

PARALLEL REPORT
to the UN Committee on Economic, Social and Cultural Rights
on the occasion of Brazil's third periodic country report

Stop the EU-Mercosur trade deal:
Following through on the International Covenant on Economic, Social
and Cultural Rights

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Foreword

We live in troubled times. A war in Europe and climbing inflation present individuals and societies with serious challenges. All the while, urgent ecological crises are escalating rapidly. A successful containment of the climate crisis will necessitate not only greater efficiency and sufficiency, but also extensive mineral raw materials and a robust international community. It is reasonable to expect that trade agreements aim at the fulfilment of these goals, but there can be no automatism in such matters. A socially just foreign trade, industrial and raw materials policy that is capable of meeting the challenges of our time and which respects the limits of what this planet can sustain will only be possible with agreements that are negotiated democratically, inclusively and transparently. The more than 20 years of ongoing negotiations on an association agreement between the EU and the Mercosur states, Argentina, Brazil, Paraguay and Uruguay, have failed to take account of these values. In place of an agreement that fosters value creation in Latin America and supports climate-friendly manufacturing and agriculture while preventing trade in harmful products, we are faced with an outdated, neo-colonial and toxic trade deal that must never be allowed to enter into force. The people of both of our continents deserve more than exploitation, deforestation, poisoned land and rising traffic emissions. We have no time to lose - a reset of our relations with Brazil as well as all of Latin America is urgently needed.

Introduction

The EU has been in negotiations with Argentina, Brazil, Paraguay and Uruguay on the proposed EU-Mercosur Agreement since 1999. From our present point of view, the resulting trade deal is an anachronism. The negotiations took a full 20 years, and despite the conclusion of political negotiations in 2019, any ratification of the agreement seemed a long way off, particularly during the term of office in Brazil of the far-right Jair Messias Bolsonaro. By this time, the deforestation of the Amazon rainforest had risen to historic levels. Many farmers, human rights activists and climate protectors breathed a collective sigh of relief with the election of the new Brazilian President Luiz Inácio Lula da Silva. Finally, there was another chance of preserving the Amazon, of dependable partnership in the areas of human rights, of species and climate protection, and of transforming our economic models. Today,

however, these hopes are in danger of being stifled by the EU-Mercosur trade agreement. Instead of pursuing a genuine partnership on equal terms, attempts are being made to ratify a treaty that should be considered obsolete.

This report focuses on the expected impacts of the full implementation of the EU-Mercosur deal with respect to the right to self-determination (Art. 1), the right to work (Art. 6), the right to just and favourable working conditions (Art. 7) as well as the right to food (Art. 11) and to health (Art. 12) of the International Covenant on Economic, Social and Cultural Rights. We draw particular attention to *“the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms”* (International Covenant on Economic, Social and Cultural Rights, 16 December 1966).

Violations of the right to self-determination

“All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.”
Part 1, Article 1 (2)

In particular in the area of trade in raw materials, the EU-Mercosur deal violates the right to self-determination. Even before the proposed trade agreement, the dam collapses in Minas Gerais (2015) and Brumadinho (2019) serve as a stark reminder of the obligation of responsibility that goes hand in hand with the extraction of raw materials such as iron ore. The involvement of German and European companies in a variety of mining projects in Brazil makes them at the very least indirect participants in environmental destruction and inhumane working conditions. Brazil is one of the most important suppliers of mineral raw materials for the EU. 57 percent of kaolin imports and 48 percent of iron ore imports to the EU originate from Brazil.¹ At the same time, mining accounts for around ten percent of the deforestation in Amazonia.² While some raw materials, such as iron ore, raw copper, silver or crude oil are no longer subject to EU import tariffs, they still apply for aluminium ore,

¹ EU Commission, 2017

² Zoe Sullivan: Mining activity causing nearly 10 percent of Amazon deforestation, Mongabay, 2. November 2017: <https://news.mongabay.com/2017/11/mining-activity-causing-nearly-10-percent-of-amazon-deforestation/>

bauxite, many iron, steel and copper products, as well as numerous processed raw materials that are vital for the automotive industry. The trade agreement proposes the elimination of all such import tariffs. An even more important concern for the EU is the use of the agreement to prevent potential export restrictions for Mercosur countries of raw materials that are important for industry in the EU. Alongside the attendant negative social and ecological impacts, which will be discussed in greater detail in the following two chapters, such a deal would have a major impact on domestic industry in Brazil. With the cementing of this lopsided trade relationship, the EU would be leading Brazil into the dead end role of eternal supplier of raw materials to the EU, where all value creation takes place. In the market access schedules of the association agreement, the EU and Mercosur have committed to the incremental elimination of the majority of these tariffs within 10 years after entry into force.³ Another far-reaching provision: The agreement provides for a general ban on all kinds of taxes and duties on exports. Export taxes are an essential development and industrial policy instrument that governments can use both to generate state revenue and safeguard domestic availability of scarce raw materials, be they foodstuffs or mining products. For example, export taxes can be used to ensure the cheap availability of raw materials for the development of domestic industry. However, Article 8 of the chapter on trade in goods stipulates that three years after the EU-Mercosur agreement comes into force, neither party may introduce or perpetuate such export taxes. Following their abolishment also in Brazil, the question of a reinstatement of export taxes on mineral and agricultural raw materials has been raised repeatedly in recent years. Such measures would be potential infringement of the EU-Mercosur agreement. A waiver of export taxes at the expense of domestic industry and workers as a result of the EU-Mercosur agreement would represent a flagrant breach of Part 1, Article 1 (2).

Violations of the right to work

“...to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment

³ Market Access Offer for Goods: <https://trade.ec.europa.eu/doclib/html/159729.htm>,
<https://trade.ec.europa.eu/doclib/html/159729.htm>

under conditions safeguarding fundamental political and economic freedoms to the individual.” Part 3, Article 6 (2)

We are particularly concerned about the EU-Mercosur agreement with respect to its impacts on workers in the Mercosur member countries. There are no measures aimed at increasing the competitiveness of the automotive industry in Mercosur countries, meaning that the agreed reductions in customs tariffs will preserve the structural advantage of EU industry. In fact, Mercosur members would be required to eliminate motor vehicle tariffs entirely 15 years after the agreement enters into force. Brazil currently levies tariffs of 35 percent on motor vehicles. The incremental elimination of tariffs would begin after a transitional period of seven years. However, over this period Mercosur has already granted a quota of 50,000 motor vehicles for importing at half the tariff rate. A study presented on November 21, 2022 by Prof. Marta Castilho from the Federal University of Rio de Janeiro estimates 400,000 job losses as a result of these measures, of which 280,000 are women.

⁴ Notably, the Brazilian government itself has warned of the problematic arrangements in the current agreement, which threaten to be at the expense of industrial development in Mercosur member countries.⁵ A study presented in July of this year by the Brazilian Institute of Applied Economic Research also anticipates an upsurge of deindustrialisation in Brazil as a result of the proposed deal.⁶

Violations of the right to just and favourable working conditions

“The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work...” Part 3, Article 7

⁴ Martha Castilho: gender-differentiated impacts of the pending EU-Mercosur trade agreement, 21.11.2022, <https://www.youtube.com/watch?t=2260&v=SqHi7lh34sl&feature=youtu.be>

⁵ Sarah Anne Aarup: EU-Mercosur deal faces moment of truth, 02.02.2023, <https://www.politico.eu/article/eu-mercosur-deal-truth-amazon-deforestation-trade-agreement-france-emmanuel-macron/>

⁶ Acordo Mercosul-União Europeia e mudança estrutural: Considerações a partir de modelos de equilíbrio geral, Juli 2023: <https://www.ipea.gov.br/cartadeconjuntura/index.php/2023/07/acordo-mercosul-uniao-europeia-e-mudanca-estrutural-consideracoes-a-partir-de-modelos-de-equilibrio-geral-2/>

In addition to expected job losses, attention must also be paid to actual working conditions. A general appraisal reveals a disastrous situation. In 2022, the International Trade Union Confederation (ITUC) again included Brazil in its Global Rights Index of the “ten worst countries for workers”.⁷ Not only are there a declining number of collective agreements in place, but the easing of penalties for violations of the ban on slave labour is having a predictably negative effect, in particular in the agricultural sector, whose workers include a great many children and young people.⁸ Added to this are growing number conflicts over land and water, which leave only victims in their wake.⁹ It is expressly not the aim of this report to cast a negative light on Brazil nor to downplay the efforts of the current President Inácio Lula da Silva. Against a backdrop of a challenging majority situation in Parliament, however, it must be expected that his efforts to bring reform have only a very limited chance of implementation. Under these circumstances, the ratification of the EU-Mercosur agreement must be rejected. The text of the treaty includes no obligation to ratify all ILO core labour standards, nor does it provide for effective measures to confront and punish the countless human rights violations that are an inevitable outcome of land conflicts. Particular attention must be paid to the fact that the chapter on sustainability is the only chapter that is exempted from the dispute settlement mechanism of the agreement (Art.15.5). A panel of experts is convened in cases of conflict, but this can only make non-binding recommendations. In fact, the proposed agreement will help only to cement the poor situation for workers, while comprehensive reductions on tariffs for industrial imports from the EU will further increase pressures on land, resources and workers.

Violations of the right to food

“Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.” Part 3, Article 11 (2) b

⁷ ITUC Global Rights Index 2022: ITUC GRI

⁸ Amerika21: Brazil after the election: The Lula government will be fighting for survival), 08.07.2023

⁹ CPT: Conflitos no Campo Brasil 2019, Comissão Pastoral da Terra, Goiânia, April 2020: <https://www.cptnacional.org.br/publicacoes-2/destaque/5167-conflitos-no-campo-brasil-2019>

The UN aims to end global hunger by 2030. Agricultural productivity and income for marginalised groups such as indigenous communities and for smallholder farms are crucial in this goal, which is pursued by ensuring secure and equal access to land, other production resources, knowledge, access to markets, and to opportunities for value addition (Goal 2.3) (UN 2018). Over 33 million people in Brazil are severely food insecure. A further 125 million people are affected by food insecurity.¹⁰ “Today, every third person has a lack of access to food. Sources of water and arable land for growing staple foods are being destroyed by agribusiness...”.¹¹ The EU-Mercosur deal in its current form would change the economic picture for farms both in the EU and the countries of the Mercosur bloc. The agreement lacks effective safeguards, meaning that it would dramatically increase pressure on smallholder farmers and indigenous communities and their lands, threatening their own productivity and livelihoods.¹² The colossal spread of soy monocultures in Brazil is forcing millions of people from their lands and homes¹³ (in particular vulnerable groups). Here, the EU-Mercosur deal mentions indigenous rights but offers no protection with respect to the *free, prior and informed consent* that is stipulated by the UN.¹⁴ The agreement also aims to increase meat exports (fed predominantly on GM soy) from Brazil to Europe by 50%. The outcome of ratification would be a further increase in hunger, landlessness and deforestation in Brazil and the closure of family businesses in Europe. In addition, the rise of monocultures reduces access to clean water. For these reasons, the EU-Mercosur agreement is in violation not only of Article 11 of the Committee on Economic, Social and Cultural Rights but also the UN Sustainable Development Goals.

Violations of the right to health

“The States Parties to the present Covenant recognize the right of everyone to the

¹⁰ FIAN worldwide, FoodFirst 1, S. 19

¹¹ FIAN Deutschland e.V.: Letter on the current situation in Brazil), September 2022

¹² Teller, Friederike. Brandt, Katharina. Thomsen, Berit: *Auswirkungen des EU-Mercosur-Abkommens auf Agrarhandel und SDGs*. S. 20 f. Bonn/Berlin, Dezember 2020

¹³ Grain: Soja-Nexus in South America, S.52, http://www.grain.org/seedling_files/seed-07-07-7-5-en.pdf

¹⁴ Hinojosa, Leonith: *EU-Mercosur Trade Agreement: Potential Impacts on Rural Livelihoods and Gender (with Focus on Bio-fuels Feedstock Expansion)*. Manchester, November 2009

enjoyment of the highest attainable standard of physical and mental health.”

Part 3, Article 12 (1)

“The improvement of all aspects of environmental and industrial hygiene”

Part 3, Article 12 (2) b

The trade in pesticides is perhaps one of the most revealing examples of the hypocrisy and double standards of EU trade policy. By pushing for ratification of the EU-Mercosur trade deal, the European Commission is sabotaging its own internal targets for reducing pesticide use.¹⁵ Brazil already counts among the world’s three largest consumers of pesticides.¹⁶ The new president has declared that he will promote organic farming, and yet a total of 48 new pesticides were approved in just the first two months of his term. Many pesticides that include active ingredients not approved in the EU are permitted in Brazilian agriculture. As of February 2023, 63 percent of the active ingredients approved in Brazil have no corresponding EU approval. In spite of this, the EU permits these substances to be manufactured within its borders and exported to Brazil. Among the corporations profiting from this arrangement are the German chemicals groups BASF and Bayer, who are among the world’s largest manufacturers of pesticides.¹⁷ The broad-scale use of pesticides is extremely hazardous for human health. With this trade agreement, any hope of containment is out of the question. A firm anchoring of the precautionary principle in the SPS chapter is sorely lacking, and there are not even effective import controls.¹⁸ Brazil already uses around half a million tonnes of pesticides every year. The Pesticide Action Network (PAN) has estimated that 20 percent of the pesticides sold in Brazil are highly dangerous, also to human health. The consequences for nature

¹⁵ EUR-Lex (2020a). Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. “A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system. Available under https://eur-lex.europa.eu/resource.html?uri=cellar:ea0f9f73-9ab2-11ea-9d2d-01aa75ed71a1.0001.02/DOC_1&format=PDF.

¹⁶ Statista: *Leading countries in agricultural consumption of pesticides worldwide in 2020*, <https://www.statista.com/statistics/1263069/global-pesticide-use-by-country>

¹⁷ Cunha, Lis. Jürgens, Gesche. Knirsch, Jürgen. Ole Menze, Merlin. Nadkarni, Miryam. Schwarz, Louisa: *Giftcocktail: Der EU-Mercosur-Deal*. Hamburg, Mai 2023: <https://www.greenpeace.de/publikationen/GiftcocktailEU-Mercosur.Limetten-Studie.pdf>

¹⁸ Luciana, Ghiotto. Javier, Echiade: *Analysis of the agreement between the European Union and the Mercosur countries*. Berlin, Buenos Aires, Brussels, December 2019

and health are drastic. There are thousands of cases of pesticide poisoning every year, some resulting in death.¹⁹ Currently, pesticide exports from the EU to the Mercosur region are subject to tariffs of up to 14 percent.²⁰ The trade deal would eradicate tariffs on more than 90 percent of EU chemical exports, including pesticides.²¹ At duty-free prices, the pesticide industry would be able to count on far higher sales volumes. If this wasn't generous enough, import controls would be reduced and exporters would be allowed to self-certify that they operate in compliance with EU directives on pesticide residues.²²

Recommended measures

Safeguarding the rights in question (Art. 1, Art. 6, Art. 7, Art. 11, Art. 12) of the International Covenant on Economic, Social and Cultural Rights requires, at a minimum, the following measures:

- An immediate halt to negotiations on the present EU-Mercosur agreement
- Fundamental renegotiations of a trade agreement between the EU and the Mercosur countries
- Ratification by Brazil of all ILO core labour standards
- Preservation of regulatory freedom to protect domestic industry and the associated jobs
- A ban on genetic engineering in agriculture in Brazil
- Introduction of liability for agrochemical companies for all damage caused by the use of pesticides
- Promotion of sustainable practices in agriculture and the food supply
- Implementation of agrarian reform in favour of smallholders and the landless

¹⁹ Fritz, Thomas: EU-Mercosur Agreement: Risks to Climate Protection and Human Rights, Aachen, Hamburg, Vienna, June 2020

²⁰ European Commission, DG Trade (2022). Appendix on tariff elimination schedule for Mercosur. Available under <https://www.circabc.europa.eu/ui/group/09242a36-a438-40fd-a7af-fe32e36c-bd0e/library/a041f028-2c04-4f52-b1c7-b929d61d7800/details>.

²¹ Greenpeace Germany (2020)

²² Greenpeace EU (2023)