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7. NAFTA Between SPP and UNASUR

SUMMARY: I. Introduction. II. The Incomplete Promises of NAFTA. III. Undesired Economic Effects. IV. Security and Prosperity Partnership of North America (SPP). V. Union of South America's Nations (UNASUR, by its Spanish Acronym); VI. Conclusions. VII. Bibliography

I. Introduction

The North America Free Trade Agreement (NAFTA) has accomplished its trade opening stages, creating a free trade area between Canada, the United States of America and Mexico. If it would managed to success on the convened objectives of its agreement preface, at this point, we would be preparing the necessary instruments to go thru a custom union in a North America common market perspective.

However, in the past fifteen and half years, Mexican economy has not only held, but decreased (less than 6% of GNP). Income inequality has grown and poverty has doubled. Our neighbor militarized the common borders at the same time that he build an ignominious wall of more than a thousand miles long, as well as reestablishing the “buy American” policy (symbol of a really strange business partner). Canada on its hand imposed traveling restrictions (Visas) on compatriots, detonating another unfriendly sign between business associates.

The breach of NAFTA pacts and the deep (social and economic) crisis of the country force us to reflect about it, because there has been offered in return of this failure a Security and Prosperity Partnership of North America (SPP), that should be discarded from the beginning and, on the contrary, stretch our geopolitical view over the Union of South America's Nations. In which center Brazil merges as the successful and pragmatic leader for a new political-economic model, that Mexico shall observe close and carefully.

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II. The Incomplete Promises of NAFTA.

NAFTA, on article 102 establish the following objectives:

1. The objectives of this Agreement, as elaborated more specifically through its principles and rules, including national treatment, most-favored-nation treatment and transparency, are to:

- eliminate barriers to trade in, and facilitate the cross-border movement of, goods and services between the territories of the Parties;
- promote conditions of fair competition in the free trade area;
- increase substantially investment opportunities in the territories of the Parties;
- provide adequate and effective protection and enforcement of intellectual property rights in each Party's territory; thank
- create effective procedures for the implementation and application of this Agreement, for its joint administration and for the resolution of disputes; and
- establish a framework for further trilateral, regional and multilateral cooperation to expand and enhance the benefits of this Agreement.

2. The Parties shall interpret and apply the provisions of this Agreement in the light of its objectives set out in paragraph 1 and in accordance with applicable rules of international law.

Passed fifteen years from its sign, we can register the following:

In regard to objective a), the merchandise trade area has been completed partially. On the other side, the services market there has been blocked by the prohibition on the Mexican transport, as well as the border wall that limits the access to agricultural workforce, especially in the rural areas.

In regard to objective b), there is not loyal competition in farming products. Governmental subsidies are applied to the whole American agricultural sector and there is not an advance on the promised dismantling.

In regard to objective c), promised investments have reached the acquisition of supermarket chains and efficient insurance companies (Hidalgo Insurance Company) that worked positively before NAFTA. Agricultural coastal terrains have attracted investment in important and significant tourist projects. There has not been investment in agricultural production, even after the 1992 constitutional reform on agriculture. It seems that our neighbors are not interested in the development of national agro-production, but in been the only food supplier for Mexico.

In regard to objective d), intellectual property rights have worked partially. Nevertheless, the informal economy and incremental piracy in the Mexican market, as well as triangular trade that transits by the US, coming from China (apparently allowed by Mexican authorities) is evident.

In regard to objective e), the conflict-solution binomial has a limited existence. Chapter XX has only presented only three cases. Chapter XIX (antidumping) has had a relative appliance, 80 affairs; and Chapter XI (investment) has shown a poor use and with mediocre results for Mexico. These mechanisms have a lack of institutionalism and the asymmetry of the business partners is evidenced on their limited operation (arbitration panels have been paralyzed for five years).

In regard to objective f), as a consequence of the 9 – 11 terrorist attack, international cooperation has been oriented to national security issues that have resulted in programs such as SPP and Merida Initiative. These programs are a great concern to US, but they have only a partial interest for Mexico and Canada.

III. Undesired Economic Effects.

This evaluation that evidence the limited accomplishments – multiplication of triangle triangular trade, more variety of products to the Mexican consumer, partial economic modernization as well as “internationalization” of Mexicans –, must be complemented with two undesired economic effects: a) food import dependency and, b) arbitration awards breach in the matter of national transports¹.

A) Food import dependency and the field crisis.

The agricultural deficit balance has increased in more than three percent during the present decade.

On year 2000, food imports exceeded the Mexican vegetable and fruit exports for 122 million dollars. By year 2008 this imbalance reached 3.972 billion dollars according to the statistical appendix of the third government annual report of President Felipe Calderon.

Additionally, this document exposes that between the years 2000 and 2008 there has not been any increase in the surface intended for the agriculture sector nationally. Mexico maintains the same percentages shown in 1990: 15 percent for agricultural activities, 58 percent to livestock activities and 23 percent to forestry activities.

Besides, the area harvested with grains and oilseeds was reduced almost on a million hectares, passing from 14.2 to 13.3 million on the mentioned period. Furthermore, the area of

¹ WITKER, Jorge (Coordinator). *The North America Free Trade Agreement (NAFTA). Juridical Evaluation: Ten Years After, Mexico*, Instituto de Investigaciones Jurídicas – UNAM, 2005.

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temporal harvest of these products fell 6 percent although the harvest area on risky terrain increased from 17 to 22 percent².

In general terms, Mexican agricultural and fishery production has only represented around 4 percent of the gross national product (GNP) in the last two administrations. Contrasting with the 5.5 percent shown on 1995, when a strong economy crisis trembled Mexico.

In brief, the agriculture sector on the NAFTA period has not has any positive change. On the contrary, today grain imports have reached the overwhelming quantity of 10 billion dollars a year.

B) Decree of an arbitration award on favor of Mexico in the national transports issue.

The United States of America has not allowed Mexican transports to operate in US territory, in door to door transport services. Mexico has tolerated the circulation of American trucks in Mexican territory, without practicing its retaliation right on this matter.

This disparately situation was taken to a panel on Chapter XX, arbitration concluded in February of 2001, sentencing the US for a violation of the national treatment and most-favoured-nation (MFN) principles.

The panel resolution on favor of Mexico was not officially published by its government showing submission on public policies against the national interests.

Since 2001, the National Transports Chamber CANACAR (by its Spanish acronym), has carry out many actions before the Federal Government, reporting that foreign trucks have even confiscated interior load (coaster) on a clear violation to federal law, without any intervention of the Department of Communications and Transport.

In the middle of this breaches, on September 2007 a pilot program was agreed, allowing Mexican and American trucks to operate on both side roads without any restriction whenever they fulfill the necessary requirements (depending on the number of trucks), trying in some measure to keep the pact made on 1994 NAFTA³.

However, on February 2008, the United States Congress decided to cancel the funding to maintain the pilot program. As a result, Mexican government took a tariff reprisal equivalent to 2.5 billion dollars on American exports to Mexico, on strategic agricultural and forestry products such as Christmas trees on April and May⁴.

² Third Government Annual Report of President Felipe Calderon.

³ Witker, Jorge. "Criteria for the evaluation of the juridical experience of NAFTA. A case study: the loading transports", after ten years of NAFTA in Mexico; Mexico, UNAM-CISAN, 2006.

⁴ 20 Mexican – American Companies, with 61 trucks entered the US and 6 American side companies, with 46 trucks entered Mexico according to the US Department of Labor data, on its vehicle portal. <http://www.portalautomotriz.com/>

As a consequence, the US requested the Mexican government to reestablish the demonstrative pilot program, although the **American** truck entry to Mexico has not ceased, proving an unacceptable imbalance over the Mexicans dignity⁵.

In order to counteract the negative effects, the second numeral of article 102 of the Trade opens a legal way to modify or denounce it, which has been constantly violated. Indeed, it establish that “The Parties shall interpret and apply the provisions of this Agreement in the light of its objectives set out in paragraph 1 [Not accomplished objectives] and in accordance with applicable rules of **International Law**.”

A harmonic interpretation tells us that whenever the designed objectives are not obeyed, the Vienna Convention on the Law of Treaties (signed by Mexico) authorizes the country to denounce the NAFTA and apply the World Trade Organization discipline because it is a treaty signed later between the three countries, this is: Canada, the United States of America and Mexico (In accordance to article 31 of this Convention).

IV. Security and Prosperity Partnership of North America (SPP).

On March 23rd of 2005, the heads of state of Canada, Mexico and the United States⁶ signed the “Security and Prosperity Partnership of North America (SPP)”. Two arguments conforms its agenda: 9 – 11 events marked the beginning of a new era, in which both, economy and security issues are related intimately. In the same way, the transformation of the global market and the new potencies investments such as China and India create the need of a more efficient and coordinated group between the commercial partners in North America.

1. **Prosperity Agenda.** To promote **economic growth, competitiveness and life quality** in North America thru a concrete agenda focused to:

- Increase productivity;
- Reduce trade and transaction costs;
- Promote on a mutual responsibility basis with ecological system, the creation of a more reliable and secure food supply, easing agricultural products trade and the population’s protection against illnesses.

2. **Security Agenda.** Develop a common approach in **security**, in order to protect North America. Emphasizing actions:

⁵ Witker, Jorge. “Criteria for the evaluation of the juridical experience of NAFTA. Ob. Cit.

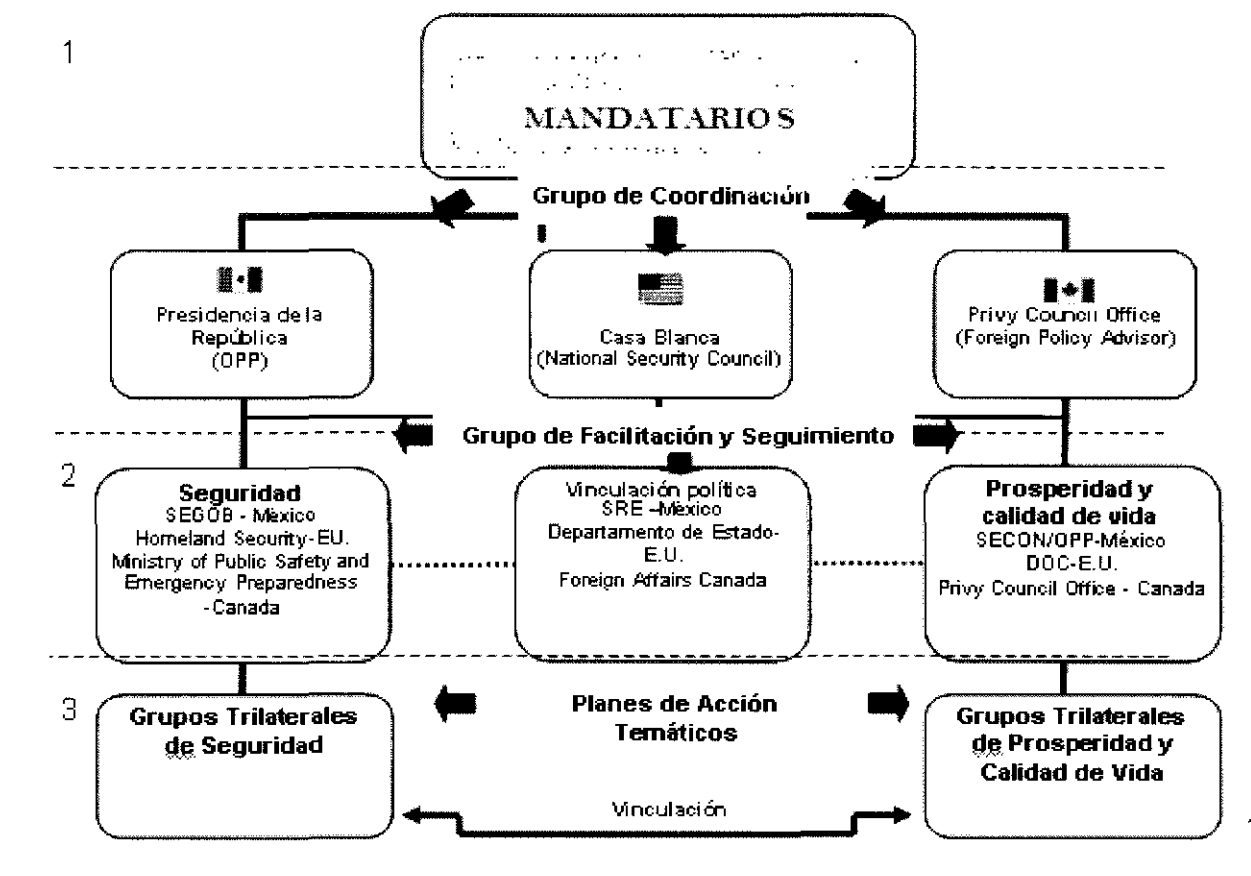
⁶ Signed by Vicente Fox Quesada representing Mexico, George W. Bush for the United States of America and Canada’s prime minister Paul Martin.

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- Protect North America region against external threats;
- Prevent and answer threats in the North America region;
- Increase efficiency of low risk secure internal transit thru our shared customs.
- The Alliance starts from the fact that now in days, security and prosperity are mutually dependent and complementary.
- Likewise, it complements bilateral and trilateral efforts that nowadays are running in economic and security matters. It revitalizes other aspects of cooperation in the region to increase life quality such as environment and public health, investment in our people thru academic and scientific exchange programs.

In order to ease operation and tracking for the SPPs actions, the heads of state have named a group of 9 secretaries/ministers (3 from each country), assigning them the following tasks:

1. Tracking to Working Groups than integrate the security agenda.
2. Tracking to Working Groups that integrate prosperity agenda.
3. Tracking and facilitation of politic relations.



⁷ <http://aspan.fox.presidencia.gob.mx/> Web search made on September 17th of 2007.

In the SPP's design background, it pretends to strength the subordinated integration model to the interest of the US as a country, as well to the big transnational enterprises that have control over the state power.

With SPP, corporations have taken power explicit and institutionally of the subordinated integration process. Nowadays, this process has reached agreements that have an impact on the long term with no participation from the Congresses.

In the 2006 meeting, the North America heads of state promoted the creation of the North America Competitiveness Council (NACC) to collect from the private sector recommendations about their priorities in the SPP framework. On February 2007, the SPP presented its first report to the ministers of SPP, including 51 district action recommendations over the SPP's framework in three priority areas: Border line facilitation and cooperation, regulatory standards and energetic integration.

In the SPP there is no participation from the government representatives. Big corporations are the ones that come to agreements, pushing governments to the execution and facilitation functions of the achieved agreements by the private sector.

The SPP makes explicit the relation between the trading agreement and the security issues, using the argument of integration. SPP's agreements demand the modernization of military and police forces in Mexico, which work out very conveniently considering the equipment purchase and the training provided by the US agencies (always looking to extend weapon and military gear trade).

A good example in this kind of actions is that recently was announced the participation of DEA and FBI in a training program for the Mexican army, investigation federal agency (AFI) ad federal police (PFP). It has been told that the main objective is homogenization of strategic plans for the drug combat in the three government levels. Even though the "qualified help", the United States continue being the biggest market for illegal drugs.

Other plans considered by SPP are the militarization of Mexico's southern border, moving to the interior of the country custom and immigration offices (possibly with the participation of US agents) and the use of biometric identify mechanisms in the "Smart Border" program.

The Merida Initiative, which contained a team coordinated help and military logistic of around 300 million dollars, is a clear evidence that SPP is an instrument that the US has designed on a economic growth and prosperity scheme that is not convenient for Mexico.

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V. Union of South America's Nations (UNASUR).

On December 8th of 2004 in the city of Cusco Peru was conformed de Union of South America's Nations, which establishes and implements progressively its levels and action spheres, promoting convergence over the existing institutional base (avoiding effort duplicity) without implicating new financial expenses for the member countries⁸.

According to its geographical extension, vast natural resources, among other aspects that will be analyzed later, UNASUR in the globalization phenomenon context has a great potential that if is correctly used can place its members as world potencies in cooperation and unity. UNASUR represents:

- The fourth population space. On 2007 it had 377 million people; this is approximately 80 million habitants more than the US and 83 million less than the European Union.
- The number one supplier and exporter of food worldwide. The South America region is characterized by its intense farming activity, highly dynamic and designed for the satisfaction of the exporting markets.
- One of the biggest reserves of fresh water in the world: South American countries have 27 percent of the total fresh water reserves.
- An active regulator of ecological balance thru the Amazonia management: the South America Amazonia is the biggest hydrographic basin in the planet. It implies by itself the cooperation and coordination of eight of the 12 countries of South America (Brazil, Peru, Venezuela, Colombia, Bolivia, Ecuador, Guyana and Surinam). South America also has 8 million square kilometers of forests.
- A great oil and gas reserves, high enough to satisfy the regional market for another hundred years: The hydrocarbon reserves shown in the region would be enough to satisfy the UNASUR demand of energy over the century. The energy potentiality of South America is a central component of the international geopolitics, leaded by Brazil.

The official languages of UNASUR are Spanish, English, Portuguese and Dutch.

Its construction process had two fundamental landmarks in the Brasilia meeting (September 30th of 2005) and the Cochabamba meeting (December 9th of 2006), where the heads of state gave specific

⁸ Vieira Posada, Edgar. The creation of regional spaces in the Latin America integration. Bogota, Colombia, Pontificia Universidad Javeriana. 2008, page 21.

instructions to depth into integration. Likewise, a Strategic Reflection Commission contributed with the bases to the creation of UNASUR⁹.

The Improvement and development of UNASUR would promote the following processes:

- Political and diplomatic concentration and coordination in the region.
- Convergence between Mercosur, Andean Community¹⁰ and Chile. Surinam and Guyana would be able to associate in this process without detriment of their commitments for Caricom¹¹.
- Physical, energetic, and communication integration in South America. Driven by the Initiative for the Integration of Regional Infrastructure in South America (IIRSA).
- Harmonization of rural development and agro alimentary policies.
- Technology transfer and horizontal cooperation in all science fields, education and culture.
- Increasing interaction between companies and society.

UNASUR members are: Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Guyana, Paraguay, Peru, Surinam, Uruguay and Venezuela.

Its specific objects are:

- Strength of political dialogue between members that guarantee a concentration space to reinforce South American integration and the participation of UNASUR in the international scene.
- Human and social development with equality and inclusion in order to eradicate poverty and overcome inequalities in the region;
- Eradicate analphabetism, universal access to quality education and regional recognition of studies and study titles;
- Energetic integration to an integral, sustainable and solidary use in the region;

⁹ UNASUR surges as a worldwide economic and political actor. Available in:

<http://www.bolpress.com/art.php?Cod=2008052306> (Web search made on September 14th of 2009)

¹⁰ Andean Community (CAN) is formed by Colombia, Ecuador, Peru and the organs and institutions of Andean Integration System (SAI). The common objective is to reach an integral development more balanced and autonomous thru the Andean, South American and Latin American integration. The Andean integration process began with the sign of the Cartagena Agreement on May 26th of 1969. Before 1996 it was known as the Andean Pact or Andean Group.

¹¹ The Caribbean Community (Caricom) arises in 1958. As a result of 15 years of negotiations promoting regional integration. It was created with three main objectives: 1) Stimulate economic cooperation in the center of a Caribbean common market; 2) Strengthen politic and economic relations between the members; 3) Promote education, culture and industry cooperation between the community countries.

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- Infrastructure development for regional interconnection, according to social development and sustainable economic criteria;
- Financial integration through the adoption of mechanisms compatible with economical and tax policies between members;
- The protection of biodiversity, hydric resources and ecosystems, as well as cooperation in the catastrophe prevention and the fight against the causes and effects of climate change;
- Development of concrete and effective mechanisms for the overcome of social asymmetries, achieving an equal integration;
- The consolidation of a South American identity through progressive recognition of rights for the state's residents and nationals in any other state member, with the objective of reaching a South America citizenship;
- Social welfare and social security universal access;
- Migration cooperation with an integral focus, under total human rights and labor rights respect for migratory regularization and politics harmonization;
- Economic and trading cooperation to achieve the necessary advance and consolidation of an innovating, dynamic, clear, equitable and balanced process that consider an effective access, promoting economic growing and development to get over social differences through complementation of economies in South America, as well as promoting wealth in all population sectors in order to reduce poverty levels;
- Productive and industrial integration putting special attention in medium and small companies, cooperatives, networks and other production organizations;
- Definition and implementation of policies and common projects of investigation, innovation, transference and technology production with a view to increase own capability, sustainability and scientific development;
- Diversity on cultural diversity, memory expressions and knowledge of the region natives to strength their identities;
- Citizen participation through integration and dialogue mechanisms between UNASUR and the diverse social actors in the formulation of integration policies in South America;
- Coordination between specialized organisms of the member states, considering international regulation, in order to strength the fight against terrorism, corruption, drugs, white-slave traffic, small and light arms traffic, transnational organized crime and other treats, as well as disarmament and nuclear and mass destruction weapon non-proliferation;

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- Promotion on cooperation between the judicial authorities of UNASUR state members;
- Information and experiences exchange in defense issues;
- Cooperation for citizen security strength, and
- Sectorial cooperation as a specialized mechanism for South American integration through information, experiences and training exchange¹².

The UNASUR structure is divided in Heads of State Council, Foreign Relations Ministers Council, Delegates Council and the General Secretary. The South America Energy Council, created in the Declaration of Margarita (April 17th of 2007) is part of UNASUR¹³.

Throughout the 24 meetings celebrated between March of 2007 and May 2008, at several South American capitals, the countries set up the bases to elaborate the 2008-2009 Action Plan, which will have program identification, projects and primary initiatives on each area.

One significant goal was achieved on November 2006, when the South American Community with the exception of Guyana and Venezuela¹⁴ subscribed, at Santiago, Chile, an Agreement to eliminate the use of tourist's visas among those countries. The Agreement establishes that the people from those countries without the necessity of a visa and with the presentation of an official identification can mobilize from a country to another as tourists for a 90-day period, extensible according to the country's internal dispositions.

The first South American Energetic Meeting was established between April 16th and 17th 2007, on the Margarita island (Venezuela), following the Cochabamba presidential mandate. On this mandate, it was announced that the efforts for the regional integration were going to be called from now on, UNASUR (South American Nations Union), created on a region of common cultural routes, following the ideals of liberty, equality and fraternity of the French revolution and which Permanent Secretary established at Quito (Ecuador).

The Extraordinary Meeting of Chiefs of States and Government at Brasilia city, Brazilian Federative Republic, at May 23th 2008, was the moment when the Constitutive Treatment was subscribed at the same time the first female president "pro tempore" to the Chile president, Michelle Bachelet was recognized, on a one-year mandated.

¹² Consult UNASUR's Constitutive Act.

¹³ Cochabamba's Declaration, available in: http://www.comunidadandina.org/documentos/dec_int/declaracion_cochabamba.htm (Web search made on September 17th of 2009)

¹⁴ http://web.presidencia.gov.co/sp/2008/enero/25/abc_unasur.pdf (Web search made on September 17th 2009 of 2009)

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On August 28th 2009, one more Meeting was established at Bariloche Argentina, where the main theme was Security. The most significant result was the UNASUR's Narcotic Counsel Establishment that will establish policies from South America about drug traffic, the final resolution condemned terrorism and focused on strengthen regional instruments against drug traffic.

The Meeting results were the following:

A document, on which UNASUR advises the Defense Counsel to design policies to increase trust and security on the region, was done on a September meeting. The document describes that "the presence of foreign military forces cannot, with their resources and personal targets, threat sovereignty and integrity of any South American nation and on consequence, pace and security for the region"; but a clear definition about the Colombia-USA agreement was not achieved by the use of seven military facilities, main focus point of the meeting. However, the lack of trust was clearly manifested by several UNASUR members about the strategic USA military presence, on at least, seven Colombian military facilities very close to Venezuela, Ecuador, the Amazonian region and one of the richest petroleum-regions.

As we stated before, Brazil is the main character of UNASUR. As a result of the financial crisis of 2008, this country lost about one million jobs. In only one month (August 2009) they managed to create 242 126 new jobs. It's the best in the last 17 years¹⁵.

The industrial sector, which was the most affected during the crisis, has created 66 564 new jobs. Over the services sector, that had an 85 568 job growth (the greatest result since 1992). The textile, car and food industry has created 66 564 formal jobs. The food sector by itself is responsible for the creation of 22 614 jobs. The trade sector showed 58 813 new jobs and the civil construction sector represented a 39 957 increase, both were a record number.

According to Brazil central bank, which has open again credit lines to companies and citizens, the country has definitely overcome recession and has started growing again. It's estimated that only on 2010 their gross national product will show a 5% increase.

UNASUR offers real development horizons for Mexico. We have to denounce NAFTA, which exportation process is evident and change geography for history. Mexico is more Latin than Anglo-Saxon. On February of 2010, as a tendency to search of new markets and models, Cancun (Mexico) hosted the creation of a new Countries Block: "The Community of Latin American and Caribbean States" which excludes both, Canada and the United States of America. This will be complete and formalized in Caracas next year (2011).

¹⁵ Arias, Juan. "Brazil Defeats the Crisis", *El País* Journal, Rio de Janeiro. 09/18/2009. Online version www.elpais.com

VI. Conclusions

NAFTA and SPP are declining geo-economic projects that accentuated negative effects in Mexico with the world crisis that started in the United States of America. It's a canceled neoliberal strategy that has impacted Mexico in several sectors, producing interest rates as low as -06% of the GNP.

On the contrary, Mexico must recover its Latin America history, sacrificing its geography to connect with UNASUR. Besides the regional real development objectives that we have stated, they've designed the South Development Bank, tending to create a strong strategic agro alimentary-regional block to help over 400 million habitants.

Mexico must get in this project and stop being subordinated to our north neighbor, recovering it's weakened autonomy, proper of an independent country, especially when we commemorate the bicentenary of the Mexican Independence.

The future union of Latin America and the Caribbean is contemplated to be a new Mexican strategy to overcome the economic world crisis.

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