



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

Brasilia, 2-6 October 2017

The XXIXth negotiation round of the trade Part of the EU-Mercosur Association Agreement took place from 2 to 6 October 2017 in Brasilia.

The talks were led on the EU side by EU Chief Negotiator, Director Sandra Gallina, DG TRADE. The Mercosur delegation was led by Brazil's Chief Negotiator, Ambassador Ronaldo Costa Filho.

Negotiation working groups covered the following areas: (1) Trade in Goods; (2) Rules of Origin; (3) 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) Government Procurement; (12) Intellectual Property (including Geographical Indications); (13) Trade and Sustainable Development; (14) SMEs; and (15) Institutional Affairs. Text on disciplines remained the main focus of the discussions. As regards market access, the EU presented its offer on beef and ethanol.

Below is a summary of the discussions. Both sides agreed to hold the next round in Brasilia, from 6 to 10 November 2017.

Details per negotiating area

1. Trade in Goods

The two sides discussed all issues relating to disciplines on trade in goods, including base rate, remanufactured goods, goods re-entered after repair, fees and charges on imports and exports, export duties and export competition. Parties discussed the EU proposal on export competition, in particular with regard to its scope and the enforcement of the commitments envisaged, and continued discussions on the EU textual proposal on wines and spirits.

2. Rules of Origin

In general provisions (section A) the Parties discussed how to determine the origin of fish caught in the Exclusive Economic Zone (EEZ), on the continental shelf and on the high seas. On proof of origin and verification (section B) the Parties worked on a joint text mostly agreed at the last round, clarifying drafting of some provisions, including a transitional arrangement for the application of governmental certificates in Mercosur. On product specific rules, the Parties deepened understanding of product priorities and sensitivities and discussed possible ways forward based on some compromise proposals. On some chapters, positions are still diverging.

3. Anti-fraud Clause

The EU presented a revised proposal to take account of Mercosur's comments. The main open issue is the scope of the clause. The length of application of measures also remains open.

4. Technical Barriers to Trade

The Parties have continued their constructive engagement in order to progress on the joint text of the TBT Chapter, with particular focus on the provisions on Standards, Conformity Assessment Procedures, Transparency and Regulatory Cooperation.

The Parties also continued to discuss the EU proposal for an Annex on motor vehicles.

5. Sanitary and Phytosanitary Measures

The EU and Mercosur reviewed the Joint text and a number of brackets were removed. The provisions on pre-listing, import checks and regionalisation are almost agreed.

6. Trade Defence Instruments

Regarding the chapter on bilateral safeguards measures, the Parties went through each one of the pending issues in the text. In light of the discussions maintained during this round, both sides will continue to reflect on ideas to reach agreement on the outstanding issues.

7. Subsidies

The EU's proposed provisions on subsidies were discussed.

8. State Owned Enterprises (SOE)

The EU presented the clarifications to its proposal on SOE and answered Mercosur's questions, including on the definition of SOE, public services and the boundaries of the public service, or the definition of "services supplied in the exercise of governmental authority". Mercosur reiterated however the difficulty it has to agree to the EU's proposal.

9. Dispute Settlement (DS)

Progress in the DS group was good. Both sides continued exploring bridging solutions in difficult provisions such as public hearings and cross-retaliation. The text is close to finalization, although a few brackets remain in a number of provisions.

10. Services and Establishment

The discussions on Services and Establishment focused on the following sections: General Provisions, Movement of Natural Persons, Mutual Recognition Agreements, Domestic Regulation, Telecommunications, Financial Services, Capital Movement, Maritime Transport, Postal Services and Electronic Commerce. There was an agreement on some points in mode 4, Domestic Regulation, Telecommunications, Financial Services (provision on data transfers), Capital Movement and Electronic Commerce. Many of those sections are now close to conclusion. On the other hand, the EU continues to seek disciplines on Maritime Transport and Energy services, matters on which Mercosur has not engaged so far.

11. Government Procurement (GP)

The Parties carried out a review of text of GP chapter, where only a few articles are still to be agreed. Agreement was found on issues relating in particular to definitions. Some progress was made on the discussion on national treatment and non-discrimination. Apart from the issue of national treatment, the main outstanding provisions are: the article on the treatment of offsets in government procurement and the Mercosur proposal for the recognition of "special and differential treatment" in this negotiation.

Regarding market access on GP, the EU provided extensive replies to Mercosur's technical questions on the EU market access offer.

12. Intellectual Property (including GIs)

Discussions on Intellectual Property Rights (IPR) focussed on general principles, copyright, trademarks and designs. Patents and IPR enforcement and border measures will be discussed at the next round. The copyright section is almost closed and trademarks and designs are not far behind. Further work on exceptions is necessary. There remains a general divergence of positions regarding the level of ambition in this area.

As regards GIs, parties continued their work on the textual proposal, including the scope of protection of GIs and relationship with trademarks. Parties also discussed technical questions such as the launch of the opposition procedures by both Parties.

13. Trade and sustainable development

Good progress was made, with additional six articles agreed on topics such as biodiversity, climate change, forests or responsible management of supply chains. Over half the substantive articles in the chapter have been agreed. The EU presented a proposal on institutional and dispute resolution provisions for the Chapter. Mercosur will react later to the proposal.

14. Small and Medium Enterprises

The EU side presented the EU Trade Helpdesk (former Export Helpdesk) and clarified some aspects of the EU text proposal, notably regarding the creation of a similar website by Mercosur countries in order to provide SMEs with sufficient information to take advantage of the opportunities offered by the Agreement. Mercosur and the EU discussed Mercosur's counterproposal for the SME chapter, which takes into account some important elements of the EU text proposal and additional elements on cooperation.

15. Institutional Affairs

The two sides constructively exchanged views on a number of legal and institutional issues. These include, inter alia, the EU proposal on trade-related recitals to be included in the preamble of the agreement, the institutional structure proposed for the trade part, the horizontal transparency provisions, and the general exceptions. The EU side also underlined the importance of having a regional integration clause included in the trade part of the agreement.