

Brussels, 10 October 2016

Orgalime answer to the European Commission public consultation on the EU-Mercosur trade agreement

EXECUTIVE SUMMARY

Orgalime welcomes the new momentum in the EU-Mercosur free trade agreement negotiations. The adoption of a free trade agreement with Mercosur and the creation of a more integrated economic area within Mercosur would be extremely beneficial for our industries. The existing non-tariff and tariff barriers to trade, which represent a major trade-restricting hurdle, must be overcome thanks to the Free Trade Agreement. A stable and uniform framework within the Mercosur countries, including on customs and tax legislation, would be highly welcomed.

INTRODUCTION

Orgalime welcomes the new momentum in the EU-Mercosur negotiations, which were launched in 1999 and officially re-launched in 2010. Thanks to the recent political changes in Argentina, there is a new opportunity to resume talks within the two areas. Mercosur is a very important market for the European engineering industries, with trade between the EU and Mercosur countries totalling some 18 billion euros per year.

Our industries are currently facing some issues when exporting our products into the Mercosur area: not only are tariffs for industrial engineering products very high, but technical import requirements are very onerous and very often vary from one country to another. We understand that Venezuela is not part of the current negotiations - we would like to see them also joining the talks.

1. TARIFF BARRIERS

The common external tariff (TEC) of Mercosur account for 14% of tariff for our products, with some peak reaching 20% and a few products benefitting from a lower tariff rate between 0% and 12%. These are comparatively extremely high tariff on a global scale. In addition, in Brazil customs duties are included in the taxation base of the value of imported goods: the Brazilian system of duty suspension and the additional high domestic taxes lead to huge asymmetries in the market access.

Orgalime, the European Engineering Industries Association, speaks for 41 trade federations representing the mechanical, electrical, electronic, metalworking & metal articles industries of 24 European countries. The industry employs some 10.9 million people in the EU and in 2015 accounted for more than €1,900 billion of annual output. The industry accounts for over a quarter of manufacturing output and a third of the manufactured exports of the European Union.

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For this reasons, the FTA negotiations must aim at achieving the complete dismantling of all tariffs, without any exceptions. However, the dismantling does not have to take place immediately, which would obviously be the preferred outcome: a gradual dismantling over a period of three to five years could be negotiated for certain products.

2. NON-TARIFF BARRIERS

Mercosur countries have a wide range of non-tariff barriers, which seriously hamper trade. Orgalime would like to see these barriers overcome thanks to the Free Trade Agreement.

Technical regulations in Brazil hamper market access. For instance, the ‘*Norma Reguladora 12*’ regulation on machinery safety, as reformed in 2010, has significantly worsened the situation due to its complexity. The current “*Norma Reguladora 12¹*” is not fully clear and, due to its structure, has introduced additional difficulties regarding safety requirements, particularly on safety of machinery and on *state-of-the-art* technology transfer. In addition, in Brazil, the process of getting a product approved according to local standards is very burdensome. There are also very high duties on materials and foreign companies are discriminated against since local companies are subject to lower local taxes, making it very difficult to compete against them.

In Argentina the technical regulations, such as the one for electrical equipment, are mandatory for individual categories of engineering products where European and local companies directly compete. Moreover, there is a recent trend of deploying technical provisions for market foreclosure. Until 2015, Argentina applied rules on import licences that were WTO incompliant. After a WTO ruling, this licencing system was abolished for 87% of the products by the Argentinian government, which took office in 2015. However, recent developments are worrying: the number of products that are considered “sensitive” and require an individual import licence is on the rise. In particular, it is very alarming that a broad range of engineering products and components are in the list of “sensitive” products.

3. RULES OF ORIGIN

Rules of Origin are extremely important for the engineering industries. We would like to see consistency in the Rules of Origin for Mercosur with other already existing Free Trade Agreements. We suggest using the 50% value-added threshold with as an alternative change of tariff heading.

4. CUSTOMS PROCEDURES

In Argentina, companies have to keep track of the specific parts that are sold to a specific customer - this is very burdensome, especially for SMEs, as they need to keep track of this manually.

Paraguay also has some burdensome regulation, which hampers imports. For instance, all imported-related invoices need to be stamped and approved by the relevant public authority. After this, the invoice has to be sent to the nearest Paraguayan consulate where it has to be stamped.

¹ Available in English here: <http://www.braziannr.com/brazilian-regulatory-standards/nr12-machinery-and-work-equipment-safety/>

5. PUBLIC PROCUREMENT

Public procurement procedures urgently need to be modernised to improve transparency and to allow European companies to participate in tenders in the Mercosur countries on an equal footing with the local ones. This is particularly true in Brazil, where European companies are heavily discriminated against. The priority for our industries is to reduce the local-content provisions, on which the invitation-to-tender system has been based upon until today.

CONCLUSION

Trade between the European Union and Mercosur countries is very important for the European engineering industries. The ongoing negotiations are an opportunity to overcome both tariff and non-tariff barriers and to have better access to public procurement.

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The European Engineering Industries Association

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**QUESTIONNAIRE ON A
TRADE PILLAR OF THE EU-MERCOSUR ASSOCIATION AGREEMENT**

This questionnaire consists of technical questions (e.g. on trade flows and opportunities, customs procedures, rules of origin, standards and technical regulations, trade defense, intellectual property rights etc.) and is targeting EU business (companies/business organisations) to comment on practical experience doing business in Mercosur countries.

Please indicate your preference when replying to this questionnaire:

Please note that regardless of the option chosen, your contribution may be subject to a request for access to documents under the EU Regulation 1049/2001 on public access to European Parliament, Council and Commission documents. In such cases, the request will be assessed against the conditions set out in the Regulation and in accordance with applicable data protection rules.

1. My contribution may be published under the name indicated; I declare that none of it is subject to copyright restrictions that prevent publication.
2. My contribution may be published but should be kept anonymous; I declare that none of it is subject to copyright restrictions that prevent publication.
3. I do not agree that my contribution will be published at all
(Unless respondents provide a substantial justification for their opposition to the publication of their contribution, contributions are published on the dedicated website.) Please specify the reason not to publish your contribution (Text of 1 to 200 characters will be accepted).

Mercosur was established in 1991 and comprises Argentina, Brazil, Paraguay, Uruguay and Venezuela, which officially joined in July 2012. In December 2012, the Protocol of Accession of Bolivia to Mercosur was signed. This Protocol (which was revised in 2015) is pending ratification by all Parliaments in Mercosur countries. The EU has bilateral Partnership and Cooperation agreements with Argentina, Brazil, Paraguay and Uruguay. On 1 January 2014, Mercosur countries, with the exception of Paraguay, ceased to benefit from the Generalised Scheme of Preferences (GSP), due to their classification as upper middle-income countries.

Only the four founder Members (Mercosur4) participate in the negotiation with the EU. The trade pillar covers market access and improved rules for industrial and agricultural goods, services and establishment, and government procurement; as well as rules on intellectual property, competition, customs and trade facilitation, technical barriers to trade (TBTs), sanitary and phytosanitary issues (SPS), rules of origin and trade defense instruments; and provisions on SMEs, energy and raw materials. There will also be provisions on trade and sustainable development.

In 2000, the EU and Mercosur opened negotiations for an Association Agreement including three pillars: political dialogue, cooperation and trade. Negotiations were suspended in 2004, but re-launched at the EU-Mercosur summit in Madrid on 17 May 2010. In December 2013, the two sides agreed that in order for the process to move forward, there would have to be a new exchange of market access offers. This exchange, covering goods, services and establishment, and government procurement, took place on 11 May 2016.

The European Engineering Industries Association

On 22-23 July 2016, a chief negotiators' meeting was held in Montevideo, Uruguay, to take stock across the board and to review all the texts in the negotiation. The next negotiating round will take place on 10-14 October 2016.

Background

The Mercosur⁴ countries together represent a market of 250 million consumers and the 6th largest economy in the world, with a combined GDP of €2.4 trillion in 2015. Their economies grew considerably over the last decade. While growth has slowed in the past three years, it remains an important market with a large middle class.

Mercosur remains a highly protected market with high tariff (often 20-35% on key products) and non-tariff barriers to imports from the EU. Mercosur does not currently have a trade agreement with any of its main trading partners.

EU-Mercosur trade

In 2015, Mercosur² was the 10th largest export market for EU goods (and Brazil alone the EU's 10th largest trade partner and the 14th largest export market). The EU's exports to the region have steadily increased over the last years from €28 billion in 2007 to €46 billion in 2015.

EU exports to Mercosur countries consisted largely of manufactured products, notably machinery and transport equipment (46% of total exports) and chemicals and pharma (24% of total exports) in 2015. For EU export sectors, Mercosur is the largest export destination for fertilisers, the 6th largest for pharmaceuticals, the 7th for chemicals and the 8th for machinery. As regards EU exports of agricultural products, Mercosur is the 1st export market for onions and garlic, 2nd for potatoes and pears and 3rd for olive oil. In 2014, Mercosur was the 8th largest export market for EU services (Brazil alone the 9th largest) with €19 billion in 2014. More than 5% of European Foreign Direct Investment (FDI) is located in Mercosur (Brazil was the 3rd most important destination for EU outward FDI in 2014). EU FDI stocks in Mercosur have steadily increased over the past years, reaching €415 billion in 2012 compared to €130 billion in 2000.

Information on the questionnaire

The questionnaire is divided into the following sections:

- I. Trade in Goods
- II. Trade in Services and Investment
- III. Rules (Transparency, Intellectual Property Rights, Competition, Government Procurement, SMEs)
- IV. Other issues

Should there be any additional point you wish to draw the Commission's attention to, please describe this under chapter "IV. Other issues".

In addition, where possible, we would appreciate receiving as much specific information as possible (substantiated where possible by economic indicators and/or data) as to respondents' interests, prioritization within sectors, and any proposals for solutions, where problems have been identified.

The questionnaire has been prepared in order to provide the Commission with information to assist it in establishing priorities and taking decisions throughout the negotiating process. Your reply to this questionnaire is important in this process and we thank you in advance for your contribution.

² For the purposes of this section taken to mean Mercosur⁴

The Commission, subject to the application of the EU's rules on access to documents (Regulation (EC) No 1049/2001), will treat the information that you provide as confidential. EU rules on access to documents allow the Commission to withhold access to a document where disclosure would undermine the commercial interests of a natural or legal person or harm the EU's relations with third countries, unless there is an overriding public interest in disclosure.

Please send your replies by 3 October 2016 at the latest to the following e-mail address: trade-industry@ec.europa.eu

I. TRADE IN GOODS

The Trade in Goods section of this questionnaire is divided into the following sections:

- A. General goods-related questions
- B. Questions related to rules of origin
- C. Questions related to import restrictions and prohibitions
- D. Questions related to access to raw materials and export restrictions and prohibitions
- E. Questions related to import and export procedures (included under a general heading "customs procedures")
- F. Questions related to discrimination and transparency in domestic regulation and taxation
- G. Questions on trade defence instruments (anti-dumping, anti-subsidy and safeguards)
- H. Questions related to Technical Barriers to Trade (TBT) (industrial goods)
- I. Questions related to Sanitary and Phytosanitary Measures (SPS) (agricultural goods, fish and fishery products)

A. General goods related questions

1. What are the existing trade flows in your sector(s)?

Mercosur is a very important market for the European engineering industries, with trade between the EU and Mercosur countries totalling some 18 billion euros per year (around 2 billion euros of imports and around 16 billion euros of exports).

2. What is your assessment of the potential for growth in this sector(s)? What are the specificities of your sector in the Mercosur region / Mercosur countries that may have a relevance for the trade agreement?

3. Could you specify your overall "offensive" and "defensive" interests?

(Note: "Offensive interest" is understood to mean the interest you may have in gaining access to the Mercosur market. "Defensive interest" is understood to mean competition from Mercosur firms in your domestic market.)

Our interests in the Mercosur negotiations are offensive.

4. In your sector, do you see either:

- a) an interest in EU companies supplying goods to the Mercosur region / Mercosur countries (i.e. an export interest)?

The engineering industries have a strong export interest into Mercosur.

- b) an interest in importing?
- c) an interest in EU companies setting up production facilities in the Mercosur region / Mercosur countries?
- d) an interest in using the Mercosur region as a basis for trading / business within the Mercosur countries?

How strongly (for example, in financial terms) would you rate the level of these interests?

5. Do you have an interest in exporting or importing "green goods" (i.e. goods considered to be environmentally and climate change friendly)?
6. Is there any element in a trade agreement between Mercosur / Mercosur countries and a third country that harms your competitive position?
7. How would you assess for your sector the relative importance of Mercosur countries (in terms of production capacity, comparative advantage, potential, etc.)?

B. Questions related to rules of origin

8. What preferential rules of origin should apply in the sector(s) of your interest in the agreement with Mercosur? Can your sector(s) apply the new rules based on the reform of the GSP rules of origin applicable since 2010? If relevant, please indicate the maximum level of non-originating materials that you would wish to apply to your products.

Rules of Origin are extremely important for the engineering industries. We would like to see consistency in the Rules of Origin for Mercosur with other already existing Free Trade Agreements. We suggest using the 50% value-added threshold with as an alternative change of tariff heading.

9. Would your industry need specific flexibility to source abroad, including from other Mercosur countries? If yes, from which Mercosur country/ies? Could your industry indicate sensitivities as regards possible cumulation by Mercosur countries of materials or products from other Mercosur countries or from other EU trade agreement partners?

C. Questions related to duties, import restrictions and prohibitions

10. Does your sector face import restrictions or prohibitions in the Mercosur region / Mercosur countries? If so, please specify the type of import restrictions (import duty, combined with additional or specific duties, tariff rate quota, import licensing, import prohibition, etc.)? Please specify the likely effect of their elimination.

The common external tariff (TEC) of Mercosur account for 14% of tariff for our products, with some peak reaching 20% and a few products benefitting from a lower tariff rate between 0% and 12%. These are comparatively extremely high tariff on a global scale. In addition, in Brazil customs duties are included in the taxation base of the value of imported goods: the Brazilian system of duty suspension and the additional high domestic taxes lead to huge asymmetries in the market access. For this reasons, the FTA negotiations must aim at achieving the complete dismantling of all tariffs, without any exceptions. However, the dismantling does not have to take place immediately, which would obviously be the preferred outcome: a gradual dismantling over a period of three to five years could be negotiated for certain products.

11. If your product is subject to import licensing requirements, are such licenses granted automatically to all applicants?

12. What other measures are you faced with when importing to the Mercosur region / Mercosur countries?
13. Are all measures related to import restrictions or prohibitions publicly available?
14. What depth of tariff cuts and on which goods would be necessary for these to make an economic difference to your sector?
- D. Questions related to access to energy and raw materials
15. Does your sector have an interest in trade and investment in energy goods (i.e. coal, crude oil, oil products, natural gas and electrical energy from both conventional and renewable sources) and raw materials (i.e. metals, minerals, fertilisers, rubber, raw hides and skins, wood, silk, wool and cotton; in raw, unprocessed and semi-processed forms) from the Mercosur region / Mercosur countries? If so, please specify what energy goods and raw materials and describe its economic relevance.
16. Does your sector have an interest in the promotion of renewable energy and energy efficiency in Mercosur? Is this an area where your sector would benefit from regulatory cooperation, in particular to promote convergence, and possibly harmonisation, of standards on energy efficiency and renewable energy? Please indicate any specific trade or investment barrier in Mercosur in the renewable energy and energy efficiency sectors.
17. Are there any measures that could be included in an agreement to facilitate trade and investment or reduce costs for trade in raw materials?
18. Does your sector face export restrictions or investment restrictions with respect to the Mercosur region / Mercosur countries? If so, please specify the type of export restrictions (export duty, export quotas or bans, VAT rebate schemes, licensing, minimum export prices, export monopoly, etc.) and investment restrictions (e.g. exploration and production licenses). Please specify the likely effect of their elimination.
19. Are you aware of dual pricing of energy goods or raw materials (i.e. where goods are priced at a lower level on the domestic market compared to international market prices to the benefit of local production)?
20. Please indicate whether there are any specific issues related to carrying out trade in energy and investments. Are there for example any barriers to access infrastructure, to exploration and production of oil or gas, and whether there are for example any local contents issues with regard to the roll-out of energy projects.
21. On top of legally binding provisions in an eventual EU- Mercosur agreement, does your sector favour closer cooperation in the field of energy and raw materials with the Mercosur region / Mercosur countries? If so, in which form (e.g. regular dialogue)? What could be the topics discussed in the framework of such cooperation (e.g. trade issues, domestic regulatory policies, CSR, sound resources management, clean technologies, research and development (R&D) in extraction)?
22. Does your sector have an interest in investing in the raw materials sector in the Mercosur region / Mercosur countries? Which are the specific issues which should be tackled to facilitate this? Please explain.

E. Customs Procedures (import, export and transit procedures)

23. Do you face problems regarding one or several of the following issues? Please respond with yes/no and where possible provide a more detailed description of the problems faced.

- a) Overall problems with procedures and requirements for imports, exports and/or transit in the Mercosur region / Mercosur countries?

In Argentina, companies have to keep track of the specific parts that are sold to a specific customer - this is very burdensome, especially for SMEs, as they need to keep track of this manually.

Paraguay also has some burdensome regulation, which hampers imports. For instance, all imported-related invoices need to be stamped and approved by the relevant public authority. After this, the invoice has to be sent to the nearest Paraguayan consulate where it has to be stamped.

- b) Do you encounter specific problems related to:

- inspections and controls during clearance	YES/NO
- pre-shipment inspections	YES/NO
- release times	YES/NO
- fees and charges	YES/NO
- confidentiality of data	YES/NO
- data requirements	YES/NO
- documentation requirements	YES/NO
- compulsory use of customs brokers	YES/NO
- other customs procedures	YES/NO
- transparency/publication of and access to trade regulations	YES/NO
- discriminatory treatment	YES/NO
- lack of uniformity in application of procedures	YES/NO
- complexity in application of procedures	YES/NO
- customs valuation	YES/NO
- tariff classification	YES/NO
- relations with/access to the customs authorities	YES/NO
- co-ordination between different border agencies	YES/NO
- use or non-use of information technology	YES/NO
- application or non-application of relevant international standards	YES/NO
- procedures for legal recourse/appeal	YES/NO
- transshipment	YES/NO
- reference pricing	YES/NO
- logistics/congestion	YES/NO
- other (please specify)	YES/NO

- c) Questions related to the uniformity of customs procedures, requirements, data and documentation:

Do you experience problems selling to Mercosur due to significant differences in customs procedures in its Member States? If yes, please explain.

Are customs forms significantly different (e.g. in terms of data requirements, or being paper based or electronic etc.) in Mercosur Member States? Which version is the most user-friendly? Please describe key differences.

Do advance rulings from the customs administration of a Mercosur Member State carry any value (full legal value, precedent or guidance) for the other customs administrations? Do you have any experience with using advance rulings in a Mercosur Member State that is not its issuer?

Do rulings/judgments on customs issues from the courts of a Mercosur Member State carry any value (full legal value, precedent or guidance) for the other customs administrations?

Are you aware of the possibility of appeal to the Permanent Review Court of Mercosur? Do you have any experience with an appeal procedure?

Are you aware/member of a Mercosur level Authorized Economic Operators (trusted traders) programme? Do you have any experience with the program?

d) In light of your sourcing/delivery patterns, do you have any other comments to make?

24. Do you face any problems with the way in which customs procedures are implemented by the customs authorities?

F. Questions related to discrimination and transparency in domestic regulation and taxation

25. Is your sector faced with measures and practices that discriminate between domestically produced goods and goods imported into the Mercosur region / Mercosur countries? If so, describe the nature of this discrimination (e.g. is it based on legislation or on de facto discrimination; does it concern a regular domestic regulation and/or taxation regime; is it linked with rules of "free trade zones" in Mercosur countries?). Can you provide written substantiation of discrimination (including reference to legislation)?

In addition, in Brazil customs duties are included in the taxation base of the value of imported goods: the Brazilian system of duty suspension and the additional high domestic taxes lead to huge asymmetries in the market access. For this reasons, the FTA negotiations must aim at achieving the complete dismantling of all tariffs, without any exceptions.

26. Do you encounter problems due to lack of transparency in Mercosur region / Mercosur countries' regulation, e.g. non-publication of legislation or other documents? (Please also refer to the detailed questions under section III.A below regarding transparency).

G. Questions on trade defence instruments (anti-dumping, anti-subsidy and safeguards)

27. Have you had experience related to the use of trade defence instruments in the Mercosur region / Mercosur countries (anti-dumping, anti-subsidy or safeguards)?

28. Were there particular difficulties in communicating with and/or receiving information from the Mercosur region / Mercosur countries authorities dealing with trade defence instruments?

29. Have you encountered market distortions (subsidies, pricing policies) in the Mercosur region / Mercosur countries which should be addressed by e.g. trade defence measures or other types of measures or which create structural trade difficulties?

H. Technical Barriers to Trade

In the context of this questionnaire, the term "Technical Barriers to Trade (TBT)" is intended to mean requirements applicable to products (e.g. technical regulations) and the conformity assessment procedures intended to verify compliance with these requirements (e.g. testing, inspection and certification, product registration or licensing, etc.).

Please provide comments on the following issues. Comments are particularly welcome if you or your colleagues in the industry consider that some of the below areas should take priority in the TBT discussions.

30. Have you found product requirements to be a problem in exporting your products to the Mercosur region/Mercosur countries?

Mercosur countries have a wide range of non-tariff barriers, which seriously hamper trade. Orgalime would like to see these barriers overcome thanks to the Free Trade Agreement.

Technical regulations in Brazil hamper market access. For instance, the ‘*Norma Reguladora 12*’ regulation on machinery safety, as reformed in 2010, has significantly worsened the situation due to its complexity. The current “*Norma Reguladora 12*” is not fully clear and, due to its structure, has introduced additional difficulties regarding safety requirements, particularly on safety of machinery and on state-of-the-art technology transfer. In addition, in Brazil, the process of getting a product approved according to local standards is very burdensome. There are also very high duties on materials and foreign companies are discriminated against since local companies are subject to lower local taxes, making it very difficult to compete against them.

In Argentina the technical regulations, such as the one for electrical equipment, are mandatory for individual categories of engineering products where European and local companies directly compete. Moreover, there is a recent trend of deploying technical provisions for market foreclosure.

Until 2015, Argentina applied rules on import licences that were WTO incompliant. After a WTO ruling, this licencing system was abolished for 87% of the products by the Argentinian government, which took office in 2015. However, recent developments are worrying: the number of products that are considered “sensitive” and require an individual import licence is on the rise. In particular, it is very alarming that a broad range of engineering products and components are in the list of “sensitive” products.

31. Often, trade barriers arise not necessarily from the product requirements as such, but from the procedures used to verify compliance with these requirements (conformity assessment procedures). What are the procedures used by the Mercosur region/Mercosur countries to verify compliance of products in your sector? Are they more burdensome than those applied in the EU?³ Do authorities of Mercosur countries accept product specific test results from accredited EU conformity assessment bodies? Are there any specific requirements in terms of

³ For instance, EU legislation may allow for a manufacturer’s declaration of conformity without the mandatory intervention of a third party certification body, whereas Mercosur / Mercosur countries legislation may require that the product be certified by a public authority or a certification body approved by this authority.

accreditation? Are time-periods set for certification? Do you encounter difficulties (e.g. increased costs and marketing delays) due to these conformity assessment procedures?

32. What is your assessment of the Mercosur region's / Mercosur countries' transparency and good regulatory practice in the development, adoption and enforcement of technical regulations? Please focus in particular on the questions below, and provide as detailed answers as possible.
- a) How do authorities consult industry on proposed technical regulations or conformity assessment procedures? For instance, do Mercosur countries systematically conduct public consultations on proposed TBT measures? How is transparency and participation of stakeholders ensured with respect to standards used in support of technical regulations or conformity assessment procedures?
 - b) If not, do importers (or domestic industry in Mercosur countries) have other opportunities to submit comments during the drafting of new technical regulations or conformity assessment procedures, before the proposal is adopted?
 - c) Are similar consultation opportunities being provided to both domestic and foreign industry?
 - d) In your experience, have comments made by stakeholders been taken into account?
 - e) Is industry involved in standardization work in the Mercosur region / Mercosur countries? In particular, are foreign and/or foreign-invested companies allowed to participate in standard-setting activities in your sector (e.g. membership in technical committees developing new Mercosur region / Mercosur countries standards)? If yes, what is your experience with regard to this area.
 - f) Have you ever tried to obtain information about proposed or adopted technical regulations, conformity assessment procedures or standards from the Mercosur countries' TBT Notification and Enquiry Point? Have you encountered specific difficulties?
33. To what extent have you encountered difficulties due to short implementation periods for new measures?
34. Have you experienced problems or difficulties arising from the division of responsibility for TBT-related measures between Mercosur countries' authorities, or from regulatory differences between different regions of the Mercosur countries?
35. Do any or all of the following issues pose particular problems with regard to exporting your products to Mercosur countries?
- (i) short implementation periods for new measures;
 - (ii) availability of technical regulations, conformity assessment procedures and related applicable standards (e.g. official Journal, public website etc.)
36. Does Mercosur / Mercosur countries use relevant international standards as a basis for its technical regulations, conformity assessment procedures and national standards in your sector? If so, are there any unnecessary deviations from, or additions to those international standards, that could create barriers to trade?
37. Do you encounter any barriers to trade arising from burdensome or discriminatory labelling or marking requirements? If so, please describe them in as much detail as possible.

38. With your knowledge of the technical regulations, standards and conformity assessment systems both in the EU and the Mercosur / Mercosur countries, do you have any recommendations for solutions which would facilitate trade?
39. Would your proposed solutions be achievable within the provisions of regulatory systems currently applied in the EU and Mercosur / Mercosur countries, or would changes to those systems or legislative framework be necessary?
40. Do you see increased use of international standards as a tool for increasing compatibility of technical regulations as an important element of the trade agreement? What is the importance of standards to your sector? What standards are you using?
41. Have you encountered in Mercosur / Mercosur countries any specific barriers for small and medium size enterprises (SMEs) in your sector? If so, please describe briefly.
42. Would you consider of interest/benefit to have a specific annex in the following sectors:
- a) engineering (machinery, electric and/or electronic products)
If an engineering annex should be considered, can you provide the following information:
 - (i) Which sub-sectors could be of relevance for your industry?
 - (ii) Which areas could you suggest to be covered?
 - (iii) Do you have a specific regulatory concern/piece of legislation of Mercosur or one of its Member Countries to flag?
 - b) automotive
 - c) pharmaceutical
 - d) chemical
 - e) textiles
 - f) medical devices
 - g) cosmetics

II. TRADE IN SERVICES AND INVESTMENT

43. What are the main barriers that your sector encounters in trading with the Mercosur? (For example obligation to have a local commercial presence such as an office, branch or subsidiary in order to conduct business, etc.)
44. What are the main barriers that your sector encounters in establishing a commercial presence in Mercosur? (For example capital ownership / equity cap, limitations to management control, difficulty in obtaining a licence or authorisation, treatment by state-owned enterprises, complex and lengthy procedure, obligation to work in joint venture, limitation on the ownership of land etc.).
45. What are the main barriers that your sector encounters with regard to the temporary movement of natural persons for business purposes in Mercosur? (For example difficulty in obtaining work

permits and visas due to lengthy procedures, recognitions of your employees' qualifications, lack of transparency in regulations, etc.)? Are there any occupations and/or professions in Mercosur that are not allowed to be exercised by foreigners or to foreign directors or managers?

46. Do you encounter problems due to lack of transparency? (For example lack of publication of legislation or other relevant documents - please also refer to the detailed questions under section III.A below regarding transparency.) Is there an interest in having a Mutual Recognition Agreement in your sector (to cover recognition of standards, licenses, qualifications or else)?
47. In your sector, do you have a particular interest in entering the Mercosur market?
48. Are you at a disadvantage vis-à-vis third countries' competitors, due to trade agreements between Mercosur and the countries from where those competitors operate?
49. Please indicate whether there are any specific issues related to investments in Mercosur countries. (For example, closed sectors or other discrimination with local investors such as limited access to invest in sectors, capital caps for foreign investors, profit and capital transfer restrictions, access to finance or specific support for foreign investors etc.)
50. In your view, what negotiating objectives should the EU focus on?

III. RULES

A. Transparency

To the extent applicable, indicate what problems arise due to lack of transparency such as lack of publication of legislation or other relevant documents. In the questions below, administration/government should also be understood as local authorities, for instance regulatory bodies, regulatory authorities, certification offices, licencing authorities.

51. Is information on trade-related regulations and their administration published and readily available, including on laws and regulations, procedures, penalties, appeal procedures, administrative guidelines and practice, decisions, and agreements with Mercosur / Mercosur countries where relevant?
52. Is information made available in a readily accessible way, including through websites?
53. Are there enquiry points available and accessible to interested parties (including through websites) which help making information on trade-related regulations and their administration available?
54. Other requirements, suggestions concerning the availability of information?
55. Are the intervals between publication and entry into force sufficient to allow interested parties to become acquainted with and prepared for complying with them?
56. Are appropriate opportunities offered for prior consultation and commenting on new and amended rules (including sufficient minimum delays for comment)?
57. Are there any areas or sectors where consultation could be improved?

58. What is your assessment more generally of the Mercosur region's / Mercosur countries' transparency and regulatory practices in the development and adoption of trade-related rules and regulations?
59. Are advance rulings available from the administration (such as for trade in goods on customs classification and origin)?
60. Are there adequate complaints possibilities and appeal procedures (in terms of non-discrimination, transparency, possibility for representation by independent legal counsel, cost and timelines set by different authorities, including Customs)?
61. Do you have any other comments on the administration of trade-related regulations, including on the use of discretion, system of penalties, coordination and control mechanisms?
62. Please specify any shortcomings identified. Where available, identify best practices (such as existing information and transparency mechanisms in the Mercosur region / Mercosur countries) that could serve as a reference or starting point.
63. Are there specific channels of information for SMEs (including through dedicated websites) in the Mercosur region / Mercosur countries?

B. Intellectual Property Rights

64. Are you satisfied with the current conditions of protection and enforcement of intellectual property rights (IPR) in the Mercosur region / Mercosur countries? Please explain briefly nature/scope of the problem, if any?
65. According to your experience, what are the main weaknesses / problems of the current system in place (if any)?
66. Is an adequate and effective protection and enforcement of IPR in the Mercosur region / Mercosur countries essential for the pursuit of your trading activities there?
67. Please indicate whether you consider intellectual property rights issues as priorities and specify which IPRs are the top priorities for you in the Mercosur region / Mercosur countries and why :
- i. Copyright and related rights
 - ii. Trademarks
 - iii. Geographical Indications (GIs)
 - iv. Designs
 - v. Patents
 - vi. Data protection
 - vii. Plant variety
 - viii. Enforcement
68. Please indicate one particular aspect of intellectual property protection or enforcement that you would wish to see addressed in the future EU- Mercosur trade agreement.

69. Have you encountered problems in protecting/enforcing your IPRs in the Mercosur region / Mercosur countries? If yes, how did the protection/enforcement mechanisms function in the Mercosur countries? Did you encounter difficulties in protecting/enforcing your rights as a foreigner in the Mercosur countries?
70. Is there any type of enforcement measure missing in Mercosur region / Mercosur countries legislation and practices that you consider necessary in order to react against infringements of IP rights? Are penalties proportionate and provide sufficient deterrent against violations?

C. Competition, State Aid/Subsidies and State-Owned Enterprises

71. Have you encountered any anti-competitive practices in the Mercosur countries (cartels, abuse of dominant position, vertical or horizontal restrictions of competition, anti-competitive mergers & acquisitions) that are harming your business? If so, describe briefly the nature of the practices and the problems encountered.
72. Does Mercosur / Mercosur countries law provide for legal remedies concerning those anti-competitive behaviours? Have you brought these problems to the attention of the relevant competition authority? If so, what has been their response/follow-up and how have decisions been enforced?
73. Have you been subject to investigations for alleged competition infringements by Mercosur countries competition authorities? If yes, how was this experience?
74. Have you been party to any merger review filings in the Mercosur countries? If yes, how was this experience?
75. Are you aware of instances where state aid/subsidy granted by the Mercosur countries authorities has had adverse effects on you?
76. Have Mercosur / Mercosur countries state aid/subsidies put you or a company you know of at a competitive disadvantage? If so, please
- a) Indicate whether the aid made it more difficult for you to compete in the Mercosur countries' market, in the EU market and/or in export markets.
 - b) Describe to the extent possible the form of the state aids/subsidies involved (e.g. export rebates, tax/duty exemptions, below-market loans, state guarantees, grants), the objective (e.g. research and development aid, export aid, regional development aid), the sectors concerned, the granting authority (e.g. federal or provincial government, specific agency) and give an estimate of their amount.
 - c) Indicate if you have taken any steps to raise this matter, either in the Mercosur countries or with the appropriate authorities in the EU? Have you had problems in getting information on the state aid/subsidy granted by the Mercosur countries authorities?
77. Have you invested in the Mercosur region / countries? Has the availability of state aids/subsidies played a role in your decision? If yes, please describe the form, amounts and objectives of the aid in question and specify the granting authority. Have you experienced discrimination in the access to state aid/subsidies from Mercosur countries authorities (e.g. aid or higher amounts of aid reserved to local firms)?
78. Are you aware of Mercosur countries governments granting special or exclusive rights or privileges, advantages or immunities to domestic enterprises that have an adverse effect on your business (e.g. discriminatory treatment, state aid/subsidies, access to markets, access to public

procurement, access to financing, etc.)? If so, describe briefly the nature of these practices and the problems encountered.

79. Are you aware of any exemptions from the national law granted to Mercosur countries state-owned enterprises or the existence of statutory laws or favourable regulatory or other measures applicable to state-owned enterprises? If yes, please provide a brief description.
80. Are you aware of any particular government measures that would induce or encourage Mercosur countries' state-owned companies to engage in anti-competitive behaviour? Please describe such measures.
81. Are you aware of any national policy objectives that the Mercosur countries governments are implementing through domestic state-owned enterprises and which have an adverse effect on your business? If yes, please describe briefly what such policy objectives are and how they affect your business.
82. How easy/difficult is it to get information about the activities of Mercosur countries' state-owned companies (through annual reports, published accounts, etc.)? If there are problems, how would you suggest improving the situation?

D. Government procurement

Please respond with yes/no and where possible provide comments to expand on the replies to the following issues.

83. Are you satisfied with the current conditions of access to Mercosur countries' government procurement markets?

Public procurement procedures urgently need to be modernised to improve transparency and to allow European companies to participate in tenders in the Mercosur countries on an equal footing with the local ones. This is particularly true in Brazil, where European companies are heavily discriminated against. The priority for our industries is to reduce the local-content provisions, on which the invitation-to-tender system has been based upon until today.

84. What are the main reasons you are not participating in the public procurement market in the Mercosur region / Mercosur countries?
85. Which public procurement markets (geographically/sectorally) would you have an interest in participating in the near future?
86. Are you aware of existing legislation on government procurement in the Mercosur region / Mercosur countries? What is your experience with its practical application?
87. Are there any areas in which you feel EU suppliers face restrictions or different treatments that do not apply to local / Mercosur countries suppliers? This includes local content requirements. Please indicate the key regulatory and market access obstacles met by EU suppliers when tendering for public contracts. Please specify the extent to which these obstacles prevent EU suppliers from doing business in the Mercosur region / Mercosur countries.
88. Please indicate whether you consider the following possible elements of a government procurement chapter as a priority concerning procedural rules and national treatment :

- i. Transparency in the tendering process

- ii. Easy access to the qualification system
- iii. Use of international rather than local technical standards
- iv. Effective review mechanisms including the possibility to obtain interim measures
- v. A single point of entry giving an overview of, and access to, all relevant procurement opportunities in a given jurisdiction
- vi. National and MFN treatment

89. Please indicate which key sectors, types of contract (public contracts, concessions, and other forms of Public Private Partnership) and procuring entities are priorities for EU suppliers. As regard services, mention precisely the category of services as well as the mode of supply (cross-border supply / consumption abroad / commercial presence/ presence of third country natural persons) in which EU providers are interested.

90. Please indicate the key regulatory and market access obstacles faced by EU suppliers when tendering for public contracts. Please specify the extent to which these obstacles prevent EU suppliers from doing business in the Mercosur region / Mercosur countries.

E. Small and Medium-sized Enterprises (SMEs)

Please respond with yes/no and where possible provide comments to expand on the replies to the following issues.

91. Some points above have already referred to SMEs. Please indicate issues which are a priority for SMEs that small companies can fully benefit from a possible trade agreement with Mercosur. Do you think that SME provisions should be covered in some areas of the Mercosur negotiation? If yes, what SME provisions do you propose for which point in the areas / chapters mentioned above in this questionnaire?

92. Are you aware of any user-friendly information on trade opportunities for SMEs provided by Mercosur / Mercosur countries?

IV. OTHER ISSUES

93. Are you aware of the Mercosur integration process? If yes, do you perceive progress in the Mercosur countries is easing doing business in your sector across the region?

94. Are there any other issues related to the topics covered by the above sections or to any other topics that are not mentioned in this questionnaire and that you would like to address?

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