



Report from the XXVIIIth round of negotiations Of the Trade Part of the Association Agreement between the European Union and Mercosur

Brussels, 3-7 July 2017

The XXVIIIth negotiation round of the trade Part of the EU-Mercosur Association Agreement took place from 3 to 7 July 2017 in Brussels.

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) State-Owned Enterprises; (9) Dispute Settlement; (10) Services and Establishment; (11) Public Procurement; (12) Intellectual Property (including Geographical Indications); (13) Trade and Sustainable Development; (14) SMEs; and (15) Institutional Affairs. Text on disciplines remained the focus of the discussions. The objective of getting consolidated texts with a limited number of brackets for the most difficult issues was largely achieved.

Below is a summary of the discussions. Both sides agreed to hold an inter-sessional meeting in Brussels on 4 to 8 September, which will be followed by the next round of negotiations in Brasilia on 2-6 October.

As a result of the round, we have a practically an agreed text on: customs and trade facilitation, mutual administrative assistance, Financial Services and Capital movements and payments, as well as important progress on a range of other texts, notably goods, services and establishment, government procurement, geographical indications, trade and sustainable development and dispute settlement.

Details per negotiating area

1. Trade in Goods

The Parties agreed on a number of core provisions/articles such as: customs duties, standstill clause, acceleration of tariff elimination and preference utilisation (import statistics exchange). Significant progress towards an agreed text was made on two other provisions/articles: goods re-entered after repair, a provision maintaining the preference margin in the event of MFN reductions, and on fees and charges. Solutions are being explored on the EU proposal on remanufactured goods and the reflection of the status of Paraguay as GSP beneficiary. The EU proposals (linked to access to raw materials) on prohibition of import and export monopolies and import and export pricing were discussed.

2. Rules of Origin

On general provisions, there are only two outstanding issues: (1) definition of wholly obtained fish (territorial scope and definition of vessels), for which a merged text will be the basis for future discussion; and (2) the EU proposal for the prohibition of duty drawback, on which both sides retained their positions.

Regarding proof and verification, the two sides are discussing the possibility to move to a self-certification system after a transitional period, starting after entry into force. During this period a mixed system would apply where movement certificates would be allowed.

On product specific rules, the two sides made some progress on some chemicals and some agricultural products, where positions are moving closer, and agreed rules for some chemical products. In addition, the positions of the Parties are now close on machinery. Mercosur also presented a new proposal for textiles, which still falls short of the EU position.

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

3.1. Customs and Trade Facilitation

This text was closed with the exception for some horizontal issues (definitions and institutional issues). Agreement was reached on customs cooperation, perishable goods, customs brokers and advance rulings. Progress was made on temporary admission and the use and acceptance of carnets will be further discussed.

3.2. Mutual Administrative Assistance

The text has been agreed with the exception of one article on automatic exchange of information pending further consultation by the EU.

3.3. Anti-fraud clause

Mercosur presented a counterproposal for the first time, which will be further discussed at the next meeting.

4. Technical Barriers to Trade

Discussions focussed on four key issues: technical regulations, transparency, standards and conformity assessment. The two sides reached agreement on technical regulations and on most of the transparency article. There was also progress on the other two articles. On conformity assessment, Mercosur noted the difficulty of accepting suppliers' declarations of conformity. Both sides agreed to discuss this issue further. In addition, there was a first general exchange of views on the EU proposed Sectoral annex on motor vehicles.

5. Sanitary and Phytosanitary Measures

The two sides reviewed the text and agreed on a number of provisions. Progress was notably made on the issue of verifications. Further discussion is necessary on the EU proposal on trade facilitation measures and regionalisation. Mercosur also presented a proposal on Cooperation on anti-microbial resistance (AMR) and animal welfare.

6. Trade Defence Instruments

The text on WTO Trade Defence instruments and Global Safeguards was closed.

In the Chapter on Bilateral Safeguard Measures, a number of issues still remain open and will require further discussions, such as the period of application of these measures, compensation, the form of the measures, or the EU proposal for an agricultural safeguard.

7. Subsidies

The EU explained its proposal on subsidies and responded to some Mercosur questions. Mercosur remained reluctant to include provisions on subsidies in the agreement. Discussions will continue at the next round.

State Owned Enterprises

The EU requested Mercosur to consider the provisions it has proposed on this matter. Mercosur remained reluctant to discuss provisions that would go beyond Article XVII of GATT.

8. Dispute Settlement

Discussions on Dispute Settlement (DS) advanced at a considerable pace and the two sides came closer in a considerable number of issues. All aspects were covered at this round, and progress was made in the main text and the annexes (rules of procedure, code of conduct and mediation). The Code of Conduct is now agreed. A limited number of difficult issues remain open.

9. Services and Establishment

Significant progress was achieved. The General and Final provisions, Financial Services, Domestic Regulation and Capital Movements chapters are close to being finalised. The Parties also discussed Electronic Commerce and Mutual Recognition Agreements (MRAs). The EU explained its proposals related to Energy services and performance requirements, where Mercosur remained reluctant to engage. Clarifications concerning reservations in the market access offer were also provided. Maritime Transport, Postal Services and Telecommunications were not discussed at this time.

10. Public Procurement

Discussions allowed for good progress on the text on Government Procurement (GP), including on the conditions for recourse to limited tendering or, professional misconduct as a condition for exclusion of suppliers from tender procedures' participation. Agreement was also found on some outstanding issues relating to the domestic review procedures. Further progress was made on the EU request for national treatment. Some provisions, mostly linked to market access remain to be agreed.

11. Intellectual Property (including GIs)

The group has now been able to have a first discussion on the whole text for the first time. Progress was made on issues such as trademarks and designs. Despite of the constructive discussions, some divergences of views remain, notably regarding the level of protection as compared to TRIPS and certain international Treaties of which Mercosur countries are not yet members. Mercosur noted their concerns on patents and regulatory data, and their interest on technology transfer and protection of biodiversity.

A detailed discussion on the draft legal text on GIs was held, which provided useful clarifications on substance. Main issues covered were the nature and the scope of protection of GIs, enforcement, as well as the relations of GIs with trademarks. Mercosur also indicated the names that they would wish to see protected as GIs in the EU.

12. Trade and sustainable development

The working group on Trade and Sustainable Development discussed all substantive articles of a consolidated text. The shared commitment of the EU and Mercosur to the multilateral agenda has helped reach agreement on provisions concerning international commitments on labour and environment. Nevertheless a number of issues remain open and further consultation will take place within and between both sides ahead of the next round in order to find appropriate solutions.

13. Small and Medium Enterprises

The EU proposal for a SME chapter was discussed. Mercosur expressed its interest to include SME-related provisions in the agreement and shared views on the general elements to be covered. Mercosur mentioned that an analysis is on-going with regard to the EU text proposal and of the way SME provisions should be included in the agreement and committed to provide feed-back before the next round.

14. Institutional Affairs

The Trade Institutional group exchanged views on the following issues in the Trade Part of the Agreement: general structure of the trade Part, institutional issues, and horizontal transparency provisions. On the latter, discussions advanced on the basis of the EU proposal for a text on transparency.