

Opinion of the European Economic and Social Committee on 'Towards an EU-Mercosur Association Agreement: civil society's contribution' (own-initiative opinion)

(2011/C 248/09)

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On 16 September 2010 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on

Towards an EU-Mercosur Association Agreement: the contribution of organised civil society.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 25 May 2011.

At its 472nd plenary session, held on 15 and 16 June 2011 (meeting of 15 June), the European Economic and Social Committee adopted the following opinion by 89 votes to 1, with 3 abstentions.

1. Summary and recommendations

1.1 The EESC believes that an Association Agreement (AA) between Mercosur and the EU - if the current stumbling blocks in areas such as agriculture, intellectual property and sustainable development are overcome - would bring immense opportunities and benefits of all kinds for both parties, at a time when enormous changes are taking place in terms of the roles of global players and when we are facing global challenges of a geo-strategic, environmental and social nature and challenges regarding energy and governance, and in view of the need urgently to implement in-depth reforms of the economic model, as the means of overcoming a systemic crisis unparalleled since the 1930s.

1.2 The EESC believes that an agreement will only be possible if it is balanced, if it benefits both parties and if it does not sacrifice any sector (such as the agricultural or industrial sectors), region or country. Under no circumstances must the AA be based on a bad agreement. The Committee therefore calls upon the negotiating parties to show the political will required to make an Association Agreement possible and to make the utmost effort to overcome the differences which relate, in particular, to the fundamental pillar of the AA, i.e. trade issues. It therefore urges that all possible formulae and mechanisms be used to that end: the recognition of disparities, flanking and countervailing measures, the establishment of exceptions, development plans to support the sectors most affected, the promotion of investments, innovation policies and countervailing, transitional and future-developments clauses. Furthermore, the flanking measures should involve all EU policies.

1.3 The EESC calls upon the negotiating parties, and the European Union in particular, to consider the high political and economic cost of not reaching an agreement and the missed opportunity that this would represent.

1.4 The EESC believes that it is crucial that the AA be ambitious and deal with all aspects of the EU's relations with Mercosur. It is therefore important to deal with the genuine obstacles facing companies by harmonising regulation and the

impact on non-trade barriers. Specifically, the AA should have a social, labour and environmental dimension that pervades the entire Agreement. This dimension should guarantee economic relations in line with the social and environmental objectives of the agreement, without prejudice to the rules and guarantees governing sustainable development. It should also enshrine the parties' commitment to fundamental standards regarding social and labour rights, including international declarations, such as those of the ILO, which stipulate that the violation of fundamental principles and rights at work cannot be used as a legitimate comparative advantage in international trade.

1.5 The EESC calls for Mercosur's Economic and Social Consultation Forum (FCES) and the EESC itself - as the bodies representing civil society in the two regions - to be involved in the negotiations, in the impact assessments of the AA and in the proposals arising therefrom (the EESC considers it crucial to analyse *a priori* the impact of a potential AA and establish mechanisms for the *ex-post* verification of compliance and the development of the issues agreed upon), in drawing up a specific chapter in the agreement focusing on the social, labour and environmental dimension, and to be able to participate in the eventual agreement through the creation of a Joint Consultative Committee made up of the two bodies representing the parties' organised civil societies⁽¹⁾.

2. Introduction

2.1 The negotiations between the EU and Mercosur on an Association Agreement (AA) stalled in 2004 due to significant differences between the parties regarding access to the markets and their expectations for the outcome of the Doha Development Round (DDR). Informal contacts in 2009 showed that the parties' positions had changed, enabling them to conclude that there were new opportunities to reach agreement, and hence the EU-LAC Summit of May 2010 decided that negotiations should be resumed. It needed to be an ambitious

⁽¹⁾ See the Asunción Declaration on negotiations for an EU-Mercosur Association Agreement signed by the FCES and the EESC on 22 March 2011, http://www.eesc.europa.eu/resources/docs/2011_decl_en.pdf.

AA, the trade dimension of which would include not just trade in goods, but also services, investments, public procurement, intellectual property (including denominations of origin), trade facilitation, health and plant-health measures, trade and sustainable development, competition and trade-protection instruments.

3. Potential and opportunities arising from the AA

3.1 With a combined population of over 700 million and trade worth more than EUR 84 billion annually, the conclusion of an AA between the EU and Mercosur would make it possible to create a large area of economic integration, which could have beneficial effects for both parties and create positive spill-overs, particularly for the rest of Latin America.

3.2 The EU, taken as a whole, is the world's largest economy, and the Mercosur bloc is amongst the world's six largest economies. It is also an extremely dynamic region, which has enjoyed high annual economic growth rates in recent years, up to 7 % in Brazil and 9 % in Argentina, Uruguay and Paraguay. Mercosur is also developing a more diversified economic base, with a major agri-food component, but also with a growing industrial base with considerable technology and energy-related resources.

3.3 The European Union is Mercosur's largest trading partner, followed by the United States. In 2010, the EU's imports from Mercosur totalled around EUR 44 billion and its exports more than EUR 40 billion. It should be stressed that EU exports to Mercosur already equal those to India and exceed those to Canada and South Korea. Furthermore, EU investments in Mercosur are higher than its investments in China, India and Russia put together.

3.4 To a large extent, the economies of the EU and Mercosur complement one another, as is clearly reflected in the profile of the trade between them, with the EU essentially exporting manufactured goods, capital goods, transport equipment and chemical products, and importing food and energy products. However, trading patterns are changing rapidly on both sides. For example, the EU has considerably increased its exports of processed agricultural products and in turn Brazilian companies invested more in Europe in 2007-2008 than European companies did in Brazil. Securing an Association Agreement would therefore have enormous potential for wealth creation.

3.5 An AA with Mercosur would enable the EU to strengthen its economic and geopolitical ties with a strategic partner. By means of a bi-regional agreement, the EU would move ahead of other international competitors such as the USA and China. Furthermore, the AA would bolster the Strategic Partnership with Brazil – which does not cover trade – a country of particular importance in the geopolitical framework of international relations, since it is a member of the two key mechanisms coordinating the interests of the

emerging economies – BRIC and IBSA ⁽²⁾. All of this would lead to greater integration, firstly of South America and then of Latin America as a whole, a continent with crucial reserves of energy, food and water, three resources which will be vital in the 21st century. All in all, the AA could help to mitigate the economic and geopolitical decline of the Atlantic compared to the Pacific.

4. Obstacles and weaknesses in the Association Agreement

4.1 Despite the unquestionable advantages of an AA between the EU and Mercosur, there are however difficulties with an agreement of this kind, which can be summed up as follows: 1) the complexity of the negotiating agenda, i.e. the trade content of the agreement; 2) the structural weaknesses affecting Mercosur's integration and hence free trade; 3) the social and environmental dimension of the AA; 4) the degree of political will amongst the parties to reach an agreement and hence the willingness to discuss all possible uses of compensatory mechanisms, inside and outside of the agreement, in order to be able reach it. The last two subjects are discussed in points 5 and 7 of this opinion respectively.

4.1.1 **In terms of trade issues**, the difficulties are well known. From the European point of view, they relate mainly to the Mercosur countries' agri-food sectors, as shown in the Commission's recent impact assessments ⁽³⁾. In particular, a serious negative impact is feared in sectors such as sugar, beef, chicken and pork, fruit and vegetables. There is still believed to be excessive protectionism in relation to industrial goods (automobiles, chemical products) and some processed agricultural products (including wine); a risk of non-compliance with rules on the protection of designations of origin; a relatively low level of enforcement of food safety and environmental rules and a lack of full transparency in public contracts. Following the latest negotiation rounds, the parties' positions are more favourable to an agreement on issues such as trade and sustainable development and issues relating to rules of origin.

4.1.2 From Mercosur's point of view too, agriculture is the most important issue. In 2004, Europe was offering – once the transitional periods were over – to liberalise 86.25 % of total imports of agricultural goods. It is likely that the threshold for negotiation will be higher on this occasion. The possibility of setting quotas makes negotiations easier. The risks pointed out by the European agricultural sectors could be alleviated if the negotiation of the AA includes a demand for reasonable compliance with the same standards – environmental, food safety, animal welfare etc. – for European products and for products imported from Mercosur. Furthermore, the AA should not increase food dependency in the EU and should provide for the instruments required to prevent an intensive and unsustainable agricultural model. With regard to industrial products, where the barriers are less significant, agreement seems to be more likely, as in the case of the EU's agreement with Korea on the automobile industry, for example. Finally,

⁽²⁾ BRIC: Brazil, Russia, India, China. IBSA: India, Brazil, South Africa.

⁽³⁾ European Commission Directorate-General for Agriculture and Joint Research Centre of April 2011.

other issues, such as intellectual property, which are particularly sensitive for certain Mercosur countries such as Brazil, could be subject to future-developments clauses or transitional clauses, on the basis of the agreement in the WTO. In this regard, the EESC believes that, amongst other initiatives, an industrial property programme could be drawn up, to promote technology transfer and to establish a viable system of patents between the EU and Mercosur, which could be extended to the whole of Latin America.

4.1.3 The EESC believes that, despite the difficulties, conditions are better than have previously been the case for achieving, overall, a balanced agreement which benefits both parties and is not at the expense of any sector, region or country⁽⁴⁾.

4.2 **Mercosur's structural weaknesses** have historically been a major stumbling block for the AA. These include, in particular, its insufficient common networks and structures, in an area three times the size of the EU; the low level of intra-regional trade (15 % in Mercosur, 45 % in NAFTA, 66 % in the EU) and the predominance of extra-regional trade; an incomplete customs union; the limited coordination of macro-economic policies and the weakness of regional institutions.

4.2.1 Over recent years, particularly since 2003 - as a result of the impetus provided by what appeared to be the imminent conclusion of an agreement between the EU and Mercosur - there has been considerable revitalisation of Mercosur's regional integration process, with initiatives such as the establishment of common policies in areas such as energy, the exploitation of oil and gas resources and the creation of communications infrastructures, the conclusion of a common automotive policy between Argentina and Brazil and the creation of Mercosur's Structural Convergence Fund (FOCEM). A strategic plan for overcoming asymmetries in the internal market has also been adopted and preferential and differentiated treatment measures have been established for Paraguay and Uruguay.

4.2.2 Furthermore, in 2000 the Mercosur governments set up the Macroeconomic Monitoring Group to monitor a range of macroeconomic convergence parameters and to draw up common methodologies for using them.

4.2.3 All of this has helped to expand intra-regional trade, improve the quality of production and attract new flows of foreign direct investment.

4.2.4 Mercosur has also been acquiring a stronger political dimension in recent years. It has created arbitration and review courts, it has progressed from being an administrative secretariat to a technical secretariat, it has signed a human rights protocol and has created a Mercosur Parliament (Parlasur) and it has appointed its first High Representative-General. However, the

economic integration process is still weak, there are many trade disputes taking place and it is still at a very early stage from an institutional point of view.

4.2.5 Worthy of particular note is the fact that, in August 2010, Mercosur finally adopted a new Common Customs Code (containing almost 200 articles), which includes the removal of the double common external tariff (CET) paid for products moving from one country to another. This requires the adoption of a common trade policy and the harmonisation of other elements such as special import arrangements and trade protection instruments. Customs management IT systems will also have to be interconnected and a mechanism for gathering and distributing CET revenue will have to be created. This progress on customs union is an extremely important factor in terms of facilitating EU-Mercosur negotiations.

4.2.6 The conclusion of an AA could speed up Mercosur's whole process of economic integration, internal market regulation and institutional consolidation.

5. Impact of the Association Agreement and countervailing measures

5.1 A study commissioned by the European Commission has examined the impact of trade liberalisation between the EU and Mercosur, both in relation to the AA as a whole and in relation to three specific sectors: agriculture, automobiles and forestry. The study analyses the potential positive and negative impact of the AA and proposes measures and recommendations to enhance the former and to prevent or mitigate the latter, in relation to the agreement as a whole and in relation to the sectors analysed.

5.2 The EESC recommends that the negotiating parties take account of these flanking measures both in the commercial content of the agreement and by means of the cooperation component and the joint programmes between the EU and Mercosur. It also believes that these elements should be included amongst the demands of Mercosur's Economic and Social Consultation Forum (FCES) and the EESC during the AA negotiations.

5.3 The EESC believes that, in order to facilitate the AA, the agreement could include future-developments clauses so that certain aspects of the bi-regional agreement can be expanded upon at later stages.

5.4 The EESC believes that impact assessments should attach more importance, firstly, to the participation of experts and organisations from the partner country in the agreement and, secondly, to the identification of social and environmental risks, which are currently seen merely as a supplement to the

⁽⁴⁾ As indicated by the Heads of State and Government at the EU-Mercosur Summit in May 2010.

economic assessment⁽⁵⁾, including the issue of the concentration of the wealth generated by the agreement and its uneven distribution.

6. Sustainable development in the Association Agreement

6.1 The EESC believes that running through the entire Association Agreement between the EU and Mercosur should be a social, labour and environmental dimension, as an integral part of an agreement aimed at promoting **sustainable development** for both blocs. This dimension should complement the economic and commercial dimension of the AA.

6.1.1 This is in line with the official positions of the governing bodies of the EU and Mercosur⁽⁶⁾ which are in favour of trade liberalisation being accompanied by social and environmental commitments and actions.

6.1.2 Accordingly, the EESC wants the AA to include the social and environmental requirements to be met in order to ensure that the trade and economic relationship promotes economic and social cohesion, is consistent with a **sustainable development** strategy and enhances the competitiveness of the local productive fabric (SMEs, the social economy and micro-enterprises) in view of its capacity to generate employment.

6.1.3 The EESC believes that the social and environmental dimension affects the whole of the AA. It believes that the trade component should include aspects relating to the protection of human rights and of labour, social and environmental rights, and that a specific section should be dedicated to issues relating to 'trade and sustainable development', which would include:

- excluding illegally obtained products (such as fish and wood) from commercial flows;
- including fair trade and corporate social responsibility initiatives in trade and investment programmes;
- giving a commitment to the periodic monitoring of the impact of trade relations on social and environmental issues;
- not allowing derogation from social or environmental protection laws, in order to prevent unfair advantages in international trade;
- preventing deforestation.

⁽⁵⁾ Sustainability impact assessments (SIA) and EU trade policy. E. Pichenot (OJ C 218, 23.7.2011, p. 14-18).

⁽⁶⁾ Buenos Aires Declaration of Mercosur Social Affairs Ministers, July 2006. European Councils of February 2005 and 2006.

7. The strategic components of the EU-Mercosur Association Agreement

7.1 **Decisive political will** is crucial: firstly, in drawing up and boosting an AA which is not just a free trade agreement but also an overall strategic agreement that provides long-term benefits for both sides in terms of development, security, migration and environmental challenges; secondly, to use all existing mechanisms to take account of the disparities between the two regions, to reduce the negative impact of liberalisation on certain sectors, to bring Mercosur's integration process back up to speed and to establish social participation and transparency as key factors in the bi-regional negotiations.

7.2 The AA provides a great opportunity to progress towards overall strategic objectives of interest to both regions.

7.3 Firstly, it would provide a means for maintaining an international economic and political presence at a time when economic and political power is shifting from the Atlantic to the Pacific. Mercosur does not have agreements with the United States or with the big Asian powers, although it has signed free trade agreements with Chile and with members of the Andean Community. Furthermore, Venezuela is in the process of being incorporated into the bloc. Outside South America, it has signed agreements, including free trade agreements, with South Africa, India, Pakistan, Turkey, Egypt, Morocco and Israel. For its part, the EU has bilateral agreements with Mexico, Chile, Central America, Peru, Colombia, South Africa, the Caribbean and South Korea. In short, an AA between the EU and Mercosur would lead to the creation of a bi-regional bloc with considerable clout on the new world stage.

7.3.1 The AA would also be very important in terms of moving towards greater integration of the whole Latin American region. The agreement would be highly likely to attract other Latin American and Caribbean sub-regional groupings, as well as countries such as Mexico and Chile. A 'strategic alliance' between the two regions - between the 27 Member States of the EU and the 33 countries of Latin America and the Caribbean - would carry significant weight within multilateral bodies. It would lead to greater influence in the G-20, of which three Latin American countries (Brazil, Mexico and Argentina) and five European countries (Germany, France, the United Kingdom, Italy and Spain), as well as the EU itself, are members.

7.3.2 Finally, the Association Agreement with Mercosur could provide the EU with a strategic ally in its aim of becoming a global advocate of a protected environment. The environment is now one of the issues of greatest concern to the Member States, the public at large and the multilateral system. The EU is a pioneer of green policies and technologies. Natural resources are one of the main strengths of Latin America, and of Mercosur specifically, but this is also one of the regions most threatened by climate change, as a result of certain intensive farming practices, amongst other things.

7.3.3 If this objective is to receive sufficient support, significant content should be included in relation to 'energy, the environment, science and technology and innovation'. These issues should be priorities in the component dealing with development cooperation. The EU's sixth framework programme for research and technological development has already carried out numerous projects with members of Mercosur. That cooperation should now be an integral part of the AA. The considerable funds available under the 7th framework programme – EUR 50 billion – could make an enormous contribution to this.

8. Civil society and the Association Agreement

8.1 The EESC believes that the inter-regional nature of the negotiations and the content of the AA is a fundamental and distinctive element of these negotiations and provides a benchmark for economic relations in a world which is increasingly open to trade.

8.2 The EESC re-affirms its commitment to the principles of transparency and participation, both in the negotiation process and in the implementation of the AA. To this end, it wishes to be kept fully informed during the negotiation process and to have access to the negotiators in order to communicate the proposals of the FCES and the EESC.

8.3 The EESC also asks to be involved in drawing up impact assessments so that it can make recommendations on measures aimed at preventing or reducing the negative impact of the trade liberalisation process and calls for a monitoring centre

of a technical nature to be established, once the agreement has been signed, to constantly assess the economic, social and environmental impact of the Association Agreement and to propose tangible measures.

8.4 In accordance with the joint positions of the EESC and the FCES – and pre-agreements reached during the negotiations prior to 2004 – we call for the creation of a Joint civil society Consultative Committee under the Association Agreement, with membership being divided equally between the EESC and the FCES and with obligatory consultative responsibilities covering all areas of the AA, including the trade chapter and the monitoring of sustainable development issues.

8.5 The EESC deems it essential that the AA include a social dimension, consistent with an AA that goes beyond commercial aspects and is ultimately intended to increase social cohesion. In particular, this should cover the agreement's impact on employment, the protection of the interests of local populations and the most disadvantaged groups, the promotion of and respect for human rights, environmental protection and the rights of immigrants and of workers in general. In this regard, it should include international declarations, such as those of the ILO, which stipulate that breaches of fundamental labour principles and rights must not be invoked or used to gain legitimate comparative advantage in international trade. The future agreement must therefore generate high-quality jobs, improve the social conditions of workers and make a significant contribution to a more even distribution of wealth.

Brussels, 15 June 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON
