

What does this mean? Under the terms of this Article, Argentina is bound to give its MERCOSUR partners the same benefits, with regard to merchandise trade, that it would give to its hypothetical NAFTA partners. The extent of these benefits can be determined by comparing the trade liberalizing measures of the MERCOSUR agreement with those of the NAFTA. The incomplete survey below shows that the NAFTA goes beyond the MERCOSUR in liberalizing merchandise trade. A much more detailed comparison of NAFTA and MERCOSUR obligations would be an essential part of the preparatory work for Argentina's accession to the NAFTA, but the following illustrates the challenge.

A key element of a free trade agreement is, of course, the elimination of import duties and other similar border charges between member countries. This issue would pose few MERCOSUR-related problems for Argentina upon accession to the NAFTA as it has already eliminated most of its tariffs on Brazilian imports as part of the MERCOSUR agreement. Problem areas might include Argentina's national exceptions for intra-MERCOSUR trade, but these exceptions are to be phased out. In any event, both Argentina and Brazil made commitments at the Miami Summit in December 1994 to work towards hemispheric free trade which would include tariff elimination between each other and the NAFTA countries.

The Treaty of Asunción eliminates most non-tariff barriers between members of MERCOSUR. Annex I, Article 10 states that: "As of 31 December 1994, all non-tariff restrictions shall be eliminated from the common market area." However, one analyst reports that over 200 NTBs remain in place on intra-MERCOSUR trade.⁷⁷ It is not evident from this source how many of these may be Argentine measures. If, as part of NAFTA accession, Argentina were to eliminate such an NTB, Argentina would have to decide whether to extend this liberalization to its MERCOSUR partners pursuant to Asunción's mfn obligation.

Asunción also eliminates the right of members to initiate certain emergency safeguard actions against each other in the case of import surges. Annex IV, Article 5 states that: "In no event may the application of safeguard clauses extend beyond 31 December 1994." However, the same analyst cited above states that, although bilateral actions to safeguard against injurious import surges are prohibited by Asunción, "global safeguard actions [i.e., taken pursuant to GATT Article XIX] will be allowed, but remain to be negotiated."⁷⁸ NAFTA Article 802 already provides a higher

⁷⁷ Robinson, MERCOSUR, What It Is, What It Does, p. 17.

⁷⁸ Ibid., p. 29.