

# Spill-around in Mercosur in the 2000s: the development of channels for civil society participation

## *Spill-around no Mercosul nos anos 2000: o desenvolvimento dos canais de participação social*

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### Abstract

The aim of this article is to assess whether the institutional changes implemented in Mercosur during the 2000s impacted the political dynamics of the bloc. We argue that they were not able to alter the intergovernmental logic neither the national vision of regional integration that were established since Mercosur's foundation. Therefore, we identified the occurrence of spill-around in Mercosur in the 2000s. This article seeks to contribute to a broader understanding of Mercosur in the 2000s, especially facing the optimism and overestimate that involves Mercosur's channels for civil society participation in the public and academic debate.

Keywords: Regionalism. Mercosur. Civil Society. Participation.

### Resumo

O objetivo deste artigo é avaliar se as mudanças institucionais implementadas no Mercosul durante a década de 2000 impactaram a dinâmica política do bloco. Argumentamos que elas não foram capazes de alterar a lógica intergovernamental e a visão nacional de integração regional que foram estabelecidas desde a fundação do Mercosul. Portanto, identificamos a ocorrência de *spill-around* no Mercosul na década de 2000. Este artigo busca contribuir para uma compreensão mais ampla do Mercosul na década de 2000, especialmente diante do otimismo e superestimação que envolveu a ampliação dos canais de participação da sociedade civil do Mercosul no debate público e acadêmico.

Palavras-Chave: Regionalismo. Mercosul. Sociedade Civil. Participação.



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## INTRODUCTION

This article analyses and evaluates whether and how the institutional changes implemented in Mercosur's entail alterations in the channels for civil society participation during the 2000s, context in which governmental speeches indicated the goal to expand the role of civil society organizations, here understood as all non-state actors that represent private interest (unions, business associations, non-governmental organizations, and others), in Mercosur.

As indicated by Ramazini Júnior and Luciano (2021) and others, institutional channels for civil society participation has had little attention in regionalism and regional integration studies, especially in non-European experiences. Studies such as Malamud and Dri (2013) and Mariano, Bressan and Luciano (2017) have already addressed the question about the impacts of institutional changes implemented in Mercosur during the 2000s on civil society participation considering Mercosur Parliament (PARLASUR). However, we consider that there are differences between parliamentary and civil society participation, once parliamentarians still act in a state-led logic and civil society organizations have their own political strategies, capacities, and interests. Therefore, this article seeks to contribute to a broader understanding of Mercosur and South America regionalism in the 2000s, especially facing the optimism and overestimate that involves Mercosur's civil society participation in the public and academic debate in South America.

Theoretically, we analyse Mercosur's institutional structure considering that there are three analytical dimensions to define the characteristics of an institution: a) the narratives, materialized in the different ideas of regionalism, in the expectations around regional cooperation/integration process and in the speeches of the actors involved; b) the rules established by cooperation protocols, treaties and institutional regulations; and c) the practices identified in the action and strategies of government and civil society organizations (ANNETT, 2010; LOWNDES & ROBERTS, 2013; PIERSON, 2004).

This paper is based on the analysis of Mercosur's official documents available on Mercosur's official website ([www.mercosur.int](http://www.mercosur.int)). We analyse minutes and annexes of CMC, GMC, WSG, Specialized Meetings, and FCES meetings and official reports. We focused on the activities started by decision n. 03/26 of CMC that established the expansion of civil society participation in Mercosur as a goal for the 2004-2006 work plan. The analysis ends in 2006 with the decisions n. 22/06 and n. 29/06 of CMC that excluded civil society participation from the guidelines for Mercosur's institutional reform. Data collection and analysis were made with The New Technologies Research Laboratory in International Relations' support. We utilized python applications for automatic data collection and indexing and the software Recoll for the analysis process.

In sum, we argue that despite the changes in the discourses surrounding civil society participation from 2003 (narratives), the institutional changes implemented

in Mercosur were not able to alter the intergovernmental logic (rules) neither the national vision of regional integration (practices) that were established since Mercosur's foundation. Therefore, based on the categories proposed by Schmitter (1970, 2019) and Niemann and Schmitter (2009), we conclude that governments and civil society organizations made the option for a Spill-around strategy – institutional changes that were limited to expand Mercosur's scope of authority without any impact on its level of authority.

## THE GENESIS OF MERCOSUR

Mercosur was founded on March 26, 1991, with the signing of the Treaty of Asunción by the governments of Brazil, Argentina, Paraguay, and Uruguay. In political terms, its genesis lies in the bilateral relationship between Argentina and Brazil governments in the 1980s that was consolidated as the driving force of regional integration in South America and established the intergovernmental character, also called inter-presidencial (MALAMUD, 2005), that characterizes it until today.

Throughout the 1980s, while both countries were governed by their respective civil-military dictatorships, there was a movement to bring closer and to overcome the mistrust that had characterized the bilateral relationship until then (GARDINI, 2010). The understandings in the nuclear, energy and military areas stand out, such as the Tripartite Itaipu–Corpus Treaty, in 1979; the Cooperation Agreement for the Development and Application of Peaceful Uses of Nuclear Energy, in 1980; and Brazilian support for Argentina in the Malvinas War.

With the democratization and beginning of Raul Alfonsín and José Sarney governments in Argentina and Brazil, respectively, the bilateral partnership was consolidated. The restoration and conformation of democracy, the need to recovery credibility in multilateral organizations, common economic challenges, and the prioritization of Latin America as a space for political-diplomatic action were the main elements that strengthened political convergence and economic cooperation between them.

Since then, initiatives were developed that sought to promote economic complementarity based on the idea of gradual, sectoral, and flexible economic integration (GARDINI, 2010; MARIANO, 2000). The Declaration of Iguazu, the Program for Integration and Economic Cooperation (PICE) and the Treaty on Integration, Cooperation and Development were created for this purpose.

Despite the economic and commercial issues, we are interested in identifying who were the actors who assumed centrality in these initiatives and what was the treatment given to civil society organizations. After all, as Mariano (2000) argues, it was in these negotiations that the intergovernmental logic that characterize Mercosur's institutional structure were established.

In the Iguazu Declaration, signed in 1985, Argentine and Brazilian government created the High-Level Joint Commission for Bilateral Economic Cooperation and Integration that was responsible for accelerating the process of bilateral integration. In its art. 18, the declaration expresses the need to involve all sectors of their national communities. However, art. 19 defines that the newly created commission would be chaired by the Ministries of Foreign Affairs of the two countries and composed by other government and business associations representatives.

As noted, the emphasis was on developing binational integration based on the articulation between governments and business associations. That is, although art. 18 cited all sectors of the national communities, art. 19 summarizes participation to business associations. Furthermore, as pointed out by Mariano (2000) and Mariano (2015), the declaration did not establish how the participation of business associations should take place and, in practice, favoured government actors, especially the Ministries of Foreign Affairs and Economy.

In 1986, the Integration and Economic Cooperation Program (PICE) between the Federative Republic of Brazil and the Argentine Republic was established. The logic of gradual, sectoral, and flexible economic integration was maintained, especially given the need to allow national productive sectors to adapt themselves to the new conditions of international competitiveness (VIGEVANI, 1998).

An execution commission oversaw the implementation of PICE. This commission was composed of representatives of the Ministries of Foreign Affairs, Economy, Industry and Trade, and counted with the participation of business associations. It is worth to note that the PICE treaty expressly states that the execution of the PICE should count on the active participation of business associations from both countries.

However, despite the expected participation of business associations in the execution commission, it was consolidated a political dynamic in which business associations participated in the implementation phase and not in negotiation and decision-making. As Gardini (2010) points out, the understanding prevailed that the presence of representatives of civil society organizations, even if limited to business associations, could delay and/or impose difficulties on the negotiation process.

The articulation between Itamaraty and San Martin palace made important advances in the negotiations of economic and trade cooperation protocols, especially in sectors where there was already some level of consensus. Although, it had some domestic resistance on more sensitive issues (GARDINI, 2010). According to Mariano (2000), however, the access to the negotiations and information about its progress were concentrated and controlled by national bureaucracies with which the business associations achieved a reasonable veto power. This explains the domestic resistance on sensitive issues mentioned by Gardini (2010).

It is important to emphasize that despite the foresight of business associations in the commissions for negotiate trade protocols, the perception that governments

and domestic bureaucracies would have a greater capacity to determine the political result of negotiations prevailed and given the absence of effective regional channels for participation, business associations chose to take its demands to national bureaucracies.

This practice of neglecting regional channels in favour of domestic lobby channels has been repeated throughout Mercosur's history. After all, as Hochstetler (2007) proposes, the level of institutional openness for civil society participation and the perception of enforcement of the decisions taken in an institution are the determining elements for civil society organizations to choose strategies that favour, or do not, the action at regional or international institution.

In November 1988, faced with the difficulties of advancing on less consensual issues within the scope of PICE and, at the same time, with the aim of consolidating the protocols already negotiated, Alfonsín and Sarney signed the Treaty on Integration, Cooperation and Development. The execution of the binational integration was maintained under the responsibility of an execution commission subordinated to the Ministries of Foreign Affairs as in PICE, but without the participation of business associations representatives. Civil society organization of any sector were not even mentioned in the treaty, contrary to what had happened in previous initiatives.

With the beginning of Carlos Menem government in Argentina and Fernando Collor de Mello government in Brazil, the binational integration initiative was accelerated and altered within the framework of "open regionalism" (CEPAL, 1994). The idea of a gradual, linear, and flexible integration gave way to a project of universal, automatic, and linear trade liberalization (GARDINI, 2010). After all, the negotiation model implemented by Sarney and Alfonsín proved to be incompatible with the project of trade liberalization adopted by the new governments.

The new integration goal was materialized in the Buenos Aires Act of July 6, 1990, and in the Economic Complementation Agreement N° 14. The documents established a timetable for bilateral trade liberalization which was supposed to be completed in 1994 and created a group of binational work – Common Market Group – responsible for negotiating and implementing the agreed measures.

Paraguay and Uruguay governments, which had been monitoring the negotiations between Argentina and Brazil and participating in some PICE's protocol, joined the negotiations in 1990. After all, their economies were very dependent on the Argentine and Brazilian economies, which made the costs of not participating in the process greater than those of participating.

Thus, the creation of Mercosur was the result of political and economic commitments negotiated bilaterally between Argentina and Brazil throughout the 1980s. Institutionally, it reproduces the options of previous initiatives to centralize the process in a reduced institutionalization and to concentrate the negotiations in the Ministries of Foreign Affairs and Economy – the intergovernmental logic. Even

though business associations were expected to participate, the channels created were limited, imprecise and consultative.

In the following section, we present how this intergovernmental logic materialized in the Treaty of Asunción, in the Protocol of Ouro Preto and in the institutional channels for civil society participation, pointing out that the institutions created (rules) triggered the establishment of practices based on a national vision of Mercosur.

## MERCOSUR'S CHANNELS FOR CIVIL SOCIETY PARTICIPATION DURING THE 1990s

On March 26, 1991, the governments of Argentina, Brazil, Paraguay, and Uruguay signed the Treaty of Asunción, the legal instrument that created Mercosur. As discussed in the previous section, it is a product of the long process of political approximation and economic cooperation initiated by the Argentine and Brazilian governments since, at least, the 1980s.

The historical and ideological context for the creation of Mercosur was the called “open regionalism” (ECLAC, 1994), a context in which other important regional initiatives emerged in the American continent, such as the North American Free Trade Agreement (NAFTA) and the US proposal to create a Free Trade Area of the Americas (FTAA). The common point of these experiences was the emphasis given to trade liberalization and to measures to eliminate discrimination and restrictions on free trade whether tariff and/or non-tariff – the so-called “negative integration” (MALAMUD, 2011).

Specifically in Mercosur, there was a consensus that it was necessary to implement measures to liberalize trade and that the regional integration process was only a necessary step for the adaptation of national economies to the new demands of the international markets, in complementarity with the experience of the General Agreement on Tariffs and Trade (GATT), currently World Trade Organization (WTO) (BRICEÑO RUIZ, 2011).

To sum up, Mercosur was created to be a platform for trade liberalization and commercial insertion of its members into the international economy. Despite the name referring to a Common Market, Article 1 of the Treaty of Asunción limits the main implications of Mercosur to issues related to the free trade of goods and services and coordination of macroeconomic policies linked to competitive conditions (Vigevani, Mariano and Oliveira, 2001). That is, it laid the foundations for a strictly commercial integration aiming at a free trade area and, later, a customs union.

To this end, the Treaty of Asunción established a transition period (from March 26, 1991, to December 31, 1994) in which negotiations for the construction of the free trade area and customs union should take place. The Common Market Council (CMC) and the Group of Common Market (GMC) were responsible for that. The CMC is composed by representatives of the Ministries of Foreign Affairs and Economy of

each country, and it is the highest decision-making body of Mercosur. The GMC, in its turn, is composed by members states Foreign Affairs and Economy Ministers and representatives of the Central Banks and it is the executive body of the bloc, whose main function is to take the necessary measures to implement the decisions taken by the CMC. Finally, the Treaty of Asunción established an administrative secretariat that is headquartered in Montevideo, Uruguay, and is responsible for managing documents and public communication.

Regarding the participation of civil society, the Treaty of Asunción allowed the GMC to set up WSG (WSG) to deal with specific issues and to invite, as appropriate, representatives of private sector related to the agendas of each WSG. Therefore, the role of civil society organizations in the transition period was restricted to the GMC advisory WSG whose function was to analyse and make recommendations for macroeconomic and sectoral policies.

According to Sanchez (2007), it is symptomatic that the Treaty of Asunción and GMC's internal regulations have referred to the participation of civil society as "private sector", defined by them as social organizations with a direct interest in production processes, distribution, and consumption. Civil society participation was limited to the representation of businessmen, workers, and consumers, in line with the essentially commercial goals that Mercosur assumed in the 1990s.

GMC also established that it was up to private actors to participate only during the discussion process in the WSG and that they do not have the right to vote during the decision-making process. Despite the fragility of these channels for civil society participation, Mariano (2015), Budini (2015) and others highlight the role of the Southern Cone Trade Union Coordinating Body (CCSCS) in the sense of building a specific channel for labour issues, the WSG on Labour Affairs.

It is noted that Mercosur's institutions during the transition period showed limited openness to the participation of civil society given the idea of "private sector" and the low enforcement capacity of WSG. After all, they had advisor functions and the entire decision-making process is carried out exclusively by government representatives. Furthermore, it is important to emphasize that the political pressures for the creation of the WSG on Labour Affairs were aimed at expanding the institutional scope of Mercosur and not its enforcement capacity.

During the transition period, Mercosur's agenda was marked by an accelerated strategy to build a free trade zone, especially after the approval of the Las Leñas Protocol at the II GMC Meeting, in 1992. Technical discussions around the definition of the Common External Tariff (TEC), Mercosur's external relations (with emphasis on the position in the GATT rounds and in relations with the US and the then European Economic Community) and disciplines related to the customs union predominated.

Mariano (2015) points out that by concentrating negotiations on technical issues for the formation of the customs union, the Las Leñas protocol operated as

a “straitjacket for negotiations” (MARIANO, 2015, p. 76). It has the effect of weakening the already incipient role of civil society, especially workers unions, since the topics of interest to these groups were peripheral in the negotiation agendas. Furthermore, GMC operated as a filter for proposals coming from the WSG in which civil society representants had participated since it determined which proposals were forwarded to the CMC appreciation. Thus, at the end of the process, the decisions corresponded more to the interests of Mercosur’s member states than to the expectations of the civil society groups affected, involved and/or interested in them.

The first years of Mercosur were marked by the stimulus arising strictly from the articulation between the State bureaucracies because of its institutional structure and agenda. The negotiations were carried out in the scope of the Ministries of Foreign Affairs, Economy and Central Banks of Mercosur’s member states which already indicated the supporting role, of consultants, that civil society organizations would occupy in Mercosur (MARIANO, M. P., 2000).

The transition period ended with the signed of Protocol of Ouro Preto which established the final institutional structure of Mercosur: the Common Market Council (CMC), the Common Market Group (GMC), the Mercosur Trade Commission (CCM), the Joint Parliamentary Commission (CPC), the Economic-Social Consultative Forum (FCES) and the Mercosur Administrative Secretariat (SAM).

In its article 2, the protocol concentrated the decision-making power in the bodies with exclusive participation of the governments: CMC, GMC and CCM. The CPC maintained the functions of parliamentarians in bilateral initiatives that preceded Mercosur, namely: advising to accelerate and to facilitate domestic ratification of Mercosur’s norms and harmonization of national legislations.

The FCES was created to represent the economic and social sectors and had a strictly consultative role, as indicated in its name. It is noted that in replacement of the idea of “private sector”, there is the introduction of the term “Economic and Social Sector”, which came to encompass the business associations, workers unions and social organizations from other economic and social sectors.

The advisor mechanisms to support CMC and GMC activities that were created by the Treaty of Asunción and throughout the transition period were incorporated into Mercosur’s institutional body: Meetings of Ministers; WSG, Specialized Meetings, Ad Hoc Groups, and Technical Committees.

Indeed, as Mariano (2000) states, the Protocol of Ouro Preto built a more ramified institutional structure, defined attributions and specific channels for civil society participation which did not remain in a “limbo” as in the previous agreements. However, the dynamics of civil society participation remained practically unaltered. Furthermore, difficulties in access human and financial resources and dissatisfaction with FCES exclusively consultative role (there was no obligation for

the GMC and CMC to respond to their demands) resulted in the impossibility of exploiting the full potential of FCES.

Additionally, it is important to note that the use of the term “Economic and Social Sector” to replace the idea of “Private Sector” had little impact on the diversification of the sectors represented. The term “Private Sector” adopted in the first documents limited and determined how the different names used in later documents were interpreted by political actors, resulting in regular and frequent participation only by unions and business associations (MARIANO, 2015; SANCHEZ, 2007). The other civil society organizations had participated occasionally or even do not adhered to Mercosur. That is the case, for example, of some family farming organizations such as International Peasants’ Movement.

In this way, the institutional structure created by the Protocol of Ouro Preto consolidated the negotiation dynamic that had marked the bilateral negotiations between Argentina and Brazil in the years preceding the Treaty of Asuncion. That is: intergovernmentalism and the exclusivity of governmental actors in negotiations and in the decision-making process of regional integration.

In this sense, we argue that the intergovernmental logic of Mercosur was conformed through the rules, and it is characterized by institutions with minimal degrees of commitment between the actors and decision-making power concentrated in the foreign ministries and national governments on whom depend on the simplest everyday decisions; and by the view that the participation of civil society organizations must be consultative and restricted.

However, the impacts of this institutional dynamics were not homogeneous among civil society organizations. Transnational and national industrial companies and agribusiness entrepreneurs, despite having different expectations in relation to Mercosur, adopted practices that favour channels of direct dialogue, pressure and lobbying with governments and national ministries. As shown by Gardini (2010), during the transition period these actors had already supported the intergovernmental institutions consolidated by the Protocol of Ouro Preto since they did not find difficulties in taking their demands and ensuring that their interests were included in Mercosur’s agendas.

On the other side, the institutional structure established weakened the participation of civil society organizations that had less power resources and less capacity to act directly in national channels (trade unions, social movements, non-governmental organizations, etc.). In this period of construction of Mercosur, trade unions maintained an ambiguous relationship with Mercosur, as it was perceived as a threat to workers and, at the same time, a possibility of action to protect themselves from the effects of international trade liberalization (BOTTO, 2004). However, the lack of effectiveness of the channels created operated as a discouragement element for civil society participation. As shown by Botto (2015), regional initiatives were dehydrated by decision-making bodies. The projects of a socio-labour protocol and

an environment protocol, for example, were transformed into a charter of principles which reinforced the perception that Mercosur had reduced enforcement powers and that it was necessary to adopt domestic strategies.

Thus, Mercosur's intergovernmentalism resulted in the consolidation practices by civil society organizations that represents a national vision of the regional integration process. On the part of the actors with greater relative power, especially business organizations, there is a recurrent option in neglecting regional channels in benefit of domestic ones. At the same time, for civil society organizations that do not have efficient domestic channels for dialogue, the regional arena is perceived as an additional space for action to address domestic issues and agendas, once the perceived Mercosur and an institution with low enforcement. Furthermore, the national vision also prevails in governments who, in adverse scenarios such as the crisis of the late 1990s, resort to protection of the national interest at the expense of regional coordination of interest and strategies (MALAMUD, 2010; MALAMUD & GARDINI, 2012; PHILLIPS, 2001).

This dynamic reinforces the national vision of regional integration. As pointed out by Malamud (2010), actors with regional interests are led to demand particular decisions instead of general regional rules, given that presidents and national governments are more capable of responding to its demands. The inexistence of incentives for institutional deepening, consequently, persist.

In this same perspective, Dabène (2009) points out that the format of presidentialism in South America is a key element to understand the concentration of regional integration processes in the heads of national executives. According to the author, the domestic practice of directing lobbying to executives and not to parliaments is reproduced via institutional domestically inspired isomorphism at the regional level.

In any case, the lack of authority of Mercosur and the absence of political loyalty on the part of government actors and civil society organizations resulted in practices that weaken the legitimacy of Mercosur and consolidate the idea that the regional sphere is not the legitimate space for political action and disputes resolution.

Even after the Protocol of Ouro Preto, it is observed that civil society organizations maintained their priority in domestic channels since the consultative channels established in Mercosur - FCES, WSG and Specialized Meetings - were designed to operate as a facilitator for the domestic implementation of Mercosur's decisions and did not have an active role in the negotiations and decision-making process. They are, at most, a way to monitor the evolution of Mercosur's agendas and decisions.

## SPILL-AROUND IN MERCOSUR IN THE 2000s

The beginning of twenty-first century was marked by the reconfiguration of South American political and economic conjuncture, whose greatest expression was the so-called pink tide or left turn (HUNT, 2016; LIEVESLEY & LUDLAM, 2009). Domestically, the failure of the economic strategies adopted during the 1990s revealed the contradictions between the promises and the results of economic and trade liberalization. Internationally, the United States foreign politics to Latin America changed by prioritizing the Asia-Pacific and Middle East and acting as a veto actor in Latin America and no longer as a builder of consensus. This conjuncture enabled the emergence of regional powers, especially Brazil, and that autonomist foreign policies were put into practice.

These changes caused significant changes in the expectations regarding South American regionalism. According to Riggirozzi and Tussie (2012), a new consensus around regionalism was established – the so called post-hegemonic regionalism – characterized by the return of the development agenda and based on less formal relations and with the leading role of civil society organizations. Sanahuja (2009), who call the period as post-liberal regionalism, points out that this new understanding of how regional integration processes should take place was marked by a greater concern with the social dimensions of development, with the treatment of asymmetries between States, and with the expansion of the participation of civil society organizations in order to endow regional processes with greater social legitimacy.

Despite these and other attempts to define and conceptualize South America regionalism in the early 2000s, it is not possible to state that the initiatives developed in the period – the creation of the Bolivarian Alliance for the People of Our America/People's Trade Treaty (ALBA /TCP), the Union of South American Nations (UNASUR) and the changes in Mercosur – followed a homogeneous model.

Mercosur, in addition to its traditional economic and commercial agendas, assumed an agenda based on the intention of moving forward on issues involving the treatment of asymmetries, the consolidation of the common market and the inclusion of political and social dimensions previously absent in its agenda.

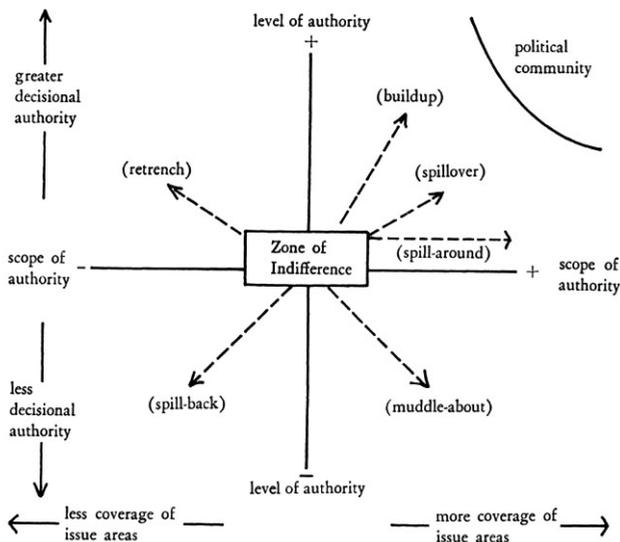
According to Briceño Ruiz (2013), a hybrid integration model was established in Mercosur. On the one hand, in the so-called Productive Axis, Mercosur was understood as part of a strategy for regional productive transformation associated with the idea of development based on the use of endogenous capacities and national resources to promote productive diversification. On the other hand, linked to the perception that it was needed to establish measures to offset the negative effects produced by trade liberalization and reduce the asymmetries between countries and within Mercosur, the social axis sought to build and apply public social policies, and create institutions that would allow civil society organizations to defend their interests and claim their rights at regional level.

From the view of governmental manifestations, the document “Consensus of Buenos Aires”, signed on October 6, 2003, by presidents Néstor Kirchner and Luiz Inácio Lula da Silva, announced the strategy of prioritizing South American in their foreign politics and expressed the will to expand political coordination between Buenos Aires and Brasilia, to strengthen, expand and deep regional integration. More than a trade bloc, Mercosur was understood by them as an initiative for building a common future. That is a clear example of the changes that had happened in the narratives surrounding Mercosur.

These changes necessarily implied in changes in Mercosur’s institutional structure to be implemented. After all, the institutions created by the Protocol of Ouro Preto was insufficient and incapable of responding to the new expectations and established goals especially regarding political coordination and expansion of civil society participation. Furthermore, it is worth remembering that the movement to rethink Mercosur’s institutional structure, in the sense of deepening it, was already on the agenda since the late 1990s (DABÈNE, 2012; PHILLIPS, 2001).

According to Schmitter (1970, 2019) and Niemann and Schmitter (2009), we can analyse changes in regional integration processes are submitted from two different dimensions: level of authority (decisions that generate changes in decision-making and/or in the level of authority/autonomy of regional institutions) and scope of authority (changes in the number of political sectors, government agencies, interest groups, political parties and social groups involved). Based on these criteria, lines of action that merge movements in both dimensions are possible, as illustrated in Figure 1 below.

Figure 1 - Institutional changes possibilities in a regional integration process



Source: reproduced from Schmitter (1970, p. 845).

It is important to highlight that this conceptual framework consider that changes in the level of authority of regional institutions are not necessarily linked to changes in the scope of authority. This theoretical consideration seems central to understanding the Mercosur experience in the 2000s, as it surpasses the classical reading of functionalism (ETZIONI, 2004; MITRANY, 1994; and others) which considered that the development of a regional integration processes would always occur in both directions, attributing an automatic character to spillover.

As showed by Figure 1, it is possible that political actors choose to move towards expanding the level of authority of a regional institution, taking decisions by majority and/or attributing binding effect to these decisions, without this implying in an expansion of the themes and actors involved (scope of authority). And vice versa. That is, in addition to the widely known spillover (expansion of the level and scope of authority), there is a possibility of buildup (only expansion of the level of authority) and spill-around occurring (only expansion of the scope of authority). Thus, in theoretical terms, when referring to institutional changes or reforms, we are dealing with processes that can alter the level and/or the scope of a regional integration process.

The document that initiates Mercosur's institutional reform is the Work Program 2004 – 2006 (DEC. 26/03 of the CMC) in which these work axes were established: Economic-Commercial; Social; Institutional and New Integration Agenda.

The analysis of the Economic-commercial axis (issues related to the Common External Tariff (TEC), customs rules and trade issues), the Institutional axis (issues related to the establishment of the Mercosur Parliament – Parlasul, of the Permanent Mercosur Court and of the Mercosur Center for the Promotion of the Rule of Law) and the New Integration Agenda axis (issues of cooperation in science and technology and physical and energy integration), although it is equally important to characterize Mercosur in the 2000s, they are beyond the scope of this article. Our focus, therefore, is on understanding how item 2.1 of the social axis which deals directly with the civil society participation unfolded.

The referred item established that Mercosur should encourage the expansion of civil society participation, considering, among others, the proposal presented by FCES, on October 3, 2003. In this proposal, FCES presents its demands regarding institutional changes and civil society participation indicating the need to consolidate the presence of FCES representatives at work meetings of the GMC and establish budget allocation to ensure the continuity and effectiveness of FCES' work.

From governmental perspectives, considering the “Consensus of Buenos Aires”, the Work Program of Mercosur 2004 – 2006 (DEC. 26/03 of the CMC) and other Mercosur's documents that were analyzed, it is clear the intention of promoting the active participation of the most diverse civil society organizations and, consequently, the abandonment of the understanding of a regional integration project restricted to chancelleries and governments.

It is worth to consider that the governments elected in the so-called pink tide are, to a large extent, the result of the mobilization of civil society organizations against the policies implemented in the 1990s. This implied in a perception that civil society organizations and elected governments were political allies and in an expectation of expanding the participation of civil society actors in all spheres of government (KIRBY & CANNON, 2012). In this same perspective, Briceño Ruiz (2012) speaks of the expectation around a “pragmatic alliance” between governments and civil society organizations in the construction of South American regional integration, and of Mercosur in particular.

Thus, there is a recognition of the need to involve civil society organizations in regional integration and cooperation agreements to create spaces capable of promoting initiatives and demands that work to strengthen regional governance in a decentralized way.

At the same time, in the recommendation presented by the FCES, it is noted the inexistence of demands to increase the level of authority of Mercosur’s institutions. The proposal is limited to actions aimed to expanding the scope of authority via the creation of new thematic institutions and inclusion of FCES representatives in GMC meetings and request for financial support.

Martins (2014) classifies Mercosur’s channels for civil society participation as restricted or expanded. By restricted, the author refers to those that were traditionally part of Mercosur’s institutional structure, notably the FCES. The expanded channels are those created after the Protocol of Ouro Preto, mostly based on the idea that civil society organizations should have a role in the management, implementation, and monitoring of public policies, both nationally and regionally.

The FCES remains the most important channel for civil society participation once it is the only one with the prerogative of making recommendations directly to the GMC and the CMC. It remains limited regarding the plurality of representation since it was created in a context where the exclusively representation of unions and businessmen was understood as sufficient (AGUERRE & ARBOLEYA, 2009).

The so-called expanded channels created and/or expanded during the 2000s, in addition to the creation of the Social Institute of Mercosur (ISM) and the Human Rights Public Policy Institute (IPPDH), we highlight the reorganization and expansion of WSG and Specialized Meetings subordinated to the GMC.

The WSG were reorganized into different areas: WSG1 - communications; WSG3 - technical regulations and technical compliance assessment; WSG4 - financial affairs; WSG5 - transport; WSG6 - environment; WSG7 - industry and production; WSG8 - agriculture; WSG9 - energy; WSG10 - labor affairs, employment, and social security; WSG11 - health; WSG12 - investments; WSG13 - e-commerce; WSG15 - mining and geology; WSG16 - public contracts; WSG17 - services; and WSG18 - border affairs.

The Specialized Meetings were expanded and now focus on family farming (REAF); cinematographic and audiovisual authorities (RECAM); drug enforcement authorities (RED); science and technology (RECyT); cooperatives (RECM); public defenders (REDPO); statistic (REES); youth (REJ); public ministries (REMPM); government agencies for internal control (REOGCI) and tourism (RET).

Furthermore, it is necessary to highlight the institutionalization process of the Social Summits and the creation of the Unit for Social Participation of Mercosur (UPS). During the *Pro Tempore* Presidency of Uruguay, in 2005, was created the *Somos Mercosur* Program which consisted of a series of activities and meetings between the Uruguayan government and civil society organizations interested in Mercosur. Based on this experience, the 1st Meeting for a Social and Participatory Mercosur was held in 2016, in which social organizations met with the Presidents of Member States to discuss the construction of a productive and social agenda for the bloc, in the heart of the idea of a social axis expressed in the 2004-2006 work plan. Later, in the same year, the 1st Mercosur Social Summit took place as an event that preceded the Mercosur President's Summit. Since then, the Social Summit has been held every six months to discuss a varied and heterogeneous agenda.

In institutional terms, it was only in 2012 that the Social Summits became part of the Mercosur's official agenda. Dec. 56/12 of the CMC established that the Social Summits must be held every six months under the responsibility of the government that holds the *Pro-tempore* Presidency of Mercosur. Furthermore, it establishes that the results of the summit will be submitted to the GMC. It is an evidence that reinforce the advisory character of the event.

The Unit for Social Participation of Mercosur (UPS) was created in 2010. It is not exactly a channel for civil society participation but rather a structure built to provide technical support to the regional performance of civil society organizations according to CMC Dec. 65/10 and 30/17. In addition to supporting the *Pro- Tempore* Presidency in the organization of the Social Summits, UPS maintains a register of civil society organizations and provides information about Mercosur's activities and manage financial resources for the participation of civil society organizations in Mercosur's meetings and events.

A comparative analysis between Mercosur's organization chart after the Protocol of Ouro Preto (1995) and currently shows the increase in the number of WSG, specialized meetings and other advisory bodies of CMC, GMC and, in a smaller number, CCM. As an example, Mercosur had ten WSG and two specialized meetings in 1995. Nowadays, it has sixteen WSG and eleven specialized meetings. It is noteworthy that more than 80% of the bodies created after the Protocol of Ouro Preto that still are in operation, disregarding those that only had their name changed, were created from the year 2000 onwards. Table 1 summarizes it.

Table 1 – Comparison of Mercosur’s Organizations Chart

	Mercosur in the 1990s	Mercosur in the 2000s
Narrative	Open Regionalism - Mercosur as a government initiative	Post-Hegemonic / Post-Liberal Regionalism - a leading role for civil society in Mercosur
Rules	Civil Society participation limited to advisory channels	Civil Society participation limited to advisory channels
Practices	National Vision of Mercosur - protection of the national interest at the expense of regional coordination of interest and strategies	National Vision of Mercosur - protection of the national interest at the expense of regional coordination of interest and strategies
Channels for civil society participation	FCES, 10 WSG, and 2 Specialized Meetings.	FCES, ISM, IPPDH, Social Summit, 16 WSG, and 11 Specialized Meetings.

Source: made by the author.

Regarding operational rules and the institutional role of these channels, however, no changes were made. The GMC’s internal regulation, responsible to regulate civil society participation, has undergone several updates since its first version (Dec. N° 04 / 91 of the CMC) but has not changed the advisory function of WSG and specialized meetings. Its article 24 maintain that the decision-making process in WSG and specialized meetings are reserved, exclusively, for governments representatives.

Therefore, it is noted that the expansion of Mercosur’s scope – the expansion in the number of social and economic sectors covered by working groups and specialized meetings –, despite allowing the formulation of proposals were not accompanied by changes in the functions of WSG and specialized meetings neither in the role of civil society organizations in Mercosur. There was no intention to deep the integration process once it would imply in changes in its level of authority.

Looking from governments perspective, Dabène (2012) states that the expansion of Mercosur’s scope of authority has a symbolic character. On the one hand, some level of political prestige is achieved in expanding Mercosur’s agenda as it produces the public feeling that the integration process is advancing. On the other hand, the regionalization of a certain agenda makes it possible to externalize criticism about the inability to solve certain problems in the domestic sphere, transferring responsibility to the incapacity of regional institutions.

For Mercosur, the simple expansion and diversification of the GMC’s advisory bodies reduces its capacity and efficiency in being the coordinator of Mercosur’s political process, given the volume of projects and demands that must be examined. That has implications in the already questionable capacity of Mercosur’s intergovernmental institutional structure to advance in the integration process.

Regarding the dynamics of civil society participation, it has resulted in segmentation and fragmentation of their activities in Mercosur, especially those organizations that have interests in different agendas and share the political effort to follow the discussions that take place within the various institutional channels. Furthermore, deficiencies arising from the absence of technical support and transparency and accountability mechanisms remains.

There is, therefore, the characterization of Spill-around in the development in Mercosur's channels for civil society participation. That is, during the 2000s, governments and civil society organizations made the option for a strategy of institutional change that was limited to expanding Mercosur's scope without altering its level of authority. There was an expansion of Mercosur's agenda and of the number of civil society organizations within Mercosur's consultative bodies (WSG and specialized meetings) and the permanence of the intergovernmental conduction of negotiations and decision-making process.

## CONCLUSIONS

In this article, we analyzed and evaluated whether and how the institutional changes implemented in Mercosur's entail alterations in the channels for civil society participation during the 2000s. We argue that despite the changes in the discourses surrounding civil society participation from 2003, the institutional changes implemented in Mercosur were not able to alter the intergovernmental logic neither the national vision of regional integration that were established since Mercosur's foundation.

We argue that Mercosur institutions are based on rules produced from an intergovernmental logic, characterized by institutions with minimal degrees of commitment between actors, with a concentration of decision-making power in the chancelleries and national governments, and for a view that the participation of civil society organizations should be limited and consultative, with negotiation and decision-making processes restricted to national governments and its bureaucracies.

Regarding practices and strategies of civil society organizations throughout the 1990s, we affirm that Mercosur's institutions and rules produced a national vision of regional integration. This aspect is materialized in the practices and options of civil society organizations in giving preference to domestic channels of action and in the fact that when they participate in regional negotiations, they do so with the objective of dealing strictly with national issues.

At last, we demonstrated that governments and civil society organizations made the option for a strategy of expansion of WSG and specialized meetings in the 2000s. Consequently, despite the discourse apparently disposed to the construction of regional political loyalty and the deepening of Mercosur, the intergovernmental rules and practices linked to a national vision remained.

We conclude, therefore, that despite the prevailing discourse that the expansion of the agenda and the actors involved in Mercosur would increase the mobilization and willingness to participate in the regional integration process and press for greater institutional deepening, the changes implemented were unable to change Mercosur's intergovernmental logic (rules) and to alter the national vision of regional integration (practices). In other words, the institutional changes carried out in the 2000s produced a broadening of Mercosur's scope of authority without altering its level of authority – the spill-around phenomena.

## References

- AGUERRE, M. J. & ARBOLEYA, I. Estrategias para un Mercosur ciudadano. In: CAETANO, G. (Org.). *La reforma institucional del Mercosur: del diagnóstico a las propuestas*. Montevideo: CEFIR, 2009.
- ANNETT, I. Historical Institutionalism as a Regional Integration Theory. *Fifth Pan European Conference*, n. First Draft, 2010.
- BOTTO, M. *La integración regional en América Latina : Quo Vadis? : el Mercosur desde una perspectiva sectorial comparada*. Buenos Aires: Eudeba, 2015.
- BOTTO, M. Los nuevos regionalismos y la acción colectiva transnacional. *Perfiles latinoamericanos: revista de la Facultad Latinoamericana de Ciencias Sociales, Sede México*, n. 25, pp. 9–42, 2004.
- BRICEÑO RUIZ, J. *La integración regional en América Latina y el Caribe: procesos históricos y realidades comparadas*. Mérida: Codepre, 2011.
- BRICEÑO RUIZ, J. New left governments, civil society and constructing a social dimension in Mercosur. In: CANNON, B. & KIRBY, P. (Org.). *Globalization, democratization and state-civil society relations in left-led Latin America*. New York: Zed Books, 2012. .
- BRICEÑO RUIZ, J. O Regionalismo Latino-americano depois do Regionalismo Aberto: novos eixos, novas estratégias, modelos diversos. In: CARMO, C. A. DO et al. (Org.). *Relações Internacionais: olhares cruzados*. Brasília: FUNAG, 2013.
- BUDINI, T. F. *Encontros com o Mercosul : a atuação de organizações da sociedade civil brasileira na integração regional*. 2015. 160 f. Universidade de São Paulo, 2015.
- CEPAL. *El regionalismo abierto en América Latina y el Caribe: la integración económica al servicio de la transformación productiva con equidad*. Santiago de Chile: CEPAL, 1994.
- DABÈNE, O. Consistency and Resilience through Cycles of Repoliticization. In: RIGGIROZZI, P. & TUSSIE, D. (Org.). *The Rise of Post-hegemonic Regionalism: The Case of Latin America*. New York: Springer, 2012.
- DABÈNE, O. *The Politics of Regional Integration in Latin America: Theoretical and Comparative Explorations*. New York: Palgrave Macmillan US, 2009.
- ETZIONI, A. The epigenesis of Political Communities at the international level. In: ROSENAU, J. (Org.). *International Politics and Foreign Policy*. New York: The Free Press, 2004.
- GARDINI, G. L. *The Origins of Mercosur: Democracy and Regionalization in South America*. New York: Palgrave Macmillan US, 2010.
- HOCHSTETLER, K. *Multi-Level Governance and Social Movements in Mercosur*. 2007, Chicago: [s.n.], 2007.
- HUNT, S. Rethinking the Politics of the Shift Left in Latin America: Towards a Relational Approach. *Bulletin of Latin American Research*, v. 35, n. 4, pp. 437–451, 2016.
- KIRBY, P. & CANNON, B. Globalization, democratization and state-civil society relations in left-led Latin America. In: CANNON, B. & KIRBY, P. (Org.). *Civil Society and the State in Left led Latin America: Challenges and Limitations to Democratization*. New York: Zed Books, 2012. .

LIEVESLEY, G. & LUDLAM, S. *Reclaiming Latin America: experiments in radical social democracy*. New York: Zed Books, 2009.

LOWNDES, V. & ROBERTS, M. *Why Institutions Matter: The new institutionalism in Political Science*. London: Palgrave Macmillan UK, 2013.

MALAMUD, A. Conceptos, teorías y debates sobre la integración regional. *Norteamérica*, v. 6, n. 2, pp. 219–249, 2011.

MALAMUD, A. La diplomacia presidencial y los pilares institucionales del Mercosur: un examen Empírico. *Relaciones Internacionales*, n. 15, 2010.

MALAMUD, A. Presidential diplomacy and the institutional underpinnings of MERCOSUR: An empirical examination. *Latin American Research Review*, v. 40, n. 1, pp. 138–164, 2005.

MALAMUD, A. & DRI, C. Spillover Effects and Supranational Parliaments: The Case of Mercosur. *Journal of Iberian and Latin American Research*, v. 19, n. 2, p. 224–238, 2013.

MALAMUD, A. & GARDINI, G. L. Has Regionalism Peaked? The Latin American Quagmire and its Lessons. *International Spectator*, v. 47, n. 1, pp. 116–133, 2012.

MARIANO, K. P. *Regionalismo na América do Sul: um novo esquema de análise e a experiência do Mercosul*. São Paulo: Cultura Acadêmica, 2015.

MARIANO, K. P.; BRESSAN, R. N. & LUCIANO, B. T. A comparative reassessment of regional parliaments in Latin America: Parlasur, Parlandino and Parlatino. *Revista Brasileira de Política Internacional*, v. 60, n. 1, 2017.

MARIANO, M. P. *A estrutura institucional do Mercosul*. São Paulo: Aduaneiras, 2000.

MARTINS, J. R. V. Mercosul: a dimensão social e participativa. In: NETO, W. A. D. N. (Org.). *O Brasil e as novas dimensões da integração regional*. Rio de Janeiro: IPEA, 2014. .

MITRANY, D. The Functionalist Alternative. In: WILLIAMS, P.; GOLDSTEIN, D. M.; SHAFRITZ, J. M. (Org.). *Classic Readings of International Relations*. New York: Heartcourt Brace College Publishers, 1994.

NIEMANN, A. & SCHMITTER, P. C. Neofunctionalism. In: WIENER, A.; DIEZ, T. (Org.). *European Integration Theory*. New York: Oxford University Press, 2009. .

PHILLIPS, N. Regionalist governance in the new political economy of development: “Relaunching” the Mercosur. *Third World Quarterly*, v. 22, n. 4, pp. 565–583, 2001.

PIERSON, P. *Politics in Time: History, Institutions and Social Analysis*. Princeton: Princeton University Press, 2004.

RAMANZINI JUNIOR, H. & LUCIANO, B. T. Regional (dis)integration beyond governments : A comparison in social and civil society participation between Mercosur and SADC. *International Area Studies Review*, pp. 1–17, 2021.

RIGGIROZZI, P. & TUSSIE, D. *The Rise of Post-hegemonic Regionalism: The Case of Latin America*. New York: Springer, 2012.

SANAHUJA, J. A. Del “regionalismo abierto” al “regionalismo post-liberal”. Crisis y cambio en la integración regional en América Latina. *Anuario de la Integración Regional de América Latina y el Gran Caribe*, v. 7, 2009.

SANCHEZ, M. R. É possível pensar em sociedade civil no Mercosul? *Cena Internacional*, v. 9, n. 1, 2007.

SCHMITTER, P. C. A Revised Theory of Regional Integration. *International Organization*, v. 24, n. 4, pp. 836–868, 1970.

SCHMITTER, P. C. Defining, Explaining and, then, Exploiting the Elusive Concept of “Governance”. *Fudan Journal of the Humanities and Social Sciences*, v. 12, n. 4, p. 547–567, 2019.

VIGEVANI, T. *Mercosul: impactos para trabalhadores e sindicatos*. São Paulo: LTr, 1998.