

**MERCOSUR (GOODS)**  
**Summary Fact Sheet<sup>1</sup>**

**Table 1: Background Information**

|   |  |   |
|---|--|---|
| Parties                                   | Argentina, Brazil, Paraguay and Uruguay  |   |
| Date of signature                         | 26 March 1991  |   |
| Date of entry into force                  | 29 November 1991   |   |
| Transition period for full implementation | Three years and one month (1.1.1995) for the entry into force of the customs union and the Common External Tariff (CET). Intra-trade - except on automotive and sugar sectors - was progressively liberalized during this time, in accordance with the Trade Liberalization Programme (TLP); Paraguay and Uruguay benefited from a longer transition period for intra-trade liberalization. National exceptions were to progressively converge to the CET in six years for most tariff lines, while sector-specific exceptions had 11 years (i.e. up to December 2005). <sup>2</sup> The transition periods have not been respected (Table 3). |   |
| Date of full implementation               | 31 December 1994   |   |
| Website address or points of contact      | MERCOSUR website: <a href="http://www.mercosur.int/">http://www.mercosur.int/</a>  |   |
| List of related GATT/WTO documents        | <p>L/6985<br/>L/7029</p> <p>L/7044<br/>L/7370<br/>L/7370/Add.1</p> <p>L/7373 and<br/>WT/COMTD/5/Rev.1<br/>L/7540, WT/COMTD/1 and<br/>Corr.1, WT/COMTD/1/Add.2,<br/>Add.4/Rev.1, Add.14, and<br/>Add. 17 and Corr.1<br/>L/7615<br/>WT/COMTD/1/Add.1<br/>WT/COMTD/1/Add.3<br/>WT/COMTD/1/Add.5/Rev.1<br/>WT/COMTD/1/Add.6<br/>WT/COMTD/1/Add.7</p> <p>WT/COMTD/1/Add.8<br/>WT/COMTD/1/Add.9,<br/>Add.10, Add. 12 and Add. 16<br/>WT/COMTD/1/Add.11<br/>WT/COMTD/1/Add.13<br/>WT/COMTD/1/Add.15</p>   | <p>1st Notification (short description)<br/>Request by the US for notification under Art. XXIV and for the establishment of a WP<br/>2nd Notification (long description)<br/>Communication MERCOSUR Agreement<br/>Text of MERCOSUR Agreement, "Treaty of Asunción"<br/>Terms of Reference</p> <p>Questions &amp; Replies</p> <p>Communication on implementation of CET<br/>Protocol of Ouro Preto<br/>Entry into Force of Protocol of Ouro Preto<br/>Info. For XXIV:6 - Rev.<br/>Decisions, Resolutions for 95-96 and CET<br/>Decision Council of the Common Market (CCM) 12/96<br/>Import Statistics<br/>Summary Records</p> <p>Summary of information submitted<br/>Tariff treatment - Brazil<br/>General Incidence of Duties</p> |

**Table 2: Internal trade liberalization provisions**

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|---------------------------|---|
| Import duties and charges | <p>Article 5(a) and Annex I of the Asunción Treaty contain the TLP, which provided for linear and automatic tariff reductions implemented every six months, with the aim of eliminating tariffs by end 1994. Article 6 and Annex I (Article 1) of the Treaty grant special treatment to Paraguay and Uruguay, by providing them one extra-year for intra-trade liberalization of products in their exceptions list.</p> <p>Article 1 of Annex I provides timeframes for the elimination of "any duties, charges and other restrictions applied in their reciprocal trade". Article 2 of Annex I defines "duties and charges" as "customs duties and any other charges of equivalent effect, whether</p> |
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<sup>1</sup> Updated with information submitted up to the conclusion of the examination in April-May 2006.

<sup>2</sup> The major Decisions relating to the CET were adopted in December 1992 (Montevideo), August 1994 (Buenos Aires) and December 1994 (Ouro Preto) by MERCOSUR's member states.

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|                           | <p>related to fiscal, monetary, foreign exchange or other matters, levied on foreign trade. This does not cover fees and similar charges corresponding to the approximate cost of services rendered"; "restrictions" are defined as "any administrative, financial, foreign exchange or other measures by which a State Party unilaterally prevents or impedes reciprocal trade. This does not cover measures taken in the situations envisaged in article 50 of the Montevideo Treaty of 1980." (which contains general and national security exceptions)</p> <p>Articles 3-5 of Annex I give the plan and schedule for intra-trade tariff elimination while Articles 6-9 deal with exceptions. Tariffs on all products, except those in national exceptions list, sugar and automotive products, are to be eliminated by December 1994. National exceptions (394 tariff items for Argentina, 324 for Brazil, 439 for Paraguay and 960 for Uruguay) were subject to annual linear and automatic tariff reduction (instead of every six months), with duties for Argentina and Brazil to be eliminated by December 1994 and for Paraguay and Uruguay by December 1995. That calendar was modified to take into account sensitive products; Decision 5/94 of the CCM allowed Argentina and Brazil to delay liberalization for certain products up to December 1998 and for Paraguay and Uruguay up to December 1999; CCM Dec 24/94 lists national exceptions. By January 2000, intra-trade in all products, except sugar and automotives, was duty-free.</p> <p>A common sugar regime (sugar accounts for 0.001% of intra-MERCOSUR trade in terms of value) is still under negotiation, in accordance with parameters of CCM Dec 19/94. Trade in the automotive sector (which in 2005 accounted for 29% of intra-MERCOSUR trade in terms of value) is regulated by bilateral agreements negotiated under the LAIA (Argentina-Brazil, Argentina-Uruguay and Brazil-Uruguay); the common MERCOSUR Automotive Policy, adopted in June 2000 and June 2001 by CCM Decs 70/00 and 04/01, is not yet in force.</p> |
| Export duties and charges | Article 5(a) and Annex I of the Asunción Treaty.   |
| Non-tariff measures       | Article 5(a) of the Treaty and Article 10 of Annex I.  |
| Sector-specific rules     | Sector-specific provisions are covered by the lists of exceptions to intra-trade liberalization. <sup>3</sup> Automotive products, sugar and products originating in the free zones have been excluded from intra-trade pending the definition of a common regime.   |
| Product Exclusions        | Article 12 of Annex I excludes trade under some agreements concluded in the framework of the LAIA. Automotive products and sugar were temporarily excluded from free-trade pending the conclusion of a common MERCOSUR regime.   |

**Table 3: Common External Tariff**

|            |   |
|------------|---|
| Provisions | <p>Article 5(c) provides for the establishment of a CET during the transition period.</p> <p>The "Las Leñas Timetable", endorsed at the Third Summit of the MERCOSUR Heads of State in Montevideo in December 1992, provided guidelines on issues to be settled for the customs union to enter into force, among which the CET. The minimum and maximum CET rates were fixed at respectively 0% and 20% with the possibility of a reduced number of exceptions up to a maximum rate of 35%, to be reduced to 20% within six years. The CET was to enter into force on 1 January 1995.<sup>4</sup></p> <p>In 1994, it was agreed that products in the national exceptions lists would progressively converge to the CET generally within six years. Sector-specific exceptions – capital goods (BK, 1190 tariff items), informatics and telecommunication goods (BIT, 427 tariff items) – and the automotive and sugar</p> |
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<sup>3</sup> The schedules of exceptions to the intra-trade liberalization can be found in <http://www.parlamento.gub.uy/htmlstat/pl/tratados/trat16196.htm>

<sup>4</sup> Communiqué of the Third Summit of the MERCOSUR's Heads of State, paragraph 6. The "Las Leñas Timetable" was adopted in July 1992, CCM Dec. N° 1/92.

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|  | <p>sectors, would have an 11 year transition period. Country-specific exception schedules were finalized by April 1995.<sup>5</sup></p> <p>National exception lists have been modified at various times; as of April 2006, these were to be eliminated by December 2008 by Argentina and Brazil (100 tariff lines each by 31.1.08, 75 lines each between 1.2.08 and 31.7.08, and 50 lines each in 1.8.08-31.12.08), while for Paraguay and Uruguay exceptions of 100 lines each had to be eliminated by 31.12.08.</p> <p>The transition periods for the elimination of sector-specific exceptions have also been modified. As of April 2006, regulations provided that (a) for BK goods, countries were free to maintain their exceptions and a common import regime was to enter into force of on 1.1.09; (b) for BIT, exceptions could be applied up to 31.12.06, Paraguay and Uruguay could continue to apply an additional 2% on extra-MERCOSUR imports up to 31.12.11, and the entry into force of a new BIT regime as of 1.1.09 (CCM Dec 40/05 and 39/05, respectively).</p> <p>CCM Dec 54/04 provides for the elimination of the double charging of the CET and for revenue sharing within MERCOSUR. The structure of the CET as of April 2006 is contained in a Resolution of the Group of the Common Market (GCM) 65/01.</p> |
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**Table 4: General trade-related provisions**

| <b>Provision</b>           | <b>Relevant Article(s)</b>                            | <b>Additional Information</b>   |
|----------------------------|---|---|
| Rules of Origin            | Article 3 & Annex II<br>CCM Dec 6/94<br>CCM Dec 01/04 | Rules of origin to be applied during the transition period.<br><br>Rules of origin regulations from the entry into force of the customs union.<br>Incorporates in a single decision all the regulations issued until 2003. It allows parties to require, up to 1.1.06, compliance with the rules of origin in all intra-trade; CCM Dec 20/05 extends this period up to 31.12.10. The rules of origin generally require a change of tariff classification at the 4-digit level (i.e. tariff heading) or otherwise a regional value content of 60%; other requirements may however apply in specific cases and/or products. |
| Standards-related measures | None<br><br>CCM Dec 58/00<br>GCM Res 24/03 and 25/03  | Although there is no specific provision in the Treaty, Article 1 states that the common market shall involve "the adoption of a common trade policy in relation to third States or groups of States" and "[t]he commitment by States Parties to harmonize their legislation in the relevant areas in order to strengthen the integration process."<br>Incorporates the WTO TBT Agreement into MERCOSUR's legal structure.<br>They provide respectively for a "Glossary of Terms Relating to Conformity Assessment" and "Guidelines for Concluding Agreements on Recognition of Conformity Assessment Systems".            |
| SPS measures               | None<br>CCM Dec 06/96                                 | Treaty-related information as above.<br>Incorporates the WTO SPS Agreement into MERCOSUR's legal structure.   |
| Safeguard mechanisms       | Article 3 & Annex IV                                  | <b>Intra-trade</b><br>Safeguard measures on intra-trade are only allowed during the transition period, and Parties "shall use these rules only in exceptional cases" (Art. 1 of Annex IV). Safeguards may be requested in cases where "imports of a given product damage or threaten serious damage to its market as a result of a  |

<sup>5</sup> CCM Dec. N° 7/94 and 22/94.

| Provision                                | Relevant Article(s)   | Additional Information   |
|--|---|--|
|  | CCM Dec 17/96 and 4/97  | <p>significant increase in imports of that product from the other States Parties over a short period of time" (Art. 2); they are subject to prior consultation in, and approval of, the GCM. Safeguards may be applied for a maximum of one year, with a possible extension by another consecutive year; they may however be applied only once for each product (Art. 5). During the transition period, in cases where a Party "considers itself affected by serious difficulties in its economic activities", consultations are held in the GCM to decide on the corrective measures to be taken (Art. 7).</p> <p><b>Trade with third parties</b><br/>Treaty-related information is the same as for standards-related measures.<br/>Regulation for the application of safeguards on imports from third parties.</p>   |
| Anti-dumping and countervailing measures | <p>Article 4</p> <p>CCM Dec 13/02<br/>CCM Dec 14/02<br/>CCM Dec 22/02</p> <p>CCM Dec 11/97</p> <p>CCM Dec 29/00</p> | <p>Provides for the application of "domestic legislation to restrict imports whose prices are influenced by subsidies, dumping or any other unfair practice."</p> <p><b>Intra-trade</b><br/>Incorporates the WTO Anti-dumping Agreement into MERCOSUR's legal structure.<br/>Incorporates the WTO Agreement on Subsidies and Countervailing measures into MERCOSUR's legal structure.<br/>Additional requirements and disciplines <i>vis-à-vis</i> investigation and application of trade-defence measures.</p> <p><b>Trade with third parties</b><br/>Investigations are done in accordance with national legislation, which is circumscribed by the relevant WTO Agreements.<br/>Framework for a common antidumping regulation <i>vis-à-vis</i> third parties. As of April 2006, negotiations were continuing on the corresponding common regulation.<br/>Framework for a common regulation for defence against subsidies by third parties. As of April 2006, negotiations were continuing on the corresponding common regulation.</p> |
| Subsidies and State-aid                  | <p>Article 4</p> <p>CCM Dec 14/02<br/>CCM Dec 22/02</p>   | <p>Provides for the application of "their domestic legislation to restrict imports whose prices are influenced by subsidies, dumping or any other unfair practice."</p> <p>Incorporates the WTO Agreement on Subsidies and Countervailing Measures into MERCOSUR's legal structure.<br/>Additional requirements and disciplines for investigation and application of trade-defence measures.</p>   |
| Customs-related procedures               | None  |  |
| IPR                                      | <p>None</p> <p>CCM Dec 8/95</p> <p>CCM Dec</p>  | <p>"Protocol on the harmonization of intellectual property norms in MERCOSUR for trademarks and indications and denominations of origin", adopted in August 1995; it entered into force on 6 August 2000 for Paraguay and Uruguay but as of April 2006 it was not in force for Argentina and Brazil. It includes national treatment, definition of trademarks and duration of protection (initially 10 years extendable), signs considered as trademarks, non-registrable trademarks, reciprocal protection of indications and denominations of origin, and a prohibition on registering them as trademarks.<br/>"Protocol on the harmonization of intellectual property norms</p>   |

| Provision              | Relevant Article(s)   | Additional Information  |
|------------------------|---|---|
|                        | 16/98   | in MERCOSUR with respect to industrial designs", adopted in December 1998; not in force as of April 2006. It provides for national treatment, a definition of industrial designs that may or may not be protected, an initial minimal duration of 10 years for the protection of industrial designs, and a best endeavour clause for one extension of at least five years.  |
| Government procurement | None<br>CCM Dec 27/04   | A Decision to adopt the "Protocol on Government Procurement in MERCOSUR" was taken in December 2004 but the Protocol is not yet in force. The Protocol aims to provide Party's suppliers non- discriminatory treatment for government procurement by public entities; it includes basic principles such as MFN, national treatment and transparency.  |
| Competition            | Article 4<br><br>CCM Decs 18/96 and 02/97                                   | Provides that "States Parties shall co-ordinate their respective domestic policies with a view to drafting common rules for trade competition."<br><br>The "MERCOSUR Competition Protocol" and its annex were adopted in December 1996 and June 1997; an agreement on its regulations was adopted in December 2002. The Protocol entered into force on 8 September 2000 for Brazil and Paraguay; as at April 2006, ratification was still pending for Argentina and Uruguay. The Protocol defines acts that infringe its provisions, and gives an illustrative list of behavior that constitutes "restrictive business practices". It establishes a detailed mechanism for dealing with infringement through investigation, sanctions and enforcement; it also provides for the possibility of preventive measures and cessation. While it does not establish a supranational enforcement institution, it provides for shared responsibilities among the three institutions involved. |
| Investment             | None<br>CCM Dec 11/93   | "Protocol of Colonia for the Promotion and Reciprocal Protection of Investments in MERCOSUR", adopted in January 1994 but not in force as at April 2006.  |
| General exceptions     | Articles 1 and 2 of Annex I   | Restrictions applied in accordance with Article 50 of the Montevideo Treaty of 1980 can be maintained.  |
| Accession              | Article 20  | Accession, through negotiation and unanimous acceptance, is open to other members of the LAIA once the Treaty has been in force for five years (i.e. by 28 November 1996). LAIA members that are not parties to any regional trade agreement may apply before that date.  |
| Dispute resolution     | Article 3 & Annex III<br><br>Protocol of Olivos, regulated by CCM Dec 37/03 | Annex III provides timeframes for transitional and permanent dispute settlement mechanisms. The former, known as the Protocol of Brasilia, was adopted 17 December 1991; it is automatic and rapid (normally no more than five months), and provides for the establishment of an Arbitral Tribunal to issue binding awards. The latter, known as the Protocol of Ouro Preto, was adopted on 17 December 1994; it provides for a longer procedure and gives time for Parties to negotiate and exchange information, in particular under the auspices of MERCOSUR's Trade Commission.<br><br>Signed in February 2002 and in force since 1.1.04; it replaces the Protocol of Brasilia. It provides for the choice of forum (MERCOSUR or WTO); recourse to mediation by the GCM upon agreement by the parties; and a review procedure. Rules on direct negotiation (i.e. consultations) and ad hoc arbitration are generally the same as in the   |

| Provision                            | Relevant Article(s)  | Additional Information  |
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|                                      |  | <p>Protocol of Brasilia. The main change is the establishment of a Permanent Review Court (PRC) of five arbitrators. Recourse to the review procedure may be taken by a party to a dispute following an award by an ad hoc arbitration court; alternatively, parties may, by mutual agreement, access the PRC upon completing direct negotiations, without going through ad hoc arbitration. Ad hoc arbitration and permanent review court awards are binding although the binding nature of the award by the former is suspended if a motion for review is filed; awards by the PRC are not subject to appeal. The Protocol of Olivos provides for compensatory measures pursuant to total or partial non-compliance with an award of the arbitration court.</p>   |
| Relation with other trade agreements | Article 8  | <p>The Parties undertake to abide by commitments made prior to the date of signature of the Agreement, including those signed in the LAIA framework. In particular, Parties "(d) ... shall extend automatically to the other States Parties any advantage, favour, exemption, immunity or privilege granted to a product originating in or destined for third countries which are not members of the LAIA."</p>   |
| Institutional provisions             | <p>Articles 9-18</p> <p>Protocol of Ouro Preto</p> <p>CCM Dec 16/02</p> <p>CCM Dec 11/03</p> <p>CCM Dec 21/05</p> <p>CCM Dec 23/05</p> | <p>Establishes the bodies responsible for the administration and implementation of the Treaty during the transition period, and provides for a special meeting to be held before 31 December 1994 for the adoption of the definitive institutions of the common market.</p> <p>The Protocol, signed on 17.12.94 and in force since 15.12.95, provides the institutional infrastructure of MERCOSUR. MERCOSUR's highest decision-making body is the Council for the Common Market, followed by the Group of the Common Market – the executive – and the Trade Commission.</p> <p>Transforms the MERCOSUR Administrative Secretariat into a Technical Secretariat, adopted in July 2002.</p> <p>Establishes the Commission of Permanent Representatives, comprising four members (the Permanent Representative in Montevideo) and a President nominated for two years, adopted in October 2003.</p> <p>Establishes An <i>Ad Hoc</i> High Level Group for the Institutional Reform of MERCOSUR, adopted in December 2005. Following various adjournments, its proposals for an overall reform of MERCOSUR's institutional framework are expected to be presented to the CCM by June 2009.</p> <p>Establishes the "Protocol Constitutive of the MERCOSUR Parliament", adopted in December 2005.</p> |

**Table 5a: Total Intra and Extra-trade, 1990-2005 (Billion US\$, f.o.b.)**

|  | 1990            | 1995             | 2005             | Variation (%) |             |
|--|-----------------|------------------|------------------|---------------|-------------|
|  |                 |                  |                  | 05/95         | 05/90       |
| <b>Total trade (imp+exp)</b>             | <b>73.3</b>     | <b>144.7</b>     | <b>260.3</b>     | <b>80%</b>    | <b>255%</b> |
| Of which:                                |                 |                  |                  |               |             |
| Intra-MERCOSUR trade<br>(and % of total) | 8.1<br>(11.0%)  | 28.0<br>(19.4%)  | 39.1<br>(15.0%)  | 39%           | 381%        |
| Rest of the world<br>(and % of total)    | 65.2<br>(89.0%) | 116.6<br>(80.6%) | 221.2<br>(85.0%) | 90%           | 239%        |
| Of which:                                |                 |                  |                  |               |             |
| EU                                       | 20.1            | 38.3             | 55.5             | 45%           | 176%        |
| US and Canada                            | 16.1            | 27.8             | 47.3             | 70%           | 194%        |
| Asia                                     | 9.2             | 22.3             | 45.6             | 104%          | 397%        |
| Rest of LAIA                             | 5.3             | 11.5             | 27.8             | 142%          | 420%        |
| Rest of the world                        | 6.6             | 8.9              | 26.1             | 193%          | 296%        |
| Africa                                   | 2.0             | 3.5              | 11.4             | 228%          | 473%        |
| Middle East                              | 5.9             | 4.3              | 7.4              | 73%           | 26%         |

**Table 5b: MERCOSUR CET Trade-weighted average rates**

|                 | Average imports 1992-94*<br>(\$ m) | National weighted average tariff rates** |                         |                    |
|-----------------|------------------------------------|--|-------------------------|--------------------|
|                 |                                    | Pre-CU                                   | Post-CU<br>(1995, avg.) | CET 2006<br>(Avg.) |
| Argentina       | 12,886                             | 9.8%                                     | 11.2%                   | 12.4%              |
| Brazil          | 22,900                             | 14.5%                                    | 12.5%                   | 8.8%               |
| Paraguay        | 929                                | 8.8%                                     | 10.7%                   | 15.3%              |
| Uruguay         | 1,305                              | 8.9%                                     | 11.2%                   | 13.6%              |
| <b>MERCOSUR</b> | <b>38,020</b>                      | <b>12.5%</b>                             | <b>12.0%</b>            | <b>10.4%</b>       |

\* Total imports (incl. petroleum), annual averages. For Uruguay, only the years 1993-94 are used.

\*\* Applied rates on 1 January 1994 and 1995, respectively; CET 2006 as provided for in 1999. Weighted on the basis of 1992-94 import.

\*\*\* Annual averages. Estimated on the basis of 1992-94 import values and average tariff rates.

Source: Data provided by the Parties.