

# WORLD TRADE ORGANIZATION

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## SOUTHERN COMMON MARKET (MERCOSUR)

### Information Presented by the Parties

#### Addendum

The following communication has been received from the Permanent Mission of Uruguay, in its capacity of Pro-Tempore Chairman of MERCOSUR, with the request that it be circulated to Members of the WTO.

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The Permanent Mission of Uruguay to the World Trade Organization (WTO) presents its compliments to the WTO Secretariat, Development Division, and, in its capacity as representative of the Pro-Tempore Chairman of MERCOSUR, has the honour to refer to the MERCOSUR examination process, which concluded with the meeting of the Committee on Regional Trade Agreements of 1 May 1997.

As indicated in paragraph 50 of the Note on the Meeting, contained in document WT/COMTD/1/Add.12, only some outstanding issues remained and these are identified in various paragraphs of the Note.

In this connection, this Mission attaches herewith the information requested as well as the replies to the latest questions.

Additional Information Provided Pursuant to Document  
WT/COMTD/1/Add.12 of 5 June 1997

1. In response to the question put in paragraph 12 of document WT/COMTD/1/Add.12, the MERCOSUR Working Group (Technical Committee No. 8) responsible for this issue is pursuing the work described in this paragraph. In the course of this process, non-tariff measures may be subject to either of two distinct procedures:

- (a) Elimination: States Parties undertake to eliminate their non-tariff restrictions by abolishing or repealing them;
- (b) Harmonization: the objective is to harmonize the non-tariff measures of States Parties, mainly by adopting common regulations or by other members accepting duly justified domestic measures. In both cases, the procedure is consistent with the WTO rules or other relevant international rules.

By 29 August of this year, 192 measures and restrictions had been either harmonized or eliminated.

Measures which were identified as non-tariff restrictions to trade were eliminated.

Measures that were harmonized were those that addressed legitimate objectives as provided for in the Agreements on the Application of Sanitary and Phytosanitary Measures and on Technical Barriers to Trade, as well as those in Articles XX and XXI of GATT 1994. (See the Annexes to document WT/COMTD/1/Add.4 and Rev.1.)

2. With regard to paragraph 15 of the Note, paragraph 13 replies to the question concerning the adaptation regime and the exceptions to the Common External Tariff (CET).

Nevertheless, in order to dissipate any doubts, the following are the characteristics of the two regimes already agreed and in force:

- The adaptation regime is a system applicable to intra-MERCOSUR trade as a temporary measure, for the period until 1 January 1999 for Argentina and Brazil and 1 January 2000 for Uruguay and Paraguay, with a linear, automatic timetable for reduction which should lead to the total elimination of tariffs by the dates mentioned.

The lists of goods to which this regime applies were duly made available to the WTO Secretariat for the information of interested delegations.

- The exceptions to the Common External Tariff concern imports from third countries to which the CET does not apply.

The following constitute exceptions:

- (i) National exceptions in effect up to 1 January 2001 (sensitive products for each State Party);
- (ii) the capital goods, information technology and telecommunications sectors (exempted until 2001 or 2006 as the case may be);

- (iii) the automotive and sugar sectors (exempted until 2000);
- (iv) exceptions resulting from the adaptation regime in each country. These include tariffs in the adaptation regime which are at a higher rate than the CET agreed for the corresponding tariff item.
- In addition, there are exceptions resulting from the adaptation regime itself: these are products which are converging simultaneously towards a zero tariff for intra-zone trade and the CET rate for third parties. The purpose of this scheme is to place the tariff treatment granted to third countries on an equal footing with the rates temporarily applicable to intra-zone trade due to the adaptation regime. This mechanism only applies to cases in which the CET rate is lower than the intra-zone rate and ensures that third parties are not given preferential treatment in comparison with members of the customs union.

3. Concerning paragraphs 8 and 11 requesting trade statistics, and also paragraph 28, it should be pointed out that every MERCOSUR country duly provided the WTO Secretariat with the trade information showing products covered by the exception regime. The statistical information on products covered by the adaptation regime was given to the Secretariat so that interested delegations might consult it.<sup>1</sup> Data for each State party is available at tariff-line level (eight digits). Using these data, it is possible to calculate the volume of trade for the sectors mentioned.

4. With regard to paragraph 48, the list of Decisions of the Council of the Common Market and the Resolutions of the Common Market Group harmonizing sanitary and phytosanitary measures are attached. This list had already been provided in the Annex to document WT/COMTD/4/Add.1/Rev.1.

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<sup>1</sup> A copy of the documentation is available for consultation by interested Members in Office 3006.

Replies to Questions - Rules of Origin

**1. Do the MERCOSUR rules of origin provide for drawback, i.e. the refund or suspension of customs duties on non-originating imported materials incorporated into products subsequently exported under the MERCOSUR preferential regime?**

**In other words, if a Paraguayan producer imports bicycles frames and pays \$1,000 in customs duties, can he obtain a refund of the \$1,000 when he exports the bicycles under the MERCOSUR preferential regime?**

**If drawback is allowed, what are the implications if the bicycles previously exported to Brazil from Paraguay are reimported into Paraguay? Does this not create serious competitive disadvantages for Paraguayan firms producing bicycles only for the local market and paying customs duties on the imported materials?**

Article 7 of Decision 10/94 of the Council of the Common Market provides that States parties may offer their exporters drawback schemes. The workings of such schemes are specified in this Article.

Article 12 of the same Decision states that export incentives do not apply to intra-zone trade, except for the cases specified in subparagraph (c) of the Article, which allows special customs treatment for inputs, components and parts used in manufacturing goods subject to the "scope of application of the MERCOSUR rules of origin".

**2. Is it the case that products traded within MERCOSUR with a zero-rate customs duty must have a MERCOSUR content of at least 60 per cent, and 80 per cent in the case of capital goods?**

**Is the 60-per-cent rule additional to the manufacturing process rules contained in the product-specific lists?**

**What is the definition of capital goods? What Harmonized System chapters or tariff headings cover them?**

**For which capital goods does MERCOSUR have zero-rate customs duties?**

Decision 6/94, attached to document WT/COMTD/1, establishes the MERCOSUR rules of origin. It defines the scope of application and the corresponding general criteria of origin.

Article 4 of Decision 23/94, attached to document WT/COMTD/1, provides that the regional value added for capital goods must be 60 per cent.

In its CET, MERCOSUR identifies capital goods with the letters "BK".

**3. Is regional content calculated on the basis of bilateral cumulation or comprehensive cumulation?**

**In other words, do machine parts exported, for example, from Brazil to Argentina, have to fulfil the MERCOSUR rules of origin when they are exported to Argentina if Argentina is to be able to consider them as originating in the determination of preferential origin of machinery produced in Argentina and exported to MERCOSUR (bilateral cumulation)?**

**In the case of comprehensive cumulation - i.e. the parts exported from Brazil do not meet the rules of origin for parts but have a value added of x dollars - Argentina could take the Brazilian value added into account in the MERCOSUR value added of the machines: what proof of origin and information would Brazil have to supply to Argentina?**

**Would the Brazilian producer agree to inform his Argentine client of the value that he had incorporated into a part of which he had imported certain elements?**

The rules on regional content are defined in Decision 6/94.

**4. Do controls of origin by the customs authorities take place frequently? What are the most common problems leading to errors in the determination of preferential origin?**

Controls of origin take place frequently and when the customs authorities deem them necessary and appropriate, pursuant to Chapter V of Decision 6/94.

**5. With regard to machinery and appliances falling under Chapters 82 to 95, the 60-per-cent value-added rule is usually followed. Is determination of origin more difficult than with the general rules of change in tariff lines?**

It is impossible to say whether it is more difficult or not. The general rule is a change in tariff lines. If this is not the case, the requirement is that inputs from third countries should not exceed 40 per cent of the f.o.b value of the end products.

For assembly operations, even if there is a tariff change, there is also a requirement that materials from third countries should not exceed 40 per cent of the f.o.b. value, due to the type of process involved (Decision 6/94, Article 3).

**6. Why are the rules for Chapter 63 (blankets, linen ... : change of tariff line and 60 per cent value added) more demanding than most of the rules for Chapter 64 (footwear: 60 per cent value added)?**

**7. The rule generally applied for Chapter 61 (articles of apparel and clothing accessories, knitted or crocheted) implies that the yarn must be produced in MERCOSUR in order to obtain preferential origin. Why has a percentage rule not been adopted?**

**8. What is the meaning of the rule for Chapter 62, "made from originating internal and external fabrics"? (Chapter 62: articles of apparel other than knitted or crocheted, overcoats, suits, waistcoats, baby and sports clothes, handkerchiefs ... )?**

**What are the implications for the origin of the fabrics and of the yarn?**

**9. Would it be possible to obtain the complete MERCOSUR rules with the coverage of the Agreement with regard to products and the tariff rollback programme?**

There are no differences in the origin requirements for the chapters mentioned for intra-MERCOSUR trade: the general regime in Decision 6/94 applies.

In free-trade agreements concluded between MERCOSUR and third countries within the framework of LAIA, the requirements of origin are different to those for trade among States Parties.

ANNEX

Decisions of the World Trade Organization and Resolutions of the Common Market Group

Agricultural Sector

MERCOSUR Subgroup No. 8 "Agriculture"

Phytosanitary harmonization

1. Adoption of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, approved by CMC Decision No. 6/96.
2. Format of the single phytosanitary certificate, approved by GMC Resolution No. 44/92.
3. General and specific principles for plant quarantine proposed by the FAO, approved by GMC Resolution No. 61/92.
4. Adoption of the Regional Code of Conduct for the introduction and release into the environment of biological control agents, approved by GMC Resolution No. 53/93.
5. Adoption of quarantine requirements for 11 priority products<sup>2</sup> (Peaches, tobacco, vines, garlic, onions, tomatoes, peppers, citrus fruits, potatoes, apples and pears).
6. Adoption of phytosanitary standards, approved by GMC Resolution No. 59/94, for:
  - (a) Plant quarantine principles related to international trade;
  - (b) Glossary of phytosanitary terms;
  - (c) Accreditation of phytosanitary diagnostic laboratories;
  - (d) Guidelines for recognizing areas free of disease (ALP);
  - (e) Guidelines for analysing the threat of disease;
  - (f) Principles for regulating serious (harmful) diseases in regional trade.
7. Implementation of the phytosanitary inspection system at destination, approved by GMC Resolution No. 60/94.
8. Adoption of standards, approved by GMC Resolution No. 62/94, for:
  - 3.5 (a) Quarantine directory;
  - (b) Principles for the phytosanitary regulation of the international transit of plants and plant products;

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<sup>2</sup> Amended by Resolutions Nos. 93/96, 102/96, 103/96, 90/96, 89/96, 92/96, 91/96, 113/96.

- 3.7 (c) Harmonization of phytosanitary measures by entry point<sup>3</sup> (product):  
Medicago sativa, Brassica napus oleifera, Helianthus annu, Lolium multiflorum, Lotus corniculatus, Phaseolus Vulgaris, Sorghum Vulgare, Triticum spp
9. Use of the single phytosanitary certificate (approved by GMC Resolution No. 44/92) for exports to third countries and use of the phytosanitary re-export certificate (CFR), approved by GMC Resolution No. 70/94.
10. Phytosanitary and zoosanitary controls in free zones, approved by GMC Resolution No. 71/94.
11. Certification and verification regime at origin/destination. GMC Resolution No. 2/96.
12. Standard 3.7 A. - Scale of phytosanitary measures by type of disease. GMC Resolution No. 11/96.
13. Criteria for identifying serious (harmful) diseases. GMC Resolution No. 43/96.
14. Criteria and general outline for the preparation of phytosanitary certification standards. GMC Resolution No. 44/96.
15. Regional trade in peeled wood. GMC Resolution No. 49/96.
16. Positive list of products not subject to any phytosanitary intervention. GMC Resolution No. 118/94 (Subworking group 2).
17. Standard 3.7 - Harmonization of phytosanitary measures, approved by GMC Resolution No. 88/96.
18. Substandard 3.7.1 - General and specific phytosanitary requirements for *Allium cepa* (onions), approved by GMC Resolution No. 89/96.
19. Substandard 3.7.2 - General and specific phytosanitary requirements for *Allium sativum* (garlic), approved by GMC Resolution No. 90/96.
20. Substandard 3.7.3 - General and specific phytosanitary requirements for *Capsicum annum* (peppers), approved by GMC Resolution No. 91/96.
21. Substandard 3.7.5 - General and special phytosanitary requirements for *Lycopersicon esculentum* (tomatoes), approved by GMC Resolution No. 92/96.
22. Substandard 3.7.7 - General and specific phytosanitary requirements for *Nicotina tabacum* (tobacco), approved by GMC Resolution No. 93/96.
23. Substandard 3.7.8 - General and specific phytosanitary requirements for *Brassica napus* var. *oleifera* (rapeseed), approved by GMC Resolution No. 94/96.
24. Substandard 3.7.9 - General and specific phytosanitary requirements for *Helianthus annuus* (sunflowers), approved by GMC Resolution No. 95/96.

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<sup>3</sup> Amended by Resolutions Nos. 98/96, 94/96, 95/96, 97/96, 99/96, 100/96.

25. Substandard 3.7.10 - General and specific phytosanitary requirements for *Lolium multiflorum* (rye grass), approved by GMC Resolution No. 96/96.
26. Substandard 3.7.11 - General and specific phytosanitary requirements for *Lotus corniculatus* (birdsfoot trefoil), approved by GMC Resolution No. 97/96.
27. Substandard 3.7.12 - General and specific phytosanitary requirements for *Medicago sativa* (alfalfa), approved by GMC Resolution No. 98/96.
28. Substandard 3.7.13 - General and specific phytosanitary requirements for *Phaesolus vulgaris* (beans), approved by GMC Resolution No. 99/96.
29. Substandard 3.7.14 - General and specific phytosanitary requirements for *Sorghum vulgare* (sorghum), approved by GMC Resolution No. 100/96.
30. Substandard 3.7.15 - General and specific phytosanitary requirements for *Trifolium* sp (clover), approved by GMC Resolution No. 101/96.
31. Substandard 3.7.17 - General and specific phytosanitary requirements for *Pronus persica* (peaches), approved by GMC Resolution No. 102/96.
32. Substandard 3.7.19 - General and specific phytosanitary requirements for *Vitis vinifera* (vines), approved by GMC Resolution No. 103/96.
33. Substandard 3.7.20 - General and specific phytosanitary requirements for *Ananás comosus* (pineapples), approved by GMC Resolution No. 104/96.
34. Substandard 3.7.21 - General and specific phytosanitary requirements for *Coffea* spp. (coffee), approved by GMC Resolution No. 105/96.
35. Substandard 3.7.22 - General and specific phytosanitary requirements for *Cucumis melo* (melons), approved by GMC Resolution No. 106/96.
36. Substandard 3.7.23 - General and specific phytosanitary requirements for *Fragaria* spp. (strawberries), approved by GMC Resolution No. 107/96.
37. Substandard 3.7.24 - General and specific phytosanitary requirements for *Glycine max* (soya beans), approved by GMC Resolution No. 108/96.
38. Substandard 3.7.25 - General and specific phytosanitary requirements for *Gossypium* spp. (cotton), approved by GMC Resolution No. 109/96.
39. Substandard 3.7.27 - General and specific phytosanitary requirements for *Oryza sativa* (rice), approved by GMC Resolution No. 110/96.
40. Substandard 3.7.28 - General and specific phytosanitary requirements for *Theobroma cacao* (cocoa beans), approved by GMC Resolution No. 111/96.
41. Substandard 3.7.29 - General and specific phytosanitary requirements for *Zea mays* (maize), approved by GMC Resolution No. 112/96.



42. Substandard 3.7.18 - General and specific phytosanitary requirements for Solanum Tuberosum (potatoes), approved by GMC Resolution No. 113/96.

Zoosanitary harmonization

1. Adoption of regulations and procedures for declaring and recognizing a country or zone free of transmissible diseases, approved by GMC Resolution No. 56/93.
2. Adoption of health regulations for the import of animals, semen, embryos and fertile eggs from outside the region, approved by GMC Resolution No. 67/93.
3. Adoption of health regulations and a single zoosanitary certificate for regional trade in goats, approved by GMC Resolution No. 65/94.
4. Adoption of health regulations and a single zoosanitary certificate for regional trade in sheep, approved by GMC Resolution No. 66/94.
5. Adoption of health regulations for the authorization of production centres for embryos of bovine animals and buffalos, approved by GMC Resolution No. 67/94.
6. Adoption of health regulations for the authorization and operation of production centres and semen banks for bovine animals and buffalos, approved by GMC Resolution No. 68/94.
7. Adoption of health regulations and a single zoosanitary certificate for regional trade in equine animals, approved by GMC Resolution No. 69/94.
8. Phytosanitary and zoosanitary controls in free zones, approved by GMC Resolution No. 71/94.
9. Questionnaire for the import of animals, semen, embryos and fertile poultry eggs from countries where there are exotic diseases. GMC Resolution No. 3/96.
10. Health regulations for MERCOSUR trade in pet dogs and cats. GMC Resolution No. 4/96.
11. Health regulations for the import of pet dogs and cats from third countries. GMC Resolution No. 5/96.
12. Health regulations for the transit of circus animals within MERCOSUR. GMC Resolution No. 6/96.
13. Equine sanitary passport. GMC Resolution No. 7/96.
14. Health regulations for the cross-border transit of equine animals. GMC Resolution No. 8/96.
15. Standards and safety regulations for the authorization of poultry breeding establishments and incubation plants for trade within MERCOSUR.
16. Regulations on the transit of animals through the territory of one of the States parties or between States parties in accordance with the epidemiological conditions in the zones and countries of origin and destination. GMC Resolution No. 16/96.
17. Health regulations for the import and export of bovine animals and buffalos among MERCOSUR States parties. GMC Resolution No. 50/97.

18. Sanitary provisions and single zoosanitary certificate for swine for trade among MERCOSUR States parties. GMC Resolution No. 19/97.
19. Sanitary provisions for the regionalization of classic swine fever in MERCOSUR. GMC Resolution No. 20/97.
20. Conditions to be met by units authorized for animal quarantine in the country of origin or destination and provisions on their operation. GMC Resolution No. 20/97.

#### Harmonization of animal genetics

1. Regulatory framework for the functioning of animal genetics for bovine animals, goats, sheep, equine animals and swine within MERCOSUR. GMC Resolution No. 46/96.

#### Harmonization of seeds

1. Adoption of the ISTA methodology for seed analysis, approved by GMC Resolution No. 2/94.
2. Harmonization of the evaluation of the agronomic value and quality of cultivars (field test period), approved by GMC Resolution No. 61/94.
3. Register of cultivars, GMC Resolution No. 47/96.

#### Harmonization of agricultural chemicals

1. GMC Resolution No. 23/94: Pesticide residues in raw agricultural products.
2. GMC Resolution No. 73/94: Technical requirements for the evaluation of registers of active substances and agrochemical formulated products in the MERCOSUR region.
3. GMC Resolution No. 74/94: Maximum limits of pesticide residues in garlic, onions and strawberries.
4. GMC Resolution No. 14/95: Pesticide residues in raw agricultural food products.
5. GMC Resolution No. 48/96: Requirements for the free circulation of phytosanitary products at the current stage of integration in MERCOSUR.
6. GMC Resolution No. 87/96: Registration procedures for the free circulation of active substances, technical grade and/or formulas of phytosanitary products.
7. GMC Resolution No. 149/96: Interpretation of Resolution No. 48/96.
8. GMC Resolution No. 156/96: Second list of active substances and their formulas for free circulation among MERCOSUR States parties.

#### Harmonization of technical regulations

##### Subworking group 8

1. GMC Resolution No. 145/96: MERCOSUR wine production regulations.

Subworking group 3

1. GMC Resolution No. 98/94: Regulations on the identification and quality of garlic.
2. GMC Resolution No. 99/94: Identification and quality of tomatoes.
3. GMC Resolution No. 100/94: Identification and quality of onions.
4. GMC Resolution No. 85/96: MERCOSUR technical regulations on the identification and quality of strawberries.
5. GMC Resolution No. 9117/96: MERCOSUR technical regulations on the identification and quality of apples.
6. GMC Resolution No. 118/96: MERCOSUR technical regulations on the identification and quality of pears.
7. GMC Resolution No. 142/96: MERCOSUR technical regulations on the identification and quality of peppers.
8. GMC Resolution No. 5/97: MERCOSUR technical regulations on the identification and quality of processed rice.