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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the signing and provisional application of the Interim Agreement on Trade between the European Union, of the one part, and the Common Market of the South, the Argentine Republic, the Federative Republic of Brazil, the Republic of Paraguay and the Oriental Republic of Uruguay, of the other part

COUNCIL DECISION (EU) .../...

of ...

**on the signing and provisional application of the Interim Agreement
on Trade between the European Union, of the one part,
and the Common Market of the South, the Argentine Republic,
the Federative Republic of Brazil, the Republic of Paraguay
and the Oriental Republic of Uruguay, of the other part**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1), Article 100(2) and Article 207(4), first subparagraph, in conjunction with Article 218(5), thereof,

Having regard to the proposal from the European Commission,

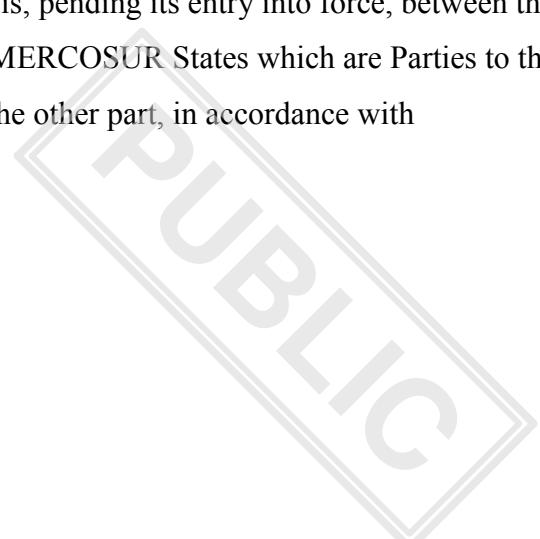
Whereas:

- (1) On 13 September 1999, the Council authorised the Commission to open negotiations with the Common Market of the South ('MERCOSUR') and its State Parties for an agreement consisting of political, cooperation and trade parts. The negotiations were successfully concluded on 6 December 2024.
- (2) The negotiations resulted in two parallel legal instruments. The first instrument is the Partnership Agreement between the European Union and its Member States, of the one part, and the Common Market of the South, the Argentine Republic, the Federative Republic of Brazil, the Republic of Paraguay and the Oriental Republic of Uruguay, of the other part (the 'EMPA'), which includes the political dialogue and cooperation pillar and the trade and investment pillar. The second instrument is the Interim Agreement on Trade between the European Union, of the one part, and the Common Market of the South, the Argentine Republic, the Federative Republic of Brazil, the Republic of Paraguay and the Oriental Republic of Uruguay, of the other part (the 'ITA'), which covers trade and investment liberalisation. The ITA will cease to have effect and will be replaced by the EMPA upon the entry into force of the latter.

- (3) Until the adoption and entry into force of a specific Union legislative act implementing the bilateral safeguard clause of the EMPA and of the ITA for agricultural products, and with a view to enabling the Union to take rapid and effective action to protect its interests under the EMPA or the ITA, as appropriate, the Commission should be empowered to adopt, by means of implementing regulations, agricultural bilateral safeguard measures ('bilateral safeguard measures') that are consistent with the EMPA or the ITA, as appropriate. With regard to sensitive agricultural products, the Commission should adopt bilateral safeguard measures also in accordance with the conditions under this Decision.
- (4) The Commission should inform the Council in a complete and timely manner of its intention to adopt bilateral safeguard measures, with a view to allowing a meaningful exchange of views in the Council. The Commission should take the utmost account of the views expressed. The Commission should also inform the European Parliament, as appropriate.
- (5) It should be possible for one or more Member States to request the Commission to adopt bilateral safeguard measures under the conditions set in the ITA and, with regard to sensitive agricultural products, in this Decision. If the Commission refuses such a request, it should inform the Council in a timely manner of the reasons for its refusal.
- (6) Therefore, the ITA should be signed.

(7) The ITA should be applied on a provisional basis, pending its entry into force, between the Union, of the one part, and one or more of the MERCOSUR States which are Parties to the ITA (the 'Signatory MERCOSUR States'), of the other part, in accordance with Article 23.3 thereof,

HAS ADOPTED THIS DECISION:



Article 1

The signing of the Interim Agreement on Trade between the European Union, of the one part, and the Common Market of the South, the Argentine Republic, the Federative Republic of Brazil, the Republic of Paraguay and the Oriental Republic of Uruguay, of the other part, is hereby authorised, subject to the conclusion of that Agreement¹⁺.

Article 2

1. Until the adoption and entry into force of a specific Union legislative act implementing the bilateral safeguard clause for agricultural products of the EMPA and of the ITA, the Commission may, by means of implementing regulations, adopt bilateral safeguard measures that are consistent with the conditions set out in Chapter 9 of the ITA and in this Decision.
2. The Commission shall closely monitor the market for sensitive agricultural products, that is products subject to tariff-rate quotas of the Union in accordance with Section B of Annex 2-A (Tariff Elimination Schedule) to the ITA, in particular as regards import and export trends relating to MERCOSUR, production and price developments.

¹ The text of the ITA is published in OJ L, ... ELI: ...

⁺ Delegations/OJ: see document ST 12419/25 + ADDs.

The Commission shall promptly assess the market situation on the basis of such monitoring, by linking a possible increase in imports of the relevant sensitive agricultural products to the evolution of production and/or consumption, exports, prices and market shares on the Union market, as well as exports from the Union.

Every six months, the Commission shall provide a monitoring report to the European Parliament and to the Council assessing the impact of imports of sensitive agricultural products, including on one or several Member States.

3. Where there is sufficient *prima facie* evidence, in particular obtained by means of the monitoring and market situation assessment referred to in paragraph 2, of serious injury, or the threat of serious injury, to the Union industry for sensitive agricultural products, including in cases where such injury or threat thereof is geographically concentrated in one or more Member States, the Commission shall, without delay, initiate an investigation upon the request of one or more Member States or of any legal person or association acting on behalf of the Union industry active in the sector concerned.
4. For the purposes of this Article, the 'Union industry' means the Union producers of like or directly competitive relevant products.

5. The Commission shall examine, as a matter of priority, whether *prima facie* evidence of serious injury, or the threat of serious injury, to the Union industry exists in cases where there is a surge of imports or a decrease in prices concentrated in one or more Member States, or where there is a surge of imports or a decrease in the price of a product and the Union industry is predominantly established in one or more Member States.

The Commission shall treat, in the absence of contrary indications, an increase of more than 5 % year on year, as a rule, in the volume of imports under preferential terms of a given product from Signatory MERCOSUR States that is subject to a tariff rate quota as *prima facie* evidence of serious injury, or the threat of serious injury, to the Union industry, provided that at the same time the average import price for those imports from Signatory MERCOSUR States is at least 5 %, as a rule, below the relevant average domestic price of like or directly competitive products during the same period.

6. The Commission shall treat, in the absence of contrary indications, a decrease of more than 5 % year on year, as a rule, in the average import price of a given product from Signatory MERCOSUR States imported into the Union on preferential terms that is subject to a tariff rate quota as *prima facie* evidence of serious injury or the threat of serious injury to the Union industry, provided that at the same time the average import price for that product from Signatory MERCOSUR States is at least 5 %, as a rule, below the relevant average domestic price of like or directly competitive products during the same period.

7. The Commission shall impose without delay or hesitation, and in the case of sensitive agricultural products at the latest within 21 days of receiving a request as referred to in paragraph 3, provisional bilateral safeguard measures to avert any injury to the Union industry that would be difficult to repair, including where such injury is geographically concentrated in one or more Member States.
8. Given that detailed market monitoring is a standing feature of the Commission's activities in the agricultural sector, the Commission shall endeavour to conclude any investigation for sensitive agricultural products regarding bilateral safeguard measures as swiftly as possible, with the aim of taking a final decision within four months of receiving a request as referred to in paragraph 3 of this Article. That period may be extended but shall not exceed the one-year period provided for in Article 9.13 of the ITA.
9. A safeguard measure may be imposed where a relevant product originating in a Signatory MERCOSUR State is imported into the Union:
 - (a) in such increased quantities, in absolute terms or relative to Union production or consumption, and under such conditions as to cause or threaten to cause serious injury to the Union industry, including where such injury or threat thereof is geographically concentrated in one or more Member States; and
 - (b) the increase in imports is the result of obligations incurred under the ITA, including of the reduction or elimination of the customs duties on that product.

10. A safeguard measure may take the form of a temporary suspension of the schedule of tariff reduction for the relevant product, or a reduction of the tariff preference back to the most-favoured-nation level or base-rate level, whichever is lower.
11. Any safeguard measures shall apply for a period of two years, which may be extended by a further period of up to two years in accordance with Article 9.9 of the ITA, provided that the relevant conditions justifying that extension are met.

Article 3

1. Pending its entry into force, the ITA shall be applied on a provisional basis between the Union, of the one part, and one or more of the Signatory MERCOSUR States, of the other part, in accordance with Article 23.3 thereof, as from the first day of the second month following the date on which that Signatory MERCOSUR State or those Signatory MERCOSUR States, as the case may be, have notified the Union of the completion of their respective internal procedures necessary for the provisional application of the ITA and confirm their agreement to apply the ITA on a provisional basis.
2. The date from which the ITA is to be applied on a provisional basis shall be published in the *Official Journal of the European Union*.

Article 4

This Decision shall enter into force on the date of its adoption.

Done at ..., ...

For the Council

The President

