

MERCOSUR–EU STRATEGIC PARTNERSHIP AGREEMENT

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Brazil reacts to the French opposition and the European Parliament warns that the agreement cannot be ratified



INTRODUCTION

Brazil's government did not wait long in order to counteract the French's arguments against the bi-regional association. Despite of this, the refusal of signing the partnership in the current circumstances has been gaining new supporters, even the European Parliament has subscribed to the idea. Therefore, the possibility of adding further agreements, that would strengthen the environmental commitments, is increasingly seen by many people as a way to unlock this situation.

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.

BRAZIL REACTS TO THE FRENCH OPPOSITION

In September, Emmanuel Macron's administration expressed that the conditions for approving the agreement with Mercosur were not given. He justified this statement by sharing a report made by a committee of experts whose purpose was to examine the sustainability impact of the partnership. The Brazilian government's first reaction came from President Jair Bolsonaro himself, who, in the state of Mato Grosso, said that "*the countries that criticize us do not have fire problems because they have already burned everything*", in addition to accusing them of being motivated by commercial interests.



The President of Brazil, Jair Bolsonaro, visiting Mato Grosso (TV Brasil).

Moreover, the Ministry of Foreign Affairs and the Ministry of Agriculture, Livestock and Food Supply have published a joint statement aiming to answer the French concerns. In the first place, they argue that it would not be accurate to correlate an increase in meat, soya and maize production with a rise in deforestation. In fact, both ministries claim that there was an inverse relationship between each variable from 2004 to 2012, since deforestation in the Legal Amazon fell by 83% while agricultural production went up by 61% and 8 million heads of cattle were added. The two entities explain that this has been possible due to the persistent intensification of the Brazilian agricultural production, where technological innovations make it possible to produce more without having to expand into new areas. Furthermore, they stress that the traceability system for vaccine exports to the European Union (EU) is already fully in place and that Brazil has a pioneering environmental legislation, which has been progressively strengthened over the years. Nevertheless, the statement concludes pointing out that "*the non-entry into force of the Mercosur-EU agreement would send a negative message and establish a clear disincentive to the country's efforts to further strengthen its environmental legislation*".

On the other hand, the French Minister of Foreign Trade, Franck Riester, affirmed that their government does not intend to stop initiatives that seek to promote European trade relations, nor to "throw away 10 years of work". Nonetheless, Riester said that there is a lack of guarantees regarding the compliance of the Paris Agreement and against deforestation. A similar point of view was shared by other important figures, such as the EU Trade Commissioner, Valdis Dombrovskis, the German Minister of Foreign Affairs, Heiko Maas, and the Irish Deputy Prime Minister, Leo Varadkar. Indeed, the leader of Fine Gael declared he was surprised by how many trade ministers thought the same thing when they met in Berlin during mid-September, "You would expect that at an agriculture ministers' meeting, for obvious reasons. But this was a trade ministers' meeting . . . I think the partnership with Mercosur is going to be difficult to achieve if the South American governments don't convince us that they are serious about protecting our natural environment and reducing their emissions."



Leo Varadkar, Irish Deputy Prime Ministry and leader of Fine Gael (Gareth Chaney/Collins Photo Agency).



European Parliament (Reuters).

THE EUROPEAN PARLIAMENT WARNS THAT THE AGREEMENT CANNOT BE RATIFIED

The enforcement of the Mercosur-EU agreement encountered a new obstacle when the European Parliament approved the report on the 2018-2020 implementation of the common commercial policy. Originally, the text that came out of the Committee on International Trade did not contain any negative remarks related to the future of the bi-regional partnership, although it stated that all the environmental commitments had to be properly achieved. However, an amendment was introduced, which adds "The EU-Mercosur agreement cannot be ratified as it stands". This initiative was approved by 345 votes in favour, 295 against and 56 abstentions, with the support of the popular conservatives of Identity and Democracy (ID), almost two thirds of the centre-left Socialists and Democrats (S&D), the radical left grouped in the European United Left-Nordic Green Left (GUE-NGL), the Greens-European Free Alliance (GRE/EFA) and fractions of the European People's Party (EPP) and Renew Europe.

The amendment was proposed by the French delegation Renew Europe, which is part of *La République en marche*, President Macron's political party. The first version of the amendment also included a criticism of Jair Bolsonaro's environmental policies but, contrary to what was reported in the media, this initial proposal was 56 votes short of being accepted, mainly because of the ID's members disapproval, due to their skepticism regarding climate change and their ideological affinity towards the Brazilian president.

The possibility of splitting the bi-regional partnership is often considered, with the idea of submitting only the trade pillar to the EU Council, in order to increase the chances of success, at least in that area. But, in both cases, the next step requires the approval of the MEPs by a simple majority, which is difficult to obtain in the current circumstances, as it was shown in the recent declaration. Moreover, it should also be taken into consideration that splitting the agreement could imply a severe political cost, since it does not seem to be enough consent to support that, either among governments or in public opinion.

In that scenario, the idea of promoting additional agreements in order to enforce environmental commitments will continue to gain strength. According to this perspective, it is believed that the situation would be unlocked if it was clarified that the environmental clauses are as binding as those that refer to the rule of law or the non-proliferation of weapons of mass destruction. As long as the feasibility of this option is being tested, it is unlikely that the European Commission will accelerate the treatment of the bi-regional partnership.



Ursula von der Leyen, President of the European Commission (Télam).

Looking ahead to next year, during both semesters, countries in favour of the agreement are going to be in charge of the pro tempore presidency of the Council of the EU. From January to June it will be led by Portugal, a country that has a deep tradition of cooperation with Brazil, which could facilitate the achievement of a mutually satisfactory understanding. In the following six months, the position will be held by Slovenia, whose foreign minister, Anže Logar, recently told his Argentine counterpart, Felipe Solá, that he expects the partnership to be signed during his country's presidency.



Council of the EU, whose pro tempore presidency is currently held by Germany.

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