

**Observação**

À luz do crescente interesse do público nas negociações recentemente concluídas entre o MERCOSUL e a União Europeia, os governos dos países do MERCOSUL decidiram publicar os textos do pilar comercial, a fim de garantir tanto o efetivo exercício do direito de acesso à informação pública quanto a transparência da gestão pública.

Esses textos são publicados, no entanto, apenas para fins informativos e podem sofrer modificações adicionais em decorrência do processo de revisão legal a que estarão sujeitos, sem prejuízo dos compromissos assumidos.

Os textos só serão definitivos quando o Acordo for assinado. O Acordo será vinculante para as Partes, conforme o direito internacional, somente após a conclusão dos procedimentos legais internos necessários para a entrada em vigor.

**TITLE X**

**TRADE IN GOODS**

*Article 1*

**Objective**

Mercosur and the European Union agree to establish a Free Trade Area over a transitional period starting from the entry into force of this Agreement, in accordance with the provisions of this Agreement and in conformity with Article XXIV of the GATT 1994.

Except as otherwise provided in this Agreement, the provisions of this Title shall apply to trade in goods of a Party.

**CHAPTER I**

**CUSTOM DUTIES**

**Section 1 - Common Provisions**

*Article 2*

Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of GATT 1994, including its interpretative notes. To this end, Article III of GATT 1994 and its interpretative notes, are incorporated into and made part of this agreement.

*Article 3*

1. For purposes of this Chapter, "originating" means qualifying under the rules of origin set out in Annex [X] (Rules of Origin).

2. Except as otherwise provided for in this Agreement, each Party shall reduce and/or eliminate its customs duties on originating goods in accordance with the Schedules set out in Annex 1 (hereinafter referred to as "Schedules").

3. A customs duty includes 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:

(a) internal taxes or other internal charges imposed consistently with Article III of GATT 1994

(b) 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 WTO Agreement on Subsidies and Countervailing Measures in conformity with the Chapter (Trade Remedies).

(c) measures applied in accordance with Article XIX of GATT 1994 and with the WTO agreement on Safeguards, or with other safeguard measures of the Agreement.

(d) measures authorised by the WTO Dispute Settlement Body or under the Dispute Settlement provisions of this Agreement.

(e) fee or other charge, imposed consistently with Article VIII of GATT 1994.

(f) 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.

4. The classification of goods in trade between Mercosur and the European Union shall be that set out in each Party's respective tariff regimes in conformity with the Harmonised Commodity Description and Coding System. A Party may create a new tariff line as long as the customs duty applicable to the corresponding products under the new tariff line to the other Party is equal to or lower than the original tariff line, according to its Schedule, and that the agreed tariff concession

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

remain unchanged. The respective Parties Schedule shall indicate which HS version each Party has used.

5. For each good, the base rate of customs duties on imports, to which the successive reductions are to be applied under paragraph 2, shall be that specified in the Schedules.

6. Without prejudice of Article 3(2) and 3(5), for a period of two years from the date of entry into force of this Agreement, the EU Party shall not increase customs duties applied on 31 December 2017 on goods originating in Paraguay that are indicated in the schedules as ‘PY’ goods (20019030; 21012098; 21069098, 33021029)]. For the purpose of this paragraph, good(s) originating in Paraguay means good(s) that conform(s) to the origin requirements under Subsection 2 and 3 of Section 2 of Chapter 1 of title II of Commission Delegated Regulation (EU) No 2015/2446 of 28 July of 2015 and Subsections 3 to 9 of Section 2 of title II the Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015.

7. Except as otherwise provided for in this Agreement, no new customs duties shall be introduced, nor shall those already applied according to the Schedules be increased, in trade of originating goods between Mercosur and the European Union as from the date of entry into force of this Agreement. For greater certainty, a Party may raise a customs duty to the level set out in Annex 1 (Tariff Elimination Schedule) for the respective year following a unilateral reduction.

8. If a Party lowers a MFN applied rate to a level below the base rate in relation to a particular tariff line, the MFN applied rate shall be deemed to replace the base rate in the Schedule, for as long as the MFN applied rate is lower than the base rate, for the purpose of the calculation of the preferential rate for that particular tariff line. In this regard, the Party shall, effect the tariff reduction on the MFN applied rate to calculate the applicable rate, maintaining at all times the relative margin of preference. The relative margin of preference for any given tariff line corresponds to the difference between the base rate set out in the Schedule and the applied duty rate for that tariff line in accordance with the Schedule divided by that base rate, expressed in percentage terms.

9. Each Party may accelerate its tariff elimination schedule, or otherwise improve the conditions of market access, if its general economic situation and the situation of the economic sector concerned so permit. In addition, beginning three years after the entry into force of this Agreement, on the request of either Party, the Trade in Goods subcommittee shall consult to consider measures providing for improved market access. The Association Council in trade configuration shall have the power to adopt a Decision to modify Annex 1 (Tariff Elimination Schedule). Such Decision shall have the effect of amending the Annex and shall supersede any duty rate or staging category determined in the respective Schedule for that good.

#### *Article 4*

### **Goods Re-Entered After Repair**

1. For the purposes of this Article, repair means any processing operation undertaken on goods to remedy operating defects or material damage and entailing the re-establishment of goods to their original function or to ensure their compliance with technical requirements for their use, without which the goods could no longer be used in the normal way for the purposes for which they were

intended. Repair of goods includes restoration and maintenance. It shall not include an operation or process that either:

- (a) destroys the essential characteristics of goods or creates new or commercially different goods,
- (b) transforms the unfinished goods into finished goods, or
- (c) is used to improve the technical performance of goods.

2. A Party shall not apply customs duty to goods defined in paragraph 1, regardless of their origin, that re-enter its customs territory after those goods have been temporarily exported from its customs territory to the customs territory of the other Party for repair, regardless of whether such repair could be performed in the customs territory of the Party from which the goods were exported for repair.

3. Paragraph 2 does not apply to a goods imported in bond, into free trade zones, or zones of similar status, that are exported for repair and are not re-imported in bond, into free trade zones, or zones of similar status.

4. A Party shall not apply customs duty to goods, regardless of their origin, imported temporarily from the customs territory of the other Party for repair.

## **CHAPTER II**

### **NON TARIFF MEASURES**

#### **Section 1 – General Provisions**

##### *Article 5*

#### **Fees and Other Charges on Imports and Exports**

1. Each Party shall ensure, in accordance with Article VIII of GATT 1994, including its Notes and Supplementary Provisions that all fees and other charges of whatever character<sup>2</sup> other than import and export duties imposed on or in connection with importation or exportation shall be limited in amount to the approximate cost of services rendered, which shall not be calculated on an ad valorem basis, and shall not represent an indirect protection for domestic products or a taxation of imports or exports for fiscal purposes.

2. Each Party may impose charges or recover costs only where specific services are rendered, in particular the following:

- (a) attendance, where requested, by customs staff outside official office hours or at premises other than customs premises;

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<sup>2</sup> For greater certainty, Uruguay's "tasa consular" and Argentina's "tasa estadística" are governed by paragraph 3.

- (b) analyses or expert reports on goods and postal fees for the return of goods to an applicant, particularly in respect of decisions relating to binding information or the provision of information concerning the application of the customs legislation;
  - (c) the examination or sampling of goods for verification purposes, or the destruction of goods, where costs other than the cost of using customs staff are involved;
  - (d) exceptional control measures, where these are necessary due to the nature of the goods or to a potential risk
3. No Party shall require consular transactions, including related fees and charges, in connection with the importation of goods from the other Party. The Parties will have a transitional period of 3 years as of the entry into force to fulfil the requirements of this paragraph<sup>3</sup>.
4. Each Party shall publish a list of the fees and charges it imposes in connection with importation or exportation.

#### *Article 6*

### **Import and Export Licensing Procedures**

1. The Parties shall ensure that all import and export licensing procedures are neutral in application, and administered in a fair, equitable, non-discriminatory and transparent manner.
2. The Parties shall only adopt or maintain licensing procedures as a condition for importation into its territory or exportation from its territory to the other Party when other appropriate procedures to achieve an administrative purpose are not reasonably available.
3. The Parties shall not adopt or maintain non-automatic import or export licensing procedures<sup>4</sup> unless necessary to implement a measure that is consistent with this Agreement. Any Party adopting non-automatic licensing procedures shall indicate clearly the measure being implemented through such licensing procedure.
4. The Parties shall introduce and administer any licensing procedures in accordance with Articles 1 to 3 of the WTO Import Licensing Agreement (hereinafter referred to as "Import Licensing Agreement"). To this end, Articles 1 to 3 of the Import Licensing Agreement are incorporated into and made part of this Agreement. The Parties shall apply those provisions, *mutatis mutandis*, for any licensing procedures for exports to the other Party
5. Any Party introducing licensing procedures or changes in these procedures shall make the corresponding information available on an official governmental website on the Internet. This information shall be accessible, whenever practicable, 21 days prior to the effective date of the requirement but in all events not later than such effective date. The information available on the Internet shall contain the data required under Article 5 of the WTO Import Licensing Agreement. The

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<sup>3</sup> Notwithstanding this paragraph, for the Republic of Paraguay the transitional period will be 10 years after the entry into force of this Agreement.

<sup>4</sup> For the purposes of this Article, "Non-automatic licensing procedures" is defined as licensing procedures where approval of the application is not granted for all legal and natural persons who fulfil the requirements of the Party concerned for engaging in import or export operations involving the goods subject to licensing procedures.

notification foreseen in Article 5 of the Import Licensing Agreement shall be carried out between the Parties with regard to licensing procedures for export.

6. Upon request of the other Party, each Party shall promptly provide any relevant information regarding any licensing procedures which the Party to which the request is addressed intends to adopt or has adopted or maintained, including the information indicated in paragraph 4.

## *Article 7*

### **Export competition**

1. The Parties reaffirm their commitments expressed in the 2015 Nairobi Ministerial Decision on Export Competition.

2. For the purposes of this Article, “export subsidies” shall mean subsidies within the meaning of Articles 1 and 3 of the Agreement on Subsidies and Countervailing Measures that are contingent upon export performance, including those illustrated in its Annex I and those listed in Article 9 of the Agreement on Agriculture.

3. “Agricultural products” shall be understood as products listed in Annex I of the Agreement on Agriculture.

4. No Party shall maintain, introduce or reintroduce export subsidies on an agricultural product that is exported or incorporated in a product that is exported.

5. No Party shall maintain, introduce or reintroduce export credits, export credit guarantees, insurance programmes, state trading enterprises, or international food aid, as well as other measures that have an effect equivalent to an export subsidy, on an agricultural good that is exported or incorporated in a product that is exported to the territory of the other Party, unless those measures comply with the obligations of the Party concerned under the WTO Agreements and Decisions, including in particular the Nairobi WTO Ministerial Decision on Export Competition, or any other further WTO Agreement or Decision.

6. The Parties reaffirm their commitment in the 2013 Bali Ministerial Declaration and strengthened by the 2015 Nairobi Ministerial Decision to enhance transparency and to improve monitoring in relation to all forms of export subsidies and export credits, export credit guarantees, insurance programmes, state trading enterprises, or international food aid, as well as other measures that have an effect equivalent to an export.

7. The Parties reaffirm the commitments taken under the 2015 Nairobi Ministerial Decision with regard to international food aid and shall work together to encourage the best practice in the delivery of food aid in the relevant international fora by seeking to limit the monetization of the food aid and the delivery of in-kind food aid only to emergency situations.

## *Article 8*

### **Duties, Taxes or Other Fees and Charges on Exports**

Neither Party shall introduce or maintain any duty or charges of any kind on or in connection with the exportation of a good to the other Party, other than in accordance with the Schedule included in Annex 2 (Export Duties of MERCOSUR) after 3 years from the entry into force of this Agreement

*Article 9*

**State Trading Enterprises**

1. Nothing in this Agreement shall prevent a Signatory Party from maintaining or establishing a state trading enterprise in accordance with Article XVII of GATT 1994, its Notes and Supplementary Provisions and the WTO Understanding on the Interpretation of Article XVII, which are hereby incorporated into and made part of this Agreement.
2. Insofar as one of the Parties requests information of the other Party on individual cases of state trading enterprises, the manner of their operation and the effect of their operations on bilateral trade, the requested Party shall ensure full transparency in line with the rules set out in GATT Article XVII.
3. Notwithstanding paragraph 1, neither Party shall designate or maintain a designated import or export monopoly, except for those already established by a Party or prescribed by in its Constitution, as listed in Annex 3. For the purposes of this Article, import or export monopoly means the exclusive right or grant of authority by a Party to an entity to import a good from, or export a good to, the other Party.

*Article 10*

**Prohibition of Quantitative Restrictions**

1. No Party may adopt or maintain any prohibition or restriction, on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, whether applied by quotas, licenses or other measures, except in accordance with Article XI of GATT 1994, including its interpretative notes. To this end, Article XI of GATT 1994 and its interpretative notes, are incorporated into and made part of this Agreement.
2. No party shall adopt or maintain export or import price requirements, except as permitted in the enforcement of antidumping and countervailing duty orders or price undertakings.

*Article 11*

**Preference Utilisation**

1. For the purpose of monitoring the functioning of the Agreement and calculating preference utilisation rates, the Parties shall annually exchange import statistics for a period starting one year after the entry into force of this Agreement until 10 years after the tariff elimination is completed for all goods according to the Schedules in Annex [x]. Unless the [Trade Committee] decides otherwise,

this period shall be automatically extended for five years, and thereafter this Committee may decide to subsequently extend it.

2. The exchange of import statistics shall cover data pertaining to the most recent year available, including value and, where applicable, volume, at the tariff line level for imports of goods of the other Party benefitting from preferential duty treatment under this Agreement and those that received non-preferential treatment.

3. Without prejudice to paragraph 2 no Party shall be obliged to exchange import statistics granted confidentiality according to domestic legislation.

### *Article 12*

#### **Subcommittee on Trade in Goods**

Subcommittee on Trade in Goods (hereinafter referred to as “Subcommittee”) is hereby established

The Subcommittee’s functions shall include:

- a) monitoring the implementation and administration of this Title;
- b) promoting trade in goods between the Parties;
- c) providing a forum for the Parties to consult and endeavor to resolve issues relating to this Title;
- d) coordinating the exchange of information on trade in goods between the Parties;
- e) evaluating annually the use and the administration of quotas and of preferences granted by this Agreement ;
- f) discussing, clarifying, and addressing any technical issues that may arise between the Parties on matters related to the application of each Party’s tariff nomenclature as defined in paragraph 7 and 8 of the Annex to this Title
- g) undertaking additional work that the Association Committee may assign.

### **CHAPTER III**

#### **COMMON PROVISIONS**

### *Article 13*

#### **General exceptions**

1. Article XX of the GATT 1994, including its Notes and Supplementary Provisions, is incorporated into and made part of Chapter (XXX – “*Market Access/NTM*”) and Chapter (XXX – *Customs and Trade Facilitation*).
2. In this context, the Parties understand that
  - (a) the measures referred to in Article XX(b) of the GATT 1994 include environmental measures, such as measures taken to implement multilateral environmental agreements, which are necessary to protect human, animal or plant life or health; and
  - (b) Article XX(g) of the GATT 1994 applies to measures for the conservation of living and non-living exhaustible natural resources.
3. Before a Party takes any measures provided for in subparagraphs (i) and (j) of Article XX of the GATT 1994, it shall provide the other Party with all relevant information, with a view to seeking a solution acceptable to the Parties. If no agreement is reached within 30 days of providing the information, the Party may apply the relevant measures. Whenever exceptional and critical circumstances require immediate action the Party intending to take the measures may apply the necessary measure without prior notification. The Party shall inform the other Party immediately thereof.