Humberto Forte, supra note 43, at 53-54).

\(^{51}\) Misabel Abreu Machado Derzi, A necessidade da instituição do IVA no sistema constitucional tributário brasileiro, in Reforma tributária e MERCOSUL – a instituição do IVA no Direito brasileiro 28 (Del Rey ed., 1999) (Br.).
After all, the economic integration requires from its players a strenuous effort in the sense of adjusting its domestic laws, especially those directly impacting the tax area, since markets and taxes walk hand in hand with the first being to a great extent influenced by the latter in what concerns its expansion and contraction. The more positive is the tax environment the more reliably the sectors of production and circulation of goods and services will be developed, which are essential to the economic soundness of any country.

For this reason, the polished teaching of Antônio Carlos Rodrigues do Amaral when emphasizing that:

\[\ldots\] without a dependable harmonization, according to a few minimum standards, in particular from the consumption taxation standpoint, in the laws of the member States of a regional free trade agreement, such as the Mercosur, moving ahead towards the integration of markets is not completely doable, and could even be undoable.\(^5\)\(^2\)

Hence, the Tax Law is an imperative, essential driver for the harmonization within the integration process by the sheer fact that it exerts considerable influence over the economic dynamics\(^5\)\(^3\) on account of its vast effect on factors and costs of production.\(^5\)\(^4\)

For this reason, large inconsistencies between the member States about their courses of actions can give rise to numerous economic disparities among them, in particular, with respect to the geographic allocation of funds and competition capacity.\(^5\)\(^5\)


\(^{53}\) Igor Mauler Santiago. *A harmonização das legislações tributárias no MERCOSUL*, in *2 Revista do CAAP* 137 (Centro Acadêmico Afonso Pena & Faculdade de Direito da UFMG eds., 1997) (Br.).

\(^{54}\) “Factor of production: means the goods or services converted into other goods and services by means of the production process” (Divá Benevides Pinho & Marco Antônio Sandoval de Vasconcellos, *Manual de Economia* 631 (Saraiva ed., 1998) (Br.).

\(^{55}\) Claudino Pita asserts that the Tax Law can “have an effect on the superior efficiency arising from the
And what is the meaning? It means that the tax harmonization, more specifically the taxes levied on the consumption of goods and services, prevents the disproportionate treatment among the member States in what concerns funding and investments, as well as the performance of economic activities in detriment to one another. After all, the integration of these member States would mean nothing if, contrary to the combination of efforts for better insertion in the global international environment, they started to declare tariff and nontariff wars against each other.

This is the moment when the convergence of the topic to be developed takes place precisely: the harmonization of taxes levied on the consumption of goods and services in the MERCOSUR because these are the taxes that should be harmonized in the first place in order to take bold, large steps towards the much desired definite regional integration, at the risk of possible asymmetries (rules, rates, taxable basis, among others) between the member States hampering the process as a whole.

expanded market largely in two directions, both relating to the competition between the member countries: competition conditions and geographic allocation of investments (Claudino Pita, supra note 49, at 122).

Henry Tilbery stresses that “if the basic rule that the economic integration system should secure the member countries a full freedom of competition, without any inconsistencies arising from the diversity of preexisting tax systems in the member countries, is accepted as the starting point, in this case, any provisions that characterize geographic discrimination, either deliberate or not, against other members should be in that case eliminated from their tax laws. However, it is advisable that the harmonization does not set exaggerated goals and is kept, at least in the first phase, within the ‘minimum’ degree of modifications indispensable to the progress of the integration” (Henry Tilbery, Tributação e integração da América Latina 15 (José Bushatshky ed., 1971) (Br.).

Henry Tilbery notes that “in terms of harmonization of domestic taxes the introduction of ‘structures similar to indirect taxes’ is generally considered as a priority, with respecto to general taxes on the economic activity and selective taxes on consumption (excises), due to the fact that these taxes affect
Therefore, the search for a Common Market, as it is possible to infer from the name, essentially calls for an ordinary handling of the economic aspects between the member States and this necessarily entails the harmonization of these taxes through the lessening or elimination of more severe asymmetries that may otherwise exist among the member States in this phase.

Consequently, if the aforesaid harmonization is achieved, it will allow or facilitate not only the free intra-block circulation of products and services, forming the basis necessary for the achievement of other types of fundamental economic freedom but will also contribute to the future definition and adoption of the taxation system that is most suitable to the objectives of the member States of MERCOSUR, i.e., at the origin or destination.

The system of taxation at the origin means the taxation “that causes the tax to be payable in the place of production of the good, i.e., at the origin of the chain – or string – of consumption”. In this system, exports are tax-levied and imports are tax-free. In turn, the incidence of taxes at destination means that “the tax rate payable will correspond to that adopted in the place of final consumption of the good or product; therefore, in the last phase of the chain – or string – of consumption”, giving rise to the incidence of the tax in imports and the non-incidence in exports.

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59 Id. at 202.
As a result, discussing whether the tax will levy at the origin or destination is to enlighten the recipient of the tax, whose taxable event predicted in its event of incidence has been accomplished. It is, in summary, inquire to whom the revenue from the tax paid will belong.

It is also important to point out that it is customary to come across in the doctrine the information that only the Common Market, in its ideal status, would allow adopting the system of taxation at the origin, since it would be possible to presuppose, in this phase, the removal of tax borders and equalization of trade balances among the countries involved in the integration process, as it would also be possible to presume the convergence of domestic tax rates levied on the consumption of goods and services to levels similar to those found in other countries.

However, the viewpoint adopted by Antônio Carlos Rodrigues do Amaral, which recognizes the considerations above as having a more didactic nature than exactly economic, is very clever and reasonable because the fulfillment of the prerequisites for adopting the principle of origin described above would initially allow all relevant States to receive the same tax revenues, irrespective of the regime adopted, either the origin or destination regime. Consequently, the differentiation between these two systems in such a hypothetical phase of the integration would be dispensable.

It is of the essence to also emphasize that, in mentioning the harmonization of taxes levied on the consumption of goods and services in the MERCOSUR, it is mentioned with a negative connotation, i.e., the intent is not to propose “the creation of new intervention instruments in the common market”, which would give rise to the

60 Antônio Carlos Rodrigues do Amaral, supra note 52, at 29-30.
61 Maurin Almeida Falcão, supra note 9, at p. 30.
“creation of legal rules in the common area”, but only to reiterate what was mentioned before, i.e., the reduction or elimination of the more severe asymmetries that may otherwise exist among them in the domestic laws of the member States and that can negatively contribute somehow to the regular operation of the developing economic block.

The importance of the study on the Value-Added Tax (VAT) in the scope of the MERCOSUR is put into this context because, in what concerns all four countries involved in this integration process in the American Latin Southern Cone (Brazil, Paraguay, Uruguay and Argentina) and its key partners (Bolivia and Chile) having, in their domestic tax policies, a tax on the consumption of goods and services similar to

62 Id.

63 Both Bolivia and Chile are not considered as member States of MERCOSUR but only countries associated with the regional integration process.

In conformity with article 20 of the Treaty of Asuncion (March 26, 1991) and the Treaty of Montevideo (August 12, 1990), the MERCOSUR has entered into with Chile and Bolivia, respectively, the Agreements of Economic the Complementation (ACE) 35 (June 25, 1996) and 36 (December 17, 1996). These agreements do not address economic and trade issues only but also the cooperation in cultural and technological areas and physical integration matters. With the end of this transition phase, the tariff exemption program applicable to the products originating from the Signatories must be completed, encompassing the majority of the bilateral trade among them.

In light of the foregoing, Chile and Bolivia, as countries associated with the MERCOSUR, in joining this block will be required to complete the phases already completed by the member States. Thereafter, they will form, along with MERCOSUR, after completion of this preliminary phase, a Free Trade Zone, whereas Brazil, Argentina, Paraguay and Uruguay are going through a more advanced phase of the integration process, the Customs Union, although still imperfect.

This preparatory procedure relies on the principle, already described elsewhere, that the regional integration process is entirely gradual and that no phase can be ignored, under penalty of threatening the path already followed.
the VAT,\textsuperscript{64} Brazil, in connection with the division of competencies and tax revenues set forth in the Brazilian Constitution (tax federalism), different from the other member States of MERCOSUR, has adopted a tri-party framework (IPI, ICMS and ISS),\textsuperscript{65} which has been adding serious complications to the tax harmonization.

This obstacle arises because each one of these taxes (IPI, ICMS and ISS) is governed by distinct domestic political bodies, which makes it impracticable any measure by the federal government, the representative overseas of the Federative Republic of Brazil and only authority with power to enter into treaties to reduce to a greater extent and effectively the tax asymmetries with the other member States of MERCOSUR, in particular with respect to the tax on the consumption of goods and services. After all, the federal government is not authorized to change tax rates, the taxable base, grant exemptions from taxes that are not within its scope of authority set

\textsuperscript{64} Osíres Lopes Filho, contrary to the domestic and foreign doctrine, disagrees with affirmation that the tax on the consumption of goods and services in Brazil follows the “VAT”. In light of the foregoing, it is important to present his understanding: “I am tired of seeing some Brazilian writers saying that Brazil adopts the value-added tax. It does not adopt because ours is a ‘tax to tax’ system, as called by the English people. Since tax rates are different, the credit systems does not precisely taxes value added. It is similar to the countries that adopt the value added, i.e., base to base, the taxable base rather than the recurring tax. These writers deal with the addition or subtraction method, both with the same result, by always taxing this difference called as value added” (Osíres Lopes Filho, \textit{A necessidade (ou não) de inclusão dos serviços no campo de incidência do IVA, in Reforma Tributária e MERCOSUL – a instituição do IVA no Direito brasileiro} 59 (Del Rey ed., 1999) (Br.).

Antônio Carlos Rodrigues do Amaral, on the other hand, asserts that “all Latin American countries adopt, to a greater or lesser extent, taxes with a structure similar to the VAT. It is the case of all member States of Mercosur (Brazil adopts the value-added tax through the state or federal VAT)” (Antônio Carlos Rodrigues do Amaral, \textit{supra} note 52, at 26).

\textsuperscript{65} \textit{IPI}: tax on industrialized products; \textit{ICMS}: tax on the flow of goods and interstate and intermunicipal and communication services; \textit{ISS}: tax on services.
forth in the Constitution, which entails a certain degree of deceleration of the integration process since they cause the trades with other partners to become much more complex.

According to Antônio Carlos Rodrigues do Amaral, “the tax on consumption set by three distinct governmental bodies is not realistic”.66

In light of the foregoing, the integration process in progress in the MERCOSUR relies on and restlessly anticipates an extensive, intense reform of the Brazilian tax laws,67 which would considerably diminish the inconsistencies between Brazil and the tax systems of other countries of MERCOSUR. A reform that allows the Brazilian government to take action with more freedom, autonomy, safety and reliability with respect to intra-block relations, a measure that would unquestionably boost up the integration process by making it more tangible.

CONCLUSION

In light of the foregoing, it is possible to conclude that:

1) The globalization and regionalization are extremely distinct political and economic phenomena, whose origins go back to the second half of the 20th century, the result of a new phase of the global capitalism;

66 Antônio Carlos Rodrigues do Amaral, supra note 52, at 72.

67 Ubaldo Cesar Balthazar portrays three differences meanings for the term Tax Reform: 1) comprehensive constitutional tax reform (or tax base reform); 2) restricted or timely constitutional tax reform; and 3) domestic ordinary tax legislation reform. The author also stresses that a comprehensive tax reform rests in the idea of an infraconstitutional reform, in order to eliminate the so-called intricate tax laws, as cited by Alfredo Augusto Becker (Ubaldo César Balthazar, Reforma Tributária e MERCOSUL – a instituição do IVA no Direito brasileiro 05-07 (Del Rey ed., 1999) (Br.).
2) The globalization and regionalization will not be opposing phenomena on condition that the latter is not closed, i.e., provided that it does not go in a direction contrary to the multilateral trade system, thus expanding the intra-block trade in detriment to other countries and regions;

3) The regional integration processes, although demonstrating ordinary basic assumptions, vary considerably among each other but can be characterized by means of the analysis of the phases already developed, under development or expected to be developed;

4) In general, there are five phases in the regional integration process: Preferential Agreement or Tariff Preference, Free Trade Zone, Customs Union, Common Market and Economic and Monetary Union;

5) The adherence of Chile and Bolivia as States associated with the MERCOSUR gave rise to the creation of two phases in the integration process within the same block: a Free Trade Zone among them and the MERCOSUR, whereas Brazil, Argentina, Paraguay and Uruguay are in a more advanced phase (Customs Union). This conclusion corroborates the integrationist assumption that asserts that the process is gradual. Hence, since they were included afterwards in the original formation of the block, Chile and Bolivia should follow the same steps as those taken by the member States of MERCOSUR;

6) The European Union is the most sophisticated model of regional integration since it has already reached the last phase of the process: the Economic and Monetary Union;
7) The preservation of lists of exemptions from the CET and the failure to perfect a common trade policy cause the MERCOSUR to remain in the imperfect Customs Union;

8) The resignation to the Common Market in the MERCOSUR, with the establishment of types of fundamental economic freedom (freedom of circulation of goods, of establishment, of circulation of individuals and capital and free competition), presupposes the harmonization of taxes levied on the consumption of goods and services in the Customs Union phase;

9) There are three levels of regulatory integration in an integration process: coordination, harmonization and uniformity; at the moment, the MERCOSUR is concentrated on harmonizing the taxes levied on the consumption of goods and services, which would be boosted up through the adoption of the VAT in Brazil;

10) The tri-party framework of taxes levied on the consumption of goods and services in Brazil (IPI, ICMS and ISS) poses obstacles to the progress of the integration process, since it causes common trade and tax policy negotiations to become incredibly complex;

11) The integration of markets presupposes the harmonization of taxes;

12) The integration process is built gradually; no phase can be leaped over, under penalty of obstructing the path already followed;
13) Existing inconsistencies between the system used to tax the consumption of goods and services in the States participating in an integration process can negatively affect the geographic allocation of funds inside the block and stir predatory competition among them;

14) The tax harmonization sought in the MERCOSUR is primarily of negative nature;

15) In the ideal model (it must be stressed!) of Common Market, it is irrelevant to address the principle of origin of taxation, since tax borders will have been eliminated and trade balances will have been equalized in this phase;

16) The MERCOSUR calls for the reform of the Brazilian tax laws to move ahead since a reform will provide the basis for the harmonization of taxes levied on the consumption of goods and services, a practice necessary to achieve all types of fundamental economic freedom that should be present in the Common Market phase.