

FEDIOL's Position Paper on EU-Mercosur free trade negotiations

After the re-launch of trade negotiations between the European Union and the countries of the Mercosur region (Brazil, Argentina, Paraguay and Uruguay)¹, FEDIOL – representing the EU Vegetable oil and Proteinmeal industry – acknowledges the potential benefits of this trade agreement and highlights the sector's priorities and sensitivities in the negotiations.

FEDIOL sees the EU-Mercosur negotiations as the way to consolidate and boost existing business relations between the two blocs with a view to supporting investments and economic growth. If achieved, the Agreement would lower barriers to trade in goods and services and facilitate trade with and within the Mercosur region, provided that distorting policies and practices in the form of differential export duties are addressed.

FEDIOL therefore supports the EU-Mercosur trade negotiations provided that an agreement addresses the following points:

- **The timeframe for gradual full tariff liberalisation should be equal for both parties;**
- **Import duties among the Mercosur countries should be dismantled to allow imported goods to freely move through the region;**
- **An agreement should contain a commitment from Mercosur countries to abolish differential export tax policies and the prohibition to reinstall them;**
- **Negotiations offer an opportunity to further harmonize Rules of Origin across EU trade agreements, securing EU preferential market access into Mercosur and other markets.**

The trade context

The European Union is Mercosur's first trading partner, accounting for 21% of the bloc's total trade in 2015. Agricultural products are the primary exports from Mercosur countries to the European Union, representing almost half (48%) of the total, and some raw materials are available in Mercosur countries at competitive prices in comparison to European market prices. Therefore we consider that the oilseed sector should be treated appropriately in the negotiating process and should not be subject to immediate liberalisation, but rather to a gradual tariff dismantling scheme.

Tariff offers

The EU has offered a gradual transition towards full liberalisation on a wide range of products, including vegetable oils. On the other side, since Mercosur has not yet finalised its Customs Union, different levels of duties among its countries still

¹ Venezuela also belongs to Mercosur but does not take part in the free trade negotiations

exist and several import duties are applied by Mercosur members on a number of products, namely on processed oils and edible mixtures of oils and fats. In addition, Argentina would like to exclude - through the creation of a "negative list" - products enlisted under Chapter 15 of the Harmonised System from its own market access offer, in order to protect its market against imports of specialty oils and fats from the EU.

It remains unclear whether the tariff elimination offered by Mercosur will apply taking as a baseline the import duty levels or the common External Tariff rate foreseen in the Customs Union. Since the resulting difference would be quite substantial, uncertainty around this issue should be solved, also considering that the full phase out of import duties from Mercosur takes significantly more years to complete compared to the EU's offer. **For these reasons, FEDIOL considers that Mercosur should implement its tariff dismantling scheme avoiding country-specific carve-outs to its overall liberalisation commitment; moreover, a more uniform approach on the phase out timeframe should be granted between EU and Mercosur.**

Import and export duties

The Mercosur countries export significant volumes of soybeans, soybean meal, vegetable oils, lecithins, fatty acids and biodiesel to the EU market. While the EU already grants duty free access for soybean and soybean meal, other products such as oils and fats, fatty acids, lecithins and biodiesel originating in Brazil, Argentina and Uruguay are still subject to limited EU import duties. On the other hand, Argentina still applies differential export taxes (DETs) on soybeans, which have higher duty rates compared to soybean meal, oil and biodiesel.

If we do not want to risk hindering the creation of a free trade area between these two markets, the issue linked to trade distorting and unfair practices in the form of DETs exercised by Argentina and applied to soybeans and soybean derived products should be addressed and solved. **FEDIOL supports the liberalisation of trade in oils and fats between the EU and Mercosur if this is based on a level playing field ensuring a mutual level of commitment in phasing out import and export duties. Therefore, as long as the Argentinian DETs are not abolished, the EU should refrain from phasing out existing import duties on soybean oil and soybean-based biodiesel.**

Anti-dumping duties

Following the recommendations and rulings adopted by the Dispute Settlement Body of the WTO in October 2016, the EU Commission decided to reopen the anti-dumping investigation concerning biodiesel imports from Argentina, with a view to bringing the anti-dumping measures into conformity.

Within this framework, **FEDIOL would like to reiterate that the Commission should be extremely prudent when considering proposing any immediate concessions on biodiesel to Mercosur countries**, in particular at a time when discussions on the legal perspective for the biofuel industry post-2020 are still ongoing.

Rules of Origin

Finally, with regards to Rules of Origin, FEDIOL would like to suggest the European Commission to maintain a soft approach – as explained in more details in the attached Annex to this letter - meaning that crushing, refining, fractionation, preparations of oils and fats, hydrogenation and inter-esterification should be considered as conferring origin. **We believe this approach should be harmonised across the different trade agreements the EU is currently negotiating.**

It is important to stress that **the list rules of origin for oils and fats should provide real preferential export opportunities for the EU, particularly for the so-called “specialty fats”**, so as to avoid a scenario in which very restrictive rules provide no real possibility to benefit from the agreed tariff cuts, as is the case for the EU-Canada Comprehensive Economic and Trade Agreement (CETA).

Annex FEDIOL's Rules of Origin position for EU-Mercosur Association Agreement negotiations

For the Rules of Origin in the EU-Mercosur negotiations, FEDIOL supports the following approach:

- with regard to 15.07, 15.08 and 15.11 to 15.15 in Chapter 15 the change of sub-heading should confer the origin of the product. This will imply that oils from crushing, refining and fractionation would be considered as conferring origin.
- with regard to 15.16.20, 15.17.90, 23.04, 23.05 and 23.06 a change of heading should confer origin of the product. This will allow for meals from crushing, inter-esterification, hydrogenation and edible mixtures and preparations of oils and fats to be considered as conferring origin.

Bottling, packing or packaging would not confer origin.

Examples below illustrate in details:

Taric Code	Conferring origin	
<u>12.01.10</u> Soybeans <u>12.06.00.91</u> Sunflower seeds	Change of <u>chapter</u> Crushing ☑	<u>15.07.10</u> Crude soybean oil <u>15.12.11</u> Crude Sunflower seed oil <u>23.06.30</u> Sunflower seed meal
Examples: 15.07. <u>10</u> Crude soybean oil 15.11. <u>10</u> Crude palm oil	Change of <u>subheading</u> Refining ☑ Fractionating ☑	15.07. <u>90</u> Refined soybean oil 15.11. <u>90.19</u> Refined palm oil (solid fractions)
Example: 15. <u>07.10</u> Crude soybean oil 15. <u>11.90</u> Refined palm oil	Change of <u>heading</u> Hydrogenation ☑ Inter-esterified ☑	15. <u>16.20</u> Partially hydrogenated soybean oil 15. <u>16.20</u> Inter-esterified vegetable oils
Example: 15. <u>16.20</u> Palm oil + soybean oil	Change of <u>heading</u> Preparation of oils and fats ☑	15. <u>17.90</u> Edible mixtures and preparations of oils and fats