

# **XX MERCOSUR - EUROPEAN UNION BI-REGIONAL NEGOTIATIONS COMMITTEE**

14-18 March, Brussels

## **FINAL CONCLUSIONS**

In the context of the XX European Union-MERCOSUR Bi-regional Negotiations Committee, delegates from the EU and MERCOSUR met in Brussels on 14-18 March 2011 for a round of negotiations on the future Association Agreement between MERCOSUR and the European Union.

Meetings of the MERCOSUR – European Union for the Political and Cooperation Pillars of the negotiations took place on 15-17 March with the EC delegation being led by Christian Leffler, managing Director for the Americas of the European External Action Service and the Mercosur delegation by Ambassador Juan Esteban Aguirre.

For the Trade pillar of the negotiations, EU delegations were led by Mr. João Aguiar Machado, Deputy Director-General for Trade of the European Commission.

MERCOSUR Delegation was led by Ambassador Manuel María Cáceres, Vice-Minister for Economic Relations and Integration, on behalf of the Pro Tempore Presidency of MERCOSUR.

The EU and MERCOSUR Chief Negotiators reiterated their commitment to reach a comprehensive, ambitious and balanced agreement.

The following MERCOSUR-EU Working Groups held meetings:

- Market Access in Goods
- Rules of Origin
- Technical Barriers to Trade
- Sanitary and Phytosanitary Measures
- Intellectual Property Rights/Geographical Indications/Wines
- Dispute Settlement
- Trade Defense
- Competition Policy
- Services / Investment
- Public Procurement

The respective conclusions of the Working Groups are compiled in the Annex. Focal points for Institutions also met on March 15<sup>th</sup>.

Both delegations assessed the work carried out by the abovementioned Working Groups. Discussions allowed progress in the normative part of several areas of the negotiations, including rules of origin, public procurement, services and investment, competition and dispute settlement, among others. It was also recognized that further intense work will be necessary in all negotiating areas.

Concerning the next steps in the negotiations, both sides will now continue their internal work to prepare improved market access offers. When this work is completed, they will then jointly decide on the date for a simultaneous exchange.

Finally, the EU and MERCOSUR agreed that the next round of negotiations would be held on 2-6 May, 2011 in Asunción. Moreover, another round of negotiations will take place on 4-8 July, 2011, in Brussels.

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## ANNEX

### **REPORTS OF THE XX BI-REGIONAL NEGOTIATIONS COMMITTEE**

#### **Market Access in Goods**

##### **Market Access in Goods**

Both sides reviewed the text that resulted from the previous round of negotiations (XIX BNC/MC-EU/25.11.2010) in order to approach positions on the outstanding issues. Some progress was achieved by removal of brackets on a few points, although important issues of substance where positions diverge still require guidance from Coordinators.

In this context, they acknowledged that a number of proposals would benefit from a discussion at Chief Negotiators level before being brought back to technical level. These include in particular proposals on the following: export duties, export subsidies, neutralization of domestic support measures, the setting of a maximum tariff value, infant industry clause, and the determination of base rates.

Discussions proceeded on the relationship of provisions of the Agreement with obligations contained in GATT, i.e. fees and other charges on imports and exports, the exceptions clause, and import and export licensing procedures. Mercosur gave its preliminary views on this last proposal and will provide further reactions at the next round. The maintenance of a tariff preference in case a party reduces its applied MFN tariffs will also require further discussion.

On State Trading Enterprises the EU, in the light of the comments presented by Mercosur, will submit a revised proposal notably to clarify which GATT provision it suggests to be incorporated into the agreement.

Both sides agreed to refer the article on Customs Union and Free Trade areas to the institutional group, and pointed to the need to have a discussion, at horizontal level, on the definition of 'the Parties'; they also agreed to discuss the issue of agricultural safeguards in this group.

#### **Rules of Origin**

##### **EU-Mercosur 20th round of negotiations towards an Interregional Association Agreement - Rules of origin**

15-17 March 2011

Brussels, Belgium

The Parties analysed the outstanding issues in the origin protocol including the new EU proposal on origin certification, the remaining annexes to the protocol as well as the outstanding list rules for agricultural and processed agricultural products. Mercosur also presented its revised proposal for the list rules for industrial products.

The Parties put down a common negotiating text on accounting segregation with brackets, agreed to the title of the article related to 'transport conditions' and further discussed. As regards the duty drawback, Mercosur agreed to provide further information regarding the use of the DDB in Mercosur.

Mercosur tabled a new proposal regarding origin criteria for fishery products, and both Parties exchanged points of views on this issue. The remaining issues are the geographical scope and the vessels criteria.

The EU provided further clarification as regards the proposed self-certification system. Mercosur is still analysing whether it is possible to move to the new system.

The EU provided information regarding the clause related to the temporary suspension of preferences, and Parties agreed to discuss this issue further during the next round in a joint session with the RoO and Customs Cooperation groups.

Parties also exchanged information on the outstanding product specific rules for agricultural and processed agricultural products (including Chapter 24). Mercosur also presented its position regarding the list rules for majority of industrial products. As the result of that Mercosur accepted the EU proposals for a number of lines. The Parties will carry on its internal consultations and will continue the discussions during the next round of negotiations. The remaining of the Mercosur's positions will be sent to the EU before the next round of negotiations.

**TBT**

## **EU-Mercosur FTA Negotiations Brussels 16-17 March 2011**

### **Working Group on Standards, Technical Regulations and Conformity Assessment**

#### **Meeting Report**

The Parties went through the joint marked up text sent out by the EU on 1 February 2011. The EU clarified a number of changes that it had introduced in the text and explained, in relation to certain aspects of the Mercosur proposal, why it had not been possible to accept them. Following these explanations, Mercosur indicated that it would send comments on the joint text, if possible, before the next round. The EU took note of this and stressed the need to have a concrete date for the submission of comments in order to be able to advance the discussions at the next round. The EU informed Mercosur it would raise this point for the attention of the Coordinators.

As agreed at the previous round, Mercosur made a presentation on their institutional framework, in particular on their working group SGT3 (Technical Regulations and

Conformity Assessment Procedures). Mercosur made a very general overview of their sectoral legislation.

In connection with the issues of interest raised by the EU, the EU made two presentations on the Low Voltage and Electromagnetic Compatibility Directives. The EU also gave an overview of its sectoral legislation in the textile and footwear and automotive areas. The EU requested that Mercosur provide detailed information on sectoral legislation in the automotive sector. Mercosur stressed that they do not wish to have sectoral disciplines in the TBT chapter of the Agreement and therefore it is not appropriate to discuss this issue.

## **SPS**

### **SPS Joint Report**

A new round of negotiations on SPS issues between the EU and MERCOSUR took place on 14<sup>th</sup> and 15<sup>th</sup> March 2011.

Both Parties presented the non-papers exchanged previously containing the responses to each other's "list of SPS issues to be addressed" in the Chapter.

Both Parties clarified certain aspects of their respective non-papers and the current margin of flexibility, including harmonization of MERCOSUR SPS import requirements for certain products of interest to the EU, conditioned to the openness of the EU to find ways of tackling MERCOSUR expectations which remain on the table.

EU stated that they were ready to explore how to address MERCOSUR expectations and that some EU questions remain on the table.

Based on the discussions both Parties agreed to exchange revised proposals for SPS Chapter by 15<sup>th</sup> April, addressing both concerns and flexibilities.

## **IPR/Gis/Wines**

### **EU-MERCOSUR XX BNC Brussels, 15-16 March 2011 IPR/GI/Wines Group**

#### Joint Report

EU and MERCOSUR met in Brussels on the 15 and 16 March 2011 and discussed IPR and GIs issues in the framework of the XX BNC MERCOSUR-EU.

The EU submitted the 7 March 2011 a negotiation text as a basis for a structured discussion and made a presentation of its content. MERCOSUR explained that it had not had enough time for internal consultations on the text. In its preliminary reaction to the text MERCOSUR stated that it had identified many sensitive points, therefore, at this stage, it doesn't consider it as a text for a basis for negotiations. However MERCOSUR committed itself to present general comments on the EU negotiation text, and the EU urged MERCOSUR to agree on a list of topics to be discussed in the next round, with the view to make progress.

As a contribution to improving understanding of the EU text, MERCOSUR requested information and data on the social and economic impact, etc of the results of agreements on IPR, within the FTAs concluded by the EU. The EU stated that at the moment this type of analysis is not available.

With regard to GI, MERCOSUR, in order to facilitate discussions, gave a power point presentation, including a preliminary analysis on the sensitivities of MERCOSUR with respect to the indicative list of GIs submitted by the EU. This first analysis was based on possible conflicts between GI and registered trademarks and between GI and generic terms amongst others, considering the MERCOSUR countries as a unique territory. In order to make easier the finalisation of the above analysis, the EU will specify to MERCOSUR the nature of the products covered by each EU GI. MERCOSUR will continue deepening its analysis exercise. The EU invited MERCOSUR countries to submit their own list of GIs, including possible future GIs, before the next round in order to allow the EU to conduct the same analysis in relation to the EU territory.

Regarding wines issues MERCOSUR mentioned that they are considering internally the opportunity to present a proposal at a later stage.

## **DSM**

### **Dispute Settlement**

The Delegations examined again the texts of the Title on Dispute Settlement of the Agreement, as well as the Annexes containing the Rules of Procedure and Code of Conduct resulting from the XIX BNC. Delegations achieved consensus on a number of issues, while others remain open, subject to further internal coordination on each side. In addition, delegations discussed the possible way forward on the most sensitive issues which are pending agreement. The texts resulting from this meeting are annexed hereto.

Delegations also discussed briefly the document regarding the procedures for adoption and conclusion of international agreements in the EU which had been transmitted before the meeting by the EU on the request of MERCOSUR.

Pending issues in the documents relating to dispute settlement will be discussed during the next BNC. MERCOSUR will also provide its initial reaction to the EU proposal for a stand-alone Mediation Mechanism.

## **TDIs**

### **Joint report TDI group– Brussels 14/16 March 2011**

#### **Bilateral Safeguards**

The whole text of the section was discussed and most of the procedural aspects could be agreed upon. The EU will look at Mercosur's new proposals for Articles 12 and 13 and will reflect on new language for articles 17, 20 and 21. The EU will also provide further information and clarification regarding the outermost regions clause.

Mercosur proposed a new text regarding article 16 (exclusion of Paraguay from provisional measures). Mercosur agreed to remove its proposals under Articles 4.1, 7.2 (the 50% limitation) and 14.

The issues of substance such as the form and level of measures will be looked at again in the light of the development of different chapters under negotiation, specifically the Chapters on Market Access and Rules of Origin. Further reflection is also necessary concerning the definition of the parties.

### **AD/CVD & Global SFG**

Discussions stumbled over exclusion of these chapters from the scope of the bilateral dispute settlement. Since EU's proposal would exclude AD/CVD & Global Safeguard provisions from the bilateral dispute settlement mechanism, Mercosur would not be in a position to continue discussions on the provisions of these sections. The EU reiterated its firm intention to exclude these chapters from the scope of the bilateral dispute settlement and explained its reasoning. The EU nevertheless expressed the view that the inclusion of bilateral commitments on subjects such as increased transparency and disciplines would be beneficial for both parties.

This issue will have to be discussed at chief's level.

On Wednesday morning the EU explained its text proposal on subsidies, which is subject to a separate joint report.

## **Competition Policy**

### **JOINT REPORT MERCOSUR-EU – ROUND IV COMPETITION – Brussels 16 March 2011**

Attendees:

- EU: Tiina Pitkanen (DG Trade), Eva Valle Lagares (DG COMP), Immaculada Casado (DG COMP)
- Mercosur: Cynthia Andino (Paraguay), Mario Gordilho (Brazil), Gustavo Favero (Brazil), Ivana Silva (Argentina), Luciana Macedo (Uruguay)

The parties discussed the text and succeeded in removing the majority of the remaining brackets (Art 3.2., Art. 3.3 and Art 7).

In addition, the parties agreed on a new wording for Art 31 of the Cooperation Chapter (Cooperation in Competition), which will be proposed to the relevant negotiation group. The text is as follows:

“The Parties will engage in capacity building activities in the area of competition policy subject to the availability of funding for such activities under the Parties' cooperation instruments and programmes.

Technical assistance shall focus on institutional capacity building and training of human resources of the competition authorities, to support them in the establishment of their respective competition regimes and effective enforcement. The aim shall be to strengthen and effectively enforce competition laws in the areas of antitrust and concentrations between undertakings, including competition advocacy.”

The following issues are outstanding:

Art 6, 1 (d) (consultations with Member States): Mercosur will discuss internally and give their position during the next round.

Art 8 (exclusion of Competition Chapter from dispute settlement): Mercosur requested this paragraph to be bracketed as EU proposal pending further consultations with the technical experts of Mercosur.

Brussels 16 March 2011

For the EU:  
Tiina Pitkanen (DG TRADE)  
Eva Valle (DG COMP)

For Mercosur:  
Cynthia Andino

**JOINT REPORT MERCOSUR-EU – ROUND IV  
SUBSIDIES – Brussels 16 of March 2011**

Attendees:

- EU: Tiina Pitkanen (DG Trade), Eva Valle Lagares (DG COMP), Immaculada Casado Guil (DG COMP)
- Mercosur: Cynthia Andino (Paraguay), Leonardo Veiga (Uruguay), Maria Valeria Raiteri (Argentina), Soledad Britti (Argentina), Felipe Hees (Brazil), Ana Carolina Peres (Brazil)

Since Mercosur received the text proposal of the EU on Thursday 10<sup>th</sup> March, Mercosur was unable to thoroughly analyse the text proposal.

The EU explained the reasons and the background for the text proposal on subsidies. Mercosur had a number of questions, including: (a) whether agriculture was under the coverage of the proposed Chapter: (b) the value added with regard to WTO obligations; and (c) the relation to the bilateral dispute settlement mechanism.

The parties agreed that the EU will provide a paper to Mercosur intersessionally which will address the questions presented. The parties further agreed that the EU will give a presentation of the EU state aid control system during the next round.

Brussels 16 March 2011

For the EU:  
Tiina Pitkänen  
Eva Valle

For Mercosur:  
Cynthia Andino

## Services-Investment

# XX MERCOSUR - EUROPEAN UNION BI-REGIONAL NEGOTIATIONS COMMITTEE

March, 2010  
Brussels, Belgium

## Services and establishment working group

### JOINT CONCLUSIONS

The one and half day meeting on services and establishment was held in a constructive atmosphere which allowed the negotiations to progress on a number of issues.

The Parties discussed provisions relating to trade in services and establishment This includes articles on the general provisions; the temporary movement of natural persons; mutual recognition and domestic regulation; financial services; increasing participation of the Mercosur countries; special and differential treatment for Paraguay and the general exceptions. Agreement was reached on some aspects of those articles.

As for the next steps, the Parties agreed to continue discussions on the text at the occasion of the next round. Parties also agreed to continue exchanging views on specific commitments.

The draft text under negotiation is annexed to these conclusions.

MERCOSUR/EU Working Group on Government Procurement

Brussels, 14- 16 March 2011

**JOINT CONCLUSIONS**

1. The MERCOSUR/EU Working Group on Government Procurement met in the context of the XX Biregional Negotiations Committee. The parties had a constructive discussion to follow up on the objective for drafting a joint text.
2. In accordance with the commitment of the last meeting, MERCOSUR submitted for consideration by the EU a paper with drafting proposals, which included 14 draft articles for the text of the chapter. MERCOSUR also presented a list of questions to the EU about the EU proposal, answers to which are necessary for MERCOSUR to complete its proposal.
3. On the basis of this contribution, the EU prepared:
  - a. A synopsis in which the two texts were presented side by side, that was agreed by the Parties as a text-based discussion at this meeting. This discussion is not yet to be considered a negotiation in the sense that any text was agreed. Rather, it was an occasion to exchange views on the drafting proposals and identify convergences and divergences.
  - b. A “consolidated” text in which the EU and MERCOSUR texts were merged into a single text, with diverging text proposals remaining in brackets;
4. With regard to the text elements submitted by MERCOSUR, the EU indicated that there was a strong convergence with its own drafting proposals, so that in these areas it may be expected that a consensus on the text can be reached quickly and without major difficulties. As soon as possible, in order to prepare the next round, the EU will:
  - a. Provide MERCOSUR with the following information:
    - i. EU Legislation with regard to the practice of “limited tendering” (cf. Art. 7 of the EU draft text);
    - ii. Practical examples of such “limited” tenders and “multi-use lists”;
    - iii. Statistics relating to the use of open, limited and restricted tendering by EU procuring entities;
    - iv. Practical examples for technical specifications relating to the protection of environment;

- v. Practical examples for evaluation criteria as set out in Art 9 (3) of the EU draft (environmental characteristics, terms of delivery);
  - vi. Legislation and practical examples relating to “negotiations” (cf. Art 11 of EU draft);
  - vii. Practical examples relating to the disclosure of “mathematical formulae” in Art 13 of the EU draft;
  - viii. Explanation of the non-disclosure requirement in Art 16 (1) of the EU draft;
- b. Make best efforts to answer other outstanding questions.
  - c. Provide a preliminary reaction to those parts of the MERCOSUR text proposal which were not discussed during this round.
5. MERCOSUR will undertake best efforts to complete its drafting proposals with regard to issues not addressed in the 14 draft articles that were submitted during this round.
6. And finally, the Parties agreed to work together in the construction of a common text of the Chapter in the next round.

## **Institutions**

### **Joint Conclusions of Focal Points on Institutions**

Mercosur made preliminary comments on the draft text related to the specific tasks in trade matters of the bodies established under the Agreement and sought clarification from the EU on certain related matters. Discussions concerned issues such as the link between the decisions of both the Association Council and Committee with the procedures currently discussed in the WG on Dispute Settlement, the functioning of the sub-committees or the various steps in the implementation of the agreement, especially provisional application on EU side.

EU will send a proposal on transparency in the coming weeks and sufficiently in advance of the next round.

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## **Cooperation**

Las delegaciones consideraron el Preámbulo, las Partes I, II y III del proyecto de texto del Acuerdo de Asociación Birregional MERCOSUR-UE.

En ese sentido realizaron un constructivo intercambio en base a las propuestas oportunamente presentadas por la Unión Europea en septiembre de 2010 y por el MERCOSUR en marzo de 2011.

Asimismo, acordaron seguir con su tratamiento en ocasión del próximo CNB, que se llevará a cabo en el mes de mayo, en Asunción.  
La UE remitirá al MERCOSUR, tres semanas antes del próximo CNB, el documento con las propuestas de texto realizadas.