

BRIEFING PAPER

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Splitting Trade Deals: The Commission's "divide and conquer" trick



Have you ever heard of the European Commission's push to „split“ upcoming EU trade agreements with Mexico, Chile and Mercosur, and wondered what on earth this means?

What lies behind this odd technical term is a dispirant circumvention of democracy – with real consequences.

Via this so-called "splitting" procedure, the Commission can divide agreements into separate parts (hence the term „splitting“) such as political cooperation vs trade vs investment pillars, in a way that makes it easier for the trade provisions to pass. **This technical division completely changes the rules of the voting process for trade issues:** it allows the trade pillar of a deal to be approved by a majority vote in the European Parliament and the Council of the EU, i.e. by EU trade ministers.

In a nutshell: **via „splitting“, the trade pillar of EU agreements can be adopted without requiring the consent of all EU Member States and without requiring any kind of approval by national parliaments.** Hence trade provisions can be passed without the necessary oversight and democratic debate at national level by directly elected politicians.

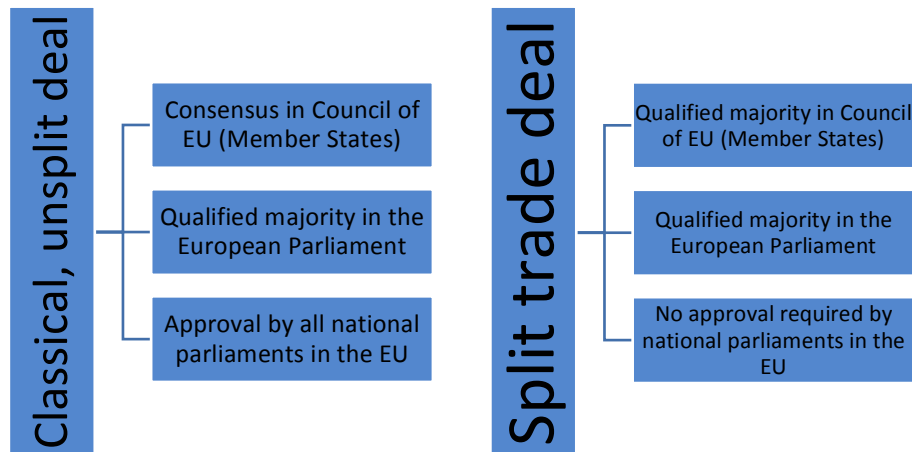
But what does that concretely mean? Let's have a look at an example:

In light of persistent protests and criticism towards the EU-Mercosur trade deal by citizens, civil society, as well as some governments and parliaments, **the European Commission wants to „split“ this agreements in order to bypass the need for consensus in the Council of the EU** and have the controversial trade part entering in force as quickly as possible. By splitting the EU-Mercosur deal, it could be approved behind closed doors simply by a majority in the Council of the EU as well as by a majority of Members of the European Parliament.

„Splitting“ is therefore a technical manoeuvre chosen with the political objective to cushion the Commission's controversial trade agenda, with significant democratic consequences! The Austrian and the Dutch parliaments have already stated they would reject the EU-Mercosur deal, as have the Belgian parliaments of Wallonia and Brussels. The French and German governments currently reject the EU-Mercosur agreement as negotiated. If the Commission moves ahead with „splitting“ of the EU-Mercosur deal, none of these oppositions would matter anymore as their support to the agreement would no longer be required.

Agreement by national parliaments is not only a matter of nodding an agreement through which has already been agreed upon on European level: it serves as a crucially important act of democracy and of protection for national farmers, workers, consumers and all citizens. Every agreement aims at regulating different sectors and areas that might be affected differently across Europe. For example, the pressure raised by importing cheap agricultural products from Mercosur will put especially small scale farmers in various regions under extreme competitive pressure.

Splitting the EU-Mercosur deal would not only have negative consequences on democratic processes behind trade agreements, but would also potentially have negative effects on sustainable development. For example, the human rights clause in EU-Mercosur is only mentioned in the political part, not the trade part of the agreement, meaning that a „split“ EU-Mercosur trade deal would end up not including any references nor guarantees with regards to human rights at all¹.



What can we do?

The European Commission is currently conducting a legal assessment on whether to „split“ the EU-Mercosur deal or not. Regardless of the legal assessment, the Commission’s decision will be a political one: balancing how much it is willing to risk its democratic image in return for managing to pass an agreement which it took 20 years to negotiate. Be aware of obscure tactics by the European Commission to disguise the splitting instrument by using different names like “interim trade deal” or others. This also accounts for the agreements with Chile and Mexico.

Anything that leads to “faster” progress by excluding national parliaments will have severe consequences for our democracies, human rights, consumer rights and climate!

Parliamentarians across the EU: stand up for your right to review or reject the EU-Mercosur deal – communicate now to your government and to the European Commission that you oppose the undemocratic „splitting“!

Governments across the EU: stand up for your right to veto the ratification of the EU-Mercosur deal – communicate now to the European Commission that you oppose the undemocratic „splitting“!

¹ According to Dr. Rhea Tamara Hoffmann and Prof. Dr. Markus Krajewski, 2021 with regards to the EU-Mercosur agreement: “From the perspective of sustainable development, it is specifically important to remember that the Trade and Sustainable Development Chapter does not contain any references to human rights. In addition, the so-called essential elements clause which would allow the suspension of the trade agreement in case of serious human rights violations is also not contained in the trade part. Hence, if the agreement would be split along those lines, the trade agreement would have an even more negative effect on sustainable development.” https://www.cidse.org/wp-content/uploads/2021/05/Legal-Opinion-EU-Mercosur_EN_final.pdf