



# Position Paper



## Updated EUROCHAMBRES position on the negotiations between the European Union and MERCOSUR

### Introduction :

EUROCHAMBRES has consistently supported ambitious and balanced trade negotiations between the European Union and MERCOSUR. As a the number one investor in the MEROCUSUR countries, and with a commercial relationship surpassing €110 billion in trade per year, the region is of prime strategic importance to the European business community. As such, the EU- MERCOSUR Association Agreement should not only serve to remove prime market access obstacles in the tariff and non-tariff area for our businesses, but should also aim to cement the position for EU business in the MERCOSUR for the years to come. The EU is currently the only partner engaged in free trade negotiations with MERCOSUR, which promises EU companies privileged access to MERCOSUR markets compared to its competitors. The EU-MERCOSUR Association Agreement should act as a platform to forge closer links between our respective business communities by attracting further FDI, creating partnerships and transferring know-how via global value chains.

In more concrete terms, EUROCHAMBRES would like to see the following areas addressed in the negotiations as they progress.

### I. Tariffs:

High tariffs, as well as import restrictions and prohibitions, especially in Argentina and Brazil, are still a significant problem for EU exporters. Tariffs worth up to €4 billion a year could be removed if an ambitious deal with the integrated MERCOSUR-market of 250 million consumers were to be agreed on.

85% of EU exports to MERCOSUR are currently subject to import taxes, with exports of significant interest to the EU subject to particularly high tariffs; for instance 23%-35% for cars, 20%-35% for beer and spirits or 14% for mechanical engineering products, with some reaching a peak of 20%. These constitute comparatively very high tariffs on a global scale, imposing high costs for EU manufacturers.

The EU-MERCOSUR trade negotiations should thus seek to dismantle a far ranging and substantial degree of tariff lines upon entry into force of the agreement,. At the same time, EU negotiators should also be very mindful of the defensive interests of EU agricultural producers by agreeing to a balanced concessions in terms of market openings, duly into account the relevant impact assessments on the matter. Additionally, and in line with other EU trade agreements, the association agreement with MERCOSUR should also include a ban on export duties.

## II. Customs and Rules of Origin:

As in all EU trade negotiations, expediting and simplifying rules and procedures in the Customs area and with regard to Rules of Origin (RoO) is a main priority for EUROCHAMBRES, as it has a direct and immediate correlation to companies' – especially SMEs' – ability to capitalize on tariff reductions. Moreover, currently it is nearly impossible to benefit from customs and tax suspensions in the MERCOSUR without a legal entity in the country of import, equally hitting SMEs hardest.

### a. Customs:

Diverging customs procedures and regulations in the different member countries of the MERCOSUR are currently precluding European companies from using one of the MERCOSUR countries as a hub to develop other MERCOSUR-markets. Widespread regulatory discrepancies prevent European companies from entering markets in a timely and cost-effective fashion.

In Brazil for instance, custom duties are included in the taxation base of the value of imported goods. Thus the Brazilian system of duty suspension and the additional high domestic taxes lead to important asymmetries in market access.

Overall, bureaucratic documentation requirements, insufficient transparency and the lack of access to trade regulations are still making EU exports very costly and the application of procedures very complex. Worryingly, ensuring the confidentiality of company data as well as broad data disclosure requirements for customs purposes are an increasing cause of concern for EU companies. The EU should thus work with the MERCOSUR in ensuring reliable customs processes with reasonable turnaround times as a key priority in the customs area of the negotiations.

Moreover, long handling times for clearing goods through customs is an unnecessary obstacle that should be addressed together with the fact that European companies often encounter more detailed controls and protracted customs processes than their national competitors. Unfortunately, it has to be noted that as a foreign company, it is often mandatory to use a local broker or at least to have a national legal entity to act on one's behalf as customs representative in order to effectively export and be granted simplifications, such as the acceleration of the customs clearance process. As a mandatory use of a customs broker is especially prohibitive for SMEs, EUROCHAMBRES would not only like to see this issue addressed in these negotiations, but would propose that the EU includes a standard requirement for future trade agreements to impede such an obligation for respective rules and regulations falling within the scope of a given agreement.

### b. Rules of origin:

As EU trade agreements contain ever more complex sets of rules of origin, it is imperative that these are simplified and harmonized so that companies and in particular SMEs can make use of the preferences in a given EU FTA. In the case of MERCOSUR and for the purpose of coherence, the rules of origin agreed upon with other trade-partners in the region such as with Central America, Colombia, Peru and Ecuador should serve as a model for those that will be agreed on in the EU-MERCOSUR Association Agreement.

The following additional concepts may further reduce the burden on SMEs:

- Establishing a calculation program by the Commission, to provide assistance for SMEs as they calculate preferences and preferential origin regarding the EU-MERCOSUR-FTA
- Registered exporter as alternative to movement certificate
- No extraterritorial verification of preference documents

### III. Non-Tariff Barriers:

For many EU businesses,, it is particularly the non-tariff barriers that impede or hamper further exports to the MERCOSUR. There is an lack of regulatory homogeneity among Mercosur countries and obstacles remain in the non-acceptance of international standards and certificates.

In particular, import licenses, registration procedures and differing certifications and standards are considered particularly burdensome. These barriers currently preclude the development of the full potential of the bi-regional trade and investment relationship.

#### a. Import restrictions/import licences:

With regard to import restrictions, many hurdles concerning the licensing of products exist within the MERCOSUR, coupled with bureaucratic procedures that require considerable amount of human and financial resources. The still existing import restrictions should thus be substantially reduced and simplified so that especially non-established EU businesses can expand their reach to and within the MERCOSUR.

Below are some illustrative examples of such restrictions, which should be alleviated through the on-going negotiation process.

In the case of Argentina for example, the "Integrated import monitoring system" (*SIMI - Sistema Integral de Monitoreo de Importaciones*) currently distinguishes between automatic import licenses for about 10,000 items and non-automatic licences for around 14,600 items, which account for about 20% of the total import value. The Argentine importer, who must be registered in the Importer Register of the customs authority (*„Registro de Exportadores e Importadores“ at the Dirección General de Aduanas - DGA*) and has to make the corresponding application, with foreign suppliers have no role in this process.

While Automatic licenses are practically issued directly online, non-automatic licenses are checked individually in each case, for which the authority has a time period of 60 days. However in practice these checks take considerably more time. Therefore a supply "delivery duty paid (DDP)" is not possible and a fixed date of delivery can often not be guaranteed to the customer

In this regard, until 2015, Argentina applied rules on import licenses that were WTO incompliant. After the WTO ruling on this issue, said licensing system was abolished for 87% of the products by the Argentinian government, which took office in 2015. However, recent developments point in a direction which is of concern to EU business in that the number of products that are considered "sensitive" and thus require an individual import license is increasing, in particular for a broad range of engineering products and components, to the detriment of EU business.

In the case of Paraguay for instance, for pharmaceutical and veterinary products as well as food, a registration of the Paraguayan importers either in the Ministry of Health or in the Instituto Nacional de Alimentación y Nutrición is necessary to grant the necessary import license. Furthermore the importer needs a confirmation from the supplier which authorizes him to sale these goods in Paraguay, thus delaying the process and precluding efficiencies at the importation side.

In the case of Brazil for instance, the so-called "lighthouse tax" continues to pose significant extra cost for certain EU shippers, requiring a defined payment per tonnage for non-local sips each time they first enter a port of call of a Brazilian state.

#### b. Regulatory divergences // Standards and Certifications:

With regards to regulatory obstacles in the MERCOSUR it is particularly the divergent certification requirements within the MERCOSUR and when compared to EU standards, that are one of the most challenging obstacles for EU business, especially for SMEs. Currently there is a lack of acceptance of European norms (for example the CE marking) by MERCOSUR authorities, as well as experienced difficulty to comply with certain conformity requests by the latter. The distinct national certifications within the MERCOSUR add

further layers of bureaucratic costs and additional inspection visits for companies. In this regard European companies producing high-quality products certified according to all relevant European and international standards are today still losing important orders because of newly implemented national legislation rendering these certifications meaningless. Overall in terms of standards being applied and recognized it has to be noted that there is an orientation in the MERCOSUR towards US-standards, which currently benefits non-EU competitors in said market. The EU should therefore work together with the MERCOSUR towards the recognition and implementation of international standards and norms as one of the key priorities in these negotiations.

The below examples should illustrate further some of the obstacles European firms encounter on the regulatory front:

In the case of Uruguay for instance, foodstuff health certificates are typically required. These products as well as pharmaceutical and various chemical products have to be approved by the state control authorities for sanitation services before shipment. Further tests of each shipment of foodstuff are required by the Laboratory LATU for a fee of 1,5% of the invoice value, adding costs and time for relevant EU exports.

In the case of Brazil one can highlight that the process of getting a product approved according to local standards is very burdensome. There are also very high duties on materials, and foreign companies are subject to higher local taxes when compared to local companies, making it difficult for EU companies to compete on an equal playing field.

Additionally several technical regulations are currently hampering market access, such as for instance, the 'Norma Reguladora 121' regulation on machinery safety in Brazil, which after being reformed in 2010, has increased significantly problems for EU companies due to its increased complexity and in its current structure, has introduced additional difficulties regarding safety requirements, particularly on safety of machinery and on state-of-the-art technology transfer.

#### **IV. Services:**

Services are an integral part of the European economy and a main offensive interest of EU business. In this regard, a further opening should be achieved in improved market access for energy and environmental services, infrastructures, financial services, telecommunications and professional services (such as architects, engineers, etc.). Additionally liberalisations should be achieved regarding the temporary movement of highly skilled workers through ambitious commitments under Mode IV.

#### **V. Government Procurement:**

In terms of government procurement neither Argentina, Brazil, Paraguay nor Uruguay are members of the General Procurement Agreement (GPA) at the WTO. It is therefore a priority for EUROCHAMBRES that EU-MERCOSUR negotiations lead to substantial new market openings at both federal and sub-federal level while abolishing still existing discriminatory practices in the bidding process. Besides opening the market also at sub-federal level, construction services and State owned companies should also be covered by relevant procurement commitments.

The following examples should illustrate some of the difficulties European companies face in the procurement area:

In the case of Argentina for instance, foreign firms cannot directly participate in public tenders, as a local presence is always needed, either in the form of a corresponding local representative or a sales office. Additionally, national suppliers are granted a 5% price advantage compared to foreign producers according to law no 25.551 of public tenders, placing EU companies at an unfair disadvantage.

For participation in public tenders in Paraguay and Uruguay a local presence, again either through a corresponding local representative or a sales subsidiary is equally needed, complicating the access of

particularly smaller firms in the effective bidding.

## **VI. Intellectual Property Rights**

While overall IP protection is granted in the MERCOSUR, EU companies still face challenges in the IP area due to the fact that the national regulative authorities within MERCOSUR are not duly connected. Additionally, all countries of MERCOSUR, except for Brazil, do not accept the Patent Cooperation Treaty, in which 151 countries are globally involved. The signing and ratification of key international treaties and instruments for IP protection should therefore be a priority for EU negotiators.

Equally, important for EUROCHAMBRES is the transparent and effective protection of key European Geographical Indications (GIs) in the MERCOSUR.

## **VII. Small and Medium sized Enterprises (SMEs) : Information - Cooperation – Participation**

As in all EU trade agreements, SMEs are at the core of EUROCHAMBRES' concerns. In the case of MERCOSUR, SMEs face similar market access obstacles as big companies do, yet due to their lacking of economies of scale the burdens are disproportionately higher on them, thus needing special attention from policy makers. Across the board reduction of burdensome bureaucracy and red tape for importation, addressing the insufficient transparency as regards regulations, striving for simplified customs procedures and addressing the partially high import duties, VAT and other import fees or taxes are some of the areas that need to be targeted. In this regard, better access to public procurement markets needs also to be accompanied by a making relevant tenders and notices available online through a dedicated online one-stop shop.

More specifically, EUROCHAMBRES would like to strongly underline the need for a dedicated chapter for SME's in the MERCOSUR negotiations in line with the Trade for All Strategy, building on efforts achieved so far in the most advanced and forward looking EU FTAs, such as the TTIP which is currently under negotiation.

In line with the above, and bearing in mind that the MERCOSUR is a key strategic market for EU companies, the following three areas should to be taken into account with regards to SMEs and a dedicated chapter.

**1) Information:** A comprehensive online one-stop shop needs to be implemented on both sides that is able to gather in a comprehensive manner rules and regulations both at and behind the border, in order to help SME's navigate through the complex regulatory environment on both sides. Said points of intelligence should also contain notices and tenders for public procurement, as well as basic information on how to get started in each other's markets, particularly basic information from the respective business registers.

Currently access to necessary information via local authorities is considered insufficient by European companies. Especially the differences in regulations regarding access to each MERCOSUR-market are perceived as in transparent. The lack of uniformity in applying procedures, the difficult coordination between different border agencies as well as insufficient use of information technology impedes 5companies from using the full trading potential. Additionally in many cases, much of the information and legal regulations on the national webpages of the customs authorities are only available in the respective national language. Involving local attorneys or consultants thus becomes a necessity in order to obtain all necessary details concerning the import or export of material, as well as to be able to comply with technical formalities or settle more general compliance issues. Overall, a profound experience is needed to handle procedures in practice.

**2) Cooperation:** The cooperation side of the SME chapter needs to be enhanced significantly with the MERCOSUR given it is a priority- and strategic region for EU business and SMEs in particular. To this end, besides enshrining the exchange of best practices in relation to SME internationalization, both parties should commit to develop a binding road map on the subsequent implementation of the EU- MERCOSUR Association Agreement for SMEs. The road map should be developed in a joint effort together with the business community, such as Chambers of Commerce and European Chambers abroad, duly involving the respective Parliaments, and containing the concrete steps that will be taken by both governments to implement the agreement for their SMEs. The focus should be on trade supporting measures specifically aimed at how each

sides intends to support its SMEs to realize the benefits of the EU-MERCOSUR AA, be it through awareness raising, capacitation, trainings or any other means deemed suitable.

**3) Participation:** For any forward looking trade agreement it should be essential to have the SME community fully involved not only in the negotiation process, but importantly also afterwards to ensure an continuous dialogue for an effective monitoring and implementation of the agreement. To that end, the necessary structures should be envisaged that guarantee an active involvement of the SME community within the structures of a future EU-MERCOSUR agreement, thus going beyond the EU's current proposal on an SME chapter<sup>1</sup>. Links with implementation activities in the Market Access Advisory Committee (MAAC) should equally be explored to create necessary synergies.

*EUROCHAMBRES – The Association of European Chambers of Commerce and Industry represents over 20 million enterprises in Europe – 93% of which are SMEs – through members in 44 countries and a European network of 2000 regional and local Chambers.*

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<sup>1</sup> [http://trade.ec.europa.eu/doclib/docs/2016/november/tradoc\\_155071.pdf](http://trade.ec.europa.eu/doclib/docs/2016/november/tradoc_155071.pdf)