

This document contains the consolidated text as it stands at the end of the XXXIst round of negotiations (21 February – 2 March 2018) on General and Institutional Issues in the Trade Part of the EU-Mercosur Association Agreement. This is without prejudice to the final outcome of negotiations. Both sides reserve the right to make subsequent modifications to their proposals.

EU-MERCOSUR/PART III

REMAINING ISSUES IN ASSOCIATION AGREEMENT/GENERAL/INSTITUTIONAL PROVISIONS

GLOBAL AGREEMENT TRADE RELATED PROVISIONS	
Article	Provision
PREAMBLE	CONSIDERING the important and longstanding trade and investment relations between the Parties; REAFFIRMING their commitment to further strengthen, liberalise and diversify their trade and investment relations;
	RECOGNISING that the provisions of this Agreement maintain the right of the Parties to regulate within their territories in conformity with their internal legislation to achieve legitimate policy objectives, such as public health, safety, environment, education, public morals, and the promotion and protection of cultural diversity, among others;
	BUILDING UPON the rights and obligations of the Parties in the World Trade Organisation;
	REAFFIRMING their commitment to strengthen and develop the multilateral trading system through the application of transparent, equitable and non-discriminatory rules, with a view to the promotion of increasingly dynamic and open international trade which ensures a larger participation of developing countries in international trade, investment and technology flows;
	REAFFIRMING their commitment to promote international trade in such a way as to contribute to sustainable development in its economic, social and environment dimensions, involving all relevant stakeholders, including civil society and the private sector, and to implement this agreement in a manner consistent with their respective laws and international

GLOBAL AGREEMENT TRADE RELATED PROVISIONS	
Article	Provision
	commitments on labour and environmental matters;
	REAFFIRMING the Parties' right to exploit their natural resources in accordance with their own environmental policies, and sustainable development goals;
	DESIRING to improve the competitiveness of their enterprises, by providing them with a predictable legal framework for their trade and investment relations, with special attention to micro, small and medium enterprises.
	REAFFIRMING the need to promote the respect of internationally recognised guidelines and principles of corporate social responsibility and responsible business conduct, including the OECD Guidelines for Multinational Enterprises, amongst enterprises operating in their territories;
	REAFFIRMING their commitment to promote comprehensive economic and social development with the objective of raising living standards, eradicating poverty, and enhancing the levels of labour and environmental protection in their respective territories;
	CONSIDERING the importance of their respective regional integration processes for the promotion of economic and social development at the regional and global levels, for the strengthening of ties between their peoples and for international stability.
	[MERCOSUR - RECOGNIZING the differences in economic and social development between the Parties and their shared commitment to reducing these disparities;]
GENERAL PROVISIONS	

GLOBAL AGREEMENT TRADE RELATED PROVISIONS	
Article	Provision
ARTICLE X.1	<p>Establishment of a Free Trade Area and Relation to the WTO Agreement</p> <ol style="list-style-type: none"> 1. The Parties to this Agreement hereby establish a free trade area, consistent with Article XXIV of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as "GATT 1994") and Article V of the General Agreement on Trade in Services (hereinafter referred to as "GATS"). 2. The Parties reaffirm their rights and obligations with respect to each other under the WTO Agreement.
ARTICLE X.2	<p>Objectives</p> <p>The provisions of this Part of the Agreement aim at:</p> <ol style="list-style-type: none"> (a) a modern and mutually advantageous trade agreement which creates a predictable framework to boost trade and economic activity, while promoting and protecting our shared values and perspectives on the role of government in society, and retaining the right of the Parties to regulate at all levels of government to achieve public policy objectives; (b) the development of international trade and of trade between the Parties in a way as to contribute to sustainable development in its economic, social and environmental dimensions, consistent with, and supportive of, their respective international obligations, in these fields; (c) the promotion of a more sustainable, equitable and inclusive economy so as to raise standards of living, reduce poverty and create new employment opportunities [MCS; , taking into consideration the differences in their levels of development]; (d) the consolidation, increase and diversification of trade in [MCS alt to (xx): agricultural and non-agricultural] goods between the Parties, through the reduction or the elimination of tariff and non-tariff barriers to trade and the further integration in the global value chains; (e) the facilitation of trade in goods through, in particular, the application of the agreed provisions regarding customs and trade facilitation, standards, technical regulations and conformity assessment procedures as well as sanitary and phytosanitary measures; <p>[MCS: (xx) the consolidation of a fair and market oriented agricultural trading system;]</p> <ol style="list-style-type: none"> (f) the liberalisation and facilitation of trade in services, and the development of an environment conducive to an increase in investment flows, competitiveness, and economic growth and, in particular, to the improvement of

GLOBAL AGREEMENT TRADE RELATED PROVISIONS	
Article	Provision
	<p>conditions of establishment of businesses between the Parties; ensuring the free movement of capital relating to direct investment and of current payments in accordance with Title X;</p> <p>(g) the effective, transparent and competitive opening of government procurement markets of the Parties;</p> <p>(h) the promotion of innovation and creativity by ensuring an adequate and effective level of protection and of enforcement of intellectual property rights, in accordance with international rules in force between the Parties, so as to ensure the balance between the rights of the right-holders and the public interest;</p> <p>(i) the conduct of economic activities, in particular those regarding the relations between the Parties, in conformity with the principle of free and undistorted competition;</p> <p>(j) the establishment of a framework for the participation of civil society, including employers, unions, labour and business organisations and environmental groups to support the effective implementation of this Part of the Agreement;</p> <p>(k) the establishment of an expeditious and effective dispute settlement mechanism;</p> <p>(l) a transparent and predictable regulatory environment and efficient procedures for economic operators, especially small and medium-sized enterprises, while preserving the ability of the Parties to adopt and apply their own laws and regulations that regulate economic activity in the public interest, and to achieve legitimate public policy objectives such as the protection and promotion of public health, social services, public education, safety, the environment, public morals, social or consumer protection, privacy and data protection and the promotion and protection of cultural diversity.</p> <p>Relationship with Civil Society</p> <p>1. Each Party shall promote regular dialogue with its domestic advisory group referred to in Article [Domestic Advisory Group] to discuss matters related to the application of this Part of the Agreement.</p> <p>2. The representatives of the Parties in the Association Council or the Association Committee, when Association Council or the Association Committee meet in their trade configurations to discuss matters related to the application of this Part of the Agreement, as appropriate, shall take part in a session of the Civil Society Forum referred to in Article [Civil Society Forum] in order to conduct a dialogue on the application of this Part of this Agreement.</p>
ARTICLE X.3	

TITLE II - INSTITUTIONAL [AND ADMINISTRATIVE] PROVISIONS OF THE TRADE PART ARTICLE X.4	Specific Tasks of the Association Council
	<p>1. When the Association Council performs any of the tasks conferred upon it in this Part of the Agreement, it shall be composed, at Ministerial level, of representatives of the European Union, on the one side, and of the MERCOSUR, on the other, with responsibility for trade and trade-related matters in accordance with the Parties' respective legal frames, or by their designees.</p> <p>2. The Council may, in relation to trade and trade-related matters:</p> <p>(a) modify in fulfillment of the objectives of Part [Trade] of the Agreement:</p> <ul style="list-style-type: none">i. the lists of goods contained in Annex XXX (Elimination of Customs Duties), with the object of incorporating one or more goods into the tariff reduction schedule;ii. the Schedules attached to Annex XXX (Elimination of Customs Duties) in order to accelerate tariff dismantling;iii. Appendix XXX, Appendix XXX and Appendix XXX to Annex XXX (Elimination of Customs Duties);iv. Appendixes XXX to Annex XX (Concerning the Definition of the Concept of "Originating Products" and Methods of Administrative Cooperation);v. Annex XXXX (Government Procurement);vi. Annex XXXX (Protected Geographical Indications);vii. Annex XXI (Sub-Committees); <p>(b) issue interpretations of the provisions of this Part of the Agreement; and</p> <p>(c) take such other decisions if so provided in this Part of the Agreement and take such other action in the exercise of its functions as the Parties may agree.</p> <p>3. Each Party shall implement, in accordance with its applicable legal procedures, any modification referred to in subparagraph 2(a) within such period as the Parties may agree.</p>

ARTICLE X.5

Specific Tasks of the Association Committee

1. When the Association Committee performs any of the tasks conferred upon it in this Part of the Agreement, it shall be composed of representatives of the European Union, on the one side, and of the MERCOSUR, on the other, at senior official level and with responsibility for trade and trade-related matters, or by their designees.
2. The Association Committee shall have, in particular, the following functions when dealing with trade and trade-related matters:
 - (a) assist the Association Council in the performance of its functions regarding trade and trade-related matters;
 - (b) supervise and be responsible for the proper implementation and application of the provisions of this Part of the Agreement. In this respect, and without prejudice to the rights established in the [Title on Dispute Settlement], any [Party] may refer for discussion within the Association Committee any issue relating to the application or interpretation of this Part of the Agreement;
 - (c) To supervise the work of all sub-committees and other bodies concerned with trade and trade-related matters established in accordance with the terms of this Part of the Agreement;
 - (d) To explore the most appropriate way to prevent or solve any difficulty that may arise in relation to trade and trade-related matters covered by this Part of the Agreement without prejudice to Title XI (Dispute Settlement).
3. In the performance of its duties under paragraph 2, the Association Committee may:
 - a. establish additional Sub-Committees from those established in this Part of the Agreement, composed of representatives of the Parties, and assign them responsibilities within its competence. It may also decide to modify the functions of the Sub-

	<p>Committees it establishes, including by assigning new ones, as well as dissolve the Sub-Committees;</p> <p>b. recommend to the Association Council the adoption of decisions, in compliance with the specific objectives of this Part of the Agreement (including the modifications referred to in paragraph 2(a) of Article X.4 (Specific Tasks of the Association Council)), or adopt such decisions in the intervals between the meetings of the Association Council¹; and</p> <p>c. take any other action in the exercise of its functions as the Parties may agree or as instructed by the Association Council.</p>
<p>ARTICLE X.6</p>	<p style="text-align: center;">XX Subcommittees</p> <p>1. The Sub-Committees shall be composed of representatives of the European Commission, on the one side, and of the MERCOSUR, on the other.</p> <p>2. The Sub-Committees shall meet once per year or at the request of either Party or of the Joint Committee, at an appropriate level. When in person, meetings shall be held alternately in Brussels or in one of the MERCOSUR countries. Meetings may also be held by any technological mean available to the Parties. The Sub-Committee shall be co-chaired by both Parties.</p> <p>3. The following Subcommittees are hereby established under the auspices of the Association Committee:</p> <p>(a) The Sub-Committee on Trade in Goods.</p> <p>(b) The Sub-Committee on Sanitary and Phytosanitary measures</p> <p>(c) The Sub-Committee on Trade in Services.</p> <p>(d) The Sub-Committee on Government Procurement</p>

¹ Decisions shall be binding on the Parties, which shall take all necessary measures, in accordance with their internal procedures, to implement them.

	<p>(e) The Sub-Committee on Intellectual Property</p> <p>(f) The Sub-Committee on Trade and Sustainable Development</p> <p>4. [MCS: Without prejudice to specific functions established under the different Titles of the Trade Part of this Agreement, the Sub-Committees shall:</p> <ol style="list-style-type: none"> a. supervise and facilitate the operation and application of the Trade Part of the Agreement and consider other ways to attain its general objectives; b. evaluate the results obtained from the application of this Agreement, c. provide a forum to discuss and seek to resolve any unjustified obstacle or difficulty that may arise in relation to issues covered by this Agreement that fall within the subject matters indicated in paragraph 1, above, without prejudice to the rights conferred in Title XI (Dispute Settlement) and other provisions of this Agreement; and d. propose any measures they deemed appropriate to improve the trade relations between the Parties for the consideration of the Association Committee.]
<p>ARTICLE X.7</p>	<p style="text-align: center;">Coordinators of Part III of the Agreement</p> <p>1. The European Commission and each MERCOSUR country signatory of this Agreement shall appoint a Trade Coordinator and notify the other Party within 30 days following the entry into force of this Agreement.</p> <p>2. The Trade Coordinators shall work jointly to develop agendas and make all other necessary preparations for the meetings of the Association Council and the Association Committee according to the above provisions.</p> <p>3. The Trade Coordinators shall:</p> <ol style="list-style-type: none"> (a) prepare the agenda and coordinate the preparation of the Association Council and the Association Committee meetings; (b) follow up on the decisions adopted by the Association Council and the Association Committee, as appropriate; (c) act as contact points to facilitate communication between the Parties on any matter covered by this Agreement, unless otherwise provided in this Agreement; (d) receive any notifications and information submitted under this Agreement, including any notification or information submitted

	<p>to the Association Council and the Association Committee, unless otherwise provided; and (e) fulfill other tasks as requested by the Association Council and the Association Committee.</p> <p>Security Exception GENERAL PART OF THE AGREEMENT</p> <p>Nothing in this Agreement shall be construed:</p> <p>(a) to require a Party to furnish or allow access to any information the disclosure of which it considers contrary to its essential security interests; or</p> <p>(b) to prevent a Party from taking an action which it considers necessary for the protection of its essential security interests:</p> <p>(i) connected to the production of or traffic in arms, ammunition and implements of war and to such traffic and transactions in other goods and materials, services and technology, and to economic activities, carried out directly or indirectly for the purpose of supplying a military establishment;</p> <p>(ii) relating to fissionable and fusionable materials or the materials from which they are derived; or</p> <p>(iii) taken in time of war or other emergency in international relations; or</p> <p>(c) to prevent a Party from taking any action in order to carry out its international obligations under the UN Charter for the purpose of maintaining international peace and security.</p>
	<p>Taxation² TRADE PART</p> <p>1. Nothing in this Agreement shall affect the rights and obligations of the Parties under any tax convention. In the event of any inconsistency between this Agreement and any such tax convention, the tax convention shall prevail to the extent of the inconsistency.</p> <p>2. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between the Parties, where like conditions prevail, or a disguised restriction on trade and investment, nothing in this Agreement shall be construed to prevent the adoption, maintenance or enforcement by a Party of any measure aimed at ensuring the equitable or effective imposition or collection of direct taxes that:</p>

² MCS – still consulting

<p>(a) distinguishes between taxpayers, who are not in the same situation, in particular with regard to their place of residence or with regard to the place where their capital is invested; or</p> <p>(b) aims at preventing the avoidance or evasion of taxes pursuant to the provisions of any tax convention or domestic fiscal legislation.</p> <p>3. For the purpose of this Article: (a) "residence" means residence for tax purposes; (b) "tax convention" means a convention for the avoidance of double taxation or any other international agreement or arrangement relating wholly or mainly to taxation that either Party is party to.</p>	<p style="text-align: center;">Disclosure of information [MERCOSUR GENERAL PART / EU TRADE PART]</p> <p>Nothing in [MERCOSUR: this Agreement] [EU: Trade part of this Agreement] shall be construed to require a Party to make available confidential information [MCS: or personal data], the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or private except where a panel requires such confidential information in dispute settlement proceedings under Title [X] [DS]. In such cases, the panel shall ensure that confidentiality is fully protected.</p> <p>2. When a Party provides information which is considered as confidential under its laws and regulations, the other Party shall treat that information as confidential, unless the submitting Party agrees otherwise.</p>	<p style="text-align: center;">WTO Waivers TRADE PART</p> <p>If an obligation in this Agreement is substantially equivalent to an obligation contained in the WTO Agreement, any measure taken in conformity with a waiver adopted pursuant to paragraphs 3 and 4 of Article IX of the WTO Agreement is deemed to be in conformity with the substantively equivalent provision in this Agreement.</p>
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	<p style="text-align: center;">Restrictions in case of Balance of payments and external financial difficulties TO BE DISCUSSED IN THE MOVEMENT OF CAPITAL CHAPTER. ONCE WORDING IS AGREED UPON, PLACEMENT CAN BE REVISITED.</p>
	<p style="text-align: center;">EXCEPTION IN THE TITLE "TRADE IN GOODS" (MARKET ACCESS), (CUSTOMS AND TRADE FACILITATION)</p>
	<p style="text-align: center;">PLACEMENT TO BE DISCUSSED (GENERAL TRADE, OR SPECIFIC TITLE/CHAPTER)– TO COVER ONLY MARKET ACCESS, AND CUSTOMS AND TRADE FACILITATION MATTERS.</p>
	<p style="text-align: center;">Article X General exceptions</p> <ol style="list-style-type: none"> 1. Article XX of the GATT 1994, including its Notes and Supplementary Provisions, is incorporated into and made part of Chapter (XXX – “<i>Market Access/NTM</i>”) and Chapter (XXX – Customs and Trade Facilitation). 2. In this context, the Parties understand that <ol style="list-style-type: none"> (a) the measures referred to in Article XX(b) of the GATT 1994 include environmental measures, such as measures taken to implement multilateral environmental agreements, which are necessary to protect human, animal or plant life or health; and (b) Article XX(g) of the GATT 1994 applies to measures for the conservation of living and non-living exhaustible natural resources. 3. Before a Party takes any measures provided for in subparagraphs (i) and (j) of Article XX of the GATT 1994, it shall provide the other Party with all relevant information, with a view to seeking a solution acceptable to the Parties. If no

agreement is reached within 30 days of providing the information, the Party may apply the relevant measures. Whenever exceptional and critical circumstances require immediate action the Party intending to take the measures may apply the necessary measure without prior notification. The Party shall inform the other Party immediately thereof.

[EU: Article X

Regional Integration

1. While recognising the differences in their respective regional integration processes, and without prejudice the commitments undertaken under this Agreement, the Parties shall foster conditions which facilitate the free movement of goods and services between and within the two regions.
2. With respect to movement of goods, pursuant to paragraph 1:
 - a) goods of MERCOSUR that are released for free circulation in the European Union [EU Party] shall benefit from free movement of goods within the territory of the European Union [EU Party] under the conditions established by the Treaty on the Functioning of the European Union;
 - b) Mercosur shall work towards applying common customs procedures and uniform data requirements for the release of goods. The signatory Member States of MERCOSUR shall apply to goods originating in the European Union [EU Party] and entering its territory from another signatory Member State of MERCOSUR, the most favourable customs treatment applicable to goods from any other signatory Member States of MERCOSUR;
 - c) signatory Member States of MERCOSUR shall ensure the free movement of goods of the European Union [EU Party] between their territories and avoid duplication of procedures and controls (including SPS import checks) in accordance with the evolution of their integration process. In this regard, the signatory Member States of MERCOSUR shall also foster the gradual harmonisation of TBT standards, technical regulations and conformity assessment procedures, SPS requirements and approval procedures (including import certificates, controls, audits and verifications), which shall apply to goods originating in the EU Party on a non-discriminatory basis.
3. With respect to trade of services, pursuant to paragraph 1:

- a) enterprises owned or controlled by natural or juridical persons of a Member State of MERCOSUR and established in a Member State of the European Union shall benefit from the freedom to provide services in the territory of the European Union [EU Party] under the conditions established by the Treaty on the Functioning of the European Union.
 - b) signatory Members States of MERCOSUR shall promote the freedom to provide services between their territories to enterprises owned or controlled by natural or juridical persons of a Member State of the European Union and established in a signatory Member State of MERCOSUR.
 - c) the signatory Member States of MERCOSUR shall apply to the services of the EU party, the most favourable treatment applicable to like services supplied from other signatory Member States of MERCOSUR.
 - d) the signatory Member States of MERCOSUR shall make their best efforts to foster harmonisation of their requirements and procedures for the supply of services, and to promote the harmonisation or mutual recognition of licenses and qualifications, which shall apply to services and service suppliers of the EU Party on a non-discriminatory basis.
4. With respect to government procurement, and pursuant to paragraph 1, signatory Member States of MERCOSUR shall consider enterprises, including service suppliers, owned or controlled by natural or juridical persons of a Member State of the European Union and established in a signatory Member State of MERCOSUR as a supplier/service provider of any other MERCOSUR country.]

