

### **Bilateral safeguard**

RECOGNISING the concerns of European farmers regarding the EU-Mercosur Partnership Agreement (hereinafter referred to as the EMPA);

ACKNOWLEDGING that the EMPA aims to preserve the EU's sensitivities in the agriculture sector by opening limited tariff rate quotas;

UNDERLINING that the EMPA allows the EU to protect its industry, including its crucial agricultural sectors, in case an increase in imports from Mercosur causes or threatens to cause serious injury to that industry;

DETERMINED to make full, swift and effective use of bilateral safeguards to counteract possible negative impacts of the EMPA, including for products whose market access is constrained by tariff rate quotas;

MINDFUL that a delay in applying justified safeguard measures could lead to damage to EU farmers in one or more Member States that would be difficult to repair;

In this light, the European Commission commits to:

- 1) Closely monitor the market of sensitive agricultural products, in particular as regards import and export trends, production and price developments.
- 2) Assess rapidly the market situation based on this monitoring, by linking a possible increase in imports for the relevant agricultural products with the evolution of production or/and consumption, exports and prices, as well as market shares.
- 3) Provide a monitoring report to the Council and the European Parliament every six months to assess the impacts of imports, including on one or several Member States.
- 4) Initiate, without delay and upon request of one or more Member States or any legal person or association acting on behalf of the EU industry active in the sector concerned, an investigation where there is sufficient prima facie evidence, for example obtained by means of the monitoring and market situation analysis referred to in paragraphs 1 and 2, of serious injury or the threat of serious injury to EU industry (meaning, the EU producers of like or directly competitive products concerned), including where it may be geographically concentrated in one or several EU Member State.
- 5) Examine, as a matter of priority, whether such prima facie evidence exists in case there is a surge of imports or a decrease in prices concentrated in one or several Member States, or where there is a surge of imports or a decrease in the price of a product and the EU producers of like or directly competitive products are predominantly established in one or several Member States.
- 6) Treat, in the absence of contrary indications, an increase of more than 10% year-on-year, as a rule, of the importation under preferential terms of a given product from Mercosur that is subject to a tariff rate quota as prima facie evidence of serious injury or the threat of serious injury to EU industry, if at the same time the average import price for those imports from Mercosur is at least 10%, as a rule, below the relevant average domestic price of like or directly competitive products during the same period.

- 7) Treat, in the absence of contrary indications, a decrease of more than 10% year-on-year, as a rule, in the average import price of a given product from Mercosur imported into the EU on preferential terms that is subject to a tariff rate quota as prima facie evidence of serious injury or the threat of serious injury to EU industry, if at the same time the average import price for that product from Mercosur is at least 10%, as a rule, below the relevant average domestic price of like or directly competitive products during the same period.
- 8) Impose without delay or hesitation (within a maximum of 21 days) provisional safeguard measures to avert damage to EU industry which would be difficult to repair, including where it may be geographically concentrated in one or several Member States. In any case, the Commission commits to take a decision in response to any request by a Member State for immediate intervention by the Commission within five working days of receiving the request.
- 9) Conclude any investigation on safeguard measures as rapidly as possible, with the aim of taking a final decision within 4 months, hence well before expiration of the maximum investigation period of one year established in the EMPA, taking into account that detailed market monitoring is a permanent feature of the Commission's activities in the agricultural sector.
- 10) Impose appropriate safeguard measures where evidence shows that preferential imports from Mercosur cause or threaten to cause serious injury to EU industry, including where it may be geographically concentrated in one or several EU Member States. Appropriate safeguard measures can consist of a temporary suspension of the schedule of tariff reduction of the product concerned, or a reduction of the tariff preference back to the MFN or base rate (whichever is lower) level.
- 11) Be ready to impose appropriate safeguard measures for the maximum duration of four years, provided relevant conditions underpinning this duration are fulfilled.

The Commission considers that the above commitments should be implemented by means of, and reflected in, a dedicated Union legal act implementing the bilateral safeguards chapter of the EMPA in Union law.