

# MERCOSUR-EU STRATEGIC PARTNERSHIP AGREEMENT

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*Mercosur celebrates a new summit with relevant definitions while in Europe the objections to the agreement are increasing*



## INTRODUCTION

Through digital media, Mercosur celebrated its 56th Summit of Heads of State, where the pro-tempore presidency was transferred from Paraguay to Uruguay. The summit was the first meeting between the presidents of Brazil and Argentina, and was attended by Josep Borrell, the EU's High Representative for Foreign Affairs and Security Policy, and Vice-president of the European Commission. At the same time, some European positions opposing the bi-regional Agreement are gaining strength, mainly in the Netherlands, France and partly in Ireland.

## RATIFICATION PROCESS

In order to implement the Mercosur-European Agreement, a series of steps must first be developed. Since July 2019 both blocks are focus in the legal scrubbing process, in order to unify the use of terminology in the text and harmonize its content. That task is practically finished and the translations into the different languages of the UE will soon begin. Afterwards, both blocks will enter their own decision-making processes.

In the European Union, the Commission will have to rule on the agreement and present it to the Council. To this end, it has two options: if the Agreement is conceived as a Mixed Partnership Agreement, this means that goes beyond the exclusive commercial faculties of the European Union, the approval of all countries will be needed in the Council, opening the possibility to any member to exercise its right to veto. However, if it is considered just as a simply commercial agreement, a qualified majority will be sufficient for the approval (which at the present, does not seem difficult to obtain). A third option is to divide the agreement, ratifying the commercial area in a first instance, in order to sign the agreement with the Common Market Council at the end of the second semester of 2020.

No matter what decision is taken by the Commission, the process continues at the European Parliament, where a simple majority of the votes is required for the approval. What is relevant here is that if it is considered a Mixed Partnership Agreement, it will have to be ratified by all EU member states. In any case, the Council may establish that the Agreement must be applied provisionally, completely or in part, but circumscribed to issues in which the EU has exclusive competence for the sovereignty granted to it by the member states.

Things are simpler in the other block. Once obtained the approval of the Council of the European Union, the institution that will stamp the signature on the agreement on behalf of Mercosur, is the Common Market Council. Subsequently, the ratification of each national legislature will be sought. Therefore, when a Mercosur member ratifies the Agreement in its own Parliament or National Congress, it will enter into force bilaterally between such country and the European Union, without having to wait for the accessions of the remaining members.

## THE MERCOSUR SUMMIT

Originally it was going to take place in the Paraguayan city of Encarnación, but due to the well known sanitary reasons, Uruguay was put in charge of the pro-tempore presidency of Mercosur by videoconference on July 2. The Paraguayan government, chaired by Mario Abdo Benítez, ceded his place with the satisfaction of having concluded the pending negotiations on the political and cooperation chapter of the Agreement. Likewise, he delivered the commercial section of the treaty which is close to finish its legal scrubbing process.



One of the most prominent guests at the Mercosur Summit was Josep Borrell, the EU's High Representative for Foreign Affairs and Security Policy, and Vice-President of the European Commission. Borrell, who has dual Spanish-Argentine nationality, insisted during his speech on the cultural and historical ties that unite both blocks. In addition to that, he strongly argued about the reciprocal benefits of the treaty, which he summarized as modern, ambitious, comprehensive and balanced. Finally, he declared that it also implies a mutual commitment to the green economy. Referring to the next stages of ratification, Borrell underlined that a joint task must be undertaken to communicate to the parliaments and the citizens what has been negotiated.

The Summit was the first opportunity for the presidents of Argentina and Brazil to meet face to face, albeit digitally. A situation that might have been uncomfortable for Alberto Fernández, who a few days before held a public virtual meeting with Lula Da Silva, Former Brazilian president, who is in bad terms with Jair Bolsonaro. During that meeting Fernández stated *"I must admit, dear Lula, how we miss you being the President of Brazil, because another would be the relationship, another would be the possibility for us to work in the continent."*

Consequently, Fernández's first words were to highlight that the union of Latin American people it's a destiny that precedes the occasional governors, so he has no right to frustrate that continental aspiration due to the fact that he simply thinks differently from other leaders. Even so, during his speech he omitted to name his Brazilian counterpart.

The governments of Paraguay, Uruguay and Brazil shared encouraging views on the ratification of the bi-regional association. Argentina also supported it, although without abandoning ambiguity. Fernández asked Borrell *"to help us move forward with the agreement to see how, taking into account all the damage caused by the virus [COVID-19] in the global economy, we can continue ahead"*. A day earlier, during the meeting of the Common Market Council (CMC), the Argentine Chancellor, Felipe Solá, explained *"we will bet on something that this agreement invites us to: it invites us to achieve in a decade a very important level of technological change that will allow us to compete. There is an implicit challenge. If you are very afraid, you would not want to sign it. If you are optimistic and think that you can do it, the agreement may have a higher sense"*. What Solá did regret was the limited access that the agreement conceded to food products, estimating it as something less than the minimum of 5% that had been agreed in 1993 during the Uruguay Round of the GATT.



Uruguayan President, Luis Lacalle Pou, expressed he hopes to work with the German government - the new president of the EU Council - to get the agreement signed between the two blocks during the second half of 2020. Incidentally, this was the first and last Mercosur summit with Ernesto Talvi, leader of the Red Party, as Uruguay's chancellor. His resignation does not foreshadow a threat to the stability of the official coalition, or a substantive change in that country's foreign policy. Lacalle has already appointed Francisco Bustillo, a career diplomat who was serving as ambassador to Spain, to replace him.

## THE OPPOSITION TO THE AGREEMENT GROWS IN EUROPE

European resistance towards the agreement with Mercosur has grown deeply during the last month. As the defining stages come closer, the actors involved seek to anticipate and reach in the best possible way the next steps in the EU Council and the European Parliament. Their opposing position is mainly based on three issues: the vulnerability of the agricultural sector, the continuous environmental damages in Brazil's Amazonia and, as a novelty, a growing rhetoric in favor of food sovereignty.

In this regard, the Netherlands House of Representatives passed a motion requesting Mark Rutte's administration to withdraw Dutch support to the EU-Mercosur treaty. The request is not binding, but it certainly corners Prime Minister Rutte considering that he barely has a simple majority in the Lower House. The motion was placed by the Party for the Animals (PvdD) and seconded by the popular conservatives of the Party for Freedom (PVV) and the Christian Union (CU), the smallest partner in the current governing coalition, among other minority sectors. The motion was passed with 79 votes in favor and 71 against.

The defection of the Christian Union was not a surprise. Last February its leader, Joël Voordewind, decided to vote in favour of the ratification of the Comprehensive Economic and Trade Agreement with Canada (CETA), but he remarked that the association with Mercosur was a different issue: *"South American countries are far away from us in much more aspects than Canada is. Just think of the huge pieces of the Amazon rainforest that are chopped down there to grow soybean. The Mercosur treaty would boost soybean exports from these countries, thus killing the Amazon rainforest."*



As a matter of fact, there is a rising concern, not just in the Netherlands, that the bi-regional agreement is not rigorous enough to ensure compliance with several environmental commitments, distancing Mercosur's and EU's regarding agricultural standards. Furthermore, the leaking of a video in which the Brazilian Minister of Environment, Ricardo Salles, proposes to take advantage of the distraction generated by the pandemic to relax the rules that protect the Amazonia, adds doubts about Jair Bolsonaro's administration good willingness on environment issues.

The European Commission answer came through its spokesman for Trade and Agriculture, Daniel Rosario, who stressed that the treaty includes a robust chapter on sustainable development, has legal binding commitments regarding the Paris Agreement and includes important commitments against deforestation and towards the protection of the environment. In other words, few believe that Brazil is going to advance in green policies by its own. For this reason the debate will be centered on whether the association between both blocks is a blank check on environmental issues or a tool to force Brazil to revert their environmental policies.



The challenge that lies ahead for Rutte's administration is to make sure CETA, which was provisionally implemented in 2017, is finally ratified by the Dutch Senate. Since the governing coalition does not hold a majority in the Upper House, there is no other option than to convince, at least, the opposing Labour Party (PvdA). In this sense, it is thought that pressing the UE to tighten its commercial policy, in concordance with Macron's administration, would convince PvdA senators to vote in favour of CETA. The French-Dutch proposal, which proclaims the adherence to the Paris Agreement as a starting point, considers that the European Commission should be able to raise or decrease tariffs in the short term in accordance with the achievement of clear sustainable development goals.



Discussions related to that topic carries on during the EU trade policy review process, which started in mid-June by initiative of the Commissioner for Trade Phil Hogan. The public consultation will run until September 15th and the results will be published by the end of 2020, in order to offer some decision tools to the European Parliament and the Member States. The reason why it was decided to conduct such review is that, as Commissioner Hogan expressed, five years had passed since the last time something similar was carried out, and many things are different nowadays. Indeed, the upcoming European trade policy in the post-COVID-19 scenario has already been officially called "*open strategic autonomy*".

The pandemic in Europe, as happened in other parts of the globe, led to think about new ways to ensure the stability of the supply chains, particularly regarding medicines and food. In relation to this last topic (which is linked to the commercial contents of the Agreement with Mercosur), President Macron is organizing a regional conference, to be held during the European autumn, focused on reinforcing the concept of food security. What Paris might have in sight is to increase self-sufficiency in vegetable protein, thus reducing the European dependency on soybean brought from the American continent. However, it is not the only strategy that is being contemplated. In the European Commission and in those countries more favorable to the bi-regional association, it is being emphasized that autonomy is not equal to self-sufficiency. The key would be, for this sector, to diversify and solidify the supply chains.

Obviously, the EU's trade policy is not reduced to Mercosur. Amid all these controversies, other negotiations are also taking place, such as the one related to the United Kingdom's exit from the block. Boris Johnson's administration is confident to reach an agreement by the end of July, something considered far from possible by EU's officials. For the moment, the failure to reach to an understanding is explained by the disagreements upon fishing issues and social, environmental and labor standards.

The two subjects are central to the rhetoric in which Brexit was involved. On the one hand, the British fishing industry felt that the 2016 referendum was an opportunity to remove foreign competitors from their waters, although some admit that losing access to the European market would be a bad scenario. On the other hand, being tied to EU regulations would be far from what was expected to be a recovery of sovereignty. The same would apply if a meaningful role is granted to the European Court of Justice (ECJ) in the resolution of commercial disputes. Although the pandemic could be a good justification, both London and Brussels have refused the chance to extend the transition period, so there is time until December 31st to avoid a "hard Brexit".

The negotiations between the EU and the United Kingdom are particularly relevant to the Mercosur agreement outcome, as they moderate the criticism that could arise from the Irish government. Leo Varadkar, the former Irish Prime Minister, was very illustrative when he expressed the necessity to be consistent in order not to lose ground in the British market, the most important destination for Irish food. Otherwise, Varadkar argued, *"We could find ourselves in a very strange position as a country that argues for a free trade agreement with the UK and then trying to block a free trade agreement with South America. We need to be very careful that we're very smart on this, in order to win the battle on Mercosur and then lose the war on the general discussion."*



The new ruling coalition in Ireland seems to remain cautious. Its member parties, Fine Gael, Fianna Fáil and the Greens which, before taking office published an extensive government program for the next five years that, that is not categorical in reference to the agreement with Mercosur. But it states that an economic and sustainability assessment it will be carried out to inform future actions in this area. In fact, top members of the Green Party disapproved such moderation, but were attracted by other concessions such as committing the country to an average yearly overall reduction of a 7% of greenhouse gas emissions. The Irish government will initially be headed by Micheál Martin, leader of Fianna Fáil, although it is assumed that in the mid-term he will be replaced by someone from Fine Gael, quite possibly Leo Varadkar.

Just a few days ago the Greens also had good results in the French municipal elections. The consequent response of President Macron to that result has been giving impetus to some of the initiatives born in the Citizens' Commission for the Climate, an assembly of 150 people chosen by lottery that was established after the "yellow vests" movement demonstrations. Most significantly, Macron reiterated his refusal to promote trade agreements with actors that do not abide by the Paris Agreement, in an explicit reference to Mercosur.

Something that must be taken in mind is that the Greens won in populous cities, such as Lyon, Strasbourg and Bordeaux. On the other hand, the environmental activism is not strong in the rural areas where the "yellow vests" protests began last year after a fuel tax was imposed to promote eco-friendly vehicles. Despite these differences, it turns out that the urban and countryside spectrums join in the rejection of the Mercosur treaty (some due to the damage on the Amazonia while others to avoid agricultural competition).

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