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The EU-Mercosur free trade agreement: still unacceptable

2019-2024: failed attempts by the European Parliament to improve the agreement

Just as we had been elected in 2019, the European Commission announced a trade agreement “in principle” with the Mercosur countries (Brazil, Argentina, Paraguay, as well as Bolivia which has since been added to the list), after two decades of negotiations. Five years have passed and here we are grappling with this agreement once again. But what has happened since? Have the problems raised at the time been solved in a satisfactory manner?

In October 2020, the European Parliament - whose approval (“consent”) is a prerequisite - set the tone: it could not accept the “agreement as it was” as it did not offer the guarantees of a fair competition, as the production standards, in particular in the agricultural sector, were too diverging; and the social and environmental provisions, as well as the reference to the Paris Agreement, were too feeble to ensure the sustainability of the agreement.

A number of Member States expressed similar concerns and the general public, already made aware of climate change thanks to actions conducted by the Youth Climate Movement, were shocked by the images of mega fires that had devastated the Amazon rainforest that year. Adding deforestation to this scene of horror was no longer acceptable. Bolsonaro was the president of Brazil at the time, the Parliament and the Commission were reforming the “trade and sustainable development” chapters, so as to make them binding in the trade agreements. This combined with the priority given to fighting Covid and the alleviation of its health, social and economic impacts calmed the enthusiasm with regards to this agreement, re-branded “cars for cows”.

Several months after the election of Lula in Brazil, in February 2023, the European Commission proposed a “joint interpretative instrument” clarifying the scope and the intentions of the sustainable development chapter; some saw it as a protocol to the agreement. In October 2023, the Mercosur countries also passed on its own requests.

Total transparency of negotiations

For a long time, in response to our requests regarding parliamentary seats, the Commission reiterated that reopening the agreement text was out of the question. And yet it was the path chosen by the negotiators... Unfortunately not to follow the Parliament’s recommendations. The adjustments were related to public

procurements, the liberalisation of and access to the car market and the addition of a mechanism creating a panel of arbitrators assessing whether measures decided upon by a Party (in reality, the EU) could harm the economic interests of the other Party (Mercosur, who was behind this request) and the terms and conditions to obtain compensation with regards to these negative effects. Currently, nobody in the European Parliament or in government circles has seen the texts discussed between negotiators.

This lack of transparency is problematic even though the Treaty provides for a genuine collaboration between institutions (art.13 TEU), and despite the fact that a framework agreement between the Parliament and the Commission (more specifically an Annex III on the negotiation and the conclusion of international agreements) stipulates that draft negotiating texts must be communicated by the Commission to the other institutions concerned. This inter-institutional agreement also specifies that the Commission must account for the Parliament's comments throughout the process. It has to be said that five years later, the European Commission has not respected either of these two obligations.

The impact of the agreement on agriculture

What does the agreement stipulate?

The agreement provides for the liberalisation of over 90% of trade exchanges by removing import duties, including agricultural markets, which means an additional importation of beef (99,000 tonnes), poultry, sugar, honey, and soya in the European Union. It should be kept in mind that these volumes are in addition to the volumes provided for in other current and future trade agreements.

The Commission did not reopen the negotiation on the parts of the agreement which concerned and aroused anger amongst farmers. It considers that the duration of the transition for the trade liberalisation of agricultural markets (2027) and the safeguard clauses provided for in the agreement (but for which the activation may require a lengthy prior inquiry and with the understanding that the protection would only be for a maximum duration of 4 years) offer enough protection to European farmers. And if not, it claims to be ready to take action on markets to stabilise them and establish a compensation fund for farmers.

Unfair competition and forbidden pesticides: the problems that European agriculture will be confronted with

Safeguard clauses may require a lengthy prior inquiry, and the protection would only be for a maximum duration of 4 years. Regarding the recently announced "compensation fund", nobody knows anything about the outlines, the extent, the duration, or the conditions but one thing is certain: the difficulty for farmers to claim this fund - an additional layer to their troubles without solving the underlying issue. Indeed, none of this addresses the problem of differing standards (health, environmental, chemical products, and pesticides) between the European agricultural sector and the Mercosur countries. Differences which lead to obvious unfair competition, as well as sanitary risks. Indeed, the arrival of fruits and vegetables from Mercosur countries grown using pesticides which are forbidden in Europe because of their toxicity beef raised using hormones or chicken with avian flu (an audit by the Commission's Directorate-General for Health and Food Safety itself raised these problems) will be facilitated by the agreement. As to the statement by the Commission that checks will be conducted by "our" veterinarians in Mercosur establishments authorised to export towards the EU, the efficiency of these checks is questionable since they must be announced in advance and conducted by a limited number of inspectors. The Office in Dublin in charge of checks is made up of 160 veterinarians for all checks with all of our trade partners!

Finally, the EU-Mercosur agreement is devoid of a chapter on sustainable food systems (like in the latest agreements with New Zealand or Chile) which provide for the implementation of a dialogue platform to deal with these problems.

An acceleration in deforestation rates with a 5% to 25% increase per year over the first six years

Agriculture naturally leads me on to the topic of deforestation risks. An expert report issued to the French Prime Minister in 2020 claimed that the agreement could accelerate deforestation by 25% in the medium term. The European anti-deforestation regulation, widely supported by the European parliament, even if it wasn't free of loopholes such as the fact that the Argentinian Pantanal or the Brazilian Cerrado are not covered ecosystems, was supposed to provide a response.

The problem? As a gesture of "goodwill" towards Mercosur partners critical of this European regulation and claiming compensation, the President of the European commission proposed a one-year delay in its implementation. Her political group, the EPP conservatives, took the opportunity to table amendments to the text aiming to weaken it with the support of the far right, thus breaking the *cordon sanitaire*.

Let's not forget that deforestation accelerates climate change, and that by destroying natural habitats, it increases the risk of contact between wild animals and human beings, which also increases the risk of zoonoses such as coronavirus.

Indigenous people who do not have their say are threatened

Given that agriculture and deforestation are linked, and that the owners of mega farms shamelessly expropriate Indigenous people, burning forests over several hectares in order to install their soya bean or cattle farms, the pressures on Indigenous people and the violation of their rights would be intensified with the conclusion of the agreement. Contrary to what is laid down in the case of the agreement with New Zealand for

example, there are no provisions which account for the voice of local people, through the principle of Free, Prior and Informed Consent established by the United Nations.

The Paris Agreement, also missing from the text

For years, the EU has striven to integrate the Paris Agreement in its trade agreements and to make it an essential element, meaning that its violation by a Party could have severe consequences regarding the continuation of the trade agreement. In this instance, it is not confirmed that the Paris Agreement would have such status. Moreover, Javier Milei (notorious climate sceptic, for whom one of the first decisions was to place the ministry of environment under the authority of the Ministry of Tourism and Sports and to dismantle the trust fund set up to protect the forest)'s decision to remove Argentinian negotiators from the COP29 must not be underestimated. It promises a highly likely withdrawal from the Paris Agreement. Milei would be trampling on one of the EU's fundamental values, alongside gender equality and the social agenda for which Milei has shown only contempt, which is expressed through the elimination of the dedicated ministry. In the same vein, let's not forget that Milei openly despises UN processes, and constantly reminds us of this... even though these processes and the United Nations Charter are mentioned in the founding EU agreements as values, as well as in the EU-Mercosur agreement. If it was not possible to conclude an agreement under the Bolsonaro era due to serious incompatibility, the same reasons make it difficult to understand the conclusion of an agreement with Milei.

The lack of binding social and environmental provisions

It goes without saying, in light of the above, that the Mercosur countries refuse that the sustainable development chapter of the agreement be enforceable, meaning that the Parties do not limit themselves to good intentions wrapped in rhetoric that does not fully commit them. In other words, if they do not fulfil their social and environmental commitments, there will be no consequences. And by that, we mean the ratification and the implementation of the fundamental ILO Conventions, compliance with the global

biodiversity agreement (known as “Kunming-Montréal”), commitments in terms of deforestation, the Paris Agreement on climate, etc. This was, however, a European Parliament requirement, validated by the Council in October 2022, as well as by the citizens who took part in the Conference on the Future of Europe.

And yet, other than the problems already mentioned, while the agreement intends to promote “gender equality”, this commitment remains empty as it is not accompanied by the necessary modalities. This is shown by studies conducted by south-American researchers Carolina Pavese and Marta Reis Castilho. The European Parliament has long requested a chapter on gender equality with concrete provisions within trade agreements. This is the case for the EU-Chile agreement, for example.

So, what is the purpose of this agreement?

- **To counter the influence of China?**

Supporters of the agreement state that we finally need to touch down after 25 years of procrastination to prevent China from gaining influence in the Mercosur countries, a region which is culturally linked to Europe due to a shared (tumultuous) history. This argument is flawed for at least three main reasons. The first is that we have had agreements with Chile, Mexico, Peru, and Columbia for 10 to 20 years, and these agreements have in no way obstructed the growing presence of China. The second reason is that if we want to compete with China, then it is through large investments with our partners more so than through the sales of more cars, chemical products, and financial services. Yet, the agreement leaves this element out despite some provisions on investments. Finally, due to Brazil’s affiliation with the BRICS group (Brazil, Russia, India, China, South Africa; a group which has grown over these past few years), there is an intimate relationship with China. The Mercosur countries are contemplating the negotiation of an economic partnership with China, regardless of what will happen with EU relations.

- **To access essential raw materials?**

European supporters of the agreement also state that the agreement is crucial in order to conduct the ecological and digital transition as these countries are brimming with essential mining resources for recent technologies such as the batteries for electric vehicles, photovoltaic panels, etc. Indeed, the agreement contains a chapter on energy and raw materials. But, outside of the agreement, the EU and Argentina agreed to a strategic partnership on the access to raw materials in June 2023 (!). It should be noted that this type of arrangement is completely sheltered from democratic scrutiny as the European Parliament is largely excluded from this process, and MEPs do not have access to the approved roadmap to give shape to this partnership with concrete proposals.

- **Economic benefits for the EU?**

Finally, in the impact assessment conducted by the London School of Economics for the Commission, the economic gains for the EU were valued at 10 to 15 billion Euros, i.e. 0.1% of the European GDP. But this calculation which dates back to 2020 is nuanced, as meanwhile, the EU has made concessions on procurement contracts, and it concluded to an agreement with Argentina on raw materials. Also, if a compensation fund should be envisioned to help farmers, this would cost several billions. Finally, if the Mercosur countries have their way by taking away a mechanism from the EU enabling them to protect themselves from the effects of future laws adopted under the European Green Deal for example, the expected benefits would be curtailed once again. Consequently, the economic gains estimated in 2020 and already marginal at the time are decreasing at a rate of knots. It is not even excluded that, ultimately, this agreement would collectively cost us as much as it would bring us, even if certain sectors or certain companies will benefit from it.

How is it received by European legislators?

- **At the European Parliament**

While the Parliament had been firm and clear in its criticisms of the 2019 text, the war in Ukraine, which exacerbated the risks to our value chains, as well as the attacks against the European Green Deal, marked a resumption of the appeal in favour of the multiplication of free trade agreements. It should be noted that the aspects achieved under the previous mandate such as the binding sustainable development chapters, are no longer considered to be a condition for a new agreement. A majority in the new Parliament seems not yet ensured.

- **At the Council**

In terms of the Council, much depends on the way in which the European Commission presents the agreement: it would seem that, contrary to the negotiating mandate which had been entrusted to them by the Council in 1999, they could opt for a division of the agreement, so as to facilitate the coming into effect of its trade component (requiring a qualified majority). The political and cooperation components are subject to unanimity. The Commission's discretionary choice raises questions regarding its legality.

While most eyes are on France, which has repeatedly expressed its opposition to the agreement under the pressure of its farmers, other countries have expressed criticisms. Poland has joined France. The Netherlands and Ireland (where the parties reiterated their objection to the agreement during their electoral campaign in November 2024) could also help to form a blocking minority. This requires two criteria: at least 4 countries representing 35% of the population. At this stage, even if there at least 4, they only represent 28.62 % of the population (PL+FR+NL+IE). Account must be taken of the countries which are still uncertain as I write, as well as those abstaining. Abstention counts as a "polite no" and to this end, can block a qualified majority which also relies on two criteria: at least 15 countries combining 65% of the European population. Italy will be, in this regard, a pivotal country with 13.25 % of the European population. If it does not vote in favour of the text, the conditions for a qualified majority will not be met.

- **Within civil society**

In these conditions, it would seem irresponsible of the European Commission to conclude this agreement as its President announced it. Other than the positions expressed within the Parliament and the increasing objection of governments, it is no secret that this agreement crystallises the opposition of a broad set of sectors. On the European side: agricultural federations and trade unions (COPA-COGECA), workers union (ETUC), consumer protection organisations (BEUC), environmental NGOs, and on the Mercosur side: trade unions, Via Campesina, representatives of Indigenous populations, etc. (see below for a non-exhaustive list). This is also a democratic issue as the Commission could not only deprive national parliaments of their ratification prerogative on the one hand, but the far right could pursue its manipulation of the anger of farmers in numerous countries, fuelling Euroscepticism and nationalist isolation on the other.

Beyond saying no, what type of relationship can be expected with the Mercosur countries?

The EU-Mercosur free trade agreement project is therefore well and truly completely anachronistic, falling far short of recognising 21st century climate and health challenges. While companies exporting agricultural foodstuffs from Mercosur countries and companies exporting industrial products from the EU will be the winners, the losers will be in the majority. It would reinforce the agro-industrial model, to the detriment of sustainable agriculture, affecting the rights of Indigenous people in the Mercosur countries. It is incompatible with the climate objectives, the European Green Deal and the EU's "Trade and sustainable development" approach. Furthermore, a poor agreement with the Mercosur countries would set a

precedent, the countries with which negotiations for a trade agreement are underway such as India, Australia, Indonesia, the Philippines, etc. could ask for the same concessions. But does this mean that we should not develop any other type of partnership with the Mercosur countries? Of course not!

The Greens are supportive of a close partnership between the EU and the Mercosur countries. But this must not be established based on a mercantilist agreement ignoring sustainability and health objectives, and workers' and farmers' rights. On the contrary, all countries concerned supported the Sustainable Development Goals, the Paris Agreement, the ILO Declaration on fundamental principles and rights at work and other texts which frame international relations. These texts must provide the framework for this new relationship.

The Greens commissioned a study to a consortium of think tanks tasked with identifying alternative scenarios that implement this aspiration for greater cooperation between us and for the benefit of all. These scenarios are realistic and credible and authorise us to work on future avenues. Thus, if the EU-Mercosur agreement fails, we have a plan B that is all the more convincing as populations will find mutual interests. It is time to get to work now.

Further details: Additional information concerning the positions of civil society

- BEUC (European Consumer Organisation - consumers)
- ETUC-CCSCS (European and Mercosur trade unions)
- Agricultural sector
- Greenpeace Germany (study on the compatibility of the agreement with the European climate law)

- European and Mercosur NGOs joint statement
- Academic Statement

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[1] An inquiry conducted by Greenpeace revealed levels of chemical products in limes imported from Brazil, including glyphosate, which were above the tolerated standards in Europe, a harmful "cocktail" effect on health.

[2] An audit by the Commission's Directorate-General for Health and Food Safety itself raised these problems

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