



European
Commission

Report of the XXVII negotiation round on the trade part of the EU-Mercosur Association Agreement

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Approved by : Name

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Trade

The XXVIIth negotiation round of the trade part of the EU-Mercosur Association Agreement took place from 20 to 24 March 2017 in Buenos Aires.

The talks were led on the EU side by EU Chief Negotiator, Director Sandra Gallina, DG TRADE. The Mercosur delegation was led by Argentina's Chief Negotiator, Ambassador Horacio Reyser Travers.

Negotiation working groups covered the following areas: (1) Trade in Goods; (2) Rules of Origin; (3) Customs and Trade Facilitation (including Mutual Administrative Assistance and the Anti-fraud Clause); (4) Technical Barriers to Trade; (5) Sanitary and Phytosanitary Measures; (6) Trade Defence Instruments; (7) Subsidies; (8) Dispute Settlement; (9) Services and Establishment; (10) Public Procurement; (11) Intellectual Property (including Geographical Indications); (12) Competition, (13) Trade and Sustainable Development; (14) SMEs; and (15) Institutional Affairs.

Below is a summary of the subject matters that were discussed during the XXVIIth round. Both sides agreed to hold an inter-sessional meeting in Buenos Aires at the end of May.

1. Trade in Goods

A productive round for the Trade in Goods group. The EU presented textual proposals relating to agricultural products (bilateral and multilateral cooperation, export competition, sub-committee on agriculture, wine and spirits), energy and raw materials, State Owned Enterprises, as well as a proposal for exchange of statistics on preference utilisation. Mercosur noted that it was difficult for them to accept a separate text on agriculture. The group agreed on certain articles such as import and export licensing procedures and removed reservations around parts of proposals such as definition of customs duties. Some progress was made on the discussion on treatment of remanufactured goods. The main areas of disagreement remain Mercosur's proposals regarding GSP as EU base rate, maximum tariff value, domestic support and protection of infant industries, and EU proposal for prohibition of export duties.

2. Rules of Origin

The Parties discussed:

General Provisions: Both Parties explained and confirmed their respective positions on the origin of fishing products and duty drawback. The Parties agreed on provisions on accounting segregation and exemption of proof of origin.

Product Specific Rules: The Parties reviewed the complete list of product specific rules. They discussed Mercosur's proposals for some agricultural and processed agricultural products, chemical products, textiles and clothing

products. The Parties identified the main differences, and advanced towards common positions in some specific rules.

Proof and Verification: The EU presented a new text based on self-certification and verifications where (i) the importing Party addresses itself first to the importer though the verification is still carried out by the exporting country and (ii) the importing Party may refuse the preference against the report of the exporting Party after following a procedure of consultations between the Parties. Mercosur argued that it could not accept such an approach, which would imply a disadvantage as compared to other Latin American countries, and asked the EU to come back to the text agreed in 2004 as a negotiating basis.

3. Customs and Trade Facilitation (including Mutual Administrative Assistance and Anti-fraud Clause)

3.1. Customs and Trade Facilitation

The Parties had a constructive and thorough exchange leading to significant progress on the text of the chapter (agreement on ten articles), allowing for provisional agreement on several issues relating to customs controls and procedures applied by the Parties. In addition, Mercosur gave a presentation on ongoing efforts regarding electronic customs data exchanges in the region.

3.2. Mutual Administrative Assistance

The negotiations on the Mutual Administrative Assistance Protocol have progressed smoothly and a text has been agreed, pending a Mercosur proposal for an article on automatic exchange of information, which constitutes a novelty for the EU and requires more time. The EU agreed to examine this proposal on its merits, in consultation with EU Member States.

3.3. Anti-fraud clause

The round allowed the two sides to exchange questions, comments and clarifications concerning the EU proposal for this clause.

4. Technical Barriers to Trade

The EU submitted a proposal to update the negotiating text. The Parties exchanged views on different elements of the WTO TBT Agreement, in particular on good regulatory practices regarding the adoption of technical regulations, standards, conformity assessment procedures, transparency and market surveillance.

The EU noted interest on sector specific disciplines (e.g. automobiles, engineering) and Mercosur on private standards and enhanced cooperation. The parties prepared a joint text and removed a few brackets.

5. Sanitary and Phytosanitary Measures

There was a detailed discussion about the definition of the "Parties" and the "Competent Authorities". The group reached an understanding on the concept of "Party" in the context of this Chapter, without prejudice to the definition in the Institutional group. Seven articles were agreed. A number of substantive proposals should be addressed in upcoming meetings.

6. Trade Defence Instruments

Parties went through the revised texts that were exchanged before the round, one on general principles covering Antidumping, Antisubsidies and global safeguard measures, and one regarding the bilateral safeguard clause. Issues that need discussion relate to bilateral safeguards and include the duration of the measures, the length of the transition period, the EU proposal for an outermost regions clause, and the inclusion of specific conditions for agricultural products.

7. Subsidies

The Parties reviewed the EU's proposals and the EU provided explanations of its position.

8. Dispute Settlement

The EU introduced for the first time its proposal for a Mediation annex. The round allowed for a full review of the main text, and resulted in a number of brackets being removed. Post-compliance proceedings and choice of forum remain difficult issues, as to a lesser extent do provisions on the scope of the dispute settlement title, interim awards, open hearings, and cross-retaliation. Both sides agreed to continue exploring possible compromise solutions to bridge diverging positions on a number of issues.

9. Services and Establishment

The Parties continued to work together to review the existing text of the Chapter on Services and Establishment. In particular, the following sections were examined: General Provisions, Temporary Movement of Natural Persons (mode 4), Capital Movements, Financial Services, Telecommunications, Postal Services, International Maritime Transport Services, Electronic Commerce, and Mutual Recognition Agreements (MRAs).

A number of substantive issues remain open on Financial Services, Telecommunications and Maritime Transport, whereas mode 4, Capital movements and Postal services seem close to completion. Mercosur presented a new text proposal in relation to Electronic Commerce and indicated that it needed to continue internal reflection on MRAs. The EU presented its new text proposals relating to Energy and performance requirements.

10. Public Procurement

The discussions in the working group allowed for substantive progress on the text of the government procurement chapter, including an agreement on provisions regarding definitions, exception to coverage, and technical specifications.

11. Intellectual Property (including GIs)

The group agreed to a single negotiating document (reflecting agreed provisions and respective positions on non-agreed articles). The group made a preliminary overview of the sections concerning the objectives, principles, copyright and related rights, designs, trademarks, border measures, and patents.

The protection of geographical indications (GIs) under the agreement was discussed in a constructive fashion, and the EU recalled its objectives and the proposed way forward on the matter. The EU shared a GI list with Mercosur.

12. Competition

The Parties agreed on the remaining bracketed provisions and closed the Competition Chapter.

13. Trade and sustainable development

The negotiation group met for the first time. The discussions were constructive and reflected both sides' strong commitment to sustainable development and to multilateralism. During the meeting the two sides consolidated the respective proposals in a single text. They were able to agree on a significant number of provisions. Proposals on the implementation of the chapter will be will be discussed at a later stage.

14. Small and Medium Enterprises

The EU presented the proposed EU text of an SME chapter which was sent to the coordinators of the MERCOSUR side in September 2016.

15. Institutional Affairs

The institutional group met for the first time to explore matters relevant to the general structure of the agreement, the trade part, and the initial and final provisions. The EU presented a proposal for a Transparency chapter.