

**SEVENTEENTH MEETING OF THE  
MERCOSUR - EUROPEAN UNION  
BI-REGIONAL NEGOTIATIONS COMMITTEE**

**29 June – 02 July 2010  
Buenos Aires - Argentina**

**FINAL CONCLUSIONS**

Delegates from MERCOSUR and the EU met in Buenos Aires, from June 29 to July 2, 2010 to re-launch the talks on the three pillars - political dialogue, cooperation and trade - of the future Association Agreement between the MERCOSUR and the European Union.

Delegations were welcomed by Ambassador Alfredo Chiaradia, National Coordinator from Argentina of the Common Market Group, on behalf of the Pro Tempore Presidency of MERCOSUR. The European Union Delegation was headed by Mr. João Aguiar Machado, Deputy Director-General for Trade of the European Commission.

Ambassador Chiaradia expressed his satisfaction for the formal re-launching of the bi-regional negotiations and recalled the importance for both parties of the conclusion of an ambitious and balanced agreement.

He stated that this first formal round had key importance in structuring a pragmatic, flexible and effective working method, so that substantive improvements could be reached in the following rounds. In this sense, he stressed that the general principles and objectives established by the Parties during the I BNC (Buenos Aires, April, 6-7, 2000) remained the reference framework for the continuation of negotiations and that the Parties should take advantage of past work and experience.

The Head of the MERCOSUR Delegation proposed for this round to move forward as fast as possible on the following basic objectives: establishment of the working groups, definition of the starting points in each chapter, taking into account the improvements reached during the first phase of negotiations, and identification of the areas still pending as well as each Parties' positions relating to those chapters.

At his turn, the head of the European delegation, Mr. João Aguiar Machado, stressed the preparatory work done in the previous informal meetings held in Lisbon, Buenos Aires and Brussels. The results of these contacts were instrumental in identifying each party's respective positions and establishing the conditions to the formal launching of negotiations.

Mr. João Aguiar Machado stressed that there is still substantial work ahead on a number of important issues to both sides in order for an ambitious and balanced agreement to be reached, while avoiding measures that restrict trade to secure an environment conducive to successful bi-regional negotiations.

After the opening of the meeting, the working groups of the trade pillar were organized, followed by the discussions of the basic guidelines for conducting the negotiations for each chapter of this pillar. The groups related to Political Dialogue and Cooperation held their meetings separately.

### **Trade pillar**

The parties agreed to organize the following working groups:

1. Market Access on Goods
2. Rules of origin
3. Technical Barriers to Trade
4. Sanitary and phytosanitary measures.
5. Intellectual Property Rights/Geographical Indications/Wines
6. Dispute Settlement
7. Trade Defense
8. Competition Policy
9. Customs [Trade facilitation and related matters]
10. Services / Investment
11. Public Procurement

The date and venue of the next BNC meeting will be agreed upon through regular diplomatic channels.

<b>ANNEXES</b>
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- I. Reports of the XVIIth Round
- II. List of working documents of the XVIIth round of negotiations
- III. List of participants

**ANNEX I**  
**REPORTS**

**POLITICAL DIALOGUE - COOPERATION**

Both Parties carried out a preliminary evaluation of the current situation - “stocktaking”- regarding the political and cooperation aspects of the Interregional Association Agreement between the European Union and the MERCOSUR (draft version 2004), in the light of the developments during the last years.

The Parties analyzed specifically the Preamble, Part I (“General and Institutional Provisions”), Part II (“Political Dialogue”), Part III (“Co-operation”) and Part V (“Final Provisions”).

It was agreed that future meetings will be held, in order to start discussing texts proposals. At the same time, both Parties agreed to exchange text proposals, at least three weeks before the next meeting.

## TRADE

### 1) Market Access on Goods

Following the guidelines given in the Plenary Session, the parties agreed to focus on the text of the Chapter on Goods in order to identify a common ground to further discussions.

On the basis of the document *Draft consolidated text Chapter on Goods: market access elements. IX BNC/MS-EU/09/21.03.03* a new updated text was elaborated and annexed to as 300 XVII CNB/MS/UE/02.07.2010.

Each party announced the elaboration of new proposals in order to clarify their respective positions on some issues addressed in the text, which may cover also non tariff barriers. MERCOSUR presented specific drafts to replace previous articles on tariff peaks, export subsidies and domestic support measures. MERCOSUR will develop further the contents of these articles at a later stage.

On the other part, EU will evaluate a new approach concerning the presentation of tariff schedules. Likewise, EU will prepare drafts concerning state trading enterprises and import licensing,

Furthermore, EU will evaluate the placement of some provisions now included in the text - e.g. Balance of Payments-, in the light of their possible implications beyond the chapter on Goods.

The aforementioned proposals will be exchanged at least three weeks before the next meeting of the BNC.

The parties agreed to exchange the following statistics, tariffs and nomenclature on the 30<sup>th</sup> July 2010:

#### MERCOSUR

- Imports from and exports to EU 2006-2009 present nomenclature
- Exports and imports for the period 2006-2009 -including all partners- value, and quantity, for Argentina, Brazil, Paraguay and Uruguay

#### European Union

- Imports from and exports to MS 2006-2009, present nomenclature
- Exports and imports period 2006-2009 -including all partners- in value, and quantity, UE 27

#### Both

- Present nomenclature and applied tariffs, including GSP and exceptions  
NOTE: exports will be submitted on FOB basis and imports will be submitted on CIF basis.

## **2. Rules of origin**

MERCOSUR and the EU identified the negotiating text of the normative part of the Protocol on Rules of Origin dating back to the suspension of negotiations in 2004 (TECHNICAL TALKS/MS-EU/TG-1/21/17.09.04). The Parties agreed that this text will constitute the joint negotiating text and scrutinised all the provisions of the Protocol indicating the areas in which both Parties would like to table new proposals. Textual proposals will be exchanged before the end of July.

As regards the product specific requirements for acquisition of originating status (list rules) the Parties identified the document containing the rules which were agreed in 2004 and decided that this should be the basis for further negotiation (TECHNICAL TALKS/MS-EU/TG-1/SROO/02.07.10).

Nevertheless, the EU indicated that following its internal revision of rules of origin it will present some new proposals which would go in the direction of simplification of rules. The EU has tentatively indicated some sectors in which it would be willing to table new proposals, respecting to the biggest possible degree the substance agreed in 2004. MERCOSUR will table its still pending proposals and will also consider the necessity of reviewing its already indicated positions.

Both Parties agreed to exchange their proposals on this matter by the end of September 2010.

## **3. Standards, Technical Regulations and Conformity Assessment**

The delegation of the European Union (EU) made a presentation on the changes in its approach as regards Technical Barriers to Trade and informed that it is working internally on the basis of the text consolidated at the XII CNB/MS-UE/TG-1/25/12-03-04 –final version, for the purpose of sending to Mercosur an updated document incorporating the abovementioned changes. Furthermore, it expressed interest in exchanging views on matters related to Good Regulatory Practices, International Cooperation between the Parties, Transparency, Market Surveillance, consultation processes on draft technical regulations and mutual recognition agreements, among others.

In this respect, that delegation requested an overview of the recognition/equivalence agreements concluded within Mercosur. In turn, Mercosur informed the EU delegation of its wish to obtain information on the laws in force regarding the CE mark which would simplify the procedures required to use it.

With respect to the EU's points of interest, Mercosur referred to its level of development as regards the harmonization of Technical Regulations, regulatory practice and conformity assessment, as well as to the need to take into account the current situation of the bloc, among other matters.

Regarding Chapter II, Free Circulation of Goods, Art. 2 (new), paragraph 5, the EU delegation stated that it is analyzing that text and that it might include other areas therein. Mercosur expressed the need to obtain the newly proposed text, together with the relevant justifications, for analysis.

Mercosur voiced its concern regarding the significant increase in requirements based on private standards for products traded within the EU, which gives rise to restrictions on the access of Mercosur products to the EU market.

The next steps to be taken, bearing in mind the positions regarding the issues addressed will be: await that the European Union sends to Mercosur its new proposal based on the text of the XII CNB/MS-UE/TG-1/25/12-03-04 document – final version, as well as its view on the text of Art. 2 (new), paragraph 5, included in Chapter II, Free Circulation of Goods.

#### **4. Sanitary and phytosanitary measures.**

Both sides agreed that the last official texts were exchanged in June 2004. There was a technical meeting in September 2004 in which Mercosur presented a non-official document containing only some articles of its proposal. EU reserved its position to the entire document.

Both sides explained the progress achieved since 2004. The EU informed about the EU enlargement, the restructuring of DG-SANCO, the new competences, new legislation (food law, hygiene package) and the legislation in preparation on animal and plant health laws. Mercosur informed about new harmonized legislation on animal and plant health and about the state of incorporation of Mercosur legislation into domestic law.

Mercosur explained its perspective regarding the objectives of the negotiation and presented a new proposal text for an agreement accordingly with these objectives. Mercosur underscored that the objective of the agreement should be to facilitate trade between the Parties, taking into account the differences between the regions.

The EU made preliminary comments to this proposal and asked for clarification of certain issues: the EU considers that the proposal does not reflect the regional integration expectations, neither the 2004 situation, nor it is WTO plus. The EU reserved its position and will come back with comments.

Both sides reaffirmed that this agreement cannot result in lowering their respective Appropriate Level of Protection and consequently the requirements.

Contact points of both sides have been identified.

Tasks:

- Mercosur will provide information on new SPS legislation since 2004.

- The EU will react to Mercosur's proposal.

Next Steps:

- A video-conference will be held in September 2010.

## **5. Intellectual Property Rights/Geographical Indications/Wines**

MERCOSUR and the EU met in the context of the Intellectual Property/Geographical Indications/Wines Group. The EU introduced its views and objectives about these matters. In this regard, the EU will send a "position paper" with its opinion on these issues.

MERCOSUR expressed its preliminary comments and will consider the document in a timely manner. MERCOSUR will bring its opinion, to the extent possible, before the next meeting.

## **6. Dispute Settlement**

The Delegations have agreed to take the text of the Title "Dispute Settlement" of September 2004 as a working basis, in respect of which there was an exchange of comments and preliminary alternative proposals were made.

The EU committed itself to send written proposals on this Title and a draft of the Rules of Procedure in the last week of July, 2010.

MERCOSUR committed itself to send comments and proposals on those documents before August 15<sup>th</sup>, 2010.

The Delegations will agree on a possible date to hold a videoconference in September, 2010, in order to continue working on this Title and the Rules of Procedure.

Likewise, the EU made a presentation on institutional and legal aspects related to the Trade Part of the Agreement. MERCOSUR stressed out that this Group is not empowered to deal with this issue. The EU and MERCOSUR agreed that the forum to discuss this subject should be agreed upon.

The text resulting from this meeting is registered as 301 XVII CNB/MS/UE/02.07.2010.

## **7. Trade Defense**

### **Anti-dumping and countervailing duties**

During the meeting, the last version of the document circulated by the EU was revised. The Parties identified those articles that were deemed of interest to each one in order to verify whether there were changes in their respective positions, particularly bearing in mind the time elapsed since the last negotiating meeting.

As a result of the discussions, MERCOSUR committed to sending a revised text to the EU no later than August 15, 2010. The EU will submit a proposal on the way of presenting the essential facts, corresponding both to the provisional as well as to the final determinations.

### **Safeguards**

Regarding safeguards, the EU expressed its interest in discussing global safeguards in the framework of GATT Art. XIX. MERCOSUR pointed out its interest in discussing the establishment of a mechanism of bilateral safeguard. In this respect, the EU pointed out that it was still premature to discuss about this mechanism taking into account that there has been no new developments in the negotiations within the Market Access group.

MERCOSUR indicated that if there were progress in bilateral safeguard discussions, this could allow the parties to make progress in the Market Access group as this would constitute a mechanism to alleviate critical situations. The EU stated that in this moment, it was not in a position to discuss the substance of the bilateral safeguards clause given the fact that the discussion on Market Access is not sufficiently advanced.

## **8. Competition Policy**

The following report shall summarize the main items treated in the framework of the negotiations between the competition representatives of member countries of MERCOSUR and the EUROPEAN UNION from June 28<sup>th</sup> to July 1<sup>st</sup>, 2010. Initially the parties compared the basic texts of 2004 so as to harmonize the criteria on which later negotiations would be based.

The parties agreed to prepare the text of the association document that has to include the general principles containing the technical progress on the subject, the spirit of the foreseen association and the principles of transparency and non discrimination. Once this process is under way, a memorandum of understanding could be drafted in order to articulate cooperation between both parties.

Since the EUROPEAN UNION expressed its concern on MERCOSUR's enforcement authority responsible within the framework of the negotiation, the latter considered to continue progressing in the analysis in order to set up an entity that will coordinate the regional representation. During the transition period, until this has been achieved, MERCOSUR party states shall be responsible for the commitments resulting from this agreement.

The EUROPEAN UNION expressed its interest to limit the transition period for the introduction of competition legislation in all MERCOSUR states and for the entry into force of the MERCOSUR competition legislation. MERCOSUR expressed its commitment to make its best effort without limiting it to a certain period of time.

On the other hand, the exchange of confidential information was also subject of the debate. The EUROPEAN UNION emphasized that due to its own rules and regulations only non confidential information could be disclosed. The same applies in the case of MERCOSUR.

MERCOSUR expressed to the EUROPEAN UNION its concern that certain cases relating to concentrations and conducts without community dimension could have effects on



Mercosur and, in this respect, shall propose a mechanism of cooperation. The European Union notes that the present agreement is signed with the European Union and not with its Member States.

Two specific issues were finally dealt with: public aid and the treatment of public enterprises.

The EUROPEAN UNION presented a proposal on the treatment of public enterprises. The MERCOSUR members shall analyse the treatment of these under their respective legislations.

In turn, on the issue of public aid, the MERCOSUR members expressed that, for the time being, they would not deal with the subject and would raise it for consultation to a different level of this negotiation.

Finally the European Union shall send a draft text on what has been discussed towards the end of July 2010.

## **9. Customs [Trade facilitation and related matters]**

The main objective was to identify the texts negotiated until 2004, on which the negotiation shall be resumed. For such purpose, the conclusions from the XIII Biregional Negotiating Committee (BNC) from may 3 through 7 2004, in Brussels, were considered as the starting point. Item 6 of such document (“Customs”) deals with the following topics:

1. Technical Customs Cooperation Program- second phase: the MERCOSUR-EU Customs Cooperation Project (PADUEM, in spanish) took place from september 2004 to september 2007, thus proposing norms related to customs procedures harmonization, IT support, customs control and anti-fraud measures, human resources and customs training.  
Mercosur has handed the final report in order to illustrate the results.
2. Text on free movement of goods- document 281 XV BNC  
The EU will propose a new wording for this document. MERCOSUR pointed out that, as regards customs matters, significant progress has been made. Nevertheless, since this topic exceeds the scope of customs matters, Mercosur will request that this topic be sent to the Coordinators plenary session.
3. Protocol on Mutual Administrative Assistance on Customs Matters:  
Mercosur has submitted to the EU the “Model of the Customs Cooperation Agreement between Mercosur and other countries/regional blocks” (approved in the XLVII Meeting of the Technical Committee number 2 “Customs Matters” of the MERCOSUR, as working document 1/07) and considers that the proposed wording should replace the previous document. Regarding this topic, the EU informed that the issues Protocol on Mutual Administrative Assistance in Customs Matters, the Special Provisions on Administrative Cooperation and the new clause on Management of

Administrative Errors will be presented and discussed at the next round that will take place in Brussels.

4. Special Provisions on Administrative Cooperation: document 206 XII BNC. The EU side proposed to make some changes to take into account developments in the last years, however these have not been finally decided and the final proposal will need to take into account internal discussions within the Commission. The EU will provide a redrafted text by the 30 July 2010. Once the wording proposed by the EU is received, Mercosur shall analyse it and send the corresponding comments and proposals to the EU within 30 days of receiving the document.

## **10. Services / Investment**

### **Services**

The parties agreed to continue the negotiations on the basis of document XVI BNC/EU/TG-2/133/02.09.04.

The EU delegation made a presentation of the structure of the trade in services / establishment chapter in its FTAs since 2004 and offered it as an option for the MERCOSUR-EU negotiations. MERCOSUR will assess this proposal on the basis of examples to be sent by the EU as soon as possible.

The parties reviewed the issues that were not agreed upon in the base document, and addressed others that were agreed upon but may need revision taking into account developments in their trade policies on services since the last BNC. It was agreed to exchange proposed amendments, as well as proposals on pending issues [before 30 July 2010].

The parties concurred that the last MERCOSUR and EU offers are those of September 2004 and agreed to resume negotiations on the basis of a combination of the best commitments of those offers and the revised offers presented in the context of the DDA negotiations in 2005.

Finally, delegations committed themselves to exchange written consolidated requests of improved specific commitments at least two weeks before the next BNC.

### **Establishment/Investment**

The Parties agreed to continue the negotiations on the basis of document XIV BNC/MS-EU/TG-2/40/08.07.04.

The EU delegation recalled the presentation made in the services chapter regarding the treatment of establishment in other EU FTAs. It was agreed that the

MERCOSUR will assess this model and come back to the EU before the next meeting of the BNC.

The parties reviewed the issues that were not agreed upon in the base document, and addressed others that were agreed upon but may need revision taking into account developments in their trade and investment policies since the last BNC. The parties decided that, wherever applicable, the wording of the services and establishment chapters shall be consistent. It was agreed to exchange proposed amendments, as well as proposals on pending issues [before 30 July 2010].

The parties concurred that the last MERCOSUR and EU offers are those of September 2004, and agreed to resume negotiations on the basis of those offers.

Finally, delegations committed themselves to exchange consolidated requests of improved specific commitments at least two weeks before the next BNC.

## **11. Public Procurement**

The MERCOSUR delegation explained the parameters of its new approach to the negotiation on government procurement with the EU. The EU delegation described the framework and objectives of the government procurement chapter in its most recent FTAs. It was agreed that the MERCOSUR-EU chapter on government procurement would cover disciplines including transparency, market access and special and differential treatment.

The delegations recognized that it was inconvenient to continue working on the drafts exchanged until 2004, taking into account the new approach to negotiations and therefore new texts would be required. In that sense, the EU informed that it will submit a text proposal, inspired by the disciplines under the GPA and the EU bilateral FTAs, between July and September 2010. The MERCOSUR delegation indicated that it is working on a text that will be submitted as soon as possible.

The MERCOSUR delegation provided information about the situation of the MERCOSUR's Protocol on Government Procurement, as well as details on its structure and disciplines. The EU delegation presented the regulatory situation and statistics about the EU's government procurement market. The delegations exchanged questions and answers on these issues and agreed to continue the exchange of information about regulatory issues and statistics on government procurement.

<b>ANNEXO II</b> <b>LIST OF WORKING DOCUMENT S</b>
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<b>REGISTRATION</b>	<b>TEXT</b>
300 - XVII-CNB/MCS/UE/G/02.07.2010	CHAPTER ON GOODS: DRAFT CONSOLIDATED TEXT
301 -XVII CNB/MCS/UE/DS/02.07.2010	DISPUTE SETTLEMENT: CONSOLIDATED TEXT

**ANNEX III****DELEGATIONS**

## MERCOSUR

## ARGENTINA

Alfredo Chiaradía	MRECIC
Eduardo Sigal	MRECIC
Jorge Remes Lenicov	MRECIC
María Cristina Boldorini	MRECIC
Pablo Grinspun	MRECIC
Rubén Tempone	MRECIC
Estanislao Zawels	MRECIC
Rubén Ruffi	MRECIC
Oswaldo Scasserra	MRECIC
Enrique Ferrer Vieyra	MRECIC
Alejandro Poffo	MRECIC
Sergio Iaciuik	MRECIC
Roberto Bosch	MRECIC
José María Arbilla	MRECIC
Ana Tito	MRECIC
Gustavo Adise	MRECIC
Pablo Ducros	MRECIC
Natalia Acevedo	MRECIC
Fernanda Jakubow	MRECIC
Patricia Bluske	MRECIC
Anabella Zunini	MRECIC
Adriana Tulasne	MRECIC
Eduardo Bianchi	MIT
Adrián Makuc	MIT
Marcelo Marzzochini	MIT
Valeria Raitieri	MIT
María Fernanda Monti	MIT
Marina García del Río	MIT
Rosana Ricchini	MIT
Martín Guido Lavalle	MIT
Alicia Borghi	MIT
Andrea Russo	MIT
Christian Leroux	MIT
Federico Lavopa	MIT
Luis Bertuzzi	MIT
Luisina Solari	MIT
Lorenzo Basso	MAGyP
Roxana Blasetti	MAGyP
Jorge Iturriza	MAGyP
Flavio Paladino	MAGyP

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Gabriela Catalani	MAGyP
Maximiliano Moreno	MAGyP
Alejandro Rosso	MAGyP
Sofía Perini	MAGyP
Cristina Pandolfi	MAGyP
Marina Cifuentes	MAGyP
Paloma Ochoa	MAGyP
Norberto Pontiroli	MAGyP
Simona Paulero	MAGyP
Vanesa Lowenstein	MAGyP
Alejandro Robba	MECON
Antonio Vicenzotti	MECON
Maria Juana Rivera	MECON
Humberto Guardia Mendonca	MECON
Alejandro Valerga	MECON
Julieta Barry	MECON
Mario Nicastro	MECON
Romina Toledo	MECON
Alejandra Castiglioni	MECON
María Luisa Carbonell	AFIP
Alicia Mónica Gómez	AFIP
Mariano Gubaira	AFIP
BRASIL	
Evandro Didonet	MRE
Julio Bitelli	MRE
Reinaldo Salgado	MRE
Marcelo Della Nina	MRE
Francisco Cannabrava	MRE
Felipe Hess	MRE
Paulo Vinicius Garcia	MRE
Juliana Santos	MRE
Francisco Filippo	MPOG
Maria Olivia Lamaziere	CAMEX
Amelia Regina Gabriel	CAMEX
Elisabete Serodio	MDIC
Renato Souza	MDIC
Andre Ponzo	MDIC
Marcio Suguieda	MDIC
Luis Ferreira	MDIC
Ana Carolina Peres	MDIC
Benedito Rosa	MAPA
Rafael Mafra	MAPA

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Leticia Mendonca	MDA
Erivaldo Gomez	MF
Rafael Santos	MF
Carlos Simonetti	SUFRAMA
Jorge Cruz	INMETRO
Maria Manuela dos Santos	INMETRO
Ana Paula Juca Silva	ANVISA
PARAGUAY	
Manuel María Caceres	MRE
Mario Sandoval	MRE
Helena Felip	MRE
Doris Román	MRE
Fabian Ybarra	MRE
Luiggi Negri	MRE
Enrique Carrillo	MRE
Julia María Ojeda	MRE
Ana Mariela Ayala	MRE
Martín Llano	MRE
Elizardo Martínez	MRE
Ricardo Herreros	MIC
Delia González	MIC
Carlos Alcaraz	MIC
Aida Romero	MIC
Carlos González	MIC
Carlos Giménez	MIC
Cynthia Andino	MIC
Gustavo Soverina	MIC
Jose Cuevas	MH
Oswaldo Molinas	DNA
Omar Troche	DNA
Nidia Ferreira	MAG
Mariana Bergonzi	DNCP
Nelson Farina	SENAVE
URUGUAY	

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Walter Cancela	MRREE
Alvaro Ons	MRREE
Pablo Sader	MRREE
Pablo Porro	MRREE
Maria Elizabeth Bogosian	MRREE
Karla Beszkidnyak	MRREE
Paola Repetto	MRREE
Noelia Martinez	MRREE
Jose Luis Heijo	MIEM
Leonardo Veiga	MIEM
Ivana Resnichenko	MIEM
Laura Dghiero	DNA
Cecilia Duran	MEF
Mario Grandelman	MEF
Graciela Altruda	MEF
Luis Plouviel	MEF
Linda Rabbaglietti	MEF
Alvaro Lalanne	MEF
Cristina Vaz	MGAP
Inés Ares	MGAP
Jorge Armstrong	MGAP
Miguel Carriquiri	MGAP
Rosario Moreira	DNPI
Rosario Furest	BCU

COMISION EUROPEA / DELEGACION EUROPEA	
Joao Aguiar Machado	TRADE
Jerzy Bogdan Plewa	AGRI
Gustavo Martín Prada	RELEX
Fernando Perreau de Pinninck	TRADE
Gaspar Frontini	TRADE
Timothee Sautter	TRADE
Ricardo Varanda Ribeiro	TRADE
Paul Verburgt	TRADE
Miriam Garcia Ferrer	TRADE
Veronique Hyeulle	ENTR
Luis Molledo	MARE
Iciar Chavarri-Ureta	TRADE
Adam Wisniewski	TAXUD



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Pawel Szatkowski	TAXUD
Delphine McCormack	TRADE
Fabien Gehl	TRADE
Frederic Michiels	TRADE
David Ellard	ENTR
Cristina Laso Sanz	SANCO
Paul Van Geldorp	SANCO
Eva Maria Llorente Gonzalez	TRADE
Kristina Grutschreiber	TAXUD
Elisabeth Schwarzenbrunner	TRADE
Marc Poulain	TRADE
Olivier Coppens	MARKT
Vassilis Koutsiouris	TRADE
Diane Lacoste	TRADE
Tiina Pitkanen	COMP
Eva Valle Lagares	COMP
Lisa Emelia Svensson	TRADE
Lorella de la Cruz Iglesias	TRADE
Celine Idil	TRADE
César García Alvarez	DELEGACIÓN DE LA UNIÓN EUROPEA EN ARGENTINA
Henning Reinmann	DELEGACIÓN DE LA UNIÓN EUROPEA EN ARGENTINA
Doménico Fernani	DELEGACIÓN DE LA UNIÓN EUROPEA EN ARGENTINA
Carlos Gimeno Verdejo	DELEGACIÓN DE LA UNIÓN EUROPEA EN ARGENTINA