

## *Dear Friends and Clients,*

With our newsletter we would like to inform you of recent and significant legal developments in Argentina.

Best regards,

### IN THIS ISSUE

**MERCOSUR/EU AGREEMENT –  
FIRST APPROACH ON WHAT IT MAY  
MEAN FOR CLIENTS**

#### MERCOSUR/EU AGREEMENT – FIRST APPROACH ON WHAT IT MAY MEAN FOR CLIENTS

As reported recently, the Mercosur (Argentina, Brazil, Paraguay and Uruguay) and European Union reached “an agreement in principle” on trade on June 28, 2019.

The agreement is set to **be approved by the European Parliament and the parliaments of the Mercosur countries.**

While the specific details of the agreement are yet to be defined, below is a summary of the main agreed aspects:

\*The Bolivarian Republic of Venezuela is **suspended** in all the rights and obligations inherent to its status as a State Party of MERCOSUR, in accordance with the provisions of the second paragraph of the Article 5 of the Protocol of Ushuaia.

\*\*The Plurinational State of Bolivia is in the process of accession.



## TRADE IN GOODS

The agreement will extensively liberalise trade in goods.

Mercosur will fully liberalise 91% of its imports from the EU over a transition period of up to 10 years for most products. Longer linear liberalisation of up to 15 years is reserved for some of Mercosur most sensitive products.

The EU will liberalise 92% of its imports from Mercosur over a transition period of up to 10 years. In terms of tariff lines, Mercosur will fully liberalise 91% and the EU 95% of lines in their respective schedules.

The provisions on national treatment and market access for goods incorporate core WTO principles regarding import licences and extend those principles to export licensing.

The agreement contains a commitment not to raise duties above a base rate for all products, including those not subject to preferential treatment. Any future unilateral reductions in duties will automatically be reflected in the preferential relationship.

The agreement includes provisions to facilitate trade in wine and spirits, covering recognition of winemaking practices, certification and labelling.

The annex on motor vehicles recognises the importance of UN Regulations as a point of reference for regulators. It will provide transparency and legal certainty regarding the acceptance of UN/ECE test results and of UN certificates (in certain cases).

- THE CURRENT EU BILATERAL TRADE WITH MERCOSUR ALREADY TOTALS €88 BILLION A YEAR FOR GOODS AND €34 BILLION FOR SERVICES.

- THE EU EXPORTS TO MERCOSUR GOODS WORTH €45 BILLION A YEAR AND IMPORTS MERCOSUR PRODUCTS OF NEARLY THE SAME VALUE (€43 BILLION).

- WHEN IT COMES TO SERVICES, THE EU EXPORTS MORE THAN TWICE AS MUCH AS IT IMPORTS: €23 BILLION OF SERVICES SUPPLIED BY EU FIRMS TO CLIENTS IN MERCOSUR VERSUS €11 BILLION IN SERVICES DELIVERED TO EU CLIENTS BY FIRMS FROM MERCOSUR COUNTRIES.

SOURCE: EUROPEAN COMMISSION - [http://europa.eu/rapid/press-release\\_QANDA-19-3375\\_en.htm](http://europa.eu/rapid/press-release_QANDA-19-3375_en.htm)

## RULES OF ORIGIN

Product Specific Rules of Origin (PSR) reflect the rules of origin applicable in recent EU FTAs, in particular for key EU export sectors (cars and car parts as well as most machinery; chemicals; textiles and clothing). There are only limited exceptions or deviations to the normal rules for Mercosur's agricultural exports to the EU (e.g. coffee, soya) and some specific requests (e.g. iron and steel sector and some plastics).

## TRADE REMEDIES

WTO trade defence instruments should remain available in order to address problems caused either by unfair practices such as dumping and subsidisation, or by a sudden increase in imports.

The bilateral safeguard clause provides an opportunity to remedy economic damage caused by unexpected or significant increases in preferential imports resulting from the agreement. This clause is limited in time (up to 18 years from the entry into force of the agreement) and allows for the suspension of preferences during a period of up to two years, with a possible extension of another two years. A provision is also included to cater for the specific circumstances of the outermost regions of the EU and it ensures that there is no risk of disrupting the markets in these regions through imports from Mercosur.

## SANITARY AND PHYTOSANITARY MEASURES (SPS)

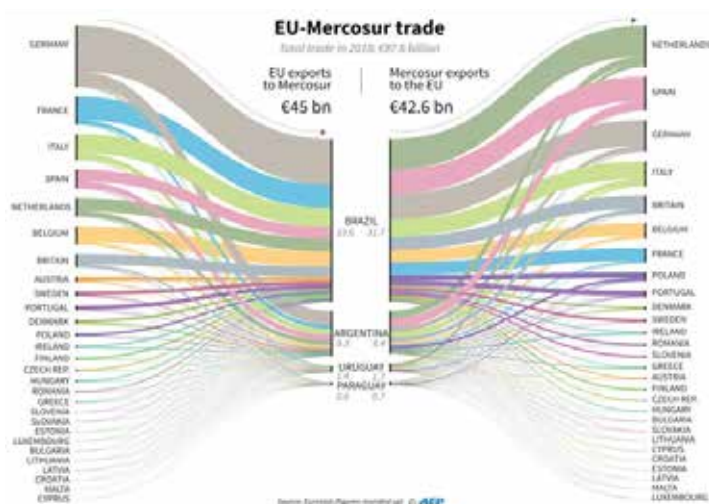
The agreement shall uphold the stringent SPS disciplines protecting EU consumers (food safety, animal health and plant health) and any standards applied by the EU when it imports agriculture or fishery products.

## TECHNICAL BARRIERS TO TRADE (TBT)

The Parties agreed to go beyond WTO rules on the use of international standards as a basis for domestic technical regulations.

The Parties take different approaches to conformity assessment in certain areas (notably electrical safety, electromagnetic compatibility, energy efficiency and the restriction of hazardous substances), where the EU uses suppliers' declarations of conformity. Mercosur parties committed to accept test results by EU conformity assessment bodies, facilitating exports notably in the electric and electronics sectors.

The Parties agreed to only require relevant information on labelling, allowing supplementary labelling in the country of importation, accepting non-permanent labels and when prior approval of labels is required to ensure that requests are decided without undue delay and on a non-discriminatory basis.



## PUBLIC PROCUREMENT

The agreement will provide, in the area of goods and services (including construction services), secure reciprocal legal access to government procurement markets where public procurement contracts are above specified thresholds.

Entities covered at federal and central level are central government ministries and other governmental and federal agencies. In Brazil, this covers for example ministries, the judiciary branch and the legislative branch. In Argentina, it will cover procurement of central-level entities such as ministries, agencies and national universities.

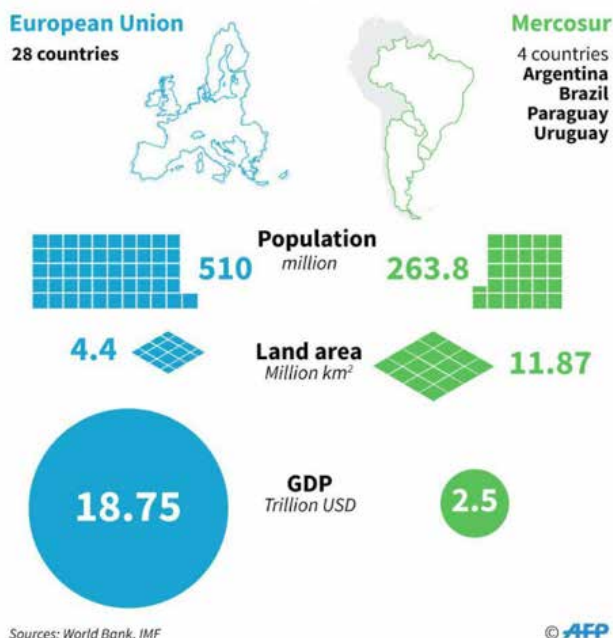
Mercosur countries also committed to work with their sub-central entities (entities at state, province or municipal level) to allow EU firms to tender for contracts at those levels. The aim is to conclude this process at the latest two years after the agreement enters into force. The EU and Mercosur agreed to apply modern disciplines based on the principles of non-discrimination, transparency and fairness.

## INTELLECTUAL PROPERTY RIGHTS, INCLUDING GEOGRAPHICAL INDICATIONS

There are detailed provisions on civil and administrative enforcement for intellectual property rights with the availability of provisional and precautionary measures to intermediaries involved in the infringements.

The enforcement section also includes rules on evidence, right of information, injunctions, damages and remedies.

### EU-Mercosur: key figures



The agreement protects 220 geographical indications from Mercosur and 355 from the EU (mainly food, wine and spirit products) (the list can be expanded by mutual agreement).

Furthermore, the agreement grants protection from misleading use of symbols, flags or images suggesting a “false” geographical origin. In addition, these rights will be able to be upheld via administrative enforcement, including measures by customs officials at the border, on top of judicial action.

## TRADE AND SUSTAINABLE DEVELOPMENT

The Parties agree that they should not lower labour or environmental standards in order to attract trade and investment. They also agree that the trade agreement should not constrain their right to regulate on environmental or labour matters, including in situations where scientific information is not conclusive.

Commitments are included on fighting against deforestation and safeguards relevant initiatives on sustainable agriculture, including EU private sector actions on zero deforestation supply chains and producer-led initiatives, such as the soy moratorium in Brazil to limit the expansion of soy plantations in forestland.

## SMALL AND MEDIUM-SIZED ENTERPRISES (SMES)

Each Party must provide a specific website with information relevant to SMEs seeking to access the market. The Parties must also provide an electronically searchable database by tariff code that contains product-specific market access information such as customs duties and other fees, rules of origin and other relevant product-specific import requirements.

## DISPUTE SETTLEMENT

The Dispute Settlement chapter establishes a mechanism for the purposes of resolving any dispute between the Parties concerning the interpretation or application of the trade part of the agreement. To that end, the EU will also be able to challenge measures of individual Mercosur countries. Apart from panel procedures, the Parties have agreed to establish a detailed mediation procedure, which will help them to find an amicable solution to their dispute with the help of a mediator. Recourse to mediation requires mutual consent and the Parties can resort to it at any time, i.e. before a party initiates a dispute or even in parallel to panel proceedings.

# CONTACTS

Should you have any questions on this matter, do not hesitate to contact us.



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