

Synthesis

The trade section of the Association Agreement between the European Union (EU) and Mercosur ("the Agreement") was concluded on 28 June 2019 in a very particular context, after twenty years of negotiations that were interrupted several times. The "cooperation" and "political dialogue" pillars of the negotiations did not involve as many difficulties. A text was agreed at the negotiating session on 6-8 June 2018 in Montevideo but was not made public. In accordance with the mission entrusted to our Evaluation Committee, the purpose of this report is to analyse "the provisions of the Agreement and its effects on sustainable development" and to "make recommendations to address the risks" identified.

We conclude from this analysis that with the Agreement, the EU missed an opportunity to use its negotiating power to obtain sound guarantees that meet the environmental, health and more generally societal expectations of its citizens. The Agreement is essentially defined as a trade liberalization agreement, with the novelty of also incorporating facilitated access to government procurement and provisions on trade in services. The Agreement incorporates some of civil society's expectations, for example by explicitly mentioning consideration of the precautionary principle and the Paris Climate Agreement. However, we consider that the provisions of the Agreement concerning respect for the precautionary principle, compliance with the commitments made under the Paris Agreement, and recognition of European preferences with regard to environmental and health standards, labour standards and animal welfare preferences, offer relatively fragile guarantees.

From a European point of view, the implementation of the Agreement is likely to lead to trade benefits that will have a low impact on the real income of European citizens. This makes sense for a bilateral agreement involving only two groups of countries, however large they may be. This overall view masks differences between the sectors that will benefit – mainly industry and services – and those that will suffer from competition from Mercosur countries – mainly agriculture and agri-food. The expected commercial gains in industry should also be put into perspective, considering the significant presence of European direct investment in the

Mercosur countries (particularly in the car manufacturing sector). Mercosur countries' commitments to open up public procurement markets are substantial, in some cases even more than those they have made among themselves, and are likely to open up significant opportunities for European companies. As for the service sector, commitments seem significant for Argentina but more limited for Brazil.

In the area of agricultural products, the Agreement liberalizes a large proportion of the tariff lines of both parties. This liberalization will benefit certain sectors which represent offensive EU interests: wines and spirits, with a rapid cancellation of customs tariffs on cheese and infant preparations in the form of relatively modest tariff quotas. However, in the case of wines and spirits, the Agreement does not require Mercosur countries to bring their local regulations into line with the standards of the International Organization of Vine and Wine (OIV), which could limit trade gains for European producers. With regard to Geographical Indications (GIs), the Agreement is an improvement on the current situation: it includes a high number of European GIs and thus allows the Mercosur countries to recognize the European agricultural "model", which is soundly based on the Official Identification Signs of Quality and Origin (SIQO). However, this protection remains contingent on the national legislation of the Mercosur countries and does not solve the problem of competition between GIs and trademarks.

The liberalization of agricultural trade induced by the Agreement is partial in the case of the EU's defensive interests (poultry, pork, beef, sugar, ethanol, rice, honey and sweet corn). It is implemented in the form of reduced or free tariff quotas. This report provides a detailed analysis of most of the sensitive agricultural products: poultry, beef, sugar, ethanol and honey. It projects an increase in European imports of beef and veal (mainly chilled and frozen), ethanol and honey from Mercosur countries as a result of the Agreement, which could weaken European agricultural producers if prices on European markets dropped as a result. In the case of sugar, the Agreement comes at a time of uncertainty due to the end of the sugar quota policy in the EU and Brexit. This makes it very difficult to predict possible impacts, which would depend on highly fluctuating world sugar prices. The provisions on ethanol are nevertheless likely to reduce the outlets for European sugar. The Agreement's bilateral safeguard clause that was introduced to limit the potentially damaging effects of trade liberalization on

European producers of sensitive agricultural products is in itself welcome. However, its ability to play this role in its current form is questionable.

In the sanitary and phytosanitary field, the Agreement does not modify the provisions of the Parties but may increase sanitary risks in the event of increased trade and raise fears of a lowering of some standards in the dialogue process. Here too, it represents a missed opportunity to introduce requirements linked to production methods, with the threefold aim of guaranteeing public health, respecting the concerns of European consumers (particularly in terms of the environment and animal welfare) and ensuring fair trade. The subcommittee on Dialogues in the fields of health, animal welfare, biotechnology and microbial resistance – which are laudable in principle – are not sufficiently binding. As for the recognition of the precautionary principle in the Agreement, it remains incomplete. The principle is set out in a diminished version which suggests that the Parties disagree over health and environmental protection that constitutes an obstacle to trade.

With regard to the risk of deforestation, this report focuses mainly on the pressure on forest and savannah areas in the Mercosur countries, combined with an increase in their beef production as a result of the partial opening of European markets as provided for by the Agreement. This increase is to be put into perspective as it accounts for only 2% to 4% of the annual volume of production in the region. It could theoretically be "absorbed" by increases in livestock productivity or production in the medium term driven by Chinese demand, particularly in Brazil. This is however questionable, for several reasons. Deforestation is continuing or even accelerating, and beef is one of the main causes. Regulatory constraints on agricultural expansion at the expense of exceptional ecosystems are low in the region. Likewise, the guarantees offered by the various existing sustainability initiatives and the non-tariff clauses in the Agreement do not rule out the risk of additional exports to the EU being associated with deforestation.

This risk of deforestation has been assessed in the report on the basis of an equivalent amount of additional pasture area that would theoretically be needed to meet this increase in beef production, projected in several scenarios. The order of magnitude obtained is a 5% acceleration of annual deforestation during the six-year period provided for in the Agreement

for tariff reduction, compared to the average of the last five years. These values do not take into account the additional areas of crops needed to feed the livestock and possibly to grow sugar cane.

For climate issues, the sustainable impact assessment commissioned by the European Commission¹ allows us to approximate increases in greenhouse gas (GHG) emissions by positing a constant emissions factor per unit of Gross Domestic Product. The additional emissions attributable to the Agreement would then be between 4.7 and 6.8 million tonnes of CO₂ equivalent under the conservative and the ambitious impact assessment scenarios, respectively. This is significant, but limited in terms of economic benefits since, by using social cost of carbon of 250 euros per tonne of CO₂ equivalent,² the economic gains net of climate costs is positive. On the other hand, taking the risk of deforestation into account reverses this conclusion: if the risk were proven, the net balance between economic gains and climate costs would be negative.

Finally, the Agreement does not contain any specific conditions on the commitments made by the parties under the Paris Agreement. The provisions of the Agreement refer to climate obligations without making them subject to the dispute settlement mechanism applicable to other obligations. Thus, no effective measures for the implementation of climate commitments have been included in the Agreement. Only a specific dialogue mechanism is provided for. This is better than nothing, but it is yet another missed opportunity to put all the contracting parties on both sides of the Atlantic face-to-face with their responsibilities to future generations.

¹ LSE, 2019. Sustainability Impact Assessment in Support of the Association Agreement Negotiations between the European Union and Mercosur. Draft Interim Report, 3 October 2019, 253 p.

² « La valeur de l'action pour le climat », France Stratégie, February 2019, https://www.strategie.gouv.fr/sites/strategie.gouv.fr/files/atoms/files/fs-2019-rapport-la-valeur-de-laction-pour-le-climat_0.pdf

Recommendations

Our recommendations are threefold. First, they deal with the impact assessments to be conducted on trade agreements. Second, they concern the implementation of the Agreement and accompanying measures. Finally, we make proposals on advisable amendments to certain provisions of the Agreement, as well as new clauses to include in the new generation of agreements. Some of our committee's recommendations reiterate proposals from the CETA report (Schubert Commission) which led to the French government's action plan in October 2017.

Evaluation:

1. Take sustainable development into account more fully in impact assessments

The computable general equilibrium model mandated by the European Commission underestimates the impact of the Agreement on the environmental dimensions of sustainable development because it overlooks changes in land use (agricultural or forestry), the removal of natural resources (water and biomass in particular) and impacts on air and water quality. Its estimates of greenhouse gas (GHG) emissions from economic activity are overly aggregated and seem to exclude emissions from international transport. We recommend: (i) the application of a land use model that takes into account the impact of the Agreement on ecosystems and on emissions from deforestation (and land use change more generally); (ii) a more detailed break-down per sector of GHG emissions, including land use change; and (iii) an assessment of emissions from international transport attributable to the Agreement.

2. Enriching economic evaluation

It would be useful to have modelling that analyses economic sectors in greater detail. In particular, there is a need for modelling that explicitly distinguishes between the different agricultural products (defensive and offensive interests), explicitly models the different trade policies applied to them, before and after the Agreement, uses the most recent data available, and takes into account Brexit, at this stage in the form of scenarios. This modelling should distinguish between the different Member States insofar as they will be impacted differently

by the Agreement. It should be updated periodically for dynamic monitoring of the Agreement (see Recommendation 3).

Implementation:

3. Monitor the evolution of defensive agricultural commodity markets

We recommend that a dynamic monitoring of flows and prices in the sensitive agricultural sectors of beef, poultry, pork, sugar, ethanol and honey be put in place in order to anticipate possible disruptions of the European (and national) market for these products at finer levels than at present (e.g. meat per se, not just carcasses). This monitoring should be carried out at the level of each Member State and the European Commission (within the Market Observatories of DG Agriculture). In the monitoring context, it seems necessary to determine precisely the thresholds of "serious market disturbance" at which the bilateral safeguard clause will come into play, both at EU level and in each Member State, by reference to the economic situation of specialized farms for each product. This bilateral safeguard clause should not be limited in time (cf. Recommendation 7).

4. Defining specifications for agricultural products

We recommend that the definition of agricultural products include specifications with criteria such as origin or production method. One of the criteria could be not to contribute to deforestation, like for instance the moratorium on soya and the efforts to certify beef from "sustainable beef farming" set up by Brazilian supermarkets themselves. The application of these criteria will require full traceability of beef exported to the European market, from the animals' birth to slaughter, already in force in Uruguay and the EU. As an example, the compulsory grass finishing under the Hilton Beef quota could be extended to the other tariff quotas in order to avoid highly controversial feedlot finishing (use of feed not authorized in the EU, use of antibiotics as growth promoters, excessive concentration of animals, etc.). Other production mode criteria are desirable: working conditions on sugar cane plantations, production mode for honey (type of bee feed, use of antibiotics), and animal welfare during animal transport (waiting, watering, density).

5. Improving product traceability and labelling

Generally, it would be useful to improve the labelling of products in order to inform the consumer better, and to strengthen traceability so that this information is complete and reliable. For example, in addition to "born, raised and slaughtered" traceability for beef, it would be necessary to set up an information system for consumers on production methods (use of antibiotics, respect for animal welfare, transgenic nature of food), both in the system of direct delivery to the consumer and in collective and commercial catering. The Agreement is intended to be accompanied by technical and political collaboration to strengthen these traceability and certification policies. Such provisions must naturally apply both ways, from the Mercosur countries to the EU and vice versa.

6. Strengthening cooperation and controls in the health field

We recommend the following:

- ensure that the delegated act taken pursuant to EU Regulation 2019/6 is published before the deadline of 22 January 2022 and, in any event, before the provisional implementation of the Agreement;
- on the basis of the principle of reciprocity, generalize the introduction of mirror measures in European regulations and put an end to import tolerances;
- check that the recommendations of the latest EU audits have been properly implemented;
- ensure that the controls of the national authorities are carried out rigorously and that the EU supply chain is effectively watertight;
- adapt the health audit programme in Mercosur countries (in particular on traceability, use of pesticides, and animal transport) whose products are intended for export to the EU.

Improvements to the Agreement and proposals for inclusion in next generation agreements:

7. Granting protection to sensitive European agricultural sectors such as that implemented in other EU trade treaties

Trade agreements likely to affect certain agricultural sectors should incorporate a safeguard regime that can be implemented for the benefit of the most exposed party. These mechanisms

exist in the EU's agreements with Japan and Korea. They have the advantage of ensuring the gradual adjustment of the sectors concerned to the effects of liberalization.

8. Clarifying the precautionary principle

It would be desirable for the precautionary principle be stated more explicitly by including not only environmental protection and occupational safety, but also food safety and public health more generally. For the effective application of the precautionary principle, it should be set out in the part of the treaty that is likely to make it invocable in the settlement of trade disputes.

9. Give compliance with the Paris Climate Agreement the status of an essential clause

The enshrinement of climate obligations in EU trade instruments should aim to raise them to the level of core commitments. The clause requiring compliance with the Paris Agreement could be considered an "essential clause", so that breaching it would have the effect of permitting the suspension of trade obligations by either party. This result will be effective only if it is achieved through the jurisdictionalization of climate commitments in the framework of trade instruments.

10. Introduce new environmental policies with commercial reach

Consideration should certainly be given at European level to introducing conditionality for the effective application of the Paris Agreement in trade instruments. This would include the introduction of trade-related environmental measures. Mechanisms for environmental certification, created by parties to trade agreements, could be considered as a condition for obtaining reduced tariffs. The evaluation of the fulfilment of these commitments could be based on progress assessment reports in the framework of the forums.

11. Positioning the Commission's trade negotiation mandate in reflection on border carbon taxes

The European Commission's trade negotiation mandate should be included in reflection on border carbon tax as part of the *Green Deal* presented by the Commission in December 2019.