

EU TEXT PROPOSAL

EU – MERCOSUR ASSOCIATION AGREEMENT

CHAPTER [XX]

TRADE AND SUSTAINABLE DEVELOPMENT

[...]

Article 14

Sub-Committee on Trade and Sustainable Development and Contact Points

1. The Parties hereby establish a Sub-Committee on Trade and Sustainable Development (hereafter "TSD Sub-Committee"). It shall comprise senior officials, or their delegates, from each Party.
2. The TSD Sub-Committee shall meet within a year of the date of entry into force of this Agreement, unless otherwise agreed by the Parties, and thereafter as necessary in accordance with Article ... of Chapter ... [*Institutional provisions on meetings of Sub-Committees of the Trade Committee*].
3. The functions of the TSD Sub-Committee are to:
 - (a) facilitate and monitor the effective implementation of this Chapter, including cooperation activities undertaken under this Chapter,
 - (b) carry out the tasks referred to in Articles 16 and 17,
 - (c) make recommendations to the Trade Committee, including with regard to topics for discussion with the [*civil society mechanism*], referred to in Article ... of Chapter ... [*general institutional provisions*],
 - (d) consider any other matter related to this Chapter as the Parties may agree.
4. The TSD Sub-Committee shall make a report on its meeting publically available after each of its meetings.

5. Each Party shall designate a Contact Point within its administration to facilitate communication and coordination between the Parties on any matter relating to the implementation of this Chapter.

Article 15

Dispute resolution

In case of a disagreement between the Parties regarding the interpretation or application of this Chapter, the Parties shall have recourse exclusively to the dispute resolution procedures established under Article 16 and Article 17.

Article 16

Consultations

1. A Party may request consultations with the other Party regarding the interpretation or application of this Chapter by delivering a written request to the contact point of the other Party established in accordance with Article 14.4. The request shall set out the reasons for requesting consultations, including a description of the matter at issue. Consultations shall start promptly after a Party delivers a request for consultations, and in any event not later than 30 days of the date of receipt of the request, unless the Parties agree otherwise. Consultations shall be held in person or, if so agreed by the Parties, by virtual means.

2. The Parties shall enter into consultations with the aim of reaching a mutually satisfactory resolution of the matter. In matters related to the multilateral agreements referred to in this Chapter, the Parties shall take into account information from the ILO or relevant multilateral environmental organisations or bodies in order to promote coherence between the work of the Parties and these organisations. Where relevant, the Parties shall seek advice from such organisations or bodies, or any other expert or body they deem appropriate.

3. If, after 30 days from the date of the receipt of the request under paragraph 1, a Party considers that the matter needs further discussion, that Party may request in writing that the TSD Sub-Committee be convened and notify the request to the contact point established pursuant to Article 14.4. The TSD Sub-Committee shall meet promptly and endeavour to reach a mutually satisfactory resolution of the matter.

4. The TSD Sub-Committee shall seek the advice of the ... [*civil society mechanism*] referred to in Article ... of Chapter ... or other expert advice.

5. Any resolution reached by the Parties shall be made publicly available.

Article 17

Panel of Experts

1. If, within 90 days of a request for consultations under Article 16, no mutually satisfactory resolution has been reached, a Party may request the establishment of a Panel of Experts to examine the matter. Any such request shall be made in writing to the contact point of the other Party established in accordance with Article 14.4. The request shall identify the reasons for requesting the establishment of a Panel of Experts, including an indication of the legal basis for the complaint.

2. Except as otherwise provided for in this Article, the dispute settlement provisions set out in Articles 8 (Composition of arbitration panel), 9 (Hearings) 10 (Information and technical advice) and 11 (Applicable law) of Chapter 3 (Dispute Settlement Procedures) of Title VIII (Dispute Settlement), as well as the Rules of Procedure in Annex I and the Code of Conduct in Annex II to Title VIII (Dispute Settlement) shall apply.

3. The TSD Sub-Committee shall, at its first meeting after the entry into force of this Agreement, establish a list of at least 15 individuals who are willing and able to serve on the Panel of Experts. The list shall be composed of three sub-lists: one sub-list for each Party and one sub-list of individuals that are not nationals of either Party and who may serve as chairperson to the Panel of Experts. Each Party shall propose at least five individuals for its sub-list. The Parties shall also select at least five individuals for the list of chairpersons. The TSD Sub-Committee shall ensure that the list is kept up to date and that the number of experts is maintained at least at 15 individuals.

4. The individuals referred to in paragraph 3 shall have specialised knowledge of or expertise in labour or environmental law, issues addressed in this Chapter, or the resolution of disputes arising under international agreements. They shall be independent, serve in their individual capacities and shall not take instructions from any organisation or government with regard to issues related to the disagreement, or be affiliated with the government of any Party, and shall comply with Annex II (Code of Conduct) to Title VIII (Dispute Settlement).

5. A Panel of Experts shall be established according to the procedures set out in paragraphs 1 and 4 of Article 8 (Composition of arbitration panel) of Chapter 3 (Dispute Settlement Procedures) of Title VIII (Dispute Settlement). The experts shall be selected from the relevant individuals on the sub-lists referred to in paragraph 3 of this Article, in accordance with the relevant provisions of paras 2, 3 or 5 (Composition of arbitration panel) of Chapter 3 (Dispute Settlement Procedures) of Title VIII (Dispute Settlement).

6. Unless the Parties agree otherwise within five days from the date of establishment of the Panel of Experts, as defined in paragraph 6 of Article 8 (Composition of arbitration panel) of Chapter 3 (Dispute Settlement Procedures), Title VIII (Dispute Settlement), the terms of reference shall be:

"to examine, in the light of the relevant provisions of Chapter X [*Trade and Sustainable Development*] of the EU-Mercosur Association Agreement, the matter referred to in the request for the establishment of the Panel of Experts, and to issue a report, in accordance with Article 17 of that Chapter, making recommendations for the resolution of the matter".

7. With regard to matters related to the respect of multilateral agreements referred to in this Chapter, the opinions of experts or information requested by the Panel of Experts in accordance with Article 10 (Information and Technical Advice) of Chapter 3 (Dispute Settlement Procedures) of Title VIII (Dispute Settlement) should include information and advice from the relevant ILO or MEA bodies.

8. The Panel of Experts shall issue to the Parties an interim report within 90 days of the establishment of the Panel, and a final report no later than 30 days after issuing the interim report. These reports shall set out the findings of facts, the applicability of the relevant provisions and the basic rationale behind any findings and recommendations. The Parties shall make the final report publicly available within 15 days of its submission by the Panel of Experts.

9. The Parties shall discuss appropriate measures to be implemented taking into account the report and recommendations of the Panel of Experts. The Party complained against shall inform its ... *[civil society domestic advisory group]* referred to in Article ... of Chapter ... and the other Party of its decisions on any actions or measures to be implemented no later than three months after the report has been made publicly available. The Sub-Committee on Trade and Sustainable Development shall monitor the follow-up to the report of the Panel of Experts and its recommendations. The ... *[civil society domestic advisory groups set up under the Agreement]* referred to in Article(s) ... of Chapter ... may submit observations to the TSD Sub-Committee in this regard.

Article 18

Review

1. For the purpose of enhancing the effective implementation of this Chapter, the Parties shall discuss through the meetings of the Trade and Sustainable Development Sub-Committee, the operation of the institutional and dispute settlement provisions set out in Articles 14, 16 and 17 of this Chapter, including a possible review of the effectiveness of its enforcement, taking into account, inter alia, the experience gained through implementation of this Chapter, policy developments in each Party, developments in international agreements and views presented by stakeholders.

2. The Trade and Sustainable Sub-Committee may recommend modifications to the relevant provisions of this Chapter reflecting the outcome of the discussions referred to in paragraph 1 above, in accordance with the amendment procedure established in Article X *[Amendments]*.