

MERCOSUR–EU STRATEGIC PARTNERSHIP AGREEMENT

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France takes over the presidency of the EU Council and Josep Borrell pays an official visit to Brazil



INTRODUCTION

Although the Mercosur-EU agreement seems to be at a standstill, there is still debate over the content of the additional document on environmental matters that would be added to what has been agreed in 2019. In particular, the French Government, which has assumed the presidency of the EU Council, insists on the need to incorporate mirror clauses and the new German Government claims that Mercosur countries must make prior commitments before the agreement is ratified. Moreover, the European Commission presented a report that indirectly addresses the concerns about the bi-regional partnership and the EU's High Representative for Foreign Affairs, Josep Borrell, visited Brasilia to meet with officials from the Bolsonaro administration.

THE RATIFICATION PROCESS

In order to carry out the Mercosur-EU Agreement, a series of steps must first be followed. Since July 2019, Mercosur and the EU have focused on the legal scrubbing process, in order to unify the terminologies in the text and harmonize its content. Once this task is completed, the next step will be to translate the text into the different EU languages and, afterwards, both blocs will effectuate their own decision-making processes.

On the one hand, the European Commission will have to present the agreement to the European Council. The partnership between Mercosur and the EU consists of three pillars: political dialogue, cooperation and trade. If the European Commission puts to vote the entire agreement, shared competencies between the EU and the member countries will be involved; therefore, the approval of every state will be needed, existing the possibility of objecting by veto. Nevertheless, there is a feasibility of splitting the agreement; in this case, a qualified majority would be sufficient in order to approve the trade pillar (55% of the Member States, covering at least 65% of the EU's population), because that section includes issues in which the EU has exclusive competence.

If this stage is successful, the partnership will be signed and taken to the European Parliament, where a simple majority of votes will be required for its approval (the three pillars can be voted at the same time or separately). Afterwards, the process will continue in the national parliaments, although, the EU Council can decide to provisionally start applying matters that are under EU's authority.

Things are simpler on the other bloc. Once the European Union's Council gives his approval, the institution that will stamp the signature on the agreement on behalf of Mercosur is the *Consejo del Mercado Común* (CMC). Subsequently, the ratification of each national legislature will be sought. 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 accession of the remaining members.

THE AGREEMENT IS STILL UNDER DISCUSSION

In recent months two MEPs have been straightforward in describing the current state of the Mercosur-EU agreement. On the one hand, criticising the fact that the European Commission has not yet presented a proposal regarding the additional document that would be added to the document signed in June 2019, Jordi Cañas of Renew Europe said that the ratification process is "in the freezer". On the other hand, Bernd Lange, who is the chair of the Committee on International Trade (INTA) and a member of Socialists and Democrats (S&D), added that "nobody is taking it out of the fridge right now."



Jordi Cañas (Renew Europe) on the left and Bernd Lange (S&D) on the right.

Nevertheless, the debate around the agreement has not stopped. At the latest meeting of EU Trade Ministers, held on 11 November, the European Commission presented a report on the implementation and enforcement of the EU's trade agreements in force. With regard to the Trade and Sustainable Development chapters (which are equally or less stringent than the one included in the Mercosur-EU agreement), the Commission made it clear that the dispute settlement mechanism based on the issuing of recommendations by panels of experts has proved to be sufficient to generate concrete changes. The report gives the example of a dispute with South Korea initiated at the end of 2018 over alleged breaches of labour rights, in which in January 2021 the panel of experts agreed with the EU and the following month the South Korean National Assembly made progress in approving three conventions of the International Labour Organisation (ILO). When it comes to environmental issues, the report argues that the framework for cooperation provided by the aforementioned chapters served to advance in establishing a timber legality assurance system in Vietnam and fight against illegal deforestation in Ukraine.

As can be seen, the European Commission's report unintentionally responds to the two major environmental concerns about the Mercosur-EU agreement: the alleged weakness of the dispute settlement mechanism established in the Trade and Sustainable Development Chapter and the supposition that the agreement will provide an impetus for illegal deforestation in the Amazon. In any case, the European Commission clarifies that it has yet to present a review exclusively dedicated to the sustainable development clauses included in its trade agreements, which is expected to be published during the first half of this year.

In this regard, the French government, which will be holding the presidency of the EU Council during the first semester of 2022, is seeking to incorporate mirror clauses that ensure equal production standards between European products and those that are imported. As the French Minister of Agriculture and Food, Julien Denormandie, wrote on twitter, "We must get out of the hypocrisy of international trade. We cannot accept the import of products whose production would not be authorised here. So NO to Mercosur and YES to mirror clauses. Priority for the French Presidency of the Council of the EU."



Julien Denormandie, French Minister of Agriculture and Food.

In relation to the new German government led by Olaf Scholz, the coalitional agreement signed by the Social Democratic Party (PSD), Alliance 90/The Greens (B90/Grüne) and the liberal Free Democratic Party (FD) states that "We will only support the ratification of the Mercosur Agreement if the partner countries have previously entered into legally binding commitments on environmental, social and human rights protection that can be implemented and verified, and if practically enforceable supplementary agreements on the protection and conservation of existing forest areas have been concluded". Although Angela Merkel had already expressed that Germany would not support the Mercosur-EU agreement under its current form, what is new is the demand that these new commitments should be implemented before ratifying the agreement.



The presentation of the coalitional agreement of the new German government whose theme is "Dare More Progress".

Although some argue that not enough is being done to change the European opposition to the agreement, Mercosur's leaders seem increasingly frustrated with the situation. At an event carried out by the *Cámara Oficial Española de Comercio, Industria y Navegación (Camaco)* of Uruguay, President Luis Lacalle Pou declared about the bi-regional partnership: "I am not one of those who say that we have to dismiss these things, but we have to look for accessory or complementary paths". Likewise, several Mercosur officials are beginning to consider that, behind Europe's opposition to the agreement, there is a growing protectionist tendency around agri-food products which is also reflected in more demanding regulatory proposals.

In this regard, on 17 November the European Commission presented a draft law that would ban the import of beef, palm oil, soya, timber, cocoa and coffee (as well as derived products) that have been produced on land subject to deforestation as of 2021. The initiative stipulates that traders will have to prove that the product they seek to enter the European market is “deforestation-free”, which would imply showing the geo-location coordinates of where it was produced, among other requirements. Despite the fact that several of this potential new requisites are already voluntarily fulfilled by agri-food companies that export to the EU, the project also establishes that each country will be categorised as low, medium or high risk according to its actions against the advance of deforestation, which would imply different levels of control per country.

Nonetheless, in November the EU's High Representative for Foreign Affairs, Josep Borrell, visited Brasilia and praised the Mercosur-EU partnership, "The European Union remains fully committed to this agreement. The deal will be a game-changer, economically and geopolitically". Furthermore, Borrell expressed his satisfaction with the commitments made by Brazil at COP26 (carbon neutrality by 2050, ending illegal deforestation by 2028, achieving a 50% reduction in greenhouse gas emissions by 2030 and a 30% decrease in the generation of methane gas by 2030), "these elements will be crucial for the successful conclusion of the Mercosur-EU agreement and we are working together with our Mercosur partners to provide the necessary clarifications on our shared commitment in this area."



Josep Borrell, EU's High Representative for Foreign Affairs, together with Carlos Alberto França, Brasil's Minister of Foreign Affairs.

Finally, in his most recent statement on the Mercosur-EU agreement, the Deputy Prime Minister of Ireland and leader of Fianna Fáil, Leo Varadkar, claimed that Ireland's rejection of the bi-regional partnership can only remain coherent if Ireland keeps improving its environmental standards in food production. In Varadkar's words during an interview with RTÉ Radio's Morning Ireland, "The Government has said it will not sign up to that agreement because we are not satisfied with its environmental protections and we are not alone in that: France, Austria and other countries are with us. But to make that argument credible in Brussels we need to pull our socks up environmentally. We can't say we are against ratifying that agreement because we want to protect our own farmers, that won't wash. We have to say we are against ratifying that agreement because the environmental standards in Brazil are not high enough."



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