



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

Brussels, 10-14 October 2016

The XXVIth negotiation round of the trade part of the EU-Mercosur Association Agreement took place from 10 to 14 October 2016 in Brussels.

The talks were led on the EU side by EU Chief Negotiator, Director Rupert Schlegelmilch, DG TRADE. The Mercosur delegation was led by Uruguay's Chief Negotiator, Ambassador Gabriel Bellón.

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 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 Indicators); (12) Competition, (13) State-Owned Enterprises.

Discussions at Chief Negotiators level also took place on Trade and Sustainable Development and as well as EU proposals on Energy and Raw Materials and SMEs.

Below is a summary of the subject matters that were discussed during the XXVI round:

1. Trade in Goods

The group prepared a consolidated text including the new text proposals from each side. This text will be the basis for future discussions.

Agreement was reached on some provisions of the chapter, including scope. Both sides agreed to move the description of the tariff elimination schedules from the Chapter to the relevant Annex with the schedules and to consider how to further restructure the Chapter. It was also agreed to move certain provisions, e.g. general exceptions or balance of payments to another part of the Agreement.

On a number of issues, the Parties recognised that discussions will need to continue, e.g. on proposals by either side on provisions on infant industry, maximum tariff value, export duties and export restrictions, licensing, base rate or TRQ management. Both sides expressed readiness to try to address such in a pragmatic and realistic manner.

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The discussions also provided an opportunity for each side to explain and to exchange views on their respective market access offers.

2. Rules of Origin

The Parties discussed:

- **Product Specific Rules:** the Parties explained and confirmed their positions on agricultural products. They also discussed EU proposals for chemical products, textile and clothing products and machineries and consumer electronics.
- **Proof and Verification:** The Parties discussed the existing text (based on official certificates of origin and verification), and discussed the latest developments in this area in the recent FTAs negotiated by the EU (based on self-certification and verifications carried out by the exporting country).
- **General Provisions**

Both Parties explained and confirmed their respective positions and discussed more specifically accounting segregation and duty drawbacks.

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

3.1. Customs and Trade Facilitation

The group consolidated a draft negotiation text, which will serve as the basis for further discussions, building on the commitments of the WTO Trade Facilitation Agreement and going beyond where possible.

The discussion on issues overlapping with the Trade in Goods text, notably fees and charges, goods re-entered after repair and temporary admission will take place in coordination with the Trade in Goods negotiating group. Perishable goods will be examined in coordination with the SPS Group.

3.2. Management of Administrative Errors

The EU explained the scope of application and purpose of the Management of Administrative Errors (MAE) clause.

Questions were addressed as regards the precise placing of the clause in the agreement, its scope of application and potential financial impact.

Further discussions are foreseen in line with the progress made in the Rules of Origin group – section B – proof of origin.

3.3. Anti-fraud clause

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The EU presented the origin and main aim of the clause and addressed requests by Mercosur for clarifications on the functioning of the clause. Further discussions will take place on the basis of an updated text to be provided by the EU.

4. Technical Barriers to Trade

The Parties exchanged views on different elements of the WTO TBT Agreement and also on the TBT Committee Decisions and recommendations adopted since 1995. In particular the Parties exchanged views on good regulatory practices regarding the adoption of technical regulations, standards, conformity assessment procedures, transparency, market surveillance and marking and labelling.

The EU noted interest on sector specific disciplines (e.g. automobiles, engineering).

Due to the fact that since the last negotiation Round (2012) a number of trade agreements have been negotiated and the state of the art TBT language evolved, it has been agreed that the existing joint text will need some updating and refining. Work at the next round will focus on consolidating and progressing on the TBT text.

5. Sanitary and Phytosanitary Measures

The EU and Mercosur exchanged views on how to pursue the discussions on the basis of documents exchanged before the round. Further discussions will take place in order to achieve a draft consolidated negotiating text.

6. Trade Defence Instruments

Parties went through the existing texts and refreshed and clarified certain issues.

7. Subsidies

The EU presented its approach to subsidies and answered questions from Mercosur.

8. Dispute Settlement

The Parties discussed the consolidated text on Dispute Settlement (DS), including proposals for changes to update the text in light of recent FTAs.

Discussions covered most provisions including on complicated issues such as open hearings and cross-retaliation in order to identify areas of potential

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convergence. Further discussions will take place on issues such as amicus briefs, mediation and nullification and impairment.

9. Services and Establishment

The Parties carried out a comprehensive review of the existing consolidated Trade in Services and Establishment text, which enabled agreement on certain issues and consolidating the text on General Provisions, as well as the Final Provisions and Exceptions. Discussions took place on the EU proposals on International Maritime Transport Services and Electronic Commerce and will continue during the next Round.

The Parties also discussed their respective market access offers.

10. Public Procurement

The discussion on public procurement focused on the text provisions of the public procurement chapter, which define procedures which apply to the public procurement contracts covered by the agreement. The EU and Mercosur had exchanged revised text proposals ahead of the Round. The proposed text by the EU is based on the provisions of the revised GPA, with some adaptations aimed at increasing the transparency of procurement opportunities, the use of electronic procurement and the review procedures.

Agreement was reached on some aspects of text touching on: the scope of the public procurement chapter, the security and defence exception, and electronic procurement. Discussion on the text will continue to complete the analysis of the whole text of the chapter.

11. Intellectual Property (including GIs)

The EU presented its revised proposal on Intellectual Property (IPR) and Geographical Indications (GIs). Mercosur took note of the EU proposal and asked for clarifications.

Parties engaged in exchanges around key provisions in the EU draft text inter alia on copyright, trademarks, patents, data protection and internet service providers. On GIs, the exchanges had a particular focus on the following provisions/concepts: direct protection, examination of respective legislations, examination and objection procedure on respective GIs, level of protection, treatment of generic names, relationship between GIs and trademarks, as well as enforcement.

The Parties still need to decide on how to put together a possible consolidated draft negotiation text in this area.

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12. Competition

The Parties confirmed most parts of the text as negotiated in 2012 and agreed this text will form the basis for the new joint consolidated text on which to continue discussions.

13. State Owned Enterprises

The EU has made a new text proposal on the issue of State Owned Enterprises. The Parties exchanged views and also agreed to further consider how to organise the discussion on this subject.

14. Energy and Raw Materials

The Parties held a preliminary discussion at Chief Negotiators level on provisions on Energy and raw materials (ERM) in which the EU explained its approach and intention to provide further provisions on ERM.

15. Trade and sustainable development

The discussion was based on position papers submitted by both sides, the most recent of which was submitted by Mercosur in September 2016. While the two sides broadly agreed on the potential for trade to promote sustainable development, further discussions are necessary on concrete text proposals.

The two sides agreed to identify areas of convergence as well as areas where positions differ through the submission of draft texts and to continue discussions during the next round.

16. Small and Medium Enterprises

The EU presented its SME text proposal followed by a discussion. The main issues raised were: SME definition, obligations on transparency regarding sub-state level regulation, the language of the website, the costs involved in setting up and maintaining a website, level of detailed information on the website, the tasks and function of SME contact points.