

SUMMARY IN ENGLISH



Analysis of the EU–Mercosur Free Trade Agreement

Trade negotiations between the EU and Mercosur have been taking place for more than 20 years, but in June 2019 the parties reached an agreement in principle. They agree on the main content of the agreement, though minor technical negotiations may continue.

While awaiting ratification of the agreement, the Swedish National Board of Trade was commissioned to conduct an analysis. The report includes a general economic evaluation and an examination of the potential effects on the trade flows between Sweden and Mercosur. Additionally, the National Board of Trade has identified sectors and products and trade policy areas that are of economic importance, or that are prioritised for other reasons. The possible outcomes of negotiations in these areas have been considered, and possible positive and negative effects have been identified.

As part of the analysis, public agencies, civil society organisations, and business organisations have been invited to submit written comments.

The economic impact of the agreement is expected to be limited because of low trade flows between Sweden and Mercosur. However, the impact on some sectors and products may be considerable. Sweden imports large quantities of coffee and copper from Mercosur, but as the Most Favoured Nation (MFN) tariffs for these products are zero, the effect on the agreement will be limited. How trade flows will change will depend on how the elasticity of demand varies between products, and on factors such as non-tariff barriers, which are hard to model.

For most goods, the transition periods for the elimination of tariffs will be long, in some cases up to 15 years. When the agreement is fully implemented, 93 percent of the tariff lines for **agricultural products** originating in the EU will

This is the English summary of the Swedish analysis *Analys av frihandelsdelen i associeringsavtalet mellan EU och Mercosur* available at kommerskollegium.se

The report was commissioned by the Swedish Government to provide a deeper analysis of the EU Mercosur free trade agreement. Our analysis of trade in goods and government procurement is based on market access schedules. These are confidential and are therefore not included.



be duty free in Mercosur, and approximately 80 percent of the tariff lines for agricultural product originating in Mercosur will get reduced tariffs in the EU, if the product meet the origin criteria. Tariffs on a relatively small share of agricultural products will be eliminated when the agreement enters into force. For the remaining tariffs will be gradually eliminated over 4 to 15 years in Mercosur and 4 to 10 years in the EU. Hence, EU exporters and importers will only see limited benefits of the agreement during the first couple of years. To limit its possible negative impact on EU-sensitive agricultural products such as beef, poultry, and sugar, the agreement provides for limited improvements in market access within tariff rate quotas. The EU's agricultural sector is expected to see a slight decrease in output because of the agreement. However, the sustainable impact assessment commissioned by the EU Commission has not assessed the cumulative impact of EU commitments in free trade agreements, and such assessments could perhaps provide a slightly different picture of the impact on EU's agricultural sector.

For **industrial goods**, the EU will eliminate tariffs for almost all goods over a 10 year period. Mercosur will eliminate tariffs up to 15 years but not for all industrial goods. Generally, most tariff lines should become duty-free when a free trade agreement comes into force, but longer transition periods might help sectors to adjust to increased competition. One of the main advantages of a free trade agreement is that it eliminates the risk of an unexpected increase in tariffs. This is especially important when trading with Mercosur, because their applied tariffs are much lower than their bound MFN level. Consequently, they can raise their tariffs to MFN level without any countermeasures. The agreement will lead to better market access, increased predictability, and transparency for EU-companies that want to trade with Mercosur.

The **rules of origin** in the Mercosur agreement are less flexible compared with other EU free trade agreements, and do not permit ambitious cumulation. Nevertheless, Mercosur is a regional trade bloc, which makes it inherently possible to cumulate with more than one country. The product specific rules tend to be more important for companies. In the Mercosur agreement they are fairly harmonised and easy to understand,

and there are not many exceptions. The provisions regarding claim of preferential origin and origin verification are similar to other EU free trade agreements, such as the EU Vietnam agreement. As with the Vietnam agreement, Mercosur will require self-certification rather than a certificate of origin, which will save both money and time for companies. Being able to split consignments and to avoid the direct transport rule is a positive development.

Progress in trade-related issues other than tariff reductions will be equally important in increasing the trade flows between the EU and Mercosur.

Complicated procedures and bureaucratic delays is a well-known issue amongst companies that trade with Mercosur. Hence, improvements to the chapter on trade facilitation are even more significant. Several provisions, e.g., that on perishable goods, are more far-reaching than the commitments made by Mercosur in the Trade Facilitation Agreement (TFA). In addition, some provisions will allow companies to obtain clearance for goods outside regular business hours and inside their premises. Yet, the agreement does not include binding provisions to accept electronic copies of supporting documents required for import, export, or transit formalities. These are often found in other EU free trade agreements. While not all of the Swedish priorities are reflected in the text, the provisions included in the chapter on trade facilitation will simplify trade.

The agreement will lead to several improvements to **technical barriers to trade** between the EU and Mercosur. On a general level, such barriers are adding a proportionally increasing cost to trade with overseas markets. One concrete improvement is recognition of certain conformity assessment certificates issued in Mercosur and the EU respectively. The agreement also stipulates what international standards should be considered relevant as a basis for technical regulations. This will lead to more uniformity in the long term. The transparency provisions go further than the WTO Technical Barriers to Trade Agreement (TBT) by stating that the parties should reply in writing if a party receives written comments on its proposed technical regulations and allow persons of the other Party to participate to public consultations.

The chapter on **intellectual property rights** (IPR) will give additional protection compared with the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), but is less ambitious than other modern EU free trade agreements. This is the case regarding for example of border measures and the duration of copyright. Furthermore, the agreement lacks provisions regarding supplementary patent protection (SPC) and regulatory data protection for pharmaceuticals and agrochemical products during the market approval process. This is a critical issue in the pharmaceutical industry. Patents are especially problematic in the Mercosur countries, but they are not regulated in the agreement. This is in line with other EU free trade agreements. The parties agree that they should comply with the Patent Cooperation Treaty (PCT). However, deeper commitments from Mercosur to join the PCT would have been desirable, because the PCT allows companies to patent their inventions simultaneously in different countries with a single international patent application.

The inclusion of a chapter on **small and medium enterprises** (SME) is positive, especially in a region like Mercosur, where it can be difficult to access information. The chapter states that the parties should provide a publicly viewable website with agreed-upon content on e.g. trade facilitation, tariffs and other relevant provisions. Obtaining information without this kind of website demands resources that smaller companies are less likely to possess. However, all of the provisions are non-binding, which makes it all the more important to monitor the implementation.

The Mercosur countries are not parties to the WTO's Agreement on **Government Procurement** (GPA), which makes the commitments in the agreement more significant for companies wanting to participate in public procurement in the Mercosur countries. Since the close of negotiations, Brazil has initiated a process to join the GPA, possibly because it has opened up its procurement markets to European companies through the Mercosur agreement. The Mercosur agreement may have positive implications for contracting authorities and entities as well as suppliers, who will see increased opportunities

for procurement contracts. However, limited market access to services, high thresholds, and long implementation periods makes it less ambitious than other EU free trade agreements. Several stakeholders have, however, pointed out that the transparency provisions are positive. Combating corruption is an important task for parties involved in public procurement. These state that procurement should be conducted transparently and impartially, to avoid conflicts of interest and to prevent corrupt practices. With regard to the possibility of including sustainability requirements in public procurement, it is stated that in addition to the requirements prescribed by law, the contracting authorities and entities decide on what demands that should be made. The parties should therefore cooperate to develop methods for sustainable procurement, which is considered a step in the right direction.

On **sanitary and phytosanitary (SPS) issues** Sweden and Mercosur are far apart. The free trade agreement is positive in this regard, because it aims to increase dialogue and cooperation between EU and Mercosur. A concrete improvement is that Swedish exporters do not have to have their facilities inspected and verified by Mercosur authorities, which in the past has resulted in long delays. This will hopefully save both time and resources for companies. Although the agreement lacks provisions that compel Mercosur to change its legislation with regard to animal welfare and the fight against antibiotic resistance, the agreement creates institutional mechanisms for dialogue and cooperation.

The chapter on trade and **sustainable development** (TSD) follows the same structure as other modern EU free trade agreements, and represents a comparable level of ambition in terms of sustainability commitments. In some areas, such as climate and sustainable management of forests, the agreement contains even more far-reaching provisions. Our analysis concludes that the extended mandate for the Domestic Advisory Groups, which covers the implementation of the entire agreement and not just the TSD chapter, is positive. Our analysis shows that the agreement will lead to an increase in carbon emissions compared with a baseline scenario in which there is no agreement. The

actual environmental effects of the agreement will depend on whether the agreement accelerates technology transfer and whether the national legislation of the parties is implemented effectively. The Sustainability Impact Assessment (SIA) points out that the trend towards deforestation in Argentina and Brazil is worrying, but that it is possible for Mercosur countries to intensify their agricultural production without further deforestation. The overall effect on the environment will depend on factors such as complementary legislation, the level of ambition and preferences, as well as consumer and company initiatives. The parties' willingness to live up to their commitments will be crucial for effective implementation, and the agreement can increase incentives to do so.

In general, the SIA is an important tool for identifying both positive and negative sustaina-

bility impacts of an agreement and making policy recommendations to mitigate them. Unfortunately, in the case of the trade agreement with Mercosur, the SIA was published after the parties had reached an agreement in principle. Some of its policy recommendations could therefore not be considered in the negotiations and incorporated into the agreement.

In conclusion, the successful closure of negotiations after 20 years is a great accomplishment. The agreement will simplify relations and improve trade flows between the EU and Mercosur, especially in the long-term. On the other hand, the agreement is not as ambitious as the National Board of Trade had expected. Several sustainability challenges will need complementary national legislation, and the commitments made in the agreement will demand the full engagement of all parties.