

## CHAPTER 23

### GENERAL AND FINAL PROVISIONS

#### ARTICLE 23.1

##### Territorial application

1. This Agreement shall apply:
  - (a) to the territories in which the Treaty on European Union and the Treaty on the Functioning of the European Union are applicable, under the conditions laid down in those Treaties; and
  - (b) to the territories of the Argentine Republic, the Federative Republic of Brazil, the Republic of Paraguay and the Oriental Republic of Uruguay, respectively.
2. References to "territory" in this Agreement shall include air space and territorial sea as provided in the United Nations Convention on the Law of the Sea of 10 December 1982.
3. References to "territory" in this Agreement shall be understood in this sense, save as otherwise expressly provided.

4. As regards those provisions concerning the tariff treatment of goods, including provisions on customs and trade facilitation, mutual administrative assistance in customs matters and rules of origin, as well as the temporary suspension of this treatment, this Agreement shall also apply to those areas of the customs territory of the European Union, as defined by Article 4 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code<sup>1</sup>, not covered by point (a) of paragraph 1 of this Article.

## ARTICLE 23.2

### Entry into force

1. This Agreement shall enter into force between on the one part, the European Union and, on the other part, MERCOSUR and the Signatory MERCOSUR States on the first day of the month following the date on which they have notified each other in writing of the completion of their respective internal procedures required for this purpose.
2. Notifications shall be sent to the Secretary-General of the Council of the European Union and the Government of the Republic of Paraguay, or its successors, who are the Depositories of this Agreement.

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<sup>1</sup> OJ EU L 269, 10.10.2013, p. 1.

### ARTICLE 23.3

#### Application before entry into force

1. This Agreement may be provisionally applied. Such provisional application may take place between, on the one part, the European Union and, on the other part, one or more of the Signatory MERCOSUR States in accordance with their respective internal procedures.
2. The provisional application of this Agreement by the European Union and a Signatory MERCOSUR State shall begin on the first day of the second month following the date on which the European Union and that Signatory MERCOSUR State have notified each other of the completion of their respective internal procedures or ratification of the Agreement and confirm their agreement to provisionally apply the Agreement.
3. Notifications shall be sent to the Depositories of this Agreement.
4. The Trade Council, as well as the Trade Committee and other bodies established under this Agreement, may exercise their functions in respect of this Agreement during the period in which this Agreement is being provisionally applied. Any decisions adopted during this period in the exercise of their functions, shall apply exclusively between the Parties applying the Agreement provisionally and shall cease to be effective between the Party or Parties that cease to apply the Agreement provisionally and the remaining Party or Parties.

4. Where, in accordance with this Article, this Agreement provisionally applies by the European Union and one or more Signatory MERCOSUR State, any reference to:

- (a) MERCOSUR shall be understood to refer to such Signatory MERCOSUR States that have agreed to apply the Agreement provisionally;
- (b) "the Parties" shall be understood to refer to such Signatory MERCOSUR State or States that have agreed to apply the Agreement provisionally and the European Union; and
- (c) the date of entry into force of the Agreement shall be understood to refer to the date from which provisional application takes place.

5. Amendments to this Agreement may also provisionally apply in accordance with this Article. If amendments to this Agreement are adopted during the provisional application of the Agreement, they shall apply to a Signatory MERCOSUR State upon its agreement to provisionally apply the Agreement in accordance with paragraph 2 and shall remain valid after entry into force of the Agreement.

#### ARTICLE 23.4

##### Other agreements

1. Title II of the Interregional Framework Cooperation Agreement between the European Community and its Member States, of the one part, and the Southern Common Market and its Party States, of the other part, signed in Madrid on 15 December 1995, shall cease to have effect and is replaced by this Agreement upon its entry into force.

2. References to the aforementioned Title of the aforementioned agreement in all other agreements between the Parties shall be construed as referring to this Agreement.
3. At the latest 3 (three) months after the date of entry into force of this Agreement, and within the first three months of each subsequent year if so requested, the European Union shall inform MERCOSUR and the Signatory MERCOSUR States of how it would give effect to the cooperation arrangements described in the EU–MERCOSUR Partnership Agreement, including as regards envisaged funding announced in relation thereto.

## ARTICLE 23.5

### Amendments

1. The Parties may agree, in writing, to amend this Agreement. An amendment shall enter into force after the Parties exchange written notifications certifying that they have completed their respective applicable internal requirements and procedures necessary for the entry into force of the amendment, or on such other date as they may agree.
2. Notwithstanding paragraph 1, the Trade Council or the Trade Committee, as appropriate, may decide to amend the Annexes to or other parts of this Agreement if it so provides. Such decision may provide that such amendments apply as of the date agreed by the Parties or upon the notification of the completion of legal requirements of a Party or Parties, if applicable.

## ARTICLE 23.6

### Fulfilment of obligations

1. Each Party shall adopt any general or specific measures required to fulfil their obligations under this Agreement, including those required to ensure its observance by central, regional or local governments and authorities, as well as by non-governmental bodies in the exercise of governmental powers delegated to them.
2. If either Party considers, based on the factual situation, that the European Union or one or more of its Member States, or MERCOSUR or one or more of the Signatory MERCOSUR States, as the case may be, has or have committed a violation of the obligations that are described as essential elements in Article 1.2(1), Article 5.2(2) and Article 7.7(3) of the EU–MERCOSUR Partnership Agreement, it may take appropriate measures in accordance with Article 30.4(3) of that agreement also with respect to this Agreement.
3. Either Party may also take appropriate measures with respect to this Agreement if it considers that the factual situation is such that it would amount to a violation by the European Union or one or more of its Member States, or MERCOSUR or one or more of the Signatory MERCOSUR States, as the case may be, of the obligations that are described as essential elements in Article 1.2(1), Article 5.2(2) and Article 7.7(3) if those provisions were being applied.

Before doing so, the Party invoking the application of this paragraph shall notify the other Party of this fact and of the measures to be taken. The notified Party may request that the Trade Council meet within 15 days from the date of notification to hold urgent consultations with a view to seeking a timely and mutually agreeable solution. The notifying Party adopting the measures shall submit all relevant information required for a thorough examination of the situation. If no mutually agreeable solution is found within a period of up to 15 days from the commencement of consultations and no later than 30 days from the date of the notification, the Party invoking the application of this paragraph may apply the measures referred to in the first subparagraph. The notifying Party may extend the time periods set out in this paragraph, upon request of the other Party. Where the Parties are unable to agree on a mutually acceptable solution, the Parties may also resort to the mediation procedure provided for in Article 21.6.

For the purpose of this paragraph, "appropriate measures" may include the suspension, in part or in full, of this Agreement. Suspension of this Agreement is a measure of last resort and can be imposed only in the event that the factual situation is such that it would amount to a particularly serious and substantial violation by the other Party of the obligations that are described as essential elements in Article 1.2(1), Article 5.2(2) and Article 7.7(3) of the EU–MERCOSUR Partnership Agreement if those provisions were being applied. In such an event, the Parties shall be released from the obligation to perform this Agreement, in full or in part, in their mutual relations during the period of the suspension. Such suspension shall apply for the minimum period necessary to resolve the issue in a manner acceptable to the Parties.

4. For the purpose of paragraphs 2 and 3 of this Article, Articles 30.4(5), 30.4(6) and 30.4(7) of the EU–MERCOSUR Partnership Agreement shall be incorporated into and made part of this Agreement, *mutatis mutandis*.

## ARTICLE 23.7

### Private rights

1. Nothing in this Agreement shall be construed as conferring rights or imposing obligations on persons, other than those created between the Parties under public international law.
2. Nothing in this Agreement shall be construed as permitting this Agreement to be directly invoked in the domestic legal systems of the Parties. A State Party to Mercosur signatory of this Agreement may provide otherwise under its domestic law.

## ARTICLE 23.8

### Accession of new Member States of the European Union

1. The European Union shall notify MERCOSUR of any request for accession of a third country to the European Union.
2. During the negotiations between the European Union and the candidate country seeking accession, the European Union shall:
  - (a) provide, upon request of MERCOSUR, and to the extent possible, any information regarding any matter covered by this Agreement; and
  - (b) take into account any concerns expressed by MERCOSUR.

3. The Trade Committee shall examine any effects of accession of a third country to the European Union on this Agreement sufficiently in advance of the date of such accession.
4. To the extent necessary, the Parties shall, before the entry into force of the agreement on the accession of a third country to the European Union, put in place by decision of the Trade Council the necessary adjustments or transitional arrangements regarding this Agreement.
5. Without prejudice to paragraph 4, this Agreement shall apply between on the one part the new Member State of the European Union and, on the other part, MERCOSUR and each of the Signatory MERCOSUR States from the date of accession of that new Member State to the European Union.

#### ARTICLE 23.9

##### Accession of State Parties to Mercosur

1. MERCOSUR shall notify the European Union of any request for accession of a third country to MERCOSUR.
2. During the negotiations between the MERCOSUR and the candidate country seeking accession, MERCOSUR shall:
  - (a) provide, upon request of the European Union, and to the extent possible, any information regarding any matter covered by this Agreement; and
  - (b) take into account any concerns expressed by the European Union.

3. Any State Party to MERCOSUR that is not a Party to this Agreement on the date of its signature ("applicant MERCOSUR State Party") may accede to this Agreement by means of a Protocol of Accession concluded by the European Union and the applicant MERCOSUR State Party. The Protocol of Accession shall incorporate the results of the accession negotiations and, if necessary, any adjustments recommended by the Trade Committee pursuant to paragraph 4. This Agreement shall be amended pursuant to Article 23.5(1) to reflect the terms of accession as agreed in the Protocol of Accession between the European Union and the applicant MERCOSUR State Party.

4. During the negotiations of the Accession Protocol referred to in paragraph 3, MERCOSUR may accompany the delegation of the applicant MERCOSUR State Party and, before the conclusion of the negotiations, either Party may request a meeting of the Trade Committee to examine any effects on this Agreement of the accession of the applicant MERCOSUR State Party and consider possible adjustments.

#### ARTICLE 23.10

##### Duration

This Agreement shall remain in force until the entry into force of the EU–MERCOSUR Partnership Agreement.

## ARTICLE 23.11

### Denunciation

1. Either Party may give written notice to the other Party of its intention to denounce this Agreement.
2. Denunciation shall take effect nine (9) months after notification to the other Party.

## ARTICLE 23.12

### Annexes, Appendices and Protocols

1. The Annexes, Appendices and Protocols to this Agreement shall form an integral part thereof.
2. Each Annex to this Agreement, including its appendices, identified by a code starting with an Arabic number, shall form an integral part of that Chapter in this Agreement that is identified by the same number and in which reference is made to that particular Annex.

## ARTICLE 23.13

### Authentic languages

This Agreement is drawn up in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Irish, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each of these texts being equally authentic.