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**LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: COUNCIL DECISION on the conclusion 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

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

**of ...**

**on the conclusion 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(6), second subparagraph, point (a), and Article 218(7), thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament<sup>1</sup>,

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<sup>1</sup> Consent of ... (not yet published in the Official Journal).

Whereas:

- (1) In accordance with Council Decision (EU) .../...<sup>2+</sup>, 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') was signed on ... [*date of signing*], subject to its conclusion at a later date.
- (2) The ITA should be approved.
- (3) Pursuant to Article 218(7) of the Treaty on the Functioning of the European Union, it is appropriate to authorise the Commission to approve on the Union's behalf certain modifications to or rectifications of the ITA proposed by a Party pursuant to Article 12.26 of the ITA and to be adopted by the Trade Council established by Article 22.1(1) of the ITA pursuant to Article 22.1(6), point (f)(ii), (iv) and (x) to (xiii), of the ITA.

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<sup>2</sup> 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 (OJ L, ..., ELI: ...).

<sup>+</sup> OJ: Please insert the reference number of the Decision set out in ST 12417/25 and complete the corresponding footnote.

(4) Until the adoption and entry into force of a specific Union legislative act implementing the bilateral safeguard clause of 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 ('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.

(5) 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.

(6) 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.

(7) The ITA, in accordance with Article 23.7(1) thereof, does not, within the Union, confer rights or impose obligations on persons, other than those created between the Parties under public international law,

HAS ADOPTED THIS DECISION:

*Article 1*

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 approved<sup>3</sup>.

*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 the Common Market of the South ('MERCOSUR'), production and price developments.

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.

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<sup>3</sup> The text of the ITA is published in OJ L, ..., ELI: ...

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 10 % year on year, as a rule, in the volume of imports under preferential terms of a given product from MERCOSUR States which are Parties to the ITA (the ‘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 10 %, 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 10 % 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 10 %, 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*

For the purposes of Article 12.26 of the ITA, any modification to or rectification of Annexes 12-A to 12-E to the ITA shall be approved by the Commission on behalf of the Union, following consultation of the Trade Policy Committee.

*Article 4*

1. For the purposes of Article 22.1(6), point (f)(ii), of the ITA and Article 2(6) of Annex 2-D thereto, any amendment to Appendix 2-D-1 to that Annex shall be approved by the Commission on behalf of the Union, following consultation of the Trade Policy Committee.
2. For the purposes of Article 22.1(6), point (f)(iv), of the ITA and Article 5(4) of Annex 2-D thereto, any amendment to Appendix 2-D-3 to that Annex shall be approved by the Commission on behalf of the Union, following consultation of the Trade Policy Committee.

*Article 5*

For the purposes of Article 13.39 and Article 22.1(6), point (f)(x) to (xiii), of the ITA, any amendment to Annexes 13-A, 13-B, 13-C and 13-E to the ITA shall be approved by the Commission on behalf of the Union, following consultation of the Trade Policy Committee.

*Article 6*

This Decision shall enter into force on the date of its adoption<sup>4</sup>.

Done at ..., ...

*For the Council*

*The President*

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<sup>4</sup> The date of entry into force of the ITA will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.