

XXV MERCOSUR - EUROPEAN UNION

BIRREGIONAL NEGOTIATIONS COMMITTEE

October 22 to 26 2012, Brasília

FINAL CONCLUSIONS

In the framework of the XXV Bi-regional Negotiations Committee, delegates from the European Union and MERCOSUR met in Brasília from 22 to 26 October 2012 for a round of negotiations on the future Association Agreement between MERCOSUR and the European Union (EU).

Negotiations were held in the Political, Trade and Cooperation Pillars of the future Agreement. Both sides reaffirmed their commitment to move negotiations forward to reach a comprehensive, balanced and ambitious Association Agreement.

A meeting of the Political and Cooperation Pillars of the negotiations took place on 25 October with MERCOSUR Delegation being led by Minister Luiz Fernando Abbott Galvão, Head of the Division for Europe III of the Ministry of External Relations of Brazil, and the EU Delegation led by Adrianus Koetsenruijter, Head of the EEAS Mercosur Division.

For the Trade pillar, the MERCOSUR delegation was led by Minister Ronaldo Costa Filho, Director of the Department for International Negotiations of the Ministry of External Relations of Brazil, on behalf of the Pro-Tempore Presidency of MERCOSUR. João Aguiar Machado, Deputy Director-General for Trade of the European Commission, led the EU delegation.

The following MERCOSUR – EU Working Groups of the Trade pillar held meetings to review the regulatory texts of the Bi-regional Agreement:

- Services and Establishment
- Public Procurement
- Customs Trade Facilitation and related matters
- Intellectual Property Rights/Geographical Indications/Wines
- Rules of Origin

Reports on the negotiations of the different chapters are compiled in the Annex.

Working Groups met and continued their work, clarifying positions and presenting new proposals. Progress continued to be registered in several Working Groups, in particular, Services and Investments, Customs, Trade Facilitation and related matters, and Government Procurement. A general discussion on Trade in Goods related issues and Trade Defense Instruments were included at Chief Negotiators' level with both sides clarifying positions and expectations.

On the basis of the most recent submission from the EU, a constructive discussion on Sustainable Development was held at Chief Negotiators' level, leading to a greater understanding of respective positions. The EU side committed to provide further details to its proposal.

Chief Negotiators took the opportunity of the XXV BNC to reaffirm their commitment to an ambitious, comprehensive and balanced Agreement. They also had an in-depth discussion on the state of play and the next steps of the negotiating process. They noted that while progress had been made on the normative framework thus far, there is not enough scope for further progress under the current approach.

In this respect the EU underlined that it was now necessary to move to the exchange of market access offers on goods, services and investment, and government procurement. MERCOSUR considered that the negotiation had reached a point where it was necessary to seek guidance at ministerial level. Both sides concurred that the MERCOSUR-European Union Ministerial Meeting, to be held in parallel with the CELAC-EU Summit in Santiago, Chile, in January 2013 could provide such an opportunity.

ANNEX

Reports Of The XXIV Bi-Regional Negotiations Committee

POLITICAL AND COOPERATION PILLARS

A meeting to discuss the Political and Cooperation Pillars of the negotiations took place on 25 October with the EU Delegation being led by Adrianus Koetsenruijter, Head of the EEAS Mercosur Division, and the MERCOSUR Delegation led by Minister Luís Fernando Abbott Galvão, Head of the Division of Europe - III of the Brazilian Ministry of External Relations.

Both sides had constructive exchanges of views on the basis of the text resulted from the XXIV Bi-regional Negotiating Committee (Brussels, March 2012), as well as on other proposals exchanged during the XXIV CNB.

In both pillars, the extensive discussion that took place allowed for progress in a number of articles and a better understanding of each party's positions. Parties were able to find common basis for future discussions on certain sensitive articles.

TRADE PILLAR

Services and Establishment

The two days meeting on services and establishment was held in a constructive atmosphere. Discussions enabled some progress, particularly on telecommunications and transparency.

The Parties continued the discussion on the Chapter and reviewed in particular the provisions relating to the general provisions, the temporary presence of natural persons, domestic regulation, postal services and telecommunication services. The Parties exchanged views on the EU proposed section relating to maritime transport services. The EU provided information regarding computer services.

The draft text under negotiation is annexed to these conclusions.

As for the next steps, the Parties agreed to continue discussions on the text at the occasion of the next round.

Public Procurement

The MERCOSUR/EU Working Group on Public Procurement met in the context of the XXV Bi-regional Negotiations Committee.

The Parties continued negotiating the text of the Chapter on Public Procurement, using as a basis for their discussions the consolidated working document that had been prepared in previous rounds. Progress was achieved on some issues such as conditions of

participations, technical specifications and tender documentation, treatment of tenders and award of contracts, and transparency and procurement information.

Both sides had constructive exchanges of views and proposals on various regulatory issues, including a new text proposal based on MERCOSUR text on procurement methods. As for the next steps, the Parties agreed to continue discussions on those issues at the occasion of the next round.

Customs [Trade Facilitation] and Related Matters

A new round of negotiations on the Customs and Trade Facilitation Matters between Mercosur and the EU took place on 24 and 25 October 2012. The two-day meeting was held in a constructive atmosphere which enabled the Parties to reach progress on a number of issues.

Section 3 - Customs and Trade Facilitation Matters

In line with the commitment of the XXIV BNC, the EU sent to Mercosur their proposal relating to Article 3.2(a) on requirements and formalities and 3.2(c) on international standards; and Mercosur sent to EU its proposal for Article 4(a) on Transit and 4(b) on Transparency.

Mercosur sent to the EU a new wording for some articles of this Section. During the meeting the full text was revised.

Progress was achieved in the articles relating to Customs and Trade Related Provisions and Procedures (Article 3), Transparency (Article 4-B) and Release of Goods (Article X).

During the Round the Parties succeed at leaving without brackets the following articles: Advance Binding Rulings (Article XX) and Transit (Article 4-A).

In addition the Parties managed to identify and to gather in Article 1-B the main obstacles in this Section. The Parties agreed to continue working on these issues.

Currently six articles are without brackets: the article on Risk Management; the article on Customs Valuation; the article on Authorized Economic Operators; the article on Special Committee on Customs, Trade Facilitation and Rules of Origin; the article on Transit and the article on Advance Binding Rulings.

The Parties agreed that the EU will define its position in relation to the new articles proposed by Mercosur before the next Round.

For the next round both Parties will propose a new wording for article 3.1(d).

The EU will prepare a document on the intended scope of the Section.

Mercosur emphasized the importance of capacity building on customs cooperation. The EU agreed to define its position and provide information on this issue before the next Round.

The EU may revise its proposal for Article 1-B (Scope) after this Round depending on the outcome of internal consultations.

Mercosur will propose a new wording for Articles 4-B(1) and 4-B(5) on Transparency.

The EU will prepare a document on Article 2.2 on Customs Cooperation and Mercosur on Article X(b) on Release of Goods before the next round.

The EU will analyze Mercosur's proposal for article 3.2(d) on Customs and Trade Related Provisions and for article 10(c) on Release of Goods.

The Parties agreed that the EU will send its proposals to Mercosur before the end of 2012 and Mercosur will make its best endeavours to send its proposals to the EU at the latest one month before the next Round.

Mutual Administrative Assistance provisions

The Brazilian delegation announced that there is no more legal impediments to Exchange information with competent Commission Services (OLAF). This represents a significant progress in order to conclude the Protocol.

Mercosur proposed a new article for the MAA Agreement with a view to enabling the Parties to exchange electronic information in order to improve the risk assessment and the rapid release of imported goods, in addition to the usual administrative assistance.

IP/GIs/Wines

MERCOSUR and EU met in Brasilia on 22 and 23 October 2012 in the Working Group of IP/GI/Wines in the context of the XXV BNC.

The Group continued its discussions along the lines of the methodology agreed upon at the XXII BNC. The EU presented the subjects of patents, geographical indications and put forward the importance of discussing in depth the subject of wines. MERCOSUR presented the topic IP and Development with a focus on Exceptions and Limitations on Copyrights and on IP and Competition. Comments were made and questions were answered. This allowed both sides to get a deeper understanding of the respective positions. The EU indicated its wish to discuss more in detail via a text next time. As regard GIs the EU reiterated the necessity to start a case by case discussion on the list of GIs in the Group. At this stage of the discussions, MERCOSUR indicated that conditions are not yet ripe to move forward to work on a text basis and on lists.

The EU could not have a representative from DG Competition in the meeting and further debate on IP and Competition will be held in the future.

Regarding the questionnaires exchanged during the last meeting of the Group, MERCOSUR answered questions on IP and Development and the EU answered questions on enforcement and copyright. Both Parties will send in written form the answers given orally.

The EU and MERCOSUR presented general comments on technical standards and regulations on wines.

Rules of Origin

Parties discussed most of the outstanding pending issues of the Protocol of Origin, including fisheries, some of the provisions related to certification and product specific rules for agricultural products.

Regarding fisheries, MERCOSUR reaffirmed that it could not accept EU's proposal and reiterated that fishery products of the Exclusive Economic Zone should have origin of the coastal Party where they were fished. The EU indicated again that it could not accept MERCOSUR position and reiterated the need to apply vessels conditions beyond territorial sea or, alternatively, having them applied horizontally to all the fishing, irrespectively where conducted.

Both parties exchanged information on their respective legislations concerning fishing licenses, as a part of it, MERCOSUR handed a document containing website links where their legislation on fisheries is available. EU agreed to provide their legal provisions on the subject of fishing before the next round of negotiations.

As to the clauses regarding Ceuta & Melilla, as well as Declarations on Andorra and San Marino, MERCOSUR indicated that the possibility of accepting these clauses is linked to some flexibility of the EU regarding MERCOSUR demands. The EU took note of MERCOSUR position and agreed to carefully analyze this demand. The EU also requested a specific proposal of MERCOSUR in this matter.

With regard to certification and proof of origin, the EU answered some additional questions and clarified some issues on this subject. MERCOSUR consultations on this matter are still ongoing.

Concerning the subject of Accounting Segregation, the Parties registered some progress and agreed in excluding the first proposal to Article 8 Bis of the Protocol of Origin and accepting the

first five paragraphs of the second one. Paragraph 6 will be placed under brackets, with some modifications, as an EU proposal to be later discussed.

With respect to agricultural product specific rules, the Parties exchanged information and discussed alternatives in order to bring positions closer, in particular products containing sugar and mixture of fruit juices.

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