

This document contains the consolidated text resulting from the 30th round of negotiations (6-10 November 2017) on anti-fraud in the Trade Part of the EU-Mercosur Association Agreement. This is without prejudice to the final outcome of negotiations. Both sides reserve the right to make subsequent modifications to their proposals.



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COMMISSION IMPLEMENTING REGULATION (EU) No .../..

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on [...]

**Article XY - SPECIFIC MEASURES CONCERNING THE MANAGEMENT OF PREFERENTIAL
TREATMENT**

1. The Parties [shall] EU [agree to] MCS co-operate in preventing, detecting and combating breaches in legislation, irregularities and fraud related to the preferential treatment granted under this [Title/Chapter], in accordance with their obligations under the Protocol on Rules of Origin and the Protocol on Mutual Administrative Assistance in Customs Matters.

2. A Party may, in accordance with the procedure laid down in paragraph 3, temporarily suspend the relevant preferential treatment [of the product(s) concerned] EU [of a specific good exported or produced by a specific exporter or producer of the other Party] MCS, when that Party has made a finding, based on objective, compelling and verifiable information, that:
 - (a) large-scale systematic breaches in the relevant legislation, irregularities or fraud in order to obtain preferential tariff treatment granted under this [Title/Chapter] have been committed, and;
 - (b) the other Party systematically refuses or otherwise fails to comply with its obligations referred to in paragraph 1, in accordance with the Protocol on Rules of Origin or/and the Protocol on Mutual Administrative Assistance in Customs Matters.

3. For the purposes of this Article, a failure to comply with the obligations referred to in paragraph 1 and paragraph 2 (b) means, inter alia, a clearly demonstrated and systematic:
 - (a) failure to fulfil the obligation to verify the originating status of the products concerned, under the procedures established in the Protocol on Rules of Origin regarding origin verification (Articles ZZ...) and cooperation between customs authorities and competent governmental authorities (Articles YY...);
 - (b) refusal or unjustifiable delay in communicating the result of a verification of origin conducted in accordance with the relevant Articles laid out in the Protocol on Rules of Origin (Articles...);
 - (c) absence of administrative cooperation as provided for in the Protocol on Mutual Administrative Assistance in Customs Matters [or in the Protocol on Rules of Origin] MCS, such as:
 - (i) [unjustified] MCS refusal in authorising the participation, along with its own officials, in visits in its territory to verify [breaches in legislation related to] EU the origin, value, tariff classification of products, or other irregularity or fraud, when requested by the other Party;
 - (ii) lack or unjustified delays in providing information in reply to requests for assistance.

4. The Party which has made a finding referred to in paragraph 2 shall, without undue delay, notify the [Trade/Association Committee] thereof, providing all the information that constitutes the objective basis of the finding. After the [Trade/Association Committee] has been duly notified and has received the corresponding information, the Party which has made a finding shall enter into consultations with the other Party, within the [Trade/Association Committee], with a view to reaching a solution acceptable to both Parties.

Where the Parties have failed to agree on a mutually acceptable solution within three months following the notification, the Party which has made the finding may decide to suspend temporarily the relevant preferential treatment of the [specific producer or exporter] MCS [product(s)] EU concerned. A temporary suspension shall be notified to the Committee without undue delay [and shall apply only to a specific good exported or produced by a specific exporter or producer with respect to which the Party has made the finding] MCS.

The temporary suspensions shall apply only for a period commensurate with the impact on the financial interests of the Party concerned, and not longer than [three] MCS [six] EU months. Where it can be objectively and verifiably ascertained that the conditions that gave rise to the initial suspension persist at the expiry of the suspension period, the Party concerned may decide to renew the suspension for an equal period of time. The suspensions shall be subject to periodic consultations within the [Trade/Association Committee]. In case of renewal, consultations shall take place within the Committee at least 15 days prior to the expiry of the suspension period.

5. Each Party shall publish, in accordance with its internal procedures, notices to importers about any notification and decision concerning temporary suspensions referred to in paragraph 4.