
The Main Impedances for the Ratification of the Treaty between Mercosur and the European Union – the Two-Level Games Perspective

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Abstract

This article evaluates the barriers to the Free Trade Agreement (FTA) between Mercosur and the European Union (EU), as the third negotiation phase was completed in 2019. The ratification process still needs to be completed. In this theoretical-conceptual discussion, we aim to understand, through a literature review and the application of two-level game theory, how Mercosur and the EU are positioned in the negotiations concerning the main obstacles to the bi-regional agreement. The analysis shows that the agricultural and industrial aspects are the issues that have caused disputes regarding tariffs and export quotas since the beginning of the discussions. However, more recently, pressure on environmental issues such as sustainability and ecological control has made ratification difficult. Thus, it corroborates that games at both levels effectively identify the levels' influence on treaty discussions.

Keywords: Interregional Agreement; Mercosur; European Union; Obstacles; Two-Level Games

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As Principais Impedâncias para a Ratificação do Tratado entre o Mercosul e a União Europeia – sobre a Perspectiva dos Jogos dos Dois Níveis

Resumo

Este artigo avalia as barreiras do Tratado de Livre Comércio (TLC) entre o Mercosul e a União Europeia (EU), à medida que em 2019 houve a finalização da terceira fase de negociação, porém o processo de ratificação ainda não está concluído. Nesta discussão teórico-conceitual, temos o objetivo de compreender, por meio de uma revisão de literatura e da aplicação da teoria dos jogos de dois níveis, como o Mercosul e a UE estão posicionados nas negociações em relação aos principais entraves do acordo birregional. A análise evidencia que os aspectos agrícola e industrial são os quesitos que desde o início das discussões causaram disputas em relação as tarifas e cotas de exportação, entretanto, mais recentemente a pressão questões ambientais como sustentabilidade e controle ambiental dificultam a ratificação. Assim, corroborasse que os jogos dos dois níveis é eficaz na identificação da influência que os níveis possuem nas discussões do tratados.

Palavras-chave: Acordo Inter-regional; Mercosul; União Europeia; Entraves; Jogos dos Dois Níveis

1. Introduction

The contemporary network society reflects an increasingly globalized economic and social dynamic. The rapid exchange of information, capital, and cultural communication drives the growing need for agreements between countries to facilitate participation in the negotiations of this new global economy (Kegel & Amal, 2013). Economic blocs emerged as a response to the demand for economic integration, especially in the face of the advance of globalization, to protect markets in common regions, aiming to avoid losses resulting from economic globalization in internal and external markets (Bajo, 1999).

The capitalist system in the 90s until the end of 2010 was increasingly migrated to a global sphere, expanding commercial relations between countries beyond borders and promoting more comprehensive negotiations, going beyond regional boundaries. This results in increased negotiations between economic blocs (Doctor, 2007). However, according to Sanahuja (2022), we are currently experiencing a period of deglobalization, characterized by the retraction of global production chains and the return of the productive economy to more regional and national contexts, to the detriment of globalization. Within this new context, international trade theories point to significant advantages related to trade openness, such as increased investment and improved resource allocation. Thus, association agreements, free trade agreements, and other bilateral or multilateral partnerships have intensified recently (Luciano, 2020).

In this context, it is argued that the closed integrationist vision of regional economic blocs is no longer justified, with a growing trend towards bi-regional agreements being observed. In this sense, the Free Trade Agreement signed in 2019 between the European Union (EU) and Mercosur, pending ratification by the

countries involved, expands the possibilities of international relations.

Mercosur and the European Union are two regional blocs with different levels of institutionalization and development. Its Member States range from the largest economies in the world to those with smaller relative weight. Despite divergent interests between countries, both blocs seek trade and cooperation agreements aiming for mutual gains (Baltensperger & Dadush, 2019). However, the big issue lies in finding a common denominator that allows all countries involved to obtain more benefits than losses. This assessment is not based exclusively on economic indicators.

In this scenario, the Two-Level Game Theory (Putnam, 1988) emerges as a valuable conceptual tool for understanding international negotiations and the tensions inherent in the interaction between national and global levels. Thus, when it comes to multilateral talks, cooperation between states, or bilateral meetings, government leaders are recognized as the principal negotiators, tasked with participating in international negotiations that ultimately require internal approval, that is, ratification (Conceição-Heldt & Mello, 2017). This is because traditional state-centered theories are often not sophisticated enough to comprehensively analyze international agreements in which national and global aspects are intertwined.

The intricate nature of the international, regional, and domestic scenarios manifests itself in the complexity inherent in assessing the situation, especially considering the challenge posed by an agreement that has yet to be ratified. In this context, discussions on specific topics, such as the environment and government procurement, add complexity to the process. Although its conclusion has yet to be reached, it is feasible, based on ongoing negotiations over the years, to address some questions.

Within this context, this article's proposal aims to understand why the Free Trade Agreement between Mercosur and the European Union remains pending conclusion. The central premise consists of analyzing the main topics discussed and the political and economic obstacles that have impacted the ratification of the Free Trade Agreement between Mercosur and the European Union. This analysis is based on the peculiarities of two-level games, aiming for a more in-depth understanding of the reasons that explain the prolonged delay in the ratification process and the finalization of this important agreement between economic blocs.

The study is justified as the final discussions regarding the agreement are moving slowly and, at times, almost suspended between the blocs, reaching an impasse. Using the two-level game will allow a more comprehensive and critical look at the domestic issues of each bloc and international aspects of mutual interest, starting from a European perspective on the interest in the Mercosur-EU trade agreement and the point of Latin American perspective in its priorities.

This article is structured into six sections, the first containing this introduction. The second section announces a presentation on interregionalism and regional blocs. In the third part, we debate trade relations between Mercosur and the European Union. In the fourth part, we base the theory on two-level games, which is the basis of the analysis we will make of the agreement between the regional blocs. In the fifth section, we present discussions about the bases that support the deal and the bottlenecks that cause delays in negotiations. Finally, in the last section, the final considerations arising from the study are made.

2. The new look of regionalism and regional integration agreements

Among the various types of interaction in the context of relations between countries, cooperation schemes between States deserve to be highlighted. Cooperation can be conceptualized as an arrangement of relationships that does not rest on coercive elements but is legitimized within the context of the consent of participating actors, aiming to achieve mutual benefits (Kegel & Amal, 2013).

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The integration processes from the 1950s were initially configured as unique forms of cooperation between States. This integration originates from a series of primary negotiations, followed by other subsidiary negotiations to achieve the agreed objectives, which may sometimes culminate in establishing supranational structures or sharing sovereignty (Dougherty & Pfalzgraff, 2003). In turn, regional integration can also be interpreted as a process of deepening interdependence between neighboring states since the interconnection of economies allows for the reduction of disparities and the sharing of economic and commercial benefits (Nye Jr, 2009). From this perspective, the increase in complexity in interdependence is justified by the conviction that the cost/benefit ratio favors this particular form of transnational cooperation by incorporating political gains in addition to the benefits arising from economic integration.

These reflections on cooperation and interdependence between States gained new relevance in the 1990s. At that time, the global scenario was characterized by the consolidation of globalization, the deregulation of the international financial market, and the significant growth of global trade driven by commercial liberalization (Kegel & Amal, 2013).

Therefore, interregionalism, characterized as the institutional consolidation of relations between two regional blocs, emerged as a phenomenon in the international political economy in the 1990s and the negotiations of the agreement between the EU and Mercosur (Doctor, 2007). States adopted the new regionalism as an outward-oriented and liberalizing response, seeking to face the challenges posed by globalization and growing interdependence in the world economy (Doctor, 2005). Within this outlined perspective, interregionalism emerges as just another layer in the growing and multifaceted system of global governance (Hänggi, Roloff & Rüländ, 2006).

In this new stage of regionalism, as described by Baldwin and Low (2008), the influence of the Domino Theory is observed, in which regionalization is triggered by idiosyncratic effects that propagate, generating a domino effect. Thus, the growing proliferation of Regional Integration Agreements (RIAs) is related to a combination of geopolitical developments, especially multilateral and regional dynamics, and individual political decisions by countries.

This new scenario of regionalism must be approached from a global perspective. Although intra-regional dynamics are crucial to understanding the phenomenon, they are increasingly linked to worldwide transformations (Fawcett, 2008). This is justified by the fact that we verify some characteristics related to an international system previously dominated by rivalry between superpowers, a global economy in which State policies are increasingly influenced by economic globalization, and a world in which national and international borders are becoming increasingly diffuse.

We are witnessing a deep integration in this new phase, in which agreements go beyond the simple trade liberalization of goods, also covering services and investments. This type of integration is characterized by the harmonization of regulatory policies - that is, the unification of internal legislation in several areas, such as finance, taxation, banking system, intellectual property, labor and consumer legislation, environmental protection, and competition, among others - without which the liberalization of trade between the parties to the agreement would be hampered (Gavin & Langenhove, 2003).

From this perspective, the new regionalism requires understanding a multidimensional and multilevel process that is not limited to or around States. Still, it encompasses the actions of States, companies, groups, and social networks. Interregionalism should be perceived as occurring in various contexts, involving diverse actors, acting in centralized and decentralized ways, and interconnecting material, ideological, and identity aspects (Hurrell, 2005).

An additional perspective presents a broad approach to interregionalism as a deepening political, economic, and social interaction between different international regions (Hänggi, Roloff & Rüländ, 2006). This process is guided by state and non-state actors, in which external systemic pressures strengthen the internal dynamics of regionalism. On the other hand, Rüländ (2002) adopts a more specific approach, defining interregionalism as a dialogue between diverse groups that maintain more or less regular meetings focused on exchanging information and cooperation in specific political domains, such as trade and investment, environment, and crime prevention.

A multicausal framework must be employed to examine the motivations of both parties involved in interregionalism. These factors include (i) the international context of the 1990s, (ii) the strategic power preferences of political actors, and (iii) the interests of economic actors and other social agents (Doctor, 2007). Indeed, due to the motivations presented, the distinction between economics and politics is becoming increasingly complex, characterizing this phase by a multidimensional approach hitherto unprecedented. In this context, the interconnection between politics, economics, and security issues is intensifying and paramount for understanding and characterizing interregionalism.

According to Bajo (1999), there needs to be a consensus regarding studies in this area. The theorization of interregionalism is still in its infancy, and what little has been written about interregionalism and the relationship between regionalism and interregionalism tends to be descriptive rather than analytical or comparative. For Souza (2018), the diversity of regionalism theories was evidenced by the difficulty in establishing a consensus on defining and analyzing the new regionalism as a central concept. What was observed in common was a diffuse notion that a new phase had begun and the attempt to understand it. Although studies on interregionalism have not produced any new theories, Hänggi et al. (2006) point out that they helped to increase acceptance that international relations are not driven solely by power nor exclusively by cooperative motivations.

From a broader perspective, the resurgence of interest in RIAs based on interregionalism can be attributed to the need for countries to adjust to changes in the global economy amidst economic globalization. Furthermore, the increasingly widespread perception among different countries that openness to trade and stimulation of foreign direct investment plays a crucial role in national development has contributed to the reorientation of recent regional initiatives (Sampson & Woolcock, 2005).

Such interregional agreements are recognized as a new emerging manifestation of the interaction between globalization and regionalization, resulting in what is conceptualized as global regionalism (Mateo, 2006). This terminology describes the current tendency of regional integration processes to expand their geographic scope, reaching continental and even inter-regional or transoceanic dimensions. In this context, relations between the EU and Mercosur stand out, as made official by signing the Inter-Regional Cooperation Framework Agreement, often cited as a pioneering milestone of inter-regionalism.

3. A brief history of commercial relations between Mercosur and the European Union

Formal interactions between the European Community (EC) and Latin American countries began with the establishment of the institutions of the European Economic Community in 1958. At this time, EC Member States discerned the opportunity to foster and strengthen commercial and economic relations with the countries of this region (Pinto, 2006). Throughout the 1970s, according to Saraiva (2004), interactions between the European Community and Latin America advanced modestly in the economic domain. During this period, European countries showed interest in expanding markets for their exports and investments and ensuring access to raw materials. On the other hand, Latin American countries began diversifying their external partners and sought to establish relationships different from those they maintained with the United States.

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During the 1980s, while economic relations regressed, political relations advanced and assumed a more significant role. Although Latin America was considered by the European Community (EC) to be a region of secondary importance in its foreign policy, this did not imply the absence of interest in deepening relations. For Saraiva (2004), the most prominent political action for the region during this period, the inter-regional dialogue model played a crucial role, however, despite never being part of European diplomacy of North-South meetings without ever becoming a priority for the Union. Despite the mismatch between Latin American expectations and the results of these dialogues, they were fundamental for political integration between both regions.

Over the last few decades, the European Union and Mercosur have signed some agreements on different subjects (economic, financial, political, environmental, and social) that have become progressively more ambitious over time and have become known as the first, second, and third agreements. The EU recognized the need to strengthen its ties with Latin America, given the emergence of a new situation in the Southern Cone and the deepening of neoliberal globalization led by the United States (Pennaforte, da Silva Ribeiro & Bones, 2018).

Consequently, in 1995, the Cooperation Framework Agreement between the European Union and Mercosur was signed as a strategic response to the North American Free Trade Area of the Americas (FTAA) project in the South American region (Zelicovich, 2019). This agreement was designed based on three fundamental pillars: a partnership on political and security issues, economic and institutional cooperation, and the gradual establishment of a free trade zone for goods and services (Gómez-Plana, 2021). The manifest intention of this agreement is to establish an inter-regional association that connects both regions, while the latent purpose is to reach an understanding of free trade (Bulmer-Thomas, 2000). However, the negotiations faced obstacles from the beginning due to the divergent interests and objectives between the parties involved and the overlap of each bloc's comparative advantages with the counterparties' sensitive sectors.

Negotiations between the EU and Mercosur were interrupted in December 2004 due to discrepancies regarding the levels of trade liberalization advocated by each entity. On the Mercosur side, there was a perception that the European community's proposal demanded broad industrial liberalization while limited agricultural liberalization was offered (Salgado & Bressan, 2020). The proposal presented by the European Union was considerably below the expectations of the Mercosur countries, as it was restricted to offering preferential tariff quotas for the most sensitive products of the European Common Agricultural Policy (CAP), such as beef, sugar, and dairy products, products whose market is highly competitive in South American countries (Sanahuja & Rodríguez, 2019). The EU considered progress in trade liberalization in sectors such as textiles, footwear, and automobiles as insufficient.

The impasse at the multilateral level hampered the progress of negotiations on the agreement between Mercosur and the European Union while at the same time fostering incentives for the proliferation of bilateral agreements (Menezes & Paiva, 2019). Another negotiation hurdle was the subprime crisis, which affected both developed and developing countries, especially by precipitating the end of the commodities boom. After the formal resumption of negotiations in 2010, rapprochement between the two blocs became a crucial strategy, aiming to overcome the crisis through the liberalization of new markets for their products (Pennaforte, da Silva Ribeiro & Bones, 2018). This recovery gained momentum, especially after Mercosur presented a proposal for a comprehensive agreement. However, the agricultural issue remained the main obstacle, with little progress regarding the EU's primary interests. Furthermore, the public debt crisis in the Eurozone redirected Europe's focus to the bloc's internal issues, leading to the implementation of economic austerity measures among member countries (Salgado & Bressan, 2020). Despite the divergences throughout the negotiation process and the significant challenges posed to the multilateral trading system by the increase in unilateralism and

protectionism, the regional blocs sought a way to reach an agreement (Gómez-Plana, 2021).

In 2016, both blocks returned to the table for the third phase of negotiations. According to Zelicovich (2019), the resumption of negotiations should be interpreted as a response to changes in the international system resulting from the crisis of globalization and the global liberal order. Therefore, the Free Trade Agreement (FTA) between the two entities, although formalized in 2019, was conceived merely in abstract terms. The final wording still needs to be prepared and depends on ratification by the European Union and Mercosur member states. Once ratified, the commercial treaty will be implemented progressively over fifteen years, which makes its implementation almost imperceptible. However, it is essential to emphasize that the treaty has equally substantial relevance for both regional blocs and is a historic milestone in international relations (Baltensperger & Dadush, 2019; Kamath, 2020).

For Mercosur, the agreement reinvigorates the bloc's relevance in the international community, demonstrating its ability to promote and represent the countries of the Southern Cone. Furthermore, considering the crisis of South American regionalism and Mercosur, the agreement provides continuity to the block, providing a renewal (Salgado & Bressan, 2020). For the European Union, the bi-regional agreement represents an expression of interregionalism. This concept has been one of the primary modalities of its foreign policy to outline the bloc's integration model (Sanahuja & Rodríguez, 2019).

Both regional blocks exhibit structural discrepancies in economic and productive terms arising from their different positions in global value chains. This insertion discrepancy has evolved into a structural condition, reflecting divergent developments in long-term productive forces intertwined with international economic and power processes that transcend the merely commercial sphere (Ghiotto, 2022).

The member states of the European Union, as they are more industrially advanced and present significant complementarities in their productive bases, contrast with the Common Market of the South, which specializes predominantly in the production of raw materials, showing more modest levels of intra-bloc commercial exchange (Olivera & Villani, 2017). Therefore, the countries belonging to Mercosur direct their specialization towards exporting agricultural raw materials and products with lower added value. On the other hand, the EU concentrates its exports predominantly on products with a medium to high added value.

This shows that the commercial dynamics between these two blocs were characterized as asymmetric (Ventura, 2003), representing one of the main problematic points of the agreement. It is crucial to highlight that interregional negotiations were constantly overshadowed by internal issues and challenges in both regions, whether it is the expansion of the European Union eastward or the recurring economic and political crises in Mercosur (Nolte & Ribeiro Neto, 2021). However, the agreement between the European Union and Mercosur represents, above all, the reaffirmation of the relevance of economic liberalization both at a regional and inter-regional level, as a means of promoting global economic liberalization, even in an international context characterized by a rising wave of protectionism.

4. The relationship between two-level game theory and regional agreements

Investigations into trade agreements require a methodological review to understand new power dynamics and adopt more comprehensive analytical approaches capable of transcending conventional limitations. Given the scope and complexity of the accords of this magnitude, with multiple levels of analysis and different actors involved, more than an isolated analysis is often needed to elucidate the negotiations' complexity.

The conception that foreign policy is fundamentally shaped by a series of deliberate choices made by one or more agents, who act based on their interpretation of circumstances, and that such decisions result from internal processes of the State and not exclusively in response to foreign stimuli (Salomón & Pinheiro, 2013).

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This significant innovation aims to provide further relevance to domestic elements in formulating the State’s foreign policies and as a starting point for the emergence of some theories.

The theory of two-level games is an essential dissent from the rationalist mainstream approaches. It arises as an alternative within the scope of Foreign Policy Analysis studies (whether for International Relations or International Political Economy). Firstly, because it emphasizes that the State is not the only dominant decision-making agent, something that other theories still need to address satisfactorily. More state-centric theories needed a robust theoretical basis to explain the complex interactions between domestic politics and international relations. They limited themselves to considering the various domestic influences on foreign policy or offered excessively generalized analyses of the relationship between national and global issues. Second, this approach recognizes that the anarchic structure of the system or power capabilities and other variables such as commercial, political, and social factors determine international cooperation.

One of the main challenges lay in the conception of the State as a unitary and always cohesive agent, even in the face of divergences between central decision-makers regarding national and international interests. In other words, the State is a simultaneous mediator, not due to its standardization in the topics discussed or because it is isolated from internal politics, but because it is directly subject to both (Putnam, 1988).

The structure of the two-level game is by design. First, internal groups influence government structures to promote their interests. In contrast, government bodies aim to institute policy measures congruent with such interests to forge alliances with these groupings. On the other hand, national government entities strive to satisfy internal demands while simultaneously seeking to mitigate adverse impacts resulting from international factors.

The theory analytically breaks down the negotiation process of foreign policy agreements into two distinct stages: i) bargaining between negotiators, culminating in a provisional agreement - level I negotiation phase; ii) separate deliberations between domestic support groups regarding the acceptance or not of the agreement - level II ratification phase. The dynamic between these two levels becomes evident when a country that disregards internal pressures or prioritizes domestic politics over international issues fails to ratify or successfully negotiate treaties (Bjola & Manor, 2018).

Given this distinction between level I and level II, Putnam (1988) describes the win-set for a given level II support base as the set of all possible level I agreements that would be well-successful, that is, that they would obtain the necessary majority among supporters – when put to the vote. Thus, only contracts that fit within the win-set of each State will be able to be ratified by their respective level II, which has significant repercussions on the negotiating power of each negotiator and, therefore, exerts a considerable influence on the dynamic’s negotiations (Villa & Cordeiro, 2006). In other words, they are the arrangements or different agreements at the international level that would be supported at the domestic level, that is, any negotiation result on the global scene that would be ratified internally by the support base of your country. Ratifications may depend on formal voting requirements, such as legislative approval, or on more informal aspects, such as considerations about public opinion and approval ratings that political decision-makers consider (Conceição-Heldt & Mello, 2017).

For Bjola and Manor (2018), a winning set is determined by three factors. The first concerns the size of this set, which depends on the distribution of power, preferences, and possible alliances between level II participants. The second factor is associated with the nature of the ratification process; for example, in the EU, these processes are more complex, as treaties must be ratified by the European Parliament (EP) and national parliaments. Finally, the third factor concerns leaders’ political strategies to garner support or form new alliances to change internal power dynamics.

In addition to these conditioning factors for win-sets, Putnam revisits Schelling's conjecture, which proposes that a negotiator A, whose domestic scenario is heterogeneous or fragmented in terms of preferences, can demonstrate to negotiator B how certain concessions would be unacceptable in his context of national, thus limiting its room for maneuver and committing it to a limit beyond which negotiation would become unfeasible. This strategy allows the negotiator to improve his position during negotiations, taking advantage of the diversity of internal preferences (Villa & Cordeiro, 2006). In other words, Schelling's conjecture suggests that division at the domestic level is a crucial political resource in international negotiations.

5. The main barriers to the agreement between Mercosur and the European Union

The Free Trade Agreement (TLC) still attributes value and attractiveness to economic blocs, encouraging both parties involved to persist in negotiations and support the agreement's implementation. The document of this treaty is remarkably comprehensive, subdivided into three distinct pillars: (i) commercial, (ii) economic cooperation, and (iii) political dialogue.

Once ratified, the FTA mentioned above will benefit the parties involved economically. However, its relevance is not restricted to that. Signatory countries will also benefit from the provisions contained in the political and, above all, commercial pillars of the treaty. The agreement addresses several strategic areas, raising debates on science, technology and innovation, infrastructure, education, consumer rights, energy, defense, cybersecurity, combating terrorism, corruption, and organized crime. Furthermore, issues related to sustainable development and the non-proliferation of nuclear weapons are covered (Saraiva & Gavião, 2020).

It is imperative to provide a comprehensive synthesis of the fundamental aspects of the treaty under discussion to solidify the foundation for subsequent analyses of barriers to ratification. It is crucial to emphasize the commercial pillar since it is in this context that the main obstacles emerge in reaching a consensus between the parties involved, a phenomenon justified by the breadth and complexity of the topics covered.

In the commercial aspect, throughout the 3 phases of negotiations, it is noted that some crucial points are influenced by domestic groups (level II); for Mercosur members, the transformation industries represent a sector of particular sensitivity and protection, as the adoption of an international strategy aimed at primarization has encountered resistance from segments that defend a heterodox development model. By contrast, for the EU, the agricultural sector is traditionally subsidized and constitutes the most successful community policy and figures as one of the most striking symbols of the European integration enterprise (Álvarez & Zelicovich, 2020).

Thus, in this new phase, the Mercosur agricultural segment emerges as one of the primary beneficiaries of the agreement. The European Union, the world's leading destination for agricultural imports, absorbed approximately USD 182 billion in 2018, with Brazil as its second largest provider. Once the agreement is ratified, agricultural products of notable interest to Mercosur, such as coffee, tobacco, fruit, fish, and vegetable oils, will eliminate their tariffs. Furthermore, other products, such as meat, sugar, ethanol, rice, corn, and honey, will have greater access to the European market through quotas (Maduro, 2020).

The issue of import quotas concerns a quantitative restriction imposed on the circulation of certain goods. In short, once the stipulated limit of value or volume sold of a specific product has been reached, the country no longer has authorization to import it. Furthermore, import quotas are established in conjunction with differentiated tariffs, which implies that, within the limits of a predefined quantity, the product can be imported at a reduced or even exempt tariff, configuring what is known as tariff reduction. However, once the import quota stipulated for the product is reached, the tariff applied to imports undergoes a significant increase and is referred to as an extra-quota tariff (Ghiotto, 2020). Furthermore, the agreement also provides hybrid tariff treatments for some consumer goods originating from Mercosur, such as orange juice and cachaça, depending

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on specific characteristics of each product, such as the volume of packaging or even the value of the good.

It is essential to highlight that, as part of the negotiations established between both economic groups, aiming to obtain European consent for more favorable conditions for Mercosur quotas, the South American countries found themselves compelled to grant similar conditions to European products destined for their markets (Gómez-Plana, 2021). From this perspective, products such as cheese, powdered milk, infant formula, wines, sparkling wine, garlic, chocolates, and cocoa derivatives were some of the items of European origin covered by the Mercosur liberalization proposal.

The TLC in question, however, is not limited only to agribusiness issues. In industrial trade, the EU has committed to eliminating 100% of its tariffs within ten years of ratification, with around 80% of these tariffs being zeroed out when the treaty is implemented. Industrial products from Mercosur, including chemicals, machinery, medical equipment, automotive parts, textiles, and footwear, will benefit from this tariff reduction, with terms ranging from immediately after ratification up to 10 years. At the same time, Mercosur will liberalize 91% of trade in volume and tariff lines, with permission to use special customs regimes (Fonseca, 2020).

According to Kamath (2020), the FTA, within the scope of industrial trade, the EU committed, within a period of up to 10 years after ratification, to eliminate 100% of its tariffs, with approximately 80% of these tariffs being eliminated at the moment implementation of the agreement. Industrial products from Mercosur, such as chemicals, machinery, medical equipment, automotive parts, textiles, and footwear, will benefit from this tariff reduction process, with terms ranging from immediately after ratification to 10 years. At the same time, Mercosur undertakes to liberalize 91% of trade in terms of volume and tariff lines, with permission being granted for the use of special customs regimes.

In this context presented above, we return to the discussion of win-sets since, upon reaching a consensus, it is inferred that there was an overlap of the win-sets of both parties. However, if Mercosur sought more incisively for even more substantial tariff reductions, negotiations could be resumed, given the propensity of some European countries to protect their domestic agricultural markets. In short, if Mercosur expanded its win-sets to cover more advantageous tariff conditions, the European Union would go through a contraction of its win-sets due to disagreement in its Level II, and the overlapping of win-sets would no longer exist, making the agreement unfeasible.

Mercosur’s Obstacles to Ratifying the Agreement

Before discerning the obstacles faced by Mercosur during the ratification process of the Free Trade Agreement with the European Union, it is essential to comprehensively cover the ratification mechanisms applicable to this treaty in the context of this economic conglomerate.

In the Mercosur context, approval of the treaty requires the unanimous consent of all State Parties. In this sense, the Mercosur ratification procedure is bifurcated into two distinct phases: (i) negotiation and approval by the bloc’s decision-making bodies; (ii) the incorporation of approved norms into national legal frameworks through the procedures outlined by the legislation of each nation (Salgado & Bressan, 2020). Such stages of the Mercosur ratification process are equivalent to decision-making levels I and II of the two-level models. In other words, the level of the decision-making bodies of the economic conglomerate characterizes me (international) as Mercosur. At the same time, Level II (domestic) is made up of the legal systems of each of the component countries.

The intrinsic intergovernmental nature of Mercosur emerges as an obstacle to obtaining ratification. In this context, decisions are not deliberated by a singular entity unrelated to the Member States but by the states themselves (Araújo, 2018). Under this decision-making arrangement, treaty ratification is not configured as a

homogeneous procedure but rather as a set of distinct internal processes, each subject to obstacles peculiar to the sovereignty of each participating nation.

We can deduce that specific structural issues in Mercosur emerge as obstacles to implementing the FTA with the European Union and the entire functioning of the economic conglomerate itself. The Brasilia-Buenos Aires Axis concept, representing central actors within the scope of Mercosur and in the sphere of South America, tends to surpass its fellow blocs that do not occupy such a prominent position in the economic and diplomatic scenarios. This phenomenon denotes an apparent asymmetry of power within Mercosur, where the interests of the most influential nations often predominate, consequently restricting the ability of smaller nations to influence the bloc's decisions and strategic orientation (Ventura, 2003; Ghiotto, 2022).

Another aspect that is a solid obstacle to ratification lies in the political volatility inherent to the region. This instability manifests in several ways, including frequent changes of government, economic and social crises, and elements that have direct and substantial implications for the ability and effectiveness with which Mercosur countries conduct negotiations among themselves and with their economic partners, which could result in a review or even suspension of treaty negotiations. Furthermore, these events significantly impact the ability to implement trade agreements, as political instability can raise distrust regarding Mercosur countries' ability to honor the treaty's terms, thus influencing the ratification and implementation process (Salgado & Bressan, 2020).

In this aspect, ratification of the treaty demands that the agreements established follow the win-sets of both parties, which can be an arduous task, considering that internal political changes have the potential to modify these win-sets throughout the year. For example, the rise of governments with protectionist tendencies or substantial changes in domestic policies can restrict win-sets, increasing the complexity of the treaty ratification process.

The European Union's Obstacles to Ratifying the Agreement

Regarding liberalization and protectionism, one of the main challenges Mercosur faces in ratifying the FTA with the European Union lies in the technological disparity and the perceived threat that Mercosur industries have concerning European products. For Pannaforte, da Silva Ribeiro, and Bones (2018), a trade opening without a careful assessment of its medium and long-term impacts could be counterproductive for Mercosur's economic development.

Although agribusiness is the main interested party in opening the European consumer market, the agreement mustn't be restricted exclusively to this sector. According to Maduro (2020), trade liberalization with the EU could discourage national industrial production, especially considering that around 40% of industrial trade occurs within the Mercosur bloc. Within the scope of the FTA, we observe that the interactions between the dynamics of liberalization and protectionism within the bloc are complex. The technological disparities between Mercosur and the EU, together with the concerns of Mercosur industries regarding competition from European products, represent significant challenges for the ratification of the agreement.

In this context, it is crucial to begin discussions about the obstacles faced on the European side in ratifying the Free Trade Agreement with Mercosur. One of these obstacles is the EP, one of the European Union's supranational institutions, playing a central role in the treaty ratification process. The EP represents a significant barrier to the treaty's ratification process with Mercosur since the EU's decision-making and legislative process is directly linked to Parliament (Fonseca, 2020).

When we approach party issues, the marked influence of internal political dynamics and particular national interests on the European Parliament is noticeable. In this context, it becomes evident that, given the plural

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character of the EP, composed of political parties from different Member States, the decisions and positions adopted by its members are often influenced by national concerns and priorities (Servent & Costa, 2022).

The Free Trade Agreement between the EU and Mercosur presents an obstacle to ratification, as the EP uses its decision-making influence on demand adjustments and changes that reflect emerging concerns. Therefore, it is necessary to return to the second level of negotiation so that it can be rewritten according to what the EP will accept.

In the context of the agreement between the EU and Mercosur, this represents a challenge to ratification, as the EP uses its decision-making influence on request adjustments and modifications that address emerging concerns. Therefore, it becomes essential to return to the secondary negotiation stage to rewrite the treaty according to the guidelines that will be accepted. This constitutes a movement to expand the European win-set, as it expands the spectrum of options and conditions under which Parliament would be inclined to approve the treaty. However, such a measure could result in prolonged negotiations and, in some instances, significant impasses in the ratification process, especially if the EP’s interests and expectations must be aligned with those of the Mercosur countries, culminating in a scenario of disagreement between the win-sets.

Policies relating to climate and the environment are of crucial importance in the FTA negotiations. This theme emerges as a focal point for those involved in the treaty’s ratification, especially within the context of the European bloc. The EU expresses legitimate concern about the environmental implications of the agreement, emphasizing the need to strictly adhere to high environmental standards and international treaties to address climate and environmental challenges (Abdenur, 2019).

Europe’s approach to environmental protection is broad and proactive. This approach is based on a series of laws and regulations considered the most rigorous in the world, going beyond merely economic considerations (Fonseca, 2020). Europe’s concern lies in the possibility of environmental impact resulting from the ratification of this treaty since the growth in trade and demand could promote unsustainable agricultural practices, such as deforestation, to expand agriculture and livestock.

Baltensperger and Dadush (2019) argue that environmental policy has assumed an even more prominent role in the European Union’s deliberations, especially with the implementation of the European Ecological Pact (EEP), which has consolidated itself as the central element of the European Union’s economic growth strategy. This pact is based on key principles, such as precaution, prevention, and pollution mitigation at its source.

Given that the environmental issue emerges as the primary concern of European civil society and non-governmental institutions, it results in considerable political pressure on EU Member States (Level II) due to worries about the possibility of worsening environmental issues. The European Union faces a substantial challenge within the scope of the FTA with Mercosur concerning negotiations on ecological aspects (Level I), which still need to be concluded. In other words, the EU is faced with the difficult task of reconciling the need to import competitive agricultural products to meet the demands of its consumers with the responsibility to ensure that such imports do not exacerbate environmental problems and do not harm European farmers.

In March 2023, an environmental entity revealed the European Union’s proposal for a supplement to the TLC, which generated intense debates and controversies among interested parties. The Mercosur Member States vigorously contested this initiative, raising considerable uncertainty regarding the possible ratification of the Free Trade Agreement.

As mentioned above, the sudden release of the document of significant political relevance reveals the European Union’s clear intention to establish more demanding and innovative environmental standards in the context of the imminent free trade agreement with Mercosur. Furthermore, the recent approval of legislation by the European Parliament aimed at combating deforestation stands out, which could be invoked as a basis for

imposing trade restrictions on Mercosur (Tostes & Albuquerque, 2024).

These potential new requirements, if implemented, have the potential to restrict the entry of products from Mercosur into the European market, thus having significant repercussions on the development of the FTA. This scenario is interpreted as a manifestation of trade protectionism on the part of the European Union and an attempt to avoid competition in agricultural products. From the perspective of Europeans, this arises from the international projection of several events that occurred within the scope of Mercosur and the stance of the EP, which uses its decision-making influence to demand adjustments and modifications that address emerging concerns.

In this scenario, both the popular strata and the political sectors of the EU member states (Level II) demonstrated marked dissatisfaction with the environmental events taking place in Mercosur. In this context, the side letter emerges as a mechanism to expand the win-set to the European Union, as, without it, several European governments could position themselves contrary to the agreement in the same way as before the inclusion of this additional letter. Consequently, the EP could veto the treaty, and once vetoed at Level I, the agreement's text would be reevaluated at Level II. However, it is essential to point out that the side letter does not simply represent a strategy to expand the EU's advantages but rather an instrument to undermine Mercosur's development and economic growth through the FTA. Due to dissatisfaction and non-acceptance on the part of Mercosur, there is, therefore, a movement contrary to the ideal, in which the sets of favorable possibilities are restricted, reducing the chances of success.

6. Final considerations

This article achieved its initial aim by elucidating and debating the main obstacles that affect the ratification of the Free Trade Agreement between Mercosur and the European Union. Its perspective is applying the theory of two-level games to the negotiations of the agreement so that the theory shows its effectiveness in analyzing questions that are still open.

The succinct overview presented reveals that deliberations are not merely restricted to commercial aspects but permeate political, economic (notably in the agricultural and industrial sectors), and environmental issues. These issues have gained greater relevance over the years within the scope of negotiations as a result of impacts on society and strict European regulations.

In this sense, the resumption of negotiations in recent years regarding the agreement shows that the hypothesis of the two-level game approach that validation/acceptance between domestic groups would be the determining variable to be considered by countries in the cooperation process is valid above considerations of relative gains. At least in the case of negotiations between Mercosur and the EU, domestic factors (level II) still need to be fully addressed in the treaty's agricultural, industrial, and environmental discussions, highlighting some of the negotiators' concerns about ratification by the blocs.

Therefore, the FTA presents itself as a multifaceted challenge, demanding a subtle balance and an approach encompassing all these dimensions, aiming to align the interests of both blocs effectively. The agreement must be understood dynamically to maintain a broad and continuous dialogue between regional blocs. In other words, a mechanism capable of encompassing both the potential benefits and challenges inherent to different sectors and countries is essential for discussing topics of common interest. Therefore, the FTA negotiations reflect the intricate and interconnected dynamics of international politics, trade, the environment, and sustainable development.

It is essential to highlight that, regardless of the delay or complexity of the discussions on the previously mentioned delicate topics, one should not, under any circumstances, close or abandon the negotiations on the

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European Union-Mercosur Agreement as an exit strategy or as a way of pressuring a of the parties. On the contrary, it is essential to reinforce and reorient negotiations with more effective instruments, aiming to reach a consensus between the blocs.

Finally, in light of the various issues discussed in this article, the signing that took place in 2019 does not, in any way, represent the outcome of the TLC development process. On the contrary, the agreement remains subject to the possibility of not being ratified since the path to its ratification and effective implementation proves hugely complex. Thus, we see that the deal, whether ratified or not, constitutes a central element in the narrative of the inter-regional bond and the international projection of the blocs. However, this outcome will be largely conditioned by the interaction of the different levels of decisions, as outlined by the theory adopted in this study.

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