

level of liberalization in this regard. It prohibits application of global safeguard measures to imports from NAFTA members unless these imports account for a substantial share of total imports and contribute importantly to the injury or threat of injury caused by these imports. MERCOSUR is forming a common global safeguards policy. If this evolves toward restricting the use of this mechanism on goods from member states, then there may well be little substantive difference with NAFTA 802.

Chapter Six of the NAFTA contains a broad range of measures related to trade in energy. If Argentina, unlike Mexico, were to accept fully this part of the NAFTA, its MERCOSUR mfn obligation would apply to a range of liberalizing provisions. In terms of the NAFTA-MERCOSUR theme of this Paper, the two most important measures (which also go beyond current WTO obligations between Argentina and Brazil) are Article 604 which explicitly prohibits export taxes and Article 605 which entails a tighter discipline more fully guaranteeing the security of supply of energy goods.⁷⁹ The MERCOSUR parties are currently looking at ways to coordinate national energy legislation but have not yet agreed to any measures affecting energy.

Government procurement is an important area where MERCOSUR has not yet worked out its policy. Chapter Ten of the NAFTA contains significant disciplines on procurement above a certain threshold of value by government entities covered by the Agreement.⁸⁰ NAFTA parties must not discriminate against goods and bidders from other Parties. Technical specifications cannot be written to exclude bidders from other Parties. There are significant disciplines imposed on the tendering process to ensure that it is fair and transparent. Moreover, joining NAFTA must involve concrete access commitments whereby certain government departments and agencies are subject to these transparency provisions with regard to purchases for their own use. The MERCOSUR mfn principle for goods could well apply for any Argentine government entities made subject to NAFTA Chapter 10. On the other hand, government procurement has traditionally been considered a carve-out from trade rules where disciplines apply only as the result of a "conditional mfn" procedure based

⁷⁹ Note that the NAFTA (through Article 314) prohibits export taxes on all goods, not just the energy products subject to Chapter 6. The language of the Treaty of Asunción is more general but it seems to prohibit export taxes by calling for the elimination of any charge on reciprocal trade related to fiscal matters. According to the Economist Intelligence Unit, Argentina presently levies no export taxes except a 6% levy on soy beans. Economist Intelligence Unit, *Investing, Licensing and Trading Conditions Abroad, Argentina 1994*, p. 27.

⁸⁰ Note that neither Argentina nor Brazil is a party to the WTO Agreement on Government Procurement.