

With or Without You: Argentina, Brazil and NAFTA

on negotiated reciprocity. Argentina could make this case if challenged by Brazil on procurement following a NAFTA accession.

There are a number of other Chapters of the NAFTA which liberalize trade in goods in less sweeping ways. These include measures to: improve customs procedures (Chapter Five), allow for the temporary admission of goods (Article 305), provide for the duty-free entry of commercial samples and printed advertising materials (Article 306) and allow for the duty free re-entry of goods after repair and alteration. On acceding to NAFTA, Argentina would have to consider offering to Brazil these benefits unless MERCOSUR has measures which create the same obligations. These measures, however, should not be particularly controversial as they represent good commercial practices, not major new changes in course.

MERCOSUR also has a working group on duty drawback and deferral, but has not yet developed a policy in this area.⁸¹ Argentina has a temporary admissions regime which allows for the duty-free importation of raw materials and intermediate inputs for incorporation into export goods.⁸² NAFTA places significant restrictions on the use of duty drawback and deferral. Again, Argentina would, in principle, be obligated to give Brazil concessions in this area to the extent the NAFTA provisions were more favourable than those which may eventually be developed by the MERCOSUR partners. At the time of writing, it is unclear whether Argentina's temporary admissions regime is in fact used for exports to Brazil.

8.2 Investment

Trade in goods is not the only area in which Argentina's membership in MERCOSUR could create technical/legal difficulties for Argentina's accession to NAFTA. The 1994 Protocol of Colônia and the 1994 Protocol of Buenos Aires are the MERCOSUR instruments that govern investment. Colônia covers intra-MERCOSUR investment, while Buenos Aires sets out the conditions by which investment from third countries will be treated in the MERCOSUR area. The goal of Buenos Aires is to establish uniform conditions in all the member states. Article 1 of Buenos Aires attempts to guarantee a common standard by prohibiting any member state from offering third country investors conditions more favourable than those outlined in that

⁸¹ Duty drawback is a system whereby the import duty on a good is reimbursed if the good, for example, is incorporated into another product that is subsequently exported.

⁸² Economist Intelligence Unit, *Investing, Licensing and Trading Conditions Abroad, Argentina 1994*, p. 13.