

## CHAPTER 1

### INITIAL PROVISIONS

#### ARTICLE 1.1

##### Establishment of a free trade area and relation to the WTO Agreement

1. The Parties to this Agreement hereby establish a free trade area, in conformity with Article XXIV of the GATT 1994 and Article V of the GATS.
2. The Parties affirm their rights and obligations with respect to each other under the WTO Agreement.
3. Nothing in this Agreement shall be construed as requiring a Party to act in a manner inconsistent with its obligations under the WTO Agreement.

## ARTICLE 1.2

### Objectives

The provisions of this Agreement aim at:

- (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;
- (d) the consolidation, increase and diversification of trade in 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;

- (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 conditions of establishment of businesses between the Parties;
- (g) the free movement of capital relating to direct investment and of current payments in accordance with Chapter 11;
- (h) the effective, transparent and competitive opening of government procurement markets of the Parties;
- (i) 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;
- (j) the conduct of economic activities, in particular those regarding the relations between the Parties, in conformity with the principle of free and undistorted competition;
- (k) 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 Agreement;
- (l) the establishment of an expeditious and effective dispute settlement mechanism; and

- (m) a transparent and predictable regulatory environment and efficient procedures for economic operators, especially SMEs, 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.

## ARTICLE 1.3

### General definitions

Unless otherwise specified, for the purposes of this Agreement, the following definitions apply:

- (a) "agricultural good" means a product listed in Annex 1 to the Agreement on Agriculture;
- (b) "customs duty" means any duty or charge of any kind imposed on or in connection with the importation of a good, including any form of surtax or surcharge imposed on or in connection with such importation<sup>1</sup>, but does not include any:
  - (i) internal taxes or other internal charges imposed consistently with Article III of GATT 1994;

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<sup>1</sup> Among other measures of equivalent effect, this includes *ad valorem* import duties, agricultural components, additional duties on sugar content, additional duties on flour content, specific duties, mixed duties, seasonal duties and additional duties from entry price systems.

- (ii) antidumping or countervailing duties applied in accordance with Articles VI and XVI of GATT 1994 and the WTO Agreement on the Implementation of Article VI of GATT 1994 and the SCM Agreement in conformity with Chapter 8 of this Agreement;
- (iii) measures applied in accordance with Article XIX of GATT 1994 and with the WTO Safeguards Agreement, or other safeguard measures applied pursuant to Chapter 8 of this Agreement;
- (iv) measures authorised by the WTO Dispute Settlement Body or under Chapter 21 of this Agreement;
- (v) fee or other charge, imposed consistently with Article VIII of GATT 1994; or
- (vi) measures adopted to safeguard a Party's external financial position and its balance of payments, in conformity with Article XII of GATT 1994 and the Understanding on Balance of Payments Provisions of GATT 1994.

(c) "CPC" means the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991);

(d) "days" means calendar days, including weekends and holidays;

(e) "EU–MERCOSUR Partnership Agreement" means the Partnership Agreement between the European Union and its Member States, of the one part, and the Common Market of the South, the Argentine Republic, the Federative Republic of Brazil, the Republic of Paraguay and the Oriental Republic of Uruguay, of the other part, to be concluded;

- (f) "existing" means in effect on the date of entry into force of this Agreement;
- (g) "good of a Party" means a domestic good as understood in the GATT 1994, and includes originating goods of that Party;
- (h) "Harmonized System" or "HS" means the Harmonized Commodity Description and Coding System, including its General Rules of Interpretation, Section Notes, and Chapter Notes, done at Brussels on 14 June 1983;
- (i) "heading" means the first four digits in the tariff classification number under the Harmonized System;
- (j) "juridical person" means any legal entity duly constituted or otherwise organised under applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association;
- (k) "measure" includes any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, requirement or practice<sup>2</sup>;
- (l) "natural person of a Party" means, for the European Union, a national of a Member State of the European Union, and for MERCOSUR, a national of a Signatory MERCOSUR State, in accordance with their respective applicable legislation;

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<sup>2</sup> For greater certainty, the term "measure" includes omissions and legislation that has not been fully implemented at the conclusions of the negotiations of this Agreement as well as its implementing acts.

- (m) "person" means a natural person or a juridical person;
- (n) "sanitary or phytosanitary measure" means any measure as defined in Annex A to the SPS Agreement;
- (o) "third country" means a country or territory outside the territorial scope of application of this Agreement;
- (p) "UNCLOS" means the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982; and
- (r) "WTO" means the World Trade Organization.

#### ARTICLE 1.4

##### WTO Agreements

- (a) "ADA" means the Agreement on Implementation of Article VI of GATT 1994;
- (b) "Agreement on Agriculture" means the Agreement on Agriculture, contained in Annex 1A to the WTO Agreement;
- (c) "DSU" means the Understanding on Rules and Procedures Governing the Settlement of Disputes, contained in Annex 2 of the WTO Agreement;

- (d) "GATS" means the General Agreement on Trade in Services, contained in Annex 1B to the WTO Agreement;
- (e) "GATT 1994" means the General Agreement on Tariffs and Trade 1994, contained in Annex 1A to the WTO Agreement;
- (f) "Safeguards Agreement" means the Agreement on Safeguards, contained in Annex 1A to the WTO Agreement;
- (g) "SCM Agreement" means the Agreement on Subsidies and Countervailing Measures, contained in Annex 1A to the WTO Agreement;
- (h) "SPS Agreement" means the Agreement on the Application of Sanitary and Phytosanitary Measures, contained in Annex 1A to the WTO Agreement;
- (i) "TBT Agreement" means the Agreement on Technical Barriers to Trade, contained in Annex 1 to the WTO Agreement;
- (j) "TRIPS Agreement" means the Agreement on Trade-Related Aspects of Intellectual Property Rights, contained in Annex 1C to the WTO Agreement; and
- (k) "WTO Agreement" means the Marrakesh Agreement Establishing the World Trade Organization, done on 15 April 1994.

## ARTICLE 1.5

### Parties

1. The European Union shall be responsible for the fulfilment of the commitments in this Agreement.
2. Save where otherwise provided, each of the Signatory MERCOSUR States of this Agreement shall be responsible for the fulfilment of the commitments in this Agreement.

## ARTICLE 1.6

### Regional integration

1. While recognising the differences in their respective regional integration processes, and without prejudice to the commitments undertaken under this Agreement, the Parties shall foster conditions which facilitate the movement of goods and services between and within the two regions.
2. With respect to movement of goods, pursuant to paragraph 1:
  - (a) goods originating in a Signatory MERCOSUR State that are released for free circulation in the European Union shall benefit from free movement of goods within the territory of the European Union under the conditions established by the Treaty on the Functioning of the European Union;

- (b) the Signatory MERCOSUR States shall apply to goods originating in the European Union that are imported in its territory from another Signatory MERCOSUR State, customs procedures that are no less favourable than those applicable to goods originating in that Signatory MERCOSUR State.
- (c) the Signatory MERCOSUR States shall periodically review their customs procedures with a view to facilitating the movement of goods of the European Union between their territories and to avoiding duplication of procedures and controls when practicable and in accordance with the evolution of their integration process; and
- (d) the benefits of MERCOSUR's harmonisation of technical regulations and conformity assessment procedures, SPS requirements and approval procedures, including import certificates and controls, shall be extended under non-discriminatory conditions to goods originating in the European Union if they have been imported in compliance with the laws and regulations of the importing Signatory MERCOSUR State.

The treatment referred to under points (a) and (b) of this paragraph does not include tariff treatment for goods, which is governed by Chapter 2.

3. With respect to movement of services, pursuant to paragraph 1:
  - (a) Member States of the European Union shall endeavour to facilitate, as appropriate, the freedom to provide services within the territory of the European Union to enterprises owned or controlled by natural or juridical persons of a Signatory MERCOSUR State and established in a Member State of the European Union; and
  - (b) the Signatory MERCOSUR States shall endeavour to facilitate, as appropriate, 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 MERCOSUR State.

## ARTICLE 1.7

### References to laws and other agreements

1. Unless otherwise specified, where reference is made to laws and regulations of a Party, those laws and regulations shall be understood to include amendments thereto.
2. Unless otherwise specified, any reference to, or incorporation by means of a reference in this Agreement of, other agreements or legal instruments in whole or in part shall be construed as including related annexes, protocols, footnotes, interpretative notes and explanatory notes.

3. Unless otherwise specified, where international agreements are referred to or incorporated into this Agreement, in whole or in part, they shall be understood to include amendments thereto or their successor agreements entering into force for both Parties on or after the date of signature of this Agreement. If any matter arises regarding the implementation or application of the provisions of this Agreement as a result of such amendments or successor agreements, the Parties may, on request of either Party, consult with each other via the Trade Council with a view to finding a mutually satisfactory solution to this matter as necessary. As a result of such consultation, the Parties may, by decision of the Trade Council, amend this Agreement accordingly.

4. Paragraph 3 applies *mutatis mutandis* if the amendment or successor agreement of an international agreement referred to or incorporated into this Agreement, in whole or in part, has entered into force for the European Union and one or more Signatory MERCOSUR States.