

# EUROPEAN PARLIAMENT

1999



2004

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*Session document*

FINAL

6 February 2001

A5-0049/2001

## REPORT

with a proposal for a recommendation from the European Parliament to the Council

on the negotiating mandate for an interregional association agreement with Mercosur (2001/2018(INI))

Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy

Rapporteur: Pedro Marset Campos



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## PROCEDURAL PAGE

At the sitting of 15 January 2000 the President of Parliament announced that she had referred the proposal for a recommendation on the negotiating mandate for an interregional association agreement with Mercosur, tabled pursuant to Rule 49 of the Rules of Procedure, to the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy as the committee responsible and the Committee on Industry, External Trade, Research and Energy for its opinion (B5-0693/2000).

At its meeting of 23 January 2001 the Committee on Industry, External Trade, Research and Energy decided to draw up a report and appointed Pedro Marset Campos rapporteur (2001/2018(INI)).

At its meeting(s) of 23 January 2001 and 5 and 6 February 2001 the committee considered the draft report.

At the latter meeting it adopted the proposal for a recommendation by 40 votes to 0 with 1 abstention.

The following were present for the vote: Elmar Brok, chairman; Baroness Nicholson of Winterbourne, first vice-chairman; William Francis Newton Dunn, second vice-chairman; Pedro Marset Campos, rapporteur; Alexandros Baltas, Bastiaan Belder, John Walls Cushman, Rosa M. Díez González, Pere Esteve, Michael Gahler, Per Gahrton, Magdalene Hoff, Efstratios Korakas, Jan Joost Lagendijk, Linda McAvan, Emilio Menéndez del Valle, Pasqualina Napoletano, Raimon Obiols i Germà, Hans-Gert Poettering, Jacques F. Poos, Jannis Sakellariou, José Ignacio Salafranca Sánchez-Neyra, Jacques Santer, Jürgen Schröder, Ioannis Souladakis, Hannes Swoboda, Gary Titley, Johan Van Hecke, Geoffrey Van Orden, Paavo Väyrynen, Matti Wuori, Joseph Daul (for Silvio Berlusconi), Vitalino Gemelli (for The Lord Bethell), Vasco Graça Moura (for Gunilla Carlsson), Ilkka Suominen (for Ingo Friedrich), Michael Cashman (for Klaus Hänsch), Proinsias de Rossa (for Sami Naïr), Giovanni Claudio Fava (for Mário Soares), Danielle Auroi (for Daniel Marc Cohn-Bendit) and Jacques Santkin (for Catherine Lalumière, pursuant to Rule 153(2)).

The report was tabled on 6 February 2001.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

## PROPOSAL FOR A RECOMMENDATION

### **Recommendation from the European Parliament to the Council on the negotiating mandate for an interregional association agreement with Mercosur (2001/2018(INI))**

*The European Parliament,*

- having regard to the proposal for a recommendation to the Council tabled by Pedro Marset Campos on behalf of the Confederal Group of the European United Left/Nordic Green Left (B5- 0693/2000),
  - having regard to the prospect of future negotiations for an interregional association agreement with Mercosur,
  - having regard to Rules 49 and 97(5) of its Rules of Procedure,
  - having regard to the information provided by the Commission to the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy at its meeting of 28 November 2000,
  - having regard to the declaration of the first summit of heads of state and government of Latin America, the Caribbean and the European Union, held in Rio de Janeiro from 25 to 29 June 1999,
  - having regard to the declaration annexed to the parallel meeting of representatives of civil society organised by the Economic and Social Committee and the Mercosur Economic and Social Consultative Forum (FCES),
  - having regard to the report of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy and the opinion of the Committee on Industry, External Trade, Research and Energy (A5-0049/2001),
- A. Whereas it is regrettable that the European Parliament is not yet formally involved in the definition of negotiating mandates for negotiations with third countries;

Puts to the Council the following recommendations:

1. It is essential to amend the existing guidelines for the negotiations with Mercosur, dating from 13 September 1999, so as to ensure that the new guidelines incorporate, at least, the elements that follow. Firstly, the new negotiating mandate should expressly establish the legal basis for the new association agreement. This legal basis should consist of Article 310 (formerly Article 238) of the EC Treaty, together with the second sentence of the first paragraph of Article 300(2) (formerly Article 228) and the second paragraph of Article 300(3).

2. Secondly, the new negotiating guidelines should include the necessary practical mechanisms to ensure that the provisions of the future agreement are fully adjusted to the mandate of the Union Treaty stating that the encouragement of international cooperation and the development and consolidation of democracy and the rule of law and respect for human rights are both objectives of the CFSP, on the basis of the principle of economic and social cohesion and the reduction of inequalities between sectors of society and within regions.
3. Concerning human rights, the new negotiating guidelines should be based on the international agreements in this field, including those concerning the protection of ethnic minorities, should make reference to the specific mechanisms for ensuring full respect for democratic principles and human rights as an essential element of the new association agreement, and should make provision for informing the European Parliament concerning the monitoring carried out by the Commission in this respect.
4. Concerning workers' rights, the new guidelines should be based on the basic principles set out in the ILO conventions, and should provide for the conclusion of a sectoral agreement in the labour field with specific monitoring mechanisms.
5. The new negotiating guidelines should include explicit reference to the necessary practical mechanisms required to enable the adoption of common positions of both parties vis-à-vis the UN and other international organisations, in a much clearer form than that currently deriving from the last paragraph of Title II of the existing negotiating mandate.
6. Similarly, the new negotiating guidelines should explicitly provide for the inclusion in the agenda for political dialogue of the new association agreement of matters relating to the common European security and defence policy, together with the proposals relating thereto set out in the resolution of the European Parliament of 16 January 1997<sup>1</sup> and the conclusions of the various Mercosur/EU seminars on security and defence matters organised by IRELA in recent years.
7. The new negotiating mandate should include specific references to: the structured participation of civil society in the new political dialogue (proposing the holding of regular conferences with the representatives of organised civil society in both the EU and Mercosur); the granting of observer status to the representatives of civil society at interministerial meetings; and the active participation of those representatives in the relevant sectoral committees, subcommittees and forums, at all stages of discussion, negotiation and monitoring of the process.
8. Above all, the new negotiating mandate should eliminate all notion of making the conclusion of the new association agreement with Mercosur conditional on the completion of the WTO round negotiations;
9. Insists that the new trade regime between the EU and Mercosur should also encourage regional economic and trade relations between the member countries of Mercosur and the neighbouring countries in Latin America.

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<sup>1</sup> OJ C 33, 3.2.1997, p. 86

10. Equally, the new negotiating mandate should eliminate (insofar as it still applies) the present division of the negotiating process into two phases, one concerning non-tariff matters and the other concerning negotiations on tariff reductions and services.
11. Instructs its President to forward this recommendation to the Council and, for information, the Commission.

## EXPLANATORY STATEMENT

### **1. The new association agreement with Mercosur as the highest priority of the EU's external policy as regards relations with Latin America**

The association agreement now being negotiated between the EU and Mercosur, with its aims of comprehensiveness, balance, and grounding in a 'single understanding', is the highest priority of the EU's external policy as regards Latin America. This is so, firstly, because the new agreement should make it possible to further develop the Union's political agenda in the biregional dialogue, thus strengthening its political role and influence on the global stage; secondly, because it will permit the consolidation of the bases of the economic and trade relations between the EU and what is the world's fourth-biggest regional bloc, thus reaffirming the Union's own role as the world's largest trading power; and thirdly, because the provisions and programmes of the new association agreement relating to development cooperation constitute a moral imperative for a Union which aims to make the fight against poverty one of the main planks of its external policy and because they are also entirely compatible with the mandate of the Union Treaty under which the objectives of the CFSP include the promotion of international cooperation and the development and consolidation of democracy and the rule of law and respect for human rights.

It will be recalled that Mercosur/EU relations are currently governed by the interregional framework agreement of 15 December 1995. This is an agreement of mixed character, valid for an indefinite period and intended to pave the way for the ultimate objective of establishing a political and economic association between the parties. Its legal basis is constituted by Article 113 (now Article 133) of the EC Treaty, for the first phase, the first sentence of Article 228 (now Article 300) of the EC Treaty, concerning the provisions of the EC Treaty on the conclusion of agreements between the Community and one or more States or international organisations, and paragraph 3(1) of the same Article 228, concerning consultation of the European Parliament.

As regards its nature, this framework agreement was conceived as a transitional legal instrument between the previous third-generation agreement and the interregional association agreement covering the political, economic and trade liberalisation dimensions which is in course of negotiation. Its aim is, precisely, to prepare a strategy parallel to the ultimate objective of establishing a political and economic association grounded in closer political cooperation, the phased reciprocal liberalisation of all trade (taking account of the sensitive nature of certain products and the need to conform to WTO rules), the encouragement of investment and closer cooperation. The 1995 framework agreement, indeed, left two key questions open, namely 'whether and when' to move forward to the final phase of the reciprocal liberalisation of all trade.

Concerning the negotiation of the new agreements with Mercosur and Chile, at the Rio summit of 28 and 29 June 1999 the heads of state and government of the two parties decided to embark on negotiations on the basis of a 'single understanding' under which 'nothing will be agreed until everything is agreed'. In accordance with the calendar decided in Rio, the negotiations on general trade matters began in the first quarter of 2000, while the negotiations on tariff and service matters will start only in July 2001 and are expected to be completed after the conclusion of the WTO multilateral negotiations or Millennium Round. On 13



September 1999 the EU's General Affairs Council adopted the negotiating directives for the future agreements with the two partners.

## 2. Nature and scope of the future agreement with Mercosur

The agreement in course of negotiation with Mercosur may be classified in the category of '*mixed agreements, ratione materiae*'. On the one hand, it includes some provisions which fall within the Community's competence and others affecting areas which are the province of the Member States. On the other, it also contains provisions on political dialogue falling within the competence of the Union as such and not of its Member States. At all events, your rapporteur *considers it most unfortunate that there is no explicit reference in the Council's mandate to the Commission to the proposed legal basis of the agreement and that, furthermore, the Commission has taken no steps to correct this shortcoming.* The Council and Commission should be aware that this is a matter of major political importance for Parliament which can, furthermore, be resolved legally without difficulty.

- ⇒ It is of major political importance because it aims to create a global, coherent and non-discriminatory approach for the Union's external relations which will entail the same treatment, *mutatis mutandis*, for the association formulas with Mercosur and Chile as for the Euro-Mediterranean area, the ACP countries, the European association agreements or agreements creating free-trade areas, and other cases of association (e.g. with South Africa) or special cooperation (e.g. with Russia). Even if the content of the various agreements varies and may or may not affect sensitive sectors such as agricultural products, it remains the case that from the legal viewpoint all the above-mentioned cases are association agreements concluded under the present Article 310 of the EC Treaty. It should not be necessary to recall that, institutionally speaking, that Article 310 provides mandatorily for the assent of the European Parliament, which thereby acquires a major degree of political power.
- ⇒ It can be resolved legally without difficulty, since there is no other solution in respect of the negotiating mandates decided by the Council, examined in the light of the relevant ECJ case-law which makes it clear that particular attention must be paid to both the purpose and the substance of an act when establishing its legal basis.

Your rapporteur considers it absolutely clear from the text of the two negotiating mandates that the objective in both cases is the conclusion of fully-fledged association agreements with Mercosur and Chile respectively. It follows that Article 310 is the only possible legal basis; this is the indisputable consequence of the purpose, substance and objectives of both. Such is, besides, clear from the Council's own initial communication forwarding the negotiating guidelines to Parliament, which makes explicit reference to the assent procedure as the procedure which is to apply at the relevant moment to the future agreements. At all events, in the interests of greater clarity and legal security, it would be desirable, when the negotiating mandate is reviewed, for the Council *to state explicitly that the legal basis is Article 310.*

### 3. The political dialogue

The negotiating mandate for the future association agreement with Mercosur provides for the establishment of a regular political dialogue between the parties, preferably on the basis of a joint mechanism. There is certainly *a clear and laudable desire to improve and raise the quality of the political dialogue* which has existed since the framework agreement was concluded in 1995. Also to be welcomed is the incorporation of a specific reference to the *need to strengthen the political dialogue in the parliamentary field* by setting up a permanent dialogue between the EP and the Mercosur Joint Parliamentary Commission. We believe that this would mark a major contribution in terms of strengthening Mercosur's parliamentary wing (which stands in need of revival) and supporting integrationist ideas in the context of all the region's parliaments. In methodological terms and in line with earlier EP proposals, the new negotiating mandate should, once again, propose that the EP and the Mercosur Joint Parliamentary Commission should participate in the proposed ministerial plenary meetings and in any intermediate meetings held.

There are, moreover, *no specific references in the negotiating mandate to the structured participation of civil society in the proposed new political dialogue*. There is, then, a genuine challenge regarding participation in the new dialogue process, as well as a gap which, in line with the EP's earlier positions on the matter, could be filled in the new mandate by holding regular conferences with the representatives of civil society, both in the EU and in Mercosur and Chile (in this connection, the Commission should be congratulated on the conference which it held on 12 October 2000 and which marked a first in this field). The representatives of civil society could be granted observer status for the interministerial meetings, and measures could be taken to permit their active participation in the relevant sectoral committees, subcommittees and forums at all stages of the process (discussion, negotiation and monitoring).

### 4. The specific content of the future association agreements

Your rapporteur considers it necessary to bear in mind a number of preliminary considerations concerning the content of the new EU-Mercosur association agreement. Firstly, as pointed out above, it is an instrument of major importance for the Union's external policy as regards the Mercosur countries. It is fully coherent with the criteria of the global programme for EU-Latin America relations which Parliament called for in the Bertens resolution of 16 January 1997, and which, in the continued absence of a common strategy for the region, remains a demand of visible contemporary relevance. Secondly and similarly, we must reject the notion that the new agreement will be merely a free-trade instrument for the two blocs, even admitting the clear importance of economic and commercial association as a goal for both parties. The negotiating mandate itself states clearly that, like the agreement with Chile, the new agreement with Mercosur must be balanced, must be global in character (encompassing the three aspects of political association, economic association and development cooperation), and must constitute a 'single understanding' in the sense referred to above. Thirdly, and on a purely administrative and institutional level, it follows from the above that within the European Commission it is the Commissioner for the CFSP and his staff who should be responsible, on a continuing basis, for maintaining the direction and coordination of the negotiations as a whole. Nothing would be more damaging to the great opportunities opened up by the new agreement than a short-sighted, sector-bound view which only saw its purely

free-trade aspects. These, although obviously of interest and benefit to certain political and economic elites, are far less central from the viewpoint of the population as a whole.

We continue *particularly to regret the division of the negotiating process into two separate phases* (on non-tariff aspects and on tariff reductions and services). This aspect may now appear less relevant as the negotiations proceed, but it does, crucially, remain the case that the negotiating mandate itself states that the future association agreement with Mercosur is to be result of a 'single understanding'.

Above all, however, *we consider the Council's decision to make the conclusion of the agreements with Mercosur and Chile conditional on the completion of the WTO negotiations to be discriminatory and unacceptable*. This is a new condition which has never before been imposed on an association agreement. In particular, one may contrast the case of the recent signing of the Cotonou agreement with the 77 ACP countries. It might even be concluded that the Council's intention is that Mercosur and Chile should be treated as powerful allies (in the best of cases) or even as hostages (in the worst of cases) with a view to the negotiations of the upcoming WTO round (it is by no means certain that this round will actually start in June 2001). It also appears essential to adapt the new mandate as of now to the outcome of the Nice European Council, as regards both the EU's participation in the work of the WTO and the incorporation in the EC Treaty of the new Title XXI on relations with third countries in the area of economic, financial and technical cooperation. To all this should be added the changes arising from the modification of Article 133(5) of the EC Treaty agreed in Nice, thanks to which it will henceforth be possible to transfer to the Community, on a qualified majority basis, the competence to negotiate and conclude international agreements on trade in services and the trade-related aspects of intellectual property. The results of the Nice European Council thus provide further reason to *modify the negotiating guidelines and remove the condition (or subordination) referred to above*.

Finally, *it is essential, at all events, to give serious consideration to modifying the negotiating guidelines*, in view of the above-mentioned question of conditionality and the substantial changes which have occurred since they were first presented, not to mention the genuine risk that the negotiations of the new WTO round may in fact not begin in June 2001.

## **5. The institutional framework**

The creation of an Association Council which would meet at ministerial level is an additional factor in support of the view that what is being planned is, indeed, fully-fledged association agreements pursuant to Article 310 of the EC Treaty. The establishment of a parliamentary dialogue, as required in both negotiating mandates, will, besides, in practice reduce the scope of action of the existing interparliamentary delegation for relations with the countries of South America and Mercosur: for the first time, a new *Joint Parliamentary Committee* will be set up with the Mercosur Joint Parliamentary Commission, on lines similar to those prevailing for the parliaments of the associated countries and the countries with which accession negotiations are under way. The tasks of this new Joint Parliamentary Committee, which will have the power to make recommendations to the parliaments concerned, will consist primarily of scrutinising the actions carried out under the relevant association agreement.

## **6. The final provisions of the agreement**

According to the negotiating mandate, the new agreement is to remain in force for an indefinite period. The provisions which fall within the Community's competence will be the subject of an interim agreement, which will apply until the association agreement comes into force (cf. Title XI, B.3).

## **7. The Council and Commission declaration (Annex II)**

Given the similarity of the two proposed association agreements and the close links existing between Mercosur and Chile, both mandates recognise the need to coordinate the activities of the institutions set up under the two agreements, as far as possible and subject to the agreement of the parties. From the viewpoint of the European Parliament, and considering Parliament's declared position of support for the regional integration process, this proposal for a 'passerelle' can only be endorsed absolutely.

## **8. The conduct of the negotiations**

The third round of the EU-Mercosur negotiations took place recently - in Brazil in November 2000 - and the next round will begin in Brussels in March 2001. It follows, in your rapporteur's view, that if the requisite attention is to be given to the European Parliament's positions *the present report and the recommendations attached to it must be adopted no later than the end of February 2001*.

For the rest, in view of the nature of the present report, concentrated as it is on the negotiating mandate itself, no attempt will be made at this stage to offer in-depth evaluations of the contents in the fields of: trade in goods (Title III); the right of establishment and to provide services (Title IV); capital movements, payments, competition and other economic provisions (Title V); common provisions (Title VI); economic cooperation (Title VII); other areas of cooperation (Title VIII); and cooperation resources (Title IX). It will, in due course, be for the relevant committees of Parliament to examine these aspects in a detailed and ad hoc fashion. For the present, the following comments will suffice:

- Concerning the future *political dialogue*, particular stress should be laid on the difference in criteria as regards the proposed institutional structure. In a priori terms the European Commission's proposal submitted in Brasilia appears easier to understand, but both this and the proposal submitted by Mercosur need to be examined in detail by Parliament's Committee on Foreign Affairs, so as to ensure that due account is taken of Parliament's repeatedly expressed positions.
- Concerning *trade and investment*, one should particularly note the highly positive evolution over the last few years of all aspects of economic and commercial relations between the EU and its Member States and Mercosur and its Member States - especially by comparison with trends regarding other regions of the world (e.g. the candidates for EU membership, the ASEAN countries or Africa).
- Special attention should be paid to *trade in agricultural products*. Your rapporteur considers that the EU must begin to act on its numerous promises and responsibilities in

thus field: the CAP in its present form is, understandably enough, unacceptable to the Mercosur countries, who face major difficulties of access for their products on the Community market while also having to compete on the remaining world markets with the Union's subsidised surpluses.

- Close attention is needed to the aspects concerning *development cooperation* (a subject of major interest to Mercosur and Chile). It is necessary to determine and examine the budget allocations to the Mercosur countries and, above all, to ascertain and analyse their real disbursement rate and execution level, and to determine both the exact amounts which actually reach the region and those which remain within the EU (via administrative expenditure, payments to consultants, intermediaries, etc).
- Special treatment is required for *the social aspects and the problem of poverty*. The objectives of the CFSP, as laid down in the Union Treaty, will quite simply not be achieved if agreements such as this lead to an improvement in the big macroeconomic data as between the parties yet have no real positive impact on the living standards of the peoples concerned or their health and education facilities.
- Finally, the *budget dimension* - in the present climate of proposed budget cuts for Latin America as a whole - must also be examined in very close detail.

## CONCLUSIONS

### **A. The need to establish the legal basis of the new association agreement with Mercosur in an explicit fashion in the new mandate**

1. Although it is clear, for the reasons set out above, that the only possible legal basis for the new association agreement is Article 310 of the EC Treaty, *it would be highly desirable for this to be stated explicitly in the new mandate for the negotiation of the new association agreement with Mercosur.*
2. The European Parliament considers that the legal basis must absolutely consist of *Article 310 (formerly Article 238) of the EC Treaty together with the second sentence of the first paragraph of Article 300(2) (formerly Article 228) and the second paragraph of Article 300(3) of the same Treaty.* Any other legal basis would neither correspond to the interests of the European Parliament nor be coherent with the Union's action in similar cases (indeed, it would be discriminatory).

### **B. The negotiating process and the content of the negotiations**

3. *The new association agreement with Mercosur is, at present and in practice, the highest priority of the EU's external policy as regards relations with Latin America.* Its complete realisation as soon as possible should be considered an integral part of the global programme for EU-Latin America relations which Parliament called for in the Bertens resolution of 16 January 1997.
4. *Any attempt to reduce the new agreement to little more than a free-trade instrument between the two regional blocs must be rejected unconditionally,* even though the

economic and commercial partnership pursued is of major importance for both parties. In contrast, Parliament fully endorses the balanced and global character (comprising the three aspects of political association, economic association and development cooperation) of the new agreement with Mercosur proposed by the negotiating mandate itself.

5. For the above reason, on the institutional level *Parliament calls on the Commission to ensure that it is the Commissioner for the CFSP and his staff who are responsible, on a continuing basis, for maintaining the direction and coordination of the negotiations as a whole, on the entirely satisfactory lines which have prevailed thus far.* Any other approach in terms of administration and competences that stressed only the free-trade and sectoral aspects of the new agreement would dramatically and fatally impair the legitimacy of the agreement as a whole.
6. *The Council's decision to divide the negotiating process into two separate phases (on non-tariff matters and on tariff reductions and services respectively) and to make the conclusion of the two agreements conditional on the completion of the WTO round is discriminatory and therefore unacceptable:* none of the many other association agreements concluded by the Community to date (including the recent Cotonou Agreement signed with the 77 ACP countries) has had such a condition attached to it.
7. Consequently, *Parliament calls unequivocally for the modification of the existing negotiating guidelines so as to remove the division of the negotiating process and, above all, the subordination of the conclusion of the association agreements to the completion of the WTO round.* In its present wording, the negotiating mandate conferred on the Commission does not take account of the outcome of the Nice European Council, nor does it satisfy either the interests of the parties or the Union's own strategic interests; the EU does not have a joint strategic approach for the region, having failed thus far to devise a common strategy for it.
8. *Specific evaluations of the various chapters concerned by the actual negotiations should be made at the appropriate moment, in a detailed and ad hoc fashion, by the relevant committees of Parliament.*
9. On the institutional level, *the establishment of the parliamentary dialogue called for in both negotiating mandates - a development to be welcomed - necessitates the setting-up of a Joint Parliamentary Committee* with the Mercosur Joint Parliamentary Commission. In addition, *the role of civil society should be substantially strengthened.*

### **C. Provision of full information on the development of the negotiations**

10. *Provision of full information by the Commission:* your rapporteur wishes to thank the Commission's services for the helpful and competent way in which they have at all times responded, keeping him and the Committee on Foreign Affairs fully up to date as regards the development of the negotiations.
11. *It is also essential to ensure that the Committee on Foreign Affairs is kept regularly and fully informed by the Council and Commission throughout the negotiations, with the necessary respect for confidentiality where applicable.* The Commission is therefore asked

to ensure full respect for the framework agreement between the two institutions approved in plenary by the EP on 5 July 2000.

#### **D. Active monitoring of the course of the negotiations by the EP**

12. *Parliament welcomes the commencement of the negotiations*, but insists that they must be genuine and all-inclusive and that both parties must approach them in all good faith.
13. *As in similar cases, Parliament asks expressly that its observers be enabled to participate in the Community's negotiating delegations*. To this end, Parliament calls for use of the provision included in the EP-Commission framework agreement under which, on the request of Parliament, the Commission shall accept the inclusion of MEPs *as observers in the Community's negotiating delegations for agreements of this nature*, it being understood that MEPs may not directly take part in the negotiation sessions themselves, in which the Commission alone represents the Community. At all events, the EP's observers shall be kept regularly informed, pursuant to the conditions laid down in the exchange of letters between the Presidents of the two institutions, on the course of the negotiations at the meetings, so as to enable the Commission to take account of Parliament's positions.

#### **E. Influence on the content and rhythm of the negotiations**

14. *Suitable use must be made of the provision for making recommendations in relation to the new agreements*. In view of the importance and likely duration of the negotiations, the Committee on Foreign Affairs must use, whenever necessary, the provision of the Rules of Procedure (Rule 97(5)) enabling the EP to *adopt recommendations and require that these be taken into account before the conclusion of the agreements concerned*.
15. *Concerning the negotiating rhythms for the new agreements with Mercosur and Chile*, it is proposed that the joint Council and Commission declaration (Annex I.3), which states that all negotiations with a third party should be undertaken on the basis of the latter's specific characteristics, should be interpreted as opening up the possibility of it being ultimately considered necessary to accept different negotiating rhythms for Mercosur and Chile respectively. It is essential to avoid blockages of any kind and to ensure that no indirect damage occurs to the regional integration process in the Southern Cone. In this sense, a significant advance in the negotiation of only one of the agreements could have a dynamic effect on the other, should its process be temporarily held up or, indeed, blocked.

**Recommendation on Mercosur: regional association agreement and negotiating mandate**

*The European Parliament,*

- having regard to Rules 49 and 97 of its Rules of Procedure,
- having regard to the negotiating guidelines for the interregional association agreement with Mercosur of 13 September 1999,

Puts to the Council the following recommendations:

1. It is essential to amend the existing guidelines for the negotiations with Mercosur, dating from 13 September 1999, so as to ensure that the new guidelines incorporate, at least, the elements that follow. Firstly, the new negotiating mandate should expressly establish the legal basis for the new association agreement. This legal basis should consist of Article 310 (formerly Article 238) of the EC Treaty, together with the second sentence of the first paragraph of Article 300(2) (formerly Article 228) and the second paragraph of Article 300(3).
2. Secondly, the new negotiating guidelines should include the necessary practical mechanisms to ensure that the provisions of the future agreement are fully adjusted to the mandate of the Union Treaty stating that the encouragement of international cooperation and the development and consolidation of democracy and the rule of law and respect for human rights are both objectives of the CFSP.
3. Concerning human rights, the new negotiating guidelines should make reference to the specific mechanisms for ensuring full respect for democratic principles and human rights as an essential element of the new association agreement and should make provision for informing the European Parliament concerning the monitoring carried out by the Commission in this respect.
4. The new negotiating guidelines should include explicit reference to the necessary practical mechanisms required to enable the adoption of common positions of both parties vis-à-vis the UN and other international organisations, in a much clearer form than that currently deriving from the last paragraph of Title II of the existing negotiating mandate.
5. Similarly, the new negotiating guidelines should explicitly provide for the inclusion in the agenda for political dialogue of the new association agreement of matters relating to the common European security and defence policy, together with the proposals relating thereto set out in the resolution of the European Parliament of 16 January 1997 (rapporteur: Mr Bertens) and the conclusions of the various Mercosur/EU seminars on security and defence matters organised by IRELA in recent years.



6. Finally, the new negotiating mandate should include specific references to: the structured participation of civil society in the new political dialogue (proposing the holding of regular conferences with the representatives of organised civil society in both the EU and Mercosur); the granting of observer status to the representatives of civil society at interministerial meetings; and the active participation of those representatives in the relevant sectoral committees, subcommittees and forums, at all stages of discussion, negotiation and monitoring of the process.

27 January 2001

## **OPINION OF THE COMMITTEE ON INDUSTRY, EXTERNAL TRADE, RESEARCH AND ENERGY**

for the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy

on the negotiating mandate for an interregional association agreement with Mercosur (2001/2018 (INI))

Draftsman: Jaime Valdivielso de Cué

### **PROCEDURE**

The Committee on Industry, External Trade, Research and Energy appointed Jaime Valdivielso de Cué draftsman at its meeting of 24 January 2001.

It considered the draft opinion at its meetings of 24 and 25 January 2001.

At the latter meeting it adopted the following conclusions unanimously.

The following were present for the vote: Carlos Westendorp y Cabeza, chairman; Nuala Ahern and Peter Michael Mombaur, vice-chairmen; Gordon J. Adam (for Glyn Ford), Konstantinos Alyssandrakis, Maria del Pilar Ayuso González (for Godelieve Quisthoudt-Rowohl), Guido Bodrato, Gérard Caudron, Giles Bryan Chichester, Dorette Corbey (for Imelda Mary Read), Concepció Ferrer, Lisbeth Grönfeldt Bergman (for Anders Wijkman), Michel Hansenne, Philippe A.R. Herzog, Dimitrios Koulourianos (for Luisa Morgantini), Peter Liese (for Werner Langen), Caroline Lucas, Eryl Margaret McNally, Angelika Niebler, Reino Kalervo Paasilinna, Elly Plooi-j-van Gorsel, John Purvis, Paul Rübig, Jacques Santer (for Christos Folias), Konrad K. Schwaiger, Esko Olavi Seppänen, Jaime Valdivielso de Cué, W.G. van Velzen and Alejo Vidal-Quadras Roca.

## **SHORT JUSTIFICATION**

The European Union has contractual relations with Mercosur based on the interregional framework agreement of 15 December 1995. This framework agreement already provides for a perspective of a future association agreement which should replace the existing trade regime of most-favoured nation status by a free trade area. The Council gave a negotiating mandate to the Commission on 13 September 1999. Negotiations on general trade matters started in the first quarter of 2000, while the negotiations on tariffs and trade in services will start only in July 2001 and are to be completed after the conclusion of the WTO Millennium Round.

The Committee on Industry, External Trade, Research and Energy still has reservations concerning the attribution of the dossier to the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy as the committee responsible as well as the procedure chosen (recommendation based on Rule 49 of the Rules of Procedure). As is rightly pointed out in the explanatory statement of the draft report, the main content of the new association agreement will be trade relations, whereas questions of political dialogue are already covered by the existing framework agreement. The association agreement could therefore not be classified as of mainly political content. Furthermore, it will not be concluded under the provisions of Title V (common foreign and security policy) of the EU Treaty, precondition for Rule 49, but under the provisions of the EC Treaty. Therefore, Rule 97(5) (recommendations to the Commission during ongoing negotiations) would be the appropriate procedure. The Committee on Industry, External Trade, Research and Energy reserves its positions on these questions. However, it submits the following conclusions to the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy, to be included in its draft recommendations.

## **CONCLUSIONS**

The Committee on Industry, External Trade, Research and Energy calls on the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy, as the committee responsible, to incorporate the following points in its motion for a resolution:

- A. Whereas it is regrettable that the European Parliament is not yet formally involved in the definition of negotiating mandates for negotiations with third countries,
  - 1. The negotiating mandate should be updated to take into account the fact that a new round of WTO negotiations has not yet been started;
  - 2. Asks the Commission to guarantee full compatibility of the free trade area to be established between both sides with the existing WTO rules and particularly with the provisions of Article XXIV GATT; requests that the negotiations should be extended immediately to all subjects of the future trade regime;
  - 3. Insists that the new trade regime between the EU and Mercosur should also encourage regional economic and trade relations between the member countries of Mercosur and the neighbouring countries in Latin America.