

# Two cheers for the EU-Mercosur Agreement

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The new EU-Mercosur Agreement only superficially rejects protectionism. As much as it liberalises trade, it also protects European defensive interests and extends the EU's regulatory influence, to the detriment of Mercosur producers and European consumers.

The reductions in trade barriers have been selective, avoiding major EU defensive interests like agricultural goods and geographical indicators. European consumers will forego the benefits of freer trade in these areas.

By promoting the EU's regulatory standards and competition law, the agreement privileges European firms, limiting competition from Mercosur firms while slowing innovation and likely reducing growth, as a result.

The agreement is positive on public procurement, subsidies and state-owned enterprises. It also contains standard provisions for sustainable development, transparency and dispute settlement, and promises cooperation in fields such as animal welfare.

## Introduction

There has been a great deal of cheering over the recent free trade agreement between the EU and Mercosur (the South American trade bloc of Brazil, Paraguay, Argentina and Uruguay, with Venezuela suspended). While the agreement should be welcomed, its depth may not match its considerable breadth. Furthermore, looking at the details, the agreement appears to have more to do with signalling openness and rejecting protectionism as a concept – clearly to be welcomed – than with any seriously challenging programme of liberalisation, including on the EU's part.

This is not a surprise. As the EU's documents make clear, the aims of the agreement are as much to “help the EU and Mercosur shape global trade rules in line with highest EU standards” and “send a powerful signal to the world... that two of its biggest economies reject protectionism” as to genuinely help consumers in either region. This briefing will examine the main features of the agreement in comparison with other agreements, and with the theoretical ideal.

## Trade in goods

The agreement is liberalising on industrial goods tariffs and quotas, including by the EU, with over 90% of lines liberalised by Mercosur. These include key defensive sectors such as auto manufacturing, machine parts and chemicals. This will happen in a phased manner over 10-15 years (as is relatively standard) and is naturally welcome for its effect on lowering prices for EU consumers and on industrial inputs. EU-based exporters are also expected to benefit, although it should be noted that Mercosur are maintaining some reservations in key sectors such as machinery, where the headline of 93% of lines being liberalised only covers 67% of EU machinery exports.

The new EU-Mercosur Agreement only superficially rejects protectionism. It does not go far enough in liberalising trade.

Conversely, it is the EU which is maintaining barriers for agricultural goods. While Mercosur is liberalising lines corresponding to 95% of the EU's export value, major EU defensive interests are being maintained in areas like beef, poultry, rice and sugar. For instance, the agreement only allows an in-quota rate on 180,000 tonnes of sugar into the EU (this must also be sugar for refining to protect EU industry); the beef quota of 99,000 tonnes is also low when compared to production in Member States. While these parts of the agreement constitute a step forward, particularly for Mercosur in eliminating export duties, the step is a small one, and is unlikely to have a significant impact for EU consumers.

Provisions to eliminate Mercosur export duties are a small step. European consumers would benefit more from freer trade in European defensive interests like agriculture.

The agreement also protects Geographical Indicators (GIs), more than 350 for the EU and 220 for Mercosur. While some of this is reasonable, it largely constitutes further protectionism for selected industries, particularly as the EU is often overly generous in designating GIs.

## Regulatory barriers

The biggest disappointment however comes in the agreement's coverage of regulatory barriers to trade. "(R)ejecting protectionism" and pushing adherence to EU standards are not, ultimately, compatible. Most particularly, as the Agreement in Principle document makes clear, "The EU's SPS standards are and shall remain non-negotiable". This is a problem. Protectionism has increasingly shifted from tariffs and quotas to that which is disguised as regulatory standards, but which go beyond what would be necessary to protect human and animal health and ignore scientific evidence. This means that, although there will be some reduction in tariffs, imports to the EU will have to conform to the EU's stringent 'farm to fork' SPS requirements, which hinder innovation and will prevent EU consumers from taking full advantage of the higher agricultural productivity in Mercosur countries. The impact of this regime, increasingly exported by the EU via such agreements, is likely to be wealth-destroying.

Because it promotes regulatory convergence and protects key sectors, the agreement does not unlock all the benefits of freer trade.

This story is effectively repeated regarding Technical Barriers to Trade and Services and Establishment. Nothing that has been agreed goes far beyond basic non-discrimination and a standard commitment to basing regulations on international standards. Particularly concerning is the discussion of regulatory convergence in some of these areas, and while some will derive from international standards, these appear to be derived from the EU's definition of these. Decisions by the WTO TBT committee are not necessarily final, leaving the way open for continuing extension of the EU regulatory sphere into Mercosur countries.

## Competition, Public Procurement and State-Owned Enterprises

The agreement is positive on public procurement, with EU companies able to bid for federal level contracts in Mercosur states, but excluded from the sub-federal level tendering process pending further work. All these measures are reciprocal, and so should encourage more efficient public service provision in the EU as well as in Mercosur (barring various Member State reservations, such as on the NHS).

On competition, the provisions on non-discrimination are promising, but there is also a commitment to the parties following similar principles which is presented as a 'step forward in the creation of a stringent set of international rules on competition'. This is less welcome, both because EU competition law has been criticised for reducing innovation and investment, and because it is an example of the regulatory harmonisation that amplifies mistakes and reduces jurisdictional competition and innovation.

Proposals on subsidies and state-owned enterprises (SOEs) are also positive, but fairly limited in scope. Limitations on SOEs will demand that they act in a commercially motivated manner and will only apply to the largest SOEs. The provisions on subsidies amount broadly to information sharing and a statement on the economic effects of subsidies.

## Other areas

Beyond these areas, the agreement contains relatively standard provisions for sustainable development, including implementing the Paris Climate Agreement, as well as common provisions on transparency, information sharing and dispute settlement. There are additional commitments to cooperation on Customs Facilitation which, while relatively standard for EU agreements, should prove valuable.

The agreement also contains provisions aimed at promoting further cooperation on areas such as Animal Welfare, Antimicrobial Resistance and Trade Remedies. The section of the agreement dealing with the latter also includes a section on safeguard measures to deal with disruption arising from the change to trading arrangements.

## Conclusion

In conclusion, the EU – Mercosur agreement contains many positive steps, particularly on the liberalisation of non-agricultural imports by both parties. In many areas however, these commitments are limited in scope, largely highlighting the EU's own reluctance to make concessions in key areas including on regulatory recognition and the protection of key interest groups. Simultaneously, the provisions of the agreement pointing towards regulatory harmonisation, both on Technical Barriers to Trade and on Competition Law, should be treated with extreme wariness. Provisions of this type often function as de facto protectionism for EU firms, as damaging regulatory burdens are imposed on potential competitors, the result being slowed innovation and lower growth. As such, the agreement has as much to do with apparent openness while expanding the EU's regulatory influence as with genuine liberalisation on the EU's part.