

## FERN POSITION ON THE EU-MERCOSUR AGREEMENT

In June 2019 the European Union (EU) and four Mercosur countries (Argentina, Brazil, Paraguay and Uruguay) announced that they had reached an ‘in principle’ agreement on the content of a bilateral trade agreement which they had been negotiating, on and off, for over 20 years. This deal preserves the status quo of unsustainable and illegal trade in agricultural supply chains, and economic and business practices incompatible with the transition to a green economy. It fails to respect EU commitments to stop deforestation.<sup>1</sup> Some of the products featured in the trade agreement are known to be the [main drivers of deforestation](#) in South America. Approximately 20 per cent of all soy<sup>2</sup> and 17 per cent of beef exported to the EU from the Cerrado and Amazon regions of Brazil are linked to illegal deforestation.<sup>3</sup> Soy exports are closely associated with land grabbing, and encroachment upon Indigenous Peoples’ territories by agribusiness has been well documented.<sup>4</sup> The meat supply chain is also tainted with slave labour.<sup>5</sup> The Mercosur trade agreement will

[increase trade in agricultural products](#) like meat, sugarcane, ethanol and soy through increased quotas and reduced tariffs.

To achieve EU commitments to stop deforestation, its policies must have a positive impact on forests and forest communities in South America (the EU is the second biggest importer of Brazilian soy, and three quarters of its beef imports come from Mercosur countries). Yet, far from ensuring agricultural commodities meet environmental and social standards and create a precedent for future trade, the agreement does not include specific and enforceable provisions to stop it from driving deforestation and human rights abuses.

The Commission did not even wait for the completion of its own sustainability impact assessment before negotiating appropriate mitigation measures and concluding the deal. This is important as impact studies have highlighted potential deforestation risks which would increase Greenhouse Gas (GHG) emissions and outweigh economic gains and which [could border Indigenous territories](#). ●●●

●●● The EU must stop supporting the trade in commodities that cause deforestation and human rights violations. Once they enter into force, the effects of free trade agreements are locked-in for decades. The EU-Mercosur agreement should therefore be revised to ensure it is compatible with international agreements and that it puts in place enforceable provisions to ensure goods coming into the EU do not cause deforestation or human rights abuses. It also includes bringing the volume of internationally traded goods back to a level that respects planetary boundaries.

No political declaration or interpretative annex will make the EU-Mercosur agreement better. As there are already many EU and Brazil commitments to stop deforestation,<sup>6</sup> the issue is not a lack of political declarations, but a lack of implementation and the wrong priorities (expanding market access for transnational companies is prioritised over people and planet).

**TO IMPROVE THE EU-MERCOSUR AGREEMENT, THE PARTIES MUST REOPEN NEGOTIATIONS AND REVISE THE AGREEMENT TO PLACE PEOPLES AND FORESTS AT ITS HEART. IN PARTICULAR, THE AGREEMENT SHOULD BE REVISED TO:**

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**Introduce a hierarchy principle** stipulating that nothing in the trade agreement may prejudice effective implementation of international environmental, labour, and human rights agreements, including the Paris Agreement, the Convention on Biological Diversity and the UN Declaration on the Rights of Indigenous Peoples.



**Make market access conditional on criteria to ensure products are free from deforestation and human rights violations. That means:**

- Quota allocations and lower tariff rates should be tied to compliance with social and environmental criteria agreed by the Parties bilaterally, in meaningful consultation with civil society organisations. These should be reciprocal and respect international environmental, labour, and human rights agreements.
- Commitments to improve social and environmental standards should be backed up by a roadmap with milestones for each trading partner describing how to achieve them, especially through improving traceability systems. Any roadmap should be developed with all stakeholders including local civil society organisations and smallholders. It should define and outline policy reforms, law enforcement actions and traceability norms needed from both trading partners.
- Including a legal obligation for companies to carry out due diligence to ensure that all products and the finance underpinning them are free from deforestation and violations of human rights.
- Including a sanction mechanism whereby trade preferences (such as tariffs reduction and quota allocations) would be suspended if social and environmental criteria are not respected.



**Strengthen civil society participation in the negotiation and monitoring of the trade agreement. This means:**

- Civil society in Mercosur countries and the EU should have the right to participate in the trade negotiations, and debate with members of their national parliaments about the potential impacts.<sup>7</sup>
- Civil society mechanisms to monitor<sup>8</sup> the trade deal should be clarified, strengthened and properly resourced.
- All information should be made accessible to those participating, in the correct format and language, and there should be enough time to participate. Stakeholder groups should be able to appoint their own representatives.
- The Commission should establish clear reporting and monitoring tools to track progress and ensure accountability, potentially via indicators or scorecards. This could help provide the information needed to properly enforce the above-mentioned commitments.

Besides the above recommendations to revise the trade agreement, we also suggest specific measures the EU should encourage Brazil to take before the agreement is signed. To ensure international trade does not damage forests and people, **just forest governance frameworks must be in place**. Even if the spirit and the text of the trade agreement are transformed in line with our recommendations, without good national governance and robust traceability systems it will likely have a negative impact.

Brazilian civil society organisations have identified [five emergency measures](#) to end the current catastrophe, which should be immediately implemented by the Brazilian Government. These are:

- ① a five-year moratorium on deforestation in the Amazon,
- ② increased penalties for environmental crimes and deforestation,
- ③ a restructuring of federal agencies responsible for protecting the environment and Indigenous rights (Ibama, ICMBio and Funai),
- ④ the immediate resumption of the Action Plan for the Prevention and Control of Deforestation in the Legal Amazon, shelved by the Bolsonaro government,
- ⑤ and the demarcation of Indigenous and Quilombola lands and the creation, regularisation and protection of Conservation Units.



Brazilian civil society organisations also call for the Forest Code to be applied (mainly the 2018 amendment to penalise illegal land production), for a robust legal framework for Supply Chain Traceability and for an end to international and national commercial actors' impunity. The EU should exert pressure on Brazil to open up dialogue with Brazilian civil society on what must be done to protect forests and Indigenous rights. These negotiations should be used to turn the EU-Mercosur trade relationships into an opportunity for the EU and Mercosur countries to deliver on their forests and human rights commitments.

**Finally, the EU must also adopt a [mandatory due diligence regulation](#) to ensure that all products placed on the EU market - and the finance underpinning them - are free from deforestation, ecosystem degradation and human rights violations.** ●

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<sup>1</sup> The EU's commitments to halt and reverse global deforestation stem from different places. At the global level, the EU joined the New York Declaration on Forests in 2014. The Declaration sets a global timeline to cut natural forest loss in half by 2020, and strives to end it by 2030. It laid out ten goals that went beyond elimination of deforestation from agricultural commodities supply chains. The EU also committed to protecting global forests under the UN Sustainable Development Goals (Goal 15) and the Paris Agreement (Article 5). See "[An EU legal framework to halt and reverse EU-driven global deforestation: European added value assessment](#)".

<sup>2</sup> The EU doesn't apply tariffs on most soy imports, but export taxes on Argentinian soybeans will be eliminated under the agreement. In addition, soy imports to the EU are likely to increase for our dairy and pig-meat industries, so they will also benefit from tariffs reductions/elimination.

<sup>3</sup> According to an article published in [Science magazine](#). This confirms findings from previous studies on the impact of EU consumption on deforestation conducted by the European Commission back in 2013.

<sup>4</sup> In 2018, alone, the Comissão Pastoral da Terra (CPT) [reported](#) 182 rural conflicts involving 156,000 people in the state of Bahia (Cerrado).

<sup>5</sup> <https://www.bloomberg.com/news/articles/2021-01-04/slave-labor-at-brazilian-cattle-farms-focus-of-new-report>

<sup>6</sup> Including target 15.2 of the UN Sustainable Development Goals which both the EU and Brazil have signed up to; Target 5 of the Aichi Protocol to the Convention for Biological Diversity to which both the EU and Brazil are parties; in Brazil's Climate Change Law; in Brazil's Nationally Determined Contribution to the Paris Agreement; and the Agenda 2030 for sustainable development.

<sup>7</sup> More than 115 Brazilian organisations have signed a statement "calling on the Brazilian Parliament to promote a broad debate with society about the impacts that the agreement may have on the peoples, the men and women workers and the territories of the country." <https://docs.google.com/forms/d/e/1FAIpQLSc-z86TdGc301IS47wle1E5Yi0KJ0KeuFC0nF0-fceWt48xag/viewform>

<sup>8</sup> This part of the agreement has not been published but we assume mechanisms are similar to the one of other EU trade agreements.

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