

# The EU-Mercosur Free Trade Agreement, its impacts on Agriculture

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## EXECUTIVE SUMMARY AND RECOMMENDATIONS

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## EXECUTIVE SUMMARY

Mercosur (or Mercosul in Portuguese) is the Southern America Common Market. Despite being a common market, it remains much less integrated than the EU. Mercosur common external tariffs are generally high for industrial goods and services, comparatively much higher than EU tariffs. This is not the case for agricultural and food goods. There are still many internal barriers (taxes and regulations) impeding trade to Mercosur, and Mercosur has signed very few bilateral trade agreements with other partners around the world. In this context, large European industrial sectors such as cars, pharmaceuticals, cosmetics, alcohols, luxury goods and services have expressed their interest in this Agreement. On the Mercosur side, it is the agribusiness sectors that have expressed most interest in the Agreement.

According to Business Europe and the Brazilian National Confederation of Industry (CNI): *“The Agreement’s opportunities go beyond greater access to markets for our companies, supporting sustainable growth with the implementation and monitoring of environmental and social policies both in the EU and Mercosur countries” (2021/04/30)*<sup>1</sup>. This study presents several arguments that call into question such a statement.

**The EU-Mercosur Agreement will further deepen Mercosur’s specialization in the primary sector, especially agribusiness.** This specialization has, however, been linked to **increasing social inequalities and growing environmental problems for several decades**<sup>2</sup>.

**For the EU, this will primarily affect the agricultural sectors**, with the exception of wine, alcohol, and some dairy. For example, we estimate that EU beef imports from Mercosur will increase (in case of full implementation of the FTA) from +23% to +52% by 2030, according to the two hypotheses postulated.

**This study focuses on agricultural and food goods, and the likely impacts of the Agreement’s implementation on social aspects, human health, animal welfare and the environment.**

The EU-Mercosur Agreement covers tariffs but also issues such as rules of origin, technical barriers to trade, sanitary and phytosanitary measures, services, government procurement, intellectual property, sustainable development, and small- and medium-sized enterprises. Other **topics such as the environment, biodiversity (as “sustainable development”), climate change (to comply with the commitments of the Paris Agreement – Treaty**

1 <https://www.business europe.eu/publications/european-union-mercotur-trade-agreement-cornerstone-foster-sustainable-development-and>

2 Viande bovine: le Mercosur privilégie toujours plus d’export ; Dossier Economie de l’Elevage n° 533. (October 2022): <https://idele.fr/detail-article/viande-bovine-le-mercotur-privilégie-toujours-plus-d-export>

**on Climate Change), animal welfare, biotechnologies and antibiotics resistance are only reflected in non-enforceable dialogue-based chapters, with no compulsion**, and could even potentially be damaging to the EU regulations on these matters. For example, there will be particularly high pressure from the Mercosur parties in these “Dialogue groups” to deregulate GMOs in the EU and weaken the precautionary principle, which they consider illegitimate barriers to trade.

This study underlines the **distortion of competition in agriculture** (“level playing field”) **between the EU27 and Mercosur**. Regulations all along the agricultural production chains in Mercosur remain weak overall compared to EU regulations:

- Such is the case for **pesticide** use. Some active ingredients authorized in Mercosur are banned in the EU (although the EU does produce and export such products). In Brazil, year after year, the registration, sale, and use of pesticides increases. Pesticide use in Mercosur has direct consequences on the local population’s health. Considering **maximum residue limits** (MRL), the study underlines the huge gaps in levels of pesticide residues permitted in food and water on both sides of the Atlantic. Definitions of MRL for substances that are banned in the EU are also prone to technically-difficult risk evaluations. This creates a serious risk for the population of Mercosur, and for Mercosur agrifood exports. There are questions as to the effectiveness of European safety control at its borders, both with regard to the definition of these MRL and also the frequency of controls on imported food goods. With increasing imports from Mercosur following implementation of the trade Agreement, this could lead to new sanitary scandals and seriously affect European consumers’ trust in food security!
- The problem is the same for antibiotics. In some parts of Mercosur, **antibiotics remain intensively used as growth promoters**<sup>3</sup>. Such is the case in Brazil for a number of active ingredients authorized for animal production that are banned in the EU (i.e. bacitracin, flavomycin, monensin...).
- The study shows a global **lack of traceability** in cattle production (there are still loopholes in the deforestation control system: non-compliant animals can be marketed even by slaughterers and distributors committed to “zero deforestation”), except in Uruguay. It is also the case for **animal welfare regulations**, which are poorly developed in Mercosur, with the exception of Uruguay. **Sanitary regulations**, as well as **workers’ rights and regulation**, remain limited in Mercosur slaughterhouses.

While the EU-Mercosur Agreement aims to intensify trade flows between the two blocs, it is a missed opportunity to bring production standards closer between the two zones, even though it was concluded to intensify trade.

After **FTA implementation**, Mercosur will remove tariffs on 91% of the goods imported from the EU and the EU27 will exempt duties on 95% of goods imported from Mercosur, along with 83% of agricultural imports.

<sup>3</sup> Antimicrobial use, resistance and economic benefits and costs to livestock producers in Brazil, OECD. (July 2019): [https://www.oecd-ilibrary.org/agriculture-and-food/antimicrobial-use-resistance-and-economic-benefits-and-costs-to-livestock-producers-in-brazil\\_27137b1e-en](https://www.oecd-ilibrary.org/agriculture-and-food/antimicrobial-use-resistance-and-economic-benefits-and-costs-to-livestock-producers-in-brazil_27137b1e-en)

Within the EU, eight products have been classified as "**sensitive products**" for specific custom codes (not all tariff lines for each product). Tariffs will remain the same on the relevant lines of these products but new tariff rate quotas (TRQs) will be open.

After EUM-FTA implementation, trade in the main sensitive products will increase:

- **Cattle:** exports will increase from Brazil, Argentina, Uruguay and Paraguay, which are already the main suppliers of the European market. The share of Mercosur full "loin and rump" on the EU market will, in particular, dramatically increase from 13% in 2019 to 21%/26% in 2030, according to the two hypotheses that have been postulated<sup>4</sup>. As these cuts are very much cheaper in Mercosur and are equal to one-third of the value of adult cattle in the EU, this represents a major threat to EU cattle producers' revenues, and thus to the permanence of European permanent grasslands.
- **Dairy:** exports from the EU to Brazil are likely to increase for cheese and infant formula. Exports from Uruguay and Argentina to the EU could also increase slightly for milk powders and butter. Small and medium dairy farmers in Brazil could be particularly affected by this Agreement. They account for 80% of Brazilian dairy farmers and 60% of national dairy production but they are often excluded from internationalized industry chains. These family farmers are likely to be the most penalized by increasing imports of European cheeses.
- **Poultry:** exports are expected to rise from Brazil with the high competitiveness of Brazilian products, to at least 180,000 tonnes of frozen cuts.
- **Sugar and Ethanol:** exports from Brazil and Paraguay to the EU should increase due to new TRQ (Paraguay) and a decrease in tariff (Brazil). This will be a strong incentive for sugar cane crop expansion, and will lead to increased competition for land, putting even more pressure on the colonization of new agricultural lands at the expense of natural biomes (sugar cane will expand mainly on permanent grasslands, and cattle farmers will look for new land to clear).

Even for sensitive products, some tariff lines will be liberalized. As an example, in the beef sector, the tariffs for **live cattle imports into the EU** will be eliminated after 10 years of implementation. If there are no new rules on animal welfare during transportation, this could pave the way for massive imports of weanlings across the Atlantic, given the current EU suckler herd decapitalization and the strong demand among European fatteners for these, notably in Italy or Spain. Brazil is currently the number one supplier of live cattle on the world market, notably to the southern and eastern Mediterranean countries.

**Soy product** (beans and cakes) imports from Mercosur into the EU are already massive and duty free. South American soybean production presents many proven negative externalities, however, notably as regards deforestation. The recent EU Regulation on "imported deforestation" will only prevent imports from very recently deforested areas (since 2021), and only refers to Amazonia (not to savannahs such as the Cerrado or Chaco, despite being very rich in biodiversity). Moreover, the **abolition of export taxes** (which are

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4 See Appendix V

intensively practised in Argentina for soy beans and cakes) included in the Agreement will further stimulate soybean production in Argentina, notably in the Chaco. And EU legislation on due diligence for forest-risk commodities remains weak. This regulation on deforestation concerns only a part of the forests and the Cerrado in Brazil will not be covered by the ban (see later).

The other **main driver of deforestation in Mercosur is the expansion of beef production** in natural biomes such as Amazonia, the Cerrado, Chaco or Pantanal. The experience of the last decade is particularly enlightening. A voluntary agreement was signed in 2009 by the main Brazilian meatpackers under pressure from Greenpeace to prohibit supply from farmers who deforest Amazonia or are convicted of slave labour. It has, however, demonstrated several weaknesses. Only the direct supplies to the packers of the finishing farms could be accurately controlled. Because of a lack of cattle traceability and willingness on the part of the actors in the beef industry chain (meatpackers, farmers' organizations and public authorities), indirect suppliers of live cattle to finishers are not controlled. Furthermore, only Amazonia is concerned, and not the other biomes such as the Cerrado or Pantanal in Brazil, or the Chaco in Paraguay and Argentina. According to our study, the estimated **additional deforestation as a consequence of the EU-Mercosur Agreement and increased beef exports covers a wide range, from a minimum of 620,000 ha up to 1.35 million ha in the worst case scenario over five years.**

In a nutshell, **the EU-Mercosur Agreement will result in increased trade but is expected to negatively affect both the environment and health:** there will be losses of very high biodiversity-rich biomes, carbon release and impacts on climate change, increased risks of local pollution in Mercosur, and the impact of increasing antibiotic and pesticide use on both Mercosur citizens' and European consumers' health.

## RECOMMENDATIONS

This report's recommendations are as follows:

1. **Tariff conditionality:** The liberalization of trade should be conditional on all sustainability provisions being enforced and adhered to. For example, tariff reductions should be contingent upon Brazil reducing its deforestation in accordance with the country's previous National Climate Change Policy target: 3,900 km<sup>2</sup>/year. In addition, the impact of trade liberalization on GHG emissions should be constantly monitored ex-post during the implementation of the agreements. If it is found that emissions have increased because of the expansion in trade, the agreements could be suspended. Alternatively, corrective measures in the form of duties could be introduced, particularly on the most GHG-intensive products<sup>5</sup>. An alternative to linking tariff preferences to certified sustainable

5 Harrison, J., Paulini, S., Ankersmit, L., van Asselt, H., Barros-Platiau, A. F., Eslava, L., Harstad, B., Marzano, K., Raza, W., Rittl Filho, C. E., & Zengerling, C. (2021). Academic Statement: Proposals on the EU-Mercosur Association Agreement and the Environment (8 February 2021). Coventry: School of Law, University of Warwick. <https://warwick.ac.uk/fac/soc/law/research/centres/chrp/governance/eumercosuraa>

products could be import restrictions, such as an import ban on non-sustainable products<sup>6</sup>.

2. **Hierarchy clause:** a new clause should be added stipulating that, in the event of inconsistency between the deal and a multilateral environmental agreement, obligations from the latter shall prevail. This will reduce litigation risks when creating environmental policies or implementing multilaterally negotiated environmental policies<sup>7</sup>. No provision in the Agreement should restrict the policy space for genuine environmental and climate policies nor create 'regulatory chill' due to risks of litigation.
3. **Inclusion of a mandatory and sanctionable commitment towards implementation of the Paris Agreement:** In the Trade and Sustainable Development (TSD) chapter, the Parties commit to effectively implementing the Paris Agreement. However, two additional conditions must be fulfilled: firstly, such implementation needs to be a mandatory commitment and not just a best endeavour effort. Secondly, a breach of said implementation should be a sanctionable offence.
4. **Make the Paris Agreement the core of the Agreement in order to achieve the 1.5°C goal:** Making the Paris Agreement an essential element of the EU-Mercosur Agreement is a necessary (albeit insufficient) condition. Despite being the only directly trade-related commitment made in the Commission's European Green Deal strategy, the Paris Agreement does not form an essential element of the EU-Mercosur Agreement. The Paris Agreement and the 2030 Agenda for Sustainable Development must become the reference points for all of the EU's trade agreements. This would mean that the application of specific provisions in trade agreements that contradict these two Treaties could be suspended by the trade partners unless the Dispute Settlement under the trade agreement rules to the contrary. This will require substantive provisions to be included in the Dispute Settlement Chapter.
5. **The Agreement should not weaken European border controls and food checks.** The agreement already includes mechanisms to suspend imports from specific regions or farms that have been proven to disrespect sanitary and phytosanitary standards, yet at the same time it weakens border controls, food checks and the ability to identify and withdraw contaminated animal foodstuffs from the market when they enter the EU market. In Brazil alone, over 500 pesticides are permitted, 150 of which are prohibited in the EU.
6. **The precautionary principle should be protected throughout the Agreement and therefore included in the SPS chapter.** One of the consequences of omitting the precautionary principle from the SPS chapter is that the parties cannot rely on the precautionary principle to preventively block imports of critical products, such as

6 Fritz T. EU-Mercosur Agreement: Risks to Climate Protection and Human Rights. Greenpeace, CIDSE, Misereor (2020). [https://www.google.com/url?sa=i&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=0CAMQw7AJahcEwj4xqfyv\\_y9AhUAAAAAHQAAAAAQAg&url=https%3A%2F%2Fwww.misereor.org%2Ffileadmin%2Fuser\\_upload\\_misereororg%2Fpublication%2Fen%2Fshaping\\_economic\\_processes%2FStudy-EU-Mercosur-Agreement-Risks-to-Climate-Protection-and-Human-Rights....pdf&psig=A0vVaw11YETHiJAhl-sMoJWFXshq&ust=1679985483733865](https://www.google.com/url?sa=i&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=0CAMQw7AJahcEwj4xqfyv_y9AhUAAAAAHQAAAAAQAg&url=https%3A%2F%2Fwww.misereor.org%2Ffileadmin%2Fuser_upload_misereororg%2Fpublication%2Fen%2Fshaping_economic_processes%2FStudy-EU-Mercosur-Agreement-Risks-to-Climate-Protection-and-Human-Rights....pdf&psig=A0vVaw11YETHiJAhl-sMoJWFXshq&ust=1679985483733865)

7 Lawrence, Jessica C. and Ankersmit, Laurens, Making EU FTAs 'Paris Safe' Three Studies with Concrete Proposals (March 8, 2019). <https://ssrn.com/abstract=3407949>

agricultural goods, suspected of being contaminated with pathogens or containing prohibited pesticide residues.

7. **The EU-Mercosur FTA should not relocate EU environmental problems to our partners.** In addition, clearly, the EU should prohibit EU exports of pesticides banned for domestic use. On the glyphosate ban, the SPS chapter does not provide sufficient protection from trade disputes in the event of an end to the EU's current glyphosate approval or a reduction in residue levels. Article 11 of the SPS chapter states that either international standards or scientific evidence should be provided to justify such measures. Glyphosate is approved in the EU until 15 December 2022 but it is extensively used in Mercosur countries, in particular on soy fields. The EU-Mercosur Agreement should not be used to contest the possible expiry of this approval (i.e., through the TBT, SPS or regulatory cooperation provisions).
8. **Review the SPS chapter's trade facilitation and equivalence provisions:** they weaken oversight of imported food products and potentially increase risks to consumers, therefore the provisions should be reviewed or removed, namely:
  - a. measures to rapidly pre-approve establishments for meat exports;
  - b. provisions reducing the frequency and effectiveness of food safety checks by the importing country; and
  - c. limitations on the authority of governments to preventively block imports when food safety violations are suspected. Such provisions should instead allow for enhanced controls.
9. **Effective mirror clauses should be included to ensure that the regulatory requirements that the EU producers must adhere to are also applied and enforced on EU imports.** Imported foods must comply with the same sustainability standards that are applicable in the EU, particularly on the environment, animal welfare, antibiotics, and pesticide issues. The EU-Mercosur deal may encourage an increase in the animal production sector, especially in Mercosur.

Our demands:

10. **Standards equivalent to EU animal welfare standards for imported animal products:** Equivalent animal welfare standards need to exist and be implemented in Mercosur countries of origin, even if EU regulations subsequently change. Mercosur countries should have to respect future EU standards<sup>8</sup>. Intensification and overproduction of animal production in both regions need to be addressed in the Agreement.
11. **More and better audits:** the way animals are raised and transported in the Mercosur region should fall under the EU audit and certification procedure, and there should be a higher number of independent audits in Mercosur countries. The SPS chapter needs to

<sup>8</sup> New Commission proposal on animal welfare package including transport is expected in the third quarter of 2023: <https://www.euractiv.com/section/agriculture-food/news/meps-question-commissions-timeline-to-adopt-new-animal-welfare-rules/>

be revised to guarantee this. Audits should furthermore systematically address tracing of the origin of cattle to address potential “cattle origin laundering”.

12. **The TBT chapter should not restrict the scope of acceptable mandatory labelling schemes:** the chapter should allow for mandatory labelling schemes that would have an information-only purpose and should be reviewed to avoid any barrier to the future imposition of a method of production but also food nutritional content information labels on imported products.
13. **The market access offer should be reviewed to further limit the volume of TRQs granted for animal-based products,** especially for bovine and chicken meat and to make access to such TRQs conditional upon respect for the EU’s relevant animal welfare standards, following the model that the Agreement applies for shell eggs. Overall, TRQs should be reviewed to adjust to the UK’s withdrawal from the EU. While it has been done for GATT and WTO TRQs such as Hilton beef TRQs, it has not been done for bilateral TRQs (CETA TRQs, for example).

#### **EU autonomous measures:**

As a major economic player, the EU has a responsibility to ensure that its trade is consistent with its environmental, climate and social objectives. Policy coherence is crucial if there is to be any chance that the negative impacts of EU-Mercosur deal can be prevented. Prior to ratification, the EU should introduce:

1. **Effective EU legislation on due diligence for forest-risk commodities.** In November 2021, the Commission tabled a proposal to tackle deforestation and forest degradation linked to specific commodities and products placed on the EU markets. Nevertheless, a lack of control remains. This regulation on deforestation concerns only a part of the forests. “Other wooded lands”, including the Cerrado in Brazil, will not be covered by the ban (at least for now). Moreover, meat companies (JBS, Marfrig, Minerva) that will be required to monitor compliance with the mirror clause on behalf of the EU (“due diligence”) are not in a position to be able to do so due to the lack of traceability and control (see chapter 6 on beef production). The mirror clause on deforestation should cover every species of native vegetation (such as the Cerrado, Pantanal, Chaco...). It should concern areas deforested since 2016 (the start of the increase in deforestation in Brazil).
2. **Effective EU legislation on veterinary medicine.** This mirror clause is dependent upon article 118 of the EU Regulation on veterinary medicinal products (EU Regulation No. 2019/6 of 11 December 2018). After several months’ delay, the European Commission notified the WTO of a draft of the delegated act on the implementation of this mirror measure on the use of antibiotics in livestock farming in early December 2022. This delegated act on the prohibition of meat from animals that have used antibiotics as a growth promoter remains weak. Just as for deforestation, the meat companies (such as JBS, Marfrig, Minerva) that will be required to monitor compliance with the mirror clause on behalf of the EU are not in a position to trace this completely. In Mercosur, lack of traceability and medicine regulations remains high, with the exception of Uruguay. The



mirror clause on veterinary medicine needs to be more detailed. It should provide real checks on the effectiveness of the regulation and be effective as soon as possible.

3. **EU legislation on supply chain due diligence on human rights and environment for all economic sectors and products.**
4. **An EU ban on the export of pesticides currently prohibited in EU**, in line with the “do-no-harm principle”, the European Green Deal, and as outlined for consideration in the European Commission’s Chemicals Strategy.
5. **An EU agreement on taxing emissions from maritime transport and aviation** to ensure that emissions controls are all-encompassing.

In addition, the EU must strengthen its border controls<sup>9</sup>, and introduce better labelling of origin and production methods<sup>10</sup> of soybeans cultivated in Brazil and Argentina.

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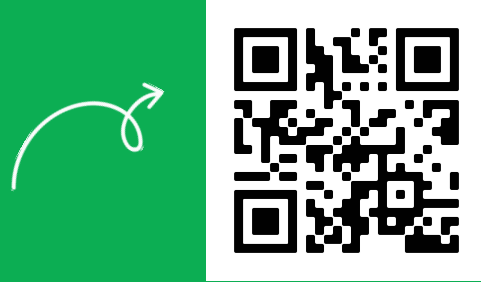
<sup>9</sup> It must be ensured that all Member States allocate sufficient resources to food controls, in particular that EU Member States are conducting proper controls for the presence of unauthorized GMOs engineered with new GM techniques such as ‘gene editing’.

<sup>10</sup> This includes an extension of EU mandatory rules of origin, in particular to all fresh, frozen and processed meat, seafood and aquaculture products offered to consumers in every condition, including in restaurants and canteens, and indicating the place where the animal was born, raised and slaughtered, or caught and slaughtered. For more information: [https://www.greens-efa.eu/files/assets/docs/cap\\_for\\_the\\_future.pdf](https://www.greens-efa.eu/files/assets/docs/cap_for_the_future.pdf)

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