

This document contains the Mercosur proposal as it stands at the end of the XXXIInd round of negotiations (21 February – 2 March 2018) on Subsidies 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.

CHAPTER XX

SUBSIDIES

Article X.1

Principles

The Parties agree that subsidies can be granted by a Party when they are necessary to achieve a public policy objective. The Parties acknowledge, however, that certain subsidies have the potential to distort the proper functioning of markets and undermine the benefits of trade liberalisation. In principle, subsidies should not be granted by a Party when it finds that they have or could have significantly negative effect on trade.

Article X.2

Definition and Scope

1. For the purposes of this Chapter, a subsidy is a measure which fulfils the conditions set out in Article 1.1 of the WTO Agreement on Subsidies and Countervailing Measures (hereinafter referred to as “SCM Agreement”) and is granted to an enterprise manufacturing goods.
2. A subsidy shall be subject to this Chapter only if this subsidy is determined to be specific in accordance with the provisions of and within the meaning of Article 2 of the SCM Agreement.

Article X.3

Relationship with WTO

The provisions in this Chapter shall be applied without prejudice to the rights and obligations of each Party under the WTO Agreement.

Article X.4

Transparency

1. Each Party shall notify every two years the legal basis, form, amount or budget of the subsidies provided.
2. Such notification shall be deemed to have been fulfilled whenever the Parties comply with their notification obligations under Article 25 of the SCM Agreement, provided that the notification contains all the information required under paragraph 1. The first notification shall be made available no later than two years after the entry into force of this Agreement.

Article X.5

Consultations

1. If a Party considers that a subsidy granted by the other Party may negatively affect the first Party's interests, the first Party may express its concern to the other Party and request consultations on the matter. The requested Party shall accord full and sympathetic consideration to such a request.
2. To facilitate the consultation, the requested Party shall provide information on the subsidy in question within no more than 90 days from the date of reception of the request.
3. If the requesting Party, after the consultations, still considers that the subsidy in question has or could have a significantly negative effect on the requesting Party's trade under this Chapter, the requested Party shall accord sympathetic consideration to the concerns of the requesting Party. Any solution must be considered feasible and acceptable by the requested Party.

Article X.6 (Ex X.8)

Confidentiality

1. When exchanging information under this Chapter the Parties shall take into account the limitations imposed by their respective legislations concerning professional and business secrecy and shall ensure the protection of business secrets and other confidential information.
2. When a Party communicates information under this Agreement, the receiving Party shall maintain the confidentiality of the communicated information.

Article X.7 (Ex. X.10)

Dispute Settlement

This Chapter shall not be subject to the dispute settlement provisions of this Agreement.

