SPECIAL EDITION

GLOBAL AND REGIONAL ORDER

EU-MERCOSUR TRADE AGREEMENT

Analysis of Sectoral Impacts in Brazil

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Apart from the relative advantages obtained by large-scale agribusinesses, there is no evidence of gains in other economic sectors included in the agreement negotiated in 2019.

In its current form, the agreement promotes expansion of Brazil's exports, increasing economic pressure on The Cerrado and on Amazônia, with very negative environmental and social effects.

Even with the gradual reduction in prices of imports from the EU, the agreement does not, in and of itself, guarantee more direct investment by Europe, or technological modernisation in industry which might reduce the huge competitive gap and inequalities between the two blocs.

FRIEDRICH EBERT STIFTUNG

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1

INTRODUCTION

Dörte Wollrad

The negotiation process between the European Union and MERCOSUR[1], South America's common market, culminated in the signing in June 2019 of an agreement in principle. Having dragged on for almost 20 years, the negotiations were strongly influenced on both sides by shifting global economies.

FROM ASSOCIATION AGREEMENT TO TRADE AGREEMENT

When an interregional framework agreement was signed in 1995 as a preliminary step towards an association agreement, the project seemed to make sense both historically and politically. It was about agreeing close cooperation between two regions of the world that – more than any others – were closely linked culturally, historically and economically by the migrations of the 19th and 20th centuries and by trade and investment. MERCOSUR, founded in 1991, had good reasons for aligning itself both economically and politically with the European Union (EU) and seeking to extend integration beyond the customs union on a base of democratic control exercised by a parliament (PARLASUR) and by local and civil society associations, such as the MERCOCIUDADES network of cities and a university network[2]. As in the EU, the asymmetries in MERCOSUR are considerable. Brazil and Argentina, both G20 countries, have always set the course of negotiations for their small neighbours. And Brazil – the world's ninth-largest economy and which enjoys an enormous market and a historically high density of European investment – has always been the first priority of European interests.

In addition to trade matters, the framework agreement also envisaged cooperation projects such as technical training and joint research projects, and sought to consolidate political dialogue. However, the negotiations, which started in 2000, proved difficult. Europe's agro lobby blocked the issue of agro-exports to the EU, while the MERCOSUR countries feared that the opening of public tenders to European competition, among other things, would result in the loss of national political freedom. MERCOSUR also wanted to wait for the outcome of WTO negotiations, in the hope of concluding a more favourable agreement. So between 2004 and 2016, negotiations paused for periods lasting several years, and it was only when the Doha Round failed and the governments in Brazil and Argentina changed that the project resumed in 2016.

In the meantime, however, much had altered. Within the EU, new nationalisms and criticism of integration had been growing alongside BREXIT[3], while in MERCOSUR, falling commodity prices and the subsequent recession had taken some of the shine off its appeal for investors. Both regions were suffering from difficult access to the US market and wanted to head off Chinese advances from a more solid power base. So the fact that the long-awaited agreement was announced at the G20 summit in Osaka in June 2019 was politically very opportune for both sides. The creation of the world's largest free trade area outside the borders of the USA and China was a strong political signal in the trade war between these two giants and in the new era of unilateralism and protectionism. The interregional talks had originally kicked off in reaction to Bush's attempt to establish a Free Trade Area of the Americas (FTAA) from Canada to Tierra del Fuego, and now as then, the negotiating partners were primarily motivated by political considerations. The MERCOSUR countries seemed only to overlook the fact that of the three pillars of negotiation – trade, political dialogue and cooperation – all that remained was the former, since only the trade pillar has been agreed; nothing is known about the status of negotiations on the other two. The Association Agreement thus threatens to become a simple trade agreement. As such, the hopes of some European players that the agreement in its present form can be used as leverage for compliance with environmental and social standards are also without foundation.

1 Brazil, Argentina, Uruguay and Paraguay are full members; Bolivia, Chile, Peru, Colombia and Ecuador are associate members; Venezuela, which had been a full member since 2012, was permanently suspended in 2017.

2 With national interests often outweighing regional ones, the bloc has only achieved an incomplete customs union to date, and institutions such as the Council and Parliament have never been given an independent mandate.

3 As the UK's agricultural sector is insignificant, MERCOSUR is losing an advocate within the EU. However, gold makes up the majority of Brazil's exports to the UK and is a commodity that finds a buyer one way or another.

WHAT INTERESTS, EXPECTATIONS AND FEARS DO BRAZIL'S PLAYERS NOW HAVE WITH REGARD TO THE AGREEMENT?

It is becoming increasingly clear that the Bolsonaro government, in power since January 2019, is a populist-authoritarian spectrum of right-wing extremist forces and is committed to a distinctly neoliberal approach to economic policy. It believes that the development of new outlets and liberalisation of the Brazilian market will increase export profits and attract investment. The previous government, under President Temer, had already pushed through unprecedented labour market reforms in 2017, which were intended to improve Brazil's international competitiveness solely through flexibilization, job insecurity and low wages. In terms of liberalisation policy, President Bolsonaro relied from the outset on achieving a close alliance with the Trump administration, which he wanted to quickly seal through a MERCOSUR-USA free trade agreement. Although this was designed to show the EU that Brazil had alternative alliances, the project was postponed at the request of Mauricio Macri, Bolsonaro's Argentinian counterpart, who wanted to see the agreement with the EU signed first.

No sooner had this happened than Brazil began negotiations with the USA. This was completely in keeping with MERCOSUR's trend towards liberalisation, since the alliance is currently also negotiating with other countries, including Canada, South Korea, India, Lebanon and Singapore. The Brazilian government certainly has no interest in deepening the regional integration project as part of this process. In the draft agreement with the EU, it even indirectly included the possibility of bilateral agreements by introducing a bilateral clause for ratification of the agreement. If the agreement of a MERCOSUR member country is delayed or not forthcoming, the other agreements will enter into force bilaterally and independently, which would likely seal the end of the alliance[4].

The traditional land-owning elite is hoping the agreement with the EU will generate profits through better sales opportunities. In fact, however, it is mainly agricultural export products that are exempted from customs duties, and these attract fairly low tariffs anyway. Quotas at lower tariffs were only agreed for the main export commodities of beef and soya, which are well below current export volumes. And as Brazil uses genetically modified seeds and a wide range of pesticides, it is unclear whether all Brazilian agricultural products will meet the EU's high environmental and health standards and whether there are plans to provide technical assistance to meet the standards. Fears also abound about the »bio protectionism« of the European agricultural lobby. So it remains unclear whether, under the rules of the agreement, export volumes to the EU and thus export profits will increase.

Representatives of large industrial companies – mainly in the automotive, metal processing and chemical sectors – also support the agreement. European companies have been investing in Brazil since the 19th century, so for a long time accounted for the bulk of foreign direct investment. But investments – beyond portfolio protection – are declining, since these days, capital around the world tends to be used more for speculation than investment. It is therefore hoped that the agreement will increase production capacity in Brazil. By contrast, lower productivity means Brazilian industrial exports to the EU are highly unlikely to increase. And Brazil – like the entire region – has spent the last 20 years specialising in the export of mining and agricultural products that require little post-processing.

Small and medium-sized enterprises, on the other hand, clearly fear the competition that will enter the country when the market opens up not only for European products, but for services as well. Suppliers of, for example, auto parts and government contractors will find it hard to keep pace. But 52% of jobs are in this sector.

Since there have been few studies on the potential impact of the agreement on the MERCOSUR countries and those affected have generally had few opportunities to participate, much is uncertain. The COVID-19 pandemic has exposed structural problems worldwide and exacerbated Brazil's enormous social inequality, a trend aggravated by the government's irresponsible crisis management. How will this affect developments in the country, the stability of democracy and public safety, but also the sales hopes of Europeans?

The agreements in principle still require ratification by the member states of both regions. The sections on dialogue and cooperation are unknown and the one on trade is undergoing legal finalisation. Since gaps always present opportunities to shape the future, we hope this analysis gives a voice to those whose concerns, expectations and proposals regarding Brazil's relations with the European Union have been given little attention. We asked representatives of trade unions, human rights organisations, environmentalists and critical economists and social scientists for their assessment of the advantages and disadvantages of the agreement and their recommendations for potential improvements.

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4 Membros plenos são o Brasil, a Argentina, o Uruguai e o Paraguai, membros associados são a Bolívia, o Chile, o Peru, a Colômbia e o Equador; a adesão plena da Venezuela, que existe desde 2012, foi permanentemente suspensa em 2017.

2

THE EUROPEAN UNION-MERCOSUR AGREEMENT AND THE ENVIRONMENT

Sergio Schlesinger[1]

It is impossible to discuss concerns about Brazil and the environment without focusing immediately on the Amazon Rainforest and the continued expanding livestock and soya production in the region. For the Brazilian Government, increased soya and meat exports are a primary goal in trade negotiations. The European Union-Mercosur Agreement is by no means an exception.

The reduction or removal of tariffs and concession of quotas by the European Union (EU) will allow Brazil to expand imports of diverse agricultural commodities. These include monocultures such as soya and maize, the majority of which are destined for feeding animals raised in confinement, as well as beef, pig meat and poultry meat. The expansion of other vast monocultures, such as eucalyptus (8.4 million hectares) for paper production and sugar cane (7.4 million hectares) for sugar and ethanol, may also be boosted by this agreement.

Soya is cultivated in 36.8 million hectares of Brazilian soil, an area greater than the total surface area of Germany (35.7 million hectares).[2] In the last ten years, this area has increased by 57%. Brazil is the largest global producer (36%) and exporter (51%) of this grain.[3] Domestic consumption represents 40% of the amount produced. In 2019, soya represented 12% of total Brazilian exports and China was the destination for 32% of these sales.

18.5 million hectares are used to cultivate maize. Over the last 10 years, the increase in maize cultivation has exceeded 40%. After the USA and China, Brazil is the third largest producer, accounting for 10% of global maize production. In 2019, approximately half was exported, in particular to Japan and Iran.

Meat sales are in second place for agricultural exports. In 2019, Brazil was the largest global exporter of beef and chicken, and the fourth largest exporter of pigmeat. Extensive livestock production accounts for most of the deforestation across the whole of Brazil.

The EU is the second largest importer of agricultural products from Brazil, overtaken only by China, whose imports are equivalent to twice the amount imported by the EU. IN 2019, its purchases stood at USD 16.7 million, 17% of the total amount exported by Brazilian agricultural producers. Of this total, 43% (USD 7.2 billion) was related to the meat supply chain: soya (30%), meat (8%) and maize (5%).[4] The EU absorbed 5.7% of the total volume of Brazilian exports of beef in 2019.[5]

Brazil is also one of the major consumers and consumption is approximately 25% greater than in the EU. The domestic market absorbs 80% of the red meat produced, more than 60% of the chickens slaughtered and 49% of the soya grown. The Brazilian Ministry of Agriculture envisages a sharp boost to exports once the agreement enters into force, with a reduction in the customs tariffs and tax-free quotas for meat. Consequently, domestic consumption of soybean meal is also expected to increase.

Growth is similarly expected in grazing, soya and maize monocultures, the use of pesticides and chemical fertilizers, and consequently in the emission of greenhouse gases. We take the examples of soya and livestock production, which are the two activities that occupy the largest land area in Brazil.

THE ENVIRONMENTAL IMPACT OF SOYA CROPS

Although concerns about the Amazon are completely justified, the most widespread expansion of soya cultivation and deforestation is not taking place in the Amazon. The moratorium on soya in the Amazon, implemented in 2006, managed to slow down the expansion into the forest and limit it almost entirely to areas that had already been

1 Economist, advisor to the NGO – Fase – Solidariedade e Educação and other organisations. He has published widely on the socioenvironmental impact of the main agricultural activities in Brazil.

2 Conab. Acompanhamento da safra brasileira de grãos, v. 7 – Safra 2019/20 – v. 7 – Safra 2019/20 n.8 – Oitavo levantamento, maio 2020. https://www.conab.gov.br/info-agro/safras/grãos

3 https://apps.fas.usda.gov/psdonline/app/index.html#/app/advQuery

4 Angelo, J. et al. Balança Comercial dos Agronegócios Paulista e Brasileiro de 2019. http://www.iea.sp.gov.br/out/verTexto.php?codTexto=14751

5 Abiec. BeefREPORT. Perfil da Pecuária no Brasil. 2020. http://abiec.com.br/publicacoes/beef-report-2020/

deforested. In the Cerrado however, which covers 25% of Brazil's land area, and where most of soya production and land expansion has been concentrated, there has been increased deforestation on plantations. 50% of the soya planted in Brazil is located in the Cerrado. Between 2001 and 2017 it increased by 128%, or approximately three million hectares.[6] This is equivalent to the land area of Belgium, the seat of the European Parliament. Although a proportion of this expansion occurs in previously deforested areas, production has other major effects.

The Cerrado is the richest and most biodiverse savanna in the world with more than 10 thousand species of plants, of which 4,400 are exclusive to this area. Many of them are used in the production of food, traditional craftwork, cork, fibres, oils and medicines. Located in the Central Highlands, this area acts as Brazil's »water tank«. Huge amounts of water are collected and distributed and are essential for supplying the Central-South, Northeast, Pantanal and parts of the Amazon. The Cerrado contains the sources of rivers that supply the largest hydrographic basins and aquifers in Brazil, such as the Amazônica and Paraná-Paraguay, on which the survival of the Pantanal, the largest floodplain on the planet, classified by UNESCO as a World Biosphere Reserve and Natural World Heritage, depends.

The contamination of waters, food and soil by the intensive use of pesticides, many of which are banned in the EU, is also a major factor contributing to the reduction in biodiversity. Although Brazil is the third largest agricultural producer, since 2008 it has been in terms of figures, the greatest consumer of pesticides. Soya and maize account for two thirds of this consumption. In both cases, there is widespread use of genetically modified seeds and aeroplanes for fumigation. Recent studies suggest that companies headquartered in the EU, such as the German firms Bayer and Basf, are major suppliers of these products and genetically modified seeds:[7]

> *»There are striking differences in the regulation of pesticides in Brazil and in the EU: 44% of the substances registered in Brazil are banned in the EU. There are substantial differences in the maximum levels of pesticide residues in water. While the EU limits the maximum level of glyphosate herbicide residue in drinking water to 0.1 g/L, Brazil permits 5 thousand times more (500 μg/L)«.*

The activity is responsible for most of the greenhouse gas emissions, caused by changes in soil use, especially by nitrogen fertilizers, oil products contained in pesticides, the decomposition of harvest waste and agricultural machinery.

If we consider the tariffs, the agreement will have absolutely no effect on exports of soya, as tax is not levied on the import of pesticides and fertilizers in Brazil. This tax benefit, which affects other taxes too, was BRL 10 billion in 2017, according to a study by the Brazilian Association of Collective Health.[8] This amount is around four times greater than the Ministry of the Environment's 2019 budget (BRL 2.6 billion). As the agreement paves the way for an increase in Brazilian exports of meat and consequently, increased domestic consumption of soya and maize, an increase in the amount associated with the tax benefit is expected. These exemptions are to the detriment of organic and healthier foods, as they reduce the cost of monocultures.

THE ENVIRONMENTAL IMPACT OF BEEF CATTLE

Brazilian cattle herds total around 244 million animals, a figure that exceeds Brazil's population of 211 million. According to the Brazilian Institute of Geography and Statistics, the total grazing area in 2017 was 160 million hectares. The Brazilian Agricultural Research Corporation estimated that in 2014, 100 million hectares of pasture would be unproductive (in other words, abandoned), or present low productivity (i.e. underused).[9]

Rearing in confinement was limited to 5.2 million cattle in 2019.[10] Although studies point to a reduction in greenhouse gases as a result of this practice, depending on how the waste is managed, the animals' well-being is inevitably adversely affected.

Beef cattle farming accounts for the largest portion of greenhouse gas emissions in Brazil. In most other countries, the largest portion occurs in the energy, industry and transport sectors, at 70%. While in Brazil in 2018, this same percentage corresponded to the sum of the emissions originating from changes in the use of the land (44%) with those from agriculture (25%), principally caused by deforestation in the Amazon and Cerrado.[11] These proportions will be higher in 2019 and 2020 due to the striking increase in deforestation and land clearance blazes.

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6 Agrosatélite Geotecnologia Aplicada. Análise geoespacial da dinâmica da soja no bioma Cerrado: 2014 a 2017. 2018. https://abiove.org.br/wp-content/uploads/2019/02/12022019-125848-12.02.2019._analise_geoespacial_da_dinamica_da_soja_no_bioma_cerrado_2014_a_2017_v02.pdf.

7 Campanha Permanente Contra os Agrotóxicos, Fundação Rosa Luxemburgo, Inkota, Misereor e Khanyisa. Agrotóxicos perigosos: Bayer e BASF – um negócio global com dois pesos e duas medidas. 2020. https://contraosagrotoxicos.org/sdm_downloads/agrotoxicos-perigosos-bayer-e-basf-um-negocio-global-com-dois-pesos-e-duas-medidas/

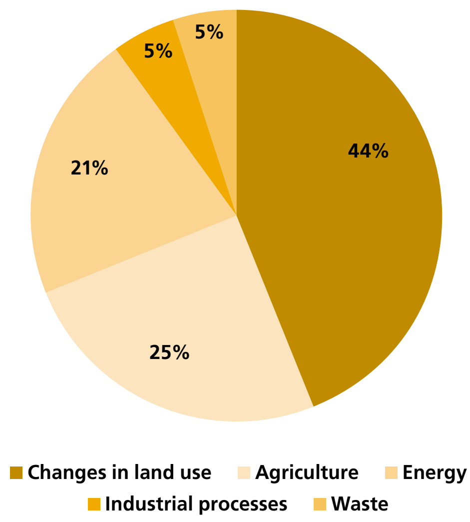
8 Soares W. et al. Uma política de Incentivo fiscal a agrotóxicos no Brasil é injustificável e insustentável. Abrasco, 2020. https://www.abrasco.org.br/site/publicacoes/uma-politica-de-incentivo-fiscal-a-agrotoxicos-no-brasil-e-injustificavel-e-insustentavel/45232/

9 Dias F. Moacyr. Diagnóstico das Pastagens no Brasil. Embrapa, 2014. https://www.infoteca.cnptia.embrapa.br/bitstream/doc/986147/1/DOC402.pdf

10 https://www.dsm.com/latam/pt_BR/arquivo-de-noticias/2019/Censo-de-Confinamento-DSM-2019-registra-crescimento-do-rebanho.html

11 SEEG. Análise das emissões brasileiras de gases de efeito estufa e suas implicações para as metas do Brasil 1970-2018. 2019. http://www.observatoriodoclima.eco.br/wp-content/uploads/2019/11/OC_SEEG_Relatorio_2019pdf.pdf

Figure 1
Brazil – Proportion of emissions according to sector in 2018

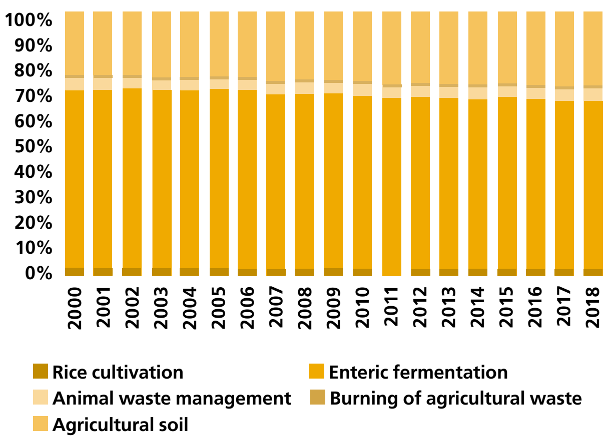


Source: SEEG – System for Estimating Greenhouse Gases

According to SEEG Brazil – System for Estimating Greenhouse Gases, in 2016 cattle herds released 17% of the overall total, or 79% of emissions from the agricultural sector. If it were a country, Brazilian beef cattle would be the 17th largest polluter in the world, ahead of the Ukraine. This figure does not also include deforestation for pastures.[12]

The main sources of direct emissions from farming are, firstly, beef cattle, which release high levels of methane through the animals' enteric fermentation. Then there is the use of nitrogen fertilisers, animal waste management, the cultivation of irrigated rice and the burning of waste, such as sugar cane straw.

Figure 2
Brazil – agricultural emissions – 2018



Source: SEEG – System for Estimating Greenhouse Gases

MapBiomas shows that Brazil lost more than 1.2 million hectares of native vegetation in 2019, 63% in the Amazon, where 770 thousand hectares were destroyed. The second most affected biomass was the Cerrado, with 408.6 thousand hectares (34%). Most of the deforestation took place in prohibited areas, such as indigenous lands, legal reserves, areas of permanent or new conservation.[13]

The following maps show that the main vector behind deforestation in the Amazon is beef cattle and that, between 1985 and 2018, it expanded over 37 million hectares, while agriculture represented 6 million hectares. In contrast, over the same period, soya occupied 17 million additional hectares and agriculture 13 million in the Cerrado.

According to the SEEG, until 2018, Brazil remained within the constraints imposed on emissions compatible with the target reduced emissions in the Paris Agreement. This limit was exceeded in 2019, when deforestation in the Amazon was 34.4% greater than in 2020.[14] Annual deforestation is measured between August in one year to July in the following year. The 2019 rate includes the election campaign period and the first six months of the Bolsonaro government. This trend continues: between January and April 2020, deforestation was 55% higher than the same period in 2019.[15]

International institutions estimate that Covid-19 may a reduction in global emissions of around 6% in 2020, especially due to the drop in the consumption of fossil fuels. SEEG issued a technical note on this topic. In Brazil's case, despite a fall in other sectors, emissions may increase between 10 to 30% compared to 2018, depending on the path of deforestation, economic recovery and the reduction in the slaughter of cattle, consequently increasing cattle numbers, due to the drop in the population's purchasing power.[16]

THE CHAPTER ON SUSTAINABLE DEVELOPMENT IN THE AGREEMENT

Although the agreement mainly focuses on trade, there is a chapter dedicated to sustainable development. This is usual practice in most recent EU treaties. This will be a challenge for Brazil, and not just for the government. The so-called international threat to Brazil's »sovereignty« over its land and riches of the Amazon is a myth that has been perpetuated since the 19th century. Encouraged by the

12 http://www.observatoriodoclima.eco.br/rebanho-bovino-responde--por-17-das-emissoes-de-gases-de-efeito-estufa-no-brasil/

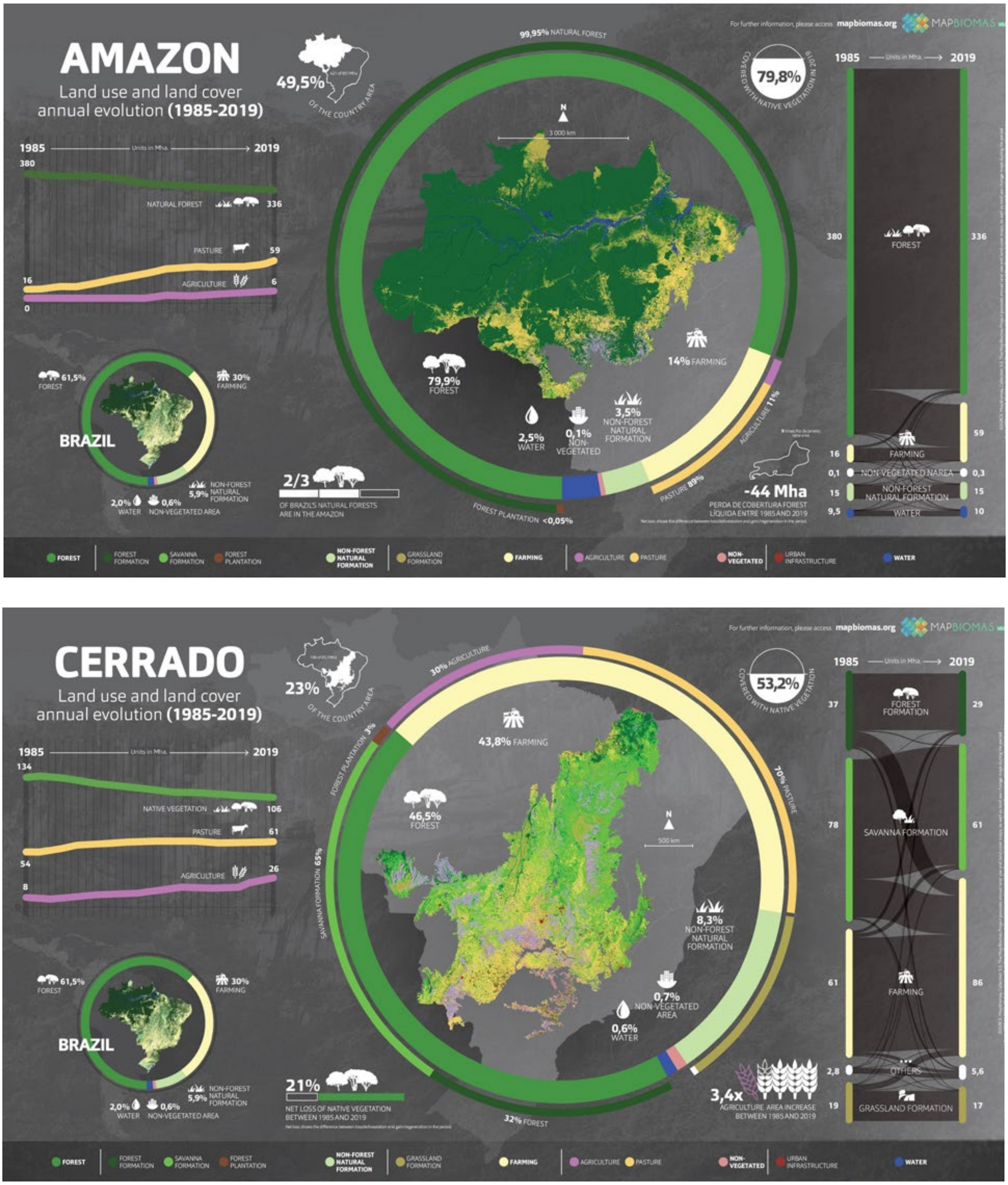
13 MapBiomas. Relatório Anual do Desmatamento no Brasil, 2019. 2020. https://s3.amazonaws.com/alerta.mapbiomas.org/MBI-relatorio-desmatamento-2019-FINAL4.pdf

14 http://www.inpe.br/noticias/noticia.php?Cod_Noticia=5465

15 http://www.observatoriodoclima.eco.br/wp-content/uploads/2020/06/ADO-Fundo-Amaz%C3%B4nia-PSB-PSOL-PT-e-REDE-05.06.2020-Peti%C3%A7%C3%A3o-Inicial-e-comprovante-de--protocolo.pdf

16 SEEG. Impacto da pandemia de Covid-19 nas emissões de gases de efeito estufa no Brasil. Maio de 2020. http://seeg.eco.br/nota-tecnica--covid-19

Figure 3
Amazônia and Cerrado: Land use and land cover annual evolution (1989-2019)



Source: Mapbiomas

current government, this chapter is seen as a rather bothersome addition to the agreement and one that would threaten the trade-related interests of the government and the agrobusiness sector.

In addition to the usual recent commitments to such themes as climate change, biodiversity, human rights and others, this agreement highlights the following:

- Each country reserves the right to write its own sustainable development policies, setting the levels of environmental and occupational protection it deems suitable.

- Countries are, however, prohibited from attempting to boost trade and investment by reducing these levels, repealing laws or failing to apply them repeatedly.

– Civil society must participate in the drawing up of these measures.

– Disputes between countries will be arbitrated by a panel of three independent specialists, and they will not use the conflict solution mechanism applicable to the other chapters.

This is also intended to prevent trade expansion coming at the cost of the environment. In practice, there is a paradox. The current production model, based on increasing the production and export of meat, which requires vast monocultures and extensives farming, causes damage to the environment. Cheaper meat for European citizens is on the other hand a way of stimulating an increase in consumption.

Besides, how can one determine scientifically whether a new law will be beneficial or harmful? A current example is the »provisional legal invasion measure«, which gave an amnesty to land invasions prior to 2014 and is criticised by environmentalists, former Ministers of the Environment, federal prosecutors, trade unions and family farmers. The government, for its part, claims that regularising land in Brazil will reduce deforestation in the Amazon. How can a State's willingness to act be shown before the policy comes into force?

As for civil society participation, current policy is moving in completely the opposite direction to the terms of the agreement. The Government has excluded civil society representatives from the Advisory Board of the National Environmental Fund and many other boards linked to the environment and other fields.

CONCLUSIONS

The figures presented indicate that even with the approval of the agreement, Brazilian agribusiness would still have a vast alternative national and international market. For this reason, substantial changes in the meat supply chain model in force cannot be expected, even if the EU imposes effective environmental restrictions, as they would only apply to their own imports. In simple terms, products originating from deforested areas would be channelled to other markets, including the domestic market.

The following suggestions are measures that could be adopted by the EU to reduce the impact of increased imports of agricultural products:

– The signature of the agreement must be preceded by concrete measures taken by Brazil to transform commitments only made to date on paper into actions. Indicators such as deforestation reduction rates, greenhouse gases and others could be adopted.

– In the absence of sustainable means of production, science and technology need to work hand-in-hand to develop new agricultural practices and techniques for rearing animals that minimize the environmental and social impact and promote animal well-being. Europe meets the special conditions for this as shown by its initiatives to develop alternative technologies to the use of fossil fuels.

– Envisage the immediate use of production methods that are less aggressive on the environment, such as for example, integrated crop-livestock-forestry systems.

– Specify the mechanisms for civil society participation in decision making processes. This participation is only included as a recommendation in the wording of the agreement. Elected representatives of diverse segments of society need to have a right to vote on these matters.

– Ban the export by European companies to Brazil of products that are prohibited in the European Union, for example, several pesticides.

– Require companies that sell Brazilian agricultural products, regardless of their nationality, to comply with the same environmental criteria in all their global activities, including those on the Brazilian domestic market. Companies must not be allowed to sell goods produced in recently deforested areas to everywhere but the European Union.

– Lift the restrictions on the effective use of the precautionary principle. The agreement states that it may only be invoked with regard to the effects of land belonging to the party that invokes the measure.

– Ensure effective, transparent and participative monitoring of compliance with the established standards, avoiding schemes which involve »cattle laundering«. In this scheme, the cattle are birthed and fattened at farms breaching the rules and then transferred to properties where deforesting does not take place. The intermediaries then sell them to slaughterhouses which only trace their final location. It should be noted that the current government is working towards reducing information transparency, such as data on deforestation. This has already led to the dismissal of the Director of the Brazilian National Institute for Research and Statistics, the body responsible for official data and disseminating them.

– Bear in mind that free trade agreements promote an increase in the transport of goods over long distances. This is often illogical, and not just because of the fact that ships consume high amounts of fossil fuels. Tomatoes, potatoes and several types of fruit are produced both in Brazil and the EU. However, liberalisation means that local products are replaced by others that have travelled thousands of kilometres to reach the consumer's kitchen. The Trade Agreement between the EU and Peru illustrates how the damage caused by such liberal practice is not only economic, but also social and cultural. Over eight thousand years, Peruvians grew more than four thousand varieties of potatoes, which were a source of income and livelihood for 730 thousand families.[17] Today, the largest Latin American producer of potatoes imports frozen potatoes tariff free from the EU. The Netherlands is currently the main source of frozen potatoes exported to Brazil.[18]

17 http://cupofthings.com/batata-um-dos-alimentos-mais-importantes--do-peru/

18 Ghiotto, L. e Echaide, J. Analysis of the agreement between the European Union and the Mercosur. 2019. https://www.annacavazzini.eu/wp-content/uploads/2020/01/Study-on-the-EU-Mercosur-agreement-09.01.2020-1.pdf

3

THE IMPACT OF THE EUROPEAN UNION-MERCOSUR AGREEMENT ON BRAZILIAN INDUSTRY

Fernando Sarti[1] *e Marta Castilho*[2]

INTRODUCTION

The agreement for the creation of a free trade area, signed on 28 June 2019 between MERCOSUR and the European Union (EU), still needs to undergo a long process for the negotiation, approval and implementation of its key principles and rules. The agreement must be ratified by the legislature of each member country and the European Parliament. With regard to industry, the removal of import tax tariffs for all imports from the European Union and for approximately 70% of Mercosur's will take place gradually over 10 years. MERCOSUR will also have an additional five years to cut tariffs to zero on more sensitive products, which will make up 90% of the list of industrial goods. Therefore, although the signing of the agreement is an important political and diplomatic step forward, its institutional consolidation and economic and social effect are still very much unknown.

ASYMMETRIC COMPETITION BETWEEN MERCOSUR AND EUROPEAN UNION MANUFACTURERS

The manufacturing industries of MERCOSUR and the EU are hugely asymmetrical in scale and competitiveness. The manufacturing value added (MVA) of the EU's 27 economies,[3] USD 2.3 trillion in 2019, was eight times higher than Mercosur's MVA (USD 282 billion). Even if Mercosur's associate countries (Bolivia, Colombia, Chile, Ecuador and Peru) are factored in, the MVA would reach only 391 billion, which still equates to a very high ratio of six to one.

The MVA is also particularly concentrated into two economic blocs. In the EU, the five (5) largest industrial nations– Germany (32%), Italy (12%), France (11.5%), Spain (7.2%) and Ireland (5.6%) represent 68.4% of the region's MVA. As for MERCOSUR, Brazil (58.5% of the region's MVA) and Argentina (28.6% of MVA) make up 87.1%. Adding the two blocs together, their MVA totalled USD 2.73 trillion in 2019, with Germany the undisputed leader (USD 750 billion), followed by Italy (281 billion USD), France (USD 270 billion), Spain (USD 169 billion) and Brazil (USD 165 billion). The five largest industrial nations represent 60% of the sum of the two blocs.

Tables 1 and 2 illustrate the asymmetric competition between industries of the countries belonging to the EU and MERCOSUR. The Competitive Industrial Performance Index (CIP), produced by the United Nations Industrial Development Organization (UNIDO) for 140 countries, is three dimensional. The first aspect assesses a country's production and export capacity for manufactured goods, based on MVA indicators per capita (a proxy for industrial productivity) and manufactured exports per capita. The second aspect assesses how technologically developed a country's production and export structures are, based on indicators of the level of industrialisation (the relation between MVA and gross domestic product (GDP)) and the quality of production (share of total medium- and high-tech products) and export (share of manufactured products exported by the country and share of medium- and high-tech manufactured exports). The third aspect assesses the impact and importance of a country in the global production and export of manufactured and higher-tech goods. As such, the concept of competitiveness and how it is measured by UNIDO is much more complex than traditional indicators of productivity, exchange rate and wage costs (unit labour costs). Conventional indicators might lead to misguided diagnoses and suggestions of »spurious« gains in terms of competitiveness, such as wage reduction stemming from reforms that reduce labour rights and guarantees.

Germany was ranked first for competitiveness in 2017 (CIP, 2019), ahead of Japan, China, South Korea and the USA. German MVA per capita was USD 10 thousand and its share of medium- and high-tech activity was 62%, with a level of industrialisation (MVA/GDP ratio) of 21%. Manufactured exports per capita were 15.8 thousand, representing

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3 The United Kingdom had the fourth largest aggregate manufacturing value of the European Union with USD 265 billion. In the light of Brexit, it has been removed from the analysis.

Table 1
Competitive industrial performance index for selected European union countries

Competitive Industrial Performance Index (CIP) 2017	Germany	Italy	France	Spain	Ireland	Poland	Netherlands	Swizzerland	Áustria	Belgium
CIP Ranking	**1**	**9**	**11**	**19**	**6**	**23**	**10**	**16**	**14**	**8**
Per capita indicators (in million USD)										
Manufacturing Value Added (MVA) per capita	10.064	5.248	4.604	4.139	24.077	2.848	5.739	7.766	8.913	6.362
Manufactured Exports (ManExp) per capita	15.884	7.638	7.174	5.638	27.329	5.153	25.461	13.639	16.401	33.267
Medium- and High-tech Activity (in %)										
Share of MVA	62	43	51	40	54	34	49	52	46	50
Share of ManExp	74	55	66	57	60	55	56	60	61	55
Share of national aggregates (in %)										
MVA share in total GDP	21	15	10	13	32	18	11	13	18	14
ManExp share in total exports	90	93	89	82	94	89	86	88	90	88

Source: UNIDO. CIP (2019).

Table 2
Competitive industrial performance index for MERCOSUR countries

Competitive Industrial Performance Index (CIP) 2017	Brazil	Argentina	Uruguay	Paraguay	Venezuela	Peru	Colombia	Ecuador	Chile	Bolivia
Ranking no CIP	**35**	**51**	**79**	**98**	**69**	**60**	**70**	**91**	**52**	**100**
Per capita indicators (in million USD)										
Manufacturing Value Added (MVA) per capita	1.189	1.487	1.742	439	1.168	795	835	638	1.461	277
Manufactured Exports (ManExp) per capita	626	605	872	254	427	790	239	245	2.080	267
Medium- and High-tech Activity (in %)										
Share of MVA	35	26	15	22	34	15	23	14	21	10
Share of ManExp	41	45	2	27	10	5	4	12	10	2
Share of national aggregates (in %)										
MVA share in total GDP	11	14	12	11	13	13	11	12	10	11
ManExp share in total exports	60	46	38	20	15	57	31	21	54	38

Source: UNIDO. CIP (2019).

90% of total exports, 74% of which were medium- and high-tech activity. All 10 major industries within the EU, which account for 86% of the bloc's MVA, have a higher competitive index than MERCOSUR countries. Poland, the sixth largest manufacturer in the EU, is the least competitive within the Top 10. Even so, it holds 23rd place in the competitiveness rankings. Brazil, the largest manufacturer and highest ranked in MERCOSUR, was in 35th place in 2017.

Despite Brazil being the ninth largest manufacturing industry in the world, with an MVA of USD 250 billion, the industrial cost indicator would suggest that the country has become less competitive over recent decades. In 1990, the country held 26th place amongst 140 countries, but in the year 2000 it fell in the rankings to 30th place, dropping one more place in 2010 to 31st place after the onset of the international financial crisis. In 2017, in the throes of the economic recession, it dropped yet again, to 35th place.

Brazil's indicators for MVA per capita (USD 1.2 thousand), share of medium- and high-tech activity in MVA (35%) and level of industrialisation (11%) are lower than those of the European Top 10, with the exception of Poland, with regard to share of medium- and high-tech activity in MVA (34%), and France, with regard to industrialisation (10%). Brazil also has lower indicators for exports: manufactured exports per capita (USD 626), share of medium- and high-tech activity in manufactured exports (41%) and share of manufactured exports in total exports (60%).

Within the MERCOSUR bloc, Brazil stands out as having the best competitiveness indicators. Exceptions include the level of industrialisation (beating only Chile), the MVA per capita (falling behind Argentina, Uruguay and Chile) and the level of manufactured exports per capita (behind Uruguay, Peru and Chile).

It is hard to know whether the free trade agreement between MERCOSUR and the EU will enable MERCOSUR countries to increase their manufacturing industry competitiveness vis-à-vis the European bloc whilst at the same time reducing asymmetries within MERCOSUR itself. The risk is that the agreement might amplify the already heightened competitive gap both between the two blocs and within their own economies. To intensify levels of industrialisation (MVA/GDP ratio), promote change in the production structure (greater participation in medium- and high-tech activity in MVA), increase productivity (MVA per capita) and improve the standard for trade integration (share of manufacturing in total exports, manufactured exports per capita and greater share of medium- and high-tech activity in manufactured exports), industrial investment needs to be increased. This includes external investment from Europe and from other economies and innovative efforts. The following section assesses the presence of European companies and their level of interest in Brazil, based on an analysis of European investment made in the country.

FLOW AND STATUS OF EUROPEAN FOREIGN DIRECT INVESTMENT IN BRAZIL

One of the main positive effects expected of an economic and trade integration process is the increase in investment, especially foreign investment from other countries involved and even from third-party countries interested in taking advantage of the benefits of accessing a wider market. Investment is expected to increase the productivity and competitiveness of industry and to encourage innovation. As will be seen below, Brazil has already attracted a significant amount of foreign direct investment (FDI) over recent decades, especially from Europe. However, this investment has not been sufficient to reverse the loss of competitiveness of Brazilian industry discussed in the previous section. Innovation, measured by expenditure on research and development in relation to GDP, is far lower in Brazil (1.27% in 2016) than in European countries (2.06% in 2016).

The share value of European companies (international investment position) and the flow of FDI from companies controlled by European capital is an indicator of the importance of economic relations between Brazil and the EU. Because of differences in scale, competitiveness and business internationalisation strategies, European capital in Brazil greatly exceeds Brazilian capital invested in the European bloc. Similarly, investment by companies from other MERCOSUR countries (both member countries and associates) in Brazil is vastly inferior to investment by European countries.

Considering the importance of foreign capital in the form[4] of capital participation, based on the idea of an end controller country,[5] the total value of shares was USD 213.8 billion for countries from the European bloc (43.5% of the total USD 490 billion) in 2018. European companies held USD 10 billion of shares in the extractive industry (28.7% of the total USD 34.8 billion) and USD 82.8 billion in the processing industry (50.8% of the total USD 162.9 billion). As such, EU countries are the greatest foreign industrial shareholders in the Brazilian economy, ahead of the USA and Japan.

Together, Argentina, Uruguay, Chile and Colombia held shares of USD 11.9 billion in Brazil, which represents a ratio of one to 15 in relation to European shares. Of that total, USD 104 million was invested in the extractive industry and USD 6 billion in the processing industry.

Another important indicator for assessing European interest in the structure of Brazilian industry and the possible impact of the EU-MERCOSUR Agreement is the recent flow of FDI. Taking the concept of gross FDI in the form of capital share country by country, the cumulative flow of investment by European countries (Germany, Austria, Belgium, Spain, France, Italy, Luxembourg, the Netherlands, Portugal and Switzerland), for 2010-2019 this was USD 109 billion in the processing industry. If we add investment in the extractive industry (slightly over USD 31.7 billion), the total amount invested in industry was over USD 141 billion, which represents a little over half (51%) of the total amount invested by foreign capital in Brazilian industry for the period.

The four sectors that attracted most European investment were the extraction of oil and gas (USD 19.8 billion, with capital coming largely from the Netherlands), the automotive industry (USD 18.6 billion, with capital from Germany, France, Italy and the Netherlands), metallurgy (USD 16.5 billion, with capital from Luxembourg, the Netherlands and Spain), chemicals (USD 15.4 billion, with capital from the Netherlands, Germany and Spain) and food products (USD 14.3 billion, with capital from the Netherlands). Sectoral and individual country indicators should be analysed with caution, because of confidential information (USD 17 billion in the case of the EU), which prevents identification of the intended sector and country of origin, and also because some company head offices are located in tax havens, such as Austria, Ireland, Luxembourg and the Netherlands.[6] Even so, from the data provided, we can clearly see the importance of European capital for the Brazilian industrial fabric and the fact that Europe's interest in the development of the Brazilian market is growing fast.

The automotive industry, will be covered separately in the EU-MERCOSUR Agreement because of its importance in terms of production, employment, international trade and investment. There will be a deadline of 16 years for cutting the import tax tariff to zero. MERCOSUR will maintain the current rate of 35% for importing vehicles until the seventh year following the implementation of the agreement. During this time there will be an import quota of 50 thousand vehicles

4 According to the Central Bank of Brazil (BACEN), for companies making a declaration in the Annual Census of Foreign Capital in Brazil, their position is valued preferentially by market value or, in its absence, by equity. For companies not obliged to make a declaration in the Annual Census, which is mandatory only for companies with over USD 100 million in equity, their position is estimated based on the previous Quinquennial Census, balance of payments flows and Foreign Capital Records filed with BACEN, in the direct investment module (RDE-IED Electronic Declarant Register of FDI – https://www.remessaonline.com.br/ajuda/o-que-e-rde/)

5 According to BACEN, the end controller occupies the top of the chain of command and does not necessarily coincide with the immediate investor. In turn, the immediate investor has a direct share in a company's capital, with voting power equal to or greater than 10%.

6 According to the Brazilian Tax Office, tax havens are countries or dependents thereupon that do not tax income, or that apply a rate inferior to 20% (twenty percent) or, furthermore, whose domestic legislation does not permit access to information relating to the corporate composition of legal entities or their ownership.

Table 3

Brazil: Cumulative 2010-2019 flow of gross foreign direct investment in the form of capital participation according to country and main economic sector of the receiving company. (in million USD and in %)

Economic Activity / Country	Total	Ger-many	Áustria	Belgium	Spain	France	Italy	Luxem-burg	Nether-lands	Portugal	Swizzer-land	EU	(%)
Total	**555.830**	**18.807**	**6.284**	**4.351**	**39.553**	**26.152**	**11.002**	**51.651**	**104.251**	**7.275**	**3.802**	**269.325**	**48,5**
Agriculture, livestock and mineral extraction	93.280	394	1.271	161	1.855	1.014	103	21.323	21.417	10	1	47.548	51,0
Extraction of oil and natural gas	56.586				416			5.079	14.378			19.874	35,1
Extraction of metallic ores	19.252							5.206	3.101			8.308	43,2
Extraction of non-metallic minerals	902				11				26			37	4,1
Activity supporting the extraction of minerals	9.036	79						362	3.121			3.563	39,4
Industry	**189.074**	**12.389**	**4.328**	**2.217**	**10.248**	**10.850**	**5.470**	**11.644**	**50.697**	**1.416**	**2.132**	**109.260**	**57,8**
Food products	21.973	188		156	254	1.881	68	187	11.621	21		14.377	65,4
Drinks	6.477												0,0
Smoking-related products	2.648								79			79	3,0
Textile products	696				5		43		65	2		116	16,7
Production of clothing and accessories	169						1					1	0,4
Preparation and manufacture of leather articles and shoes	103	2					1			1		3	3,2
Wooden products, excluding furniture	948												0,0
Cellulose, paper and paper production	7.124								1.738			1.738	24,4
Printing and reproduction of recordings	320											0	0,1
Coke, oil derivatives and biofuel	6.757							79	932			1.011	15,0
Chemical products	26.462	1.780		61	1.677	791	106	913	10.080	1		15.409	58,2
Pharmachemical and pharmaceutical products	7.318				147	592	1	744	1.928			3.412	46,6
Rubber and plastic products	6.051	341			47	264	503	213	290	48	161	1.706	28,2
Non-metallic mineral products	8.678	167			1.484	701	512		1.111	723		4.698	54,1
Metallurgy	28.615	65	2.295		2.900	1.136	145	5.093	4.949			16.582	57,9
Metal products, excluding machines and equipment	3.609	114			118	117	78	8	1.611	36	341	2.083	57,7
Technological, electronic and optical equipment	8.127	165			7	5	78	130	2.566			2.952	36,3
Machines, appliances and electronic material	6.242	376			312	582	164	236	1.293	39		3.001	48,1
Machines and equipment	8.624	1.146	90	69	121	152	290	413	1.328	28	147	3.638	42,2
Automobiles, tows and carts	30.024	7.193	84		1.158	2.417	2.878	492	4.441		265	18.661	62,2
Other transport equipment	2.907				167	152	63		727			1.109	38,2
Furniture making	150						6		15			21	14,1
Prooduction of various other products	2.241	225			2	90	11		683			1.010	45,1
Manufacture, reproduction and installation of machines and equipment	1.611	23			214	110	52		163	14		577	35,8
Editing and copy-editing	951	8			17	1			0	23		48	5,0
Repair and maintenance of technological equipment	249												
Other sectors (or confidential information)		597	1.860	1.931	1.617	1.858	471	3.137	5.076	480	1.219	17.027	
Services	**270.868**	**5.836**	**638**	**1.921**	**27.340**	**14.162**	**5.233**	**18.666**	**32.109**	**5.763**	**1.649**	**111.667**	**41,2**

Source: Bacen

(32 thousand for Brazil), at the rate of 17.5%. As of the eighth year, the tariff will be reduced to 28.5%, to 21.7% in the ninth year, to 15% in the tenth year and from then on reduced by 2.5% each year until zeroed in the sixteenth year.

For the automotive parts industry, the import tax rate will be subject to a linear reduction over 10 or 15 years, until it reaches zero. Unlike the importation of vehicles, there will be no quotas for automotive parts. They will be divided into two groups. For the essential parts group, the linear reduction will take place over 10 years. For the group of higher added value products, the linear reduction will occur over 15 years. Rules of origin dictate that the regionalisation index will be 55% for vehicles and 50% for automotive parts. The countries of both blocs will be considered equally when using this index. In other words, a vehicle will be considered »regional« even if its regional content of 55% comes only from MERCOSUR or EU countries.

Brazil presents a high trade deficit in the automotive industry with the EU. For 2010-2019, the deficit for vehicles was USD 10.2 billion (exports of USD 915.7 million and imports of USD 11.2 billion), along with a deficit of USD 36.1 billion in automotive parts (exports of USD 17.1 billion and imports of USD 53.3 billion). The EU is therefore the major supplier of automotive parts to Brazilian industry and has a complementary trade policy for importing vehicles, given the numerous branches of European companies in the country.

Without new investment stimulated by the association agreement, the trend is towards an increasing trade deficit in both vehicles and automotive parts. Another factor that may contribute towards increased imports from the EU is the EU's policy of substituting combustion engines for electric engines. While development, production and demand for electric vehicles is already a reality in Europe, the same cannot be said for Brazil, despite the presence of subsidiar-

Table 4
Cumulative 2010-2019 export, import and balance values according to economic category between Brazil and the European Union
(in million USD and in %)

Economic Categories	EU Import (million USD)	EU Import (%)	EU / Global Import (%)	EU Export (million USD)	EU Export (%)	EU / Global Export (%)	EU Balance (million USD)	Global Balance (million USD)
Processed commodities	135.568	34,0	20,7	146.619	35,3	26,7	11.051	-107.874
Semi-durable and non-durable consumer goods	59.432	14,9	30,5	50.022	12,0	18,7	-9.411	72.859
Capital goods, excluding industrial transport equipment	70.938	17,8	32,5	18.000	4,3	16,7	-52.938	-110.196
Parts and accessories for capital goods	42.294	10,6	19,9	12.558	3,0	30,2	-29.736	-170.989
Transport parts and equipment	46.327	11,6	29,6	14.745	3,5	13,9	-31.583	-50.657
Processed fuels and lubricants	16.070	4,0	14,3	10.330	2,5	14,6	-5.740	-41.105
Durable consumer goods	14.221	3,6	15,8	2.894	0,7	5,0	-11.327	-32.544
Industrial transport equipment	5.787	1,5	13,2	8.587	2,1	11,7	2.800	29.714
Bulk commodities	2.677	0,7	8,1	70.328	16,9	20,7	67.651	307.010
Processed food and drink, intended mainly for industry	1.853	0,5	10,4	5.499	1,3	4,9	3.645	94.194
Previously unspecified goods	715	0,2	59,8	307	0,1	19,2	-408	401
Raw fuels and lubricants	2.497	0,6	1,6	18.228	4,4	10,4	15.732	16.763
Essential food and drink, intended mainly for industry	284	0,1	1,2	57.430	13,8	17,8	57.146	299.391
Total	**398.664**	**100,0**	**20,8**	**415.546**	**100,0**	**18,7**	**16.883**	**306.966**

Source: Secex

ies of European companies. There is also the fact that China leads production and demand for electric vehicles, which might mean increased competition with European companies in the Brazilian market, including for the import of automotive parts. In the period 2010-2019, imports from China reached USD 17.8 billion.

Therefore, all things considered, this transition period in the automotive agreement is more of a strategy to protect against imports of vehicle and automotive parts from third-party countries, especially Asia (Japan, South Korea and China) than an opportunity for the productive restructuring of Brazil's automotive industry. For example, while total investment in the automotive parts sector was USD 11.5 billion in the period 2010-2019, total imports were 159.2 billion USD, a ratio of 14 to 1.

Taking into account the difference in competitiveness between the productive fabric of Brazil (and MERCOSUR) and the EU, and heightened European presence and interest in Brazil, reflected in the position of assets and in FDI flows, the next section analyses the bilateral trade structure between Brazil and the EU.

MERCOSUR-EUROPEAN UNION TRADE FLOWS

Before 2012, the EU was the first target market for Brazilian exports. Before 2018, it was the main source of Brazilian imports. After 2018, it was surpassed by China for both exports and imports. The trade balance between Brazil and the EU has shown a relative balance in trade transactions over the past decade, with fluctuating results. There were deficits for Brazil from 2013-2015, then surpluses from 2010-2012 and 2016-2019. During the period between 2010-2019, Brazil accumulated a surplus of USD 16.8 billion.

While the balance remains relatively stable, analysis by economic category shows important imbalances in the amount accumulated between 2010-2019. Brazil has been reported a clear surplus in bulk commodities (USD 67.6 billion) and in essential food and drink for use in industry (USD 57.1 billion). In these two areas, Brazil stands to benefit from the free trade agreement, above all the increased quotas and reduction/removal of tariffs for poultry and beef, sugar and ethanol.

Another area in which Brazil reports a surplus is in processed commodities (USD 11 billion). It must be highlighted that Brazil has a clear deficit in this area in relation to the rest of the world (USD -107.8 billion). Brazil (and MERCOSUR)'s tariff structure tends to protect finished goods over commodities and intermediate goods. Since the tariffs applied to intermediate goods are already relatively low for European countries (2.9%), the free trade agreement should not have a significant impact on Brazilian exports of processed commodities. On the other hand, this is a relatively well protected sector in Brazil, with an average applied tariff of 10.7%, which should promote increased imports and, therefore, a reduction in or elimination of the trade surplus.

In four areas that involve higher added value products, Brazil presents a significant deficit of USD 125.4 billion to the EU: capital goods (USD –52.9 billion), parts and accessories for capital goods (USD –29.7 billion), »parts and equipment for transport« (USD –31.5 billion) and durable goods (USD –11.3 billion), which includes the automotive industry. In Brazil, the average tariff applied to capital goods is 11.5%, and 17.7% for durable goods. As the tariff scrapping process is set in motion, there is a tendency for the deficit to increase in the capital goods and durable goods sectors, including the automotive industry, largely because of trade flows within firms and/or within global production and supply chains. It should be noted that, as discussed in the previous section, European capital has a strong presence in these areas.

Brazil has shown a relative return to primary commodities in its export structure, with the loss of competitiveness and share of higher added value industrial goods and/or technological content in favour of exports of agricultural and mineral commodities. By contrast, Brazil has greatly increased industrial commodities in its imports, largely those of higher added value, which is reflected in the increase of imported content of domestic production. On a smaller scale, there has also been an increased presence of capital goods and durable goods in imports, increasing the share of such products visibly in domestic consumption (greater import coefficient). Brazil has thereby sustained its trade surplus in exports of agricultural and mineral commodities yet shows a deficit in industrial goods.

Trade relations with the European Union reflect this pattern of asymmetric trade, and the free trade agreement will tend to reinforce this pattern even further. Based on bilateral trade indicators between Brazil and the EU, which point to a Brazilian deficit in the higher added value industrial sectors and increasing disparity in terms of scale and competitive capacity between MERCOSUR countries and the European bloc, as already witnessed over the past decade with the intense flow of FDI into the country, there is no indication that the agreement will reverse the current state of affairs. The potential increase in trade flows and investment will tend to reinforce existing Brazilian production and foreign trade structures, rather than changing them. In all likelihood, the quest for increased productivity and competitiveness in Brazil might focus on spurious factors, such as a defensive strategy for deepening labour reforms that will relax and make more precarious labour rights and relations in order to reduce wage costs, as well as a generalised, dysfunctional protectionist agenda with no criteria for structural change and/or a regressive agenda for environmental issues.

FINAL COMMENTS

The competitiveness indicators provided by UNIDO indicate a heightened and increasing competitive imbalance between Brazil (and other MERCOSUR countries) and countries from the EU. Both indicators associated with the productive structure – level of industrialisation, manufacturing value added (MVA) per capita, country's MVA share out of total MVA and share of medium- and high-tech activity in MVA – and those associated with the export structure – share of manufactured exports in total exports, manufactured exports per capita, and share of medium- and high-tech activity in manufactured exports – point towards a Brazilian loss of competitiveness.

Bilateral trade flows between Brazil and the EU reinforce the view of an increased competitive differential and an asymmetric trade balance. Brazil shows increased trade deficit in the higher added value industry sectors and in higher-tech activity. It also has a huge surplus in the sectors of agricultural and mineral commodities.

On the other hand, Brazil has received an intense flow of foreign direct investment (FDI) over recent decades, accentuated further following the financial crisis of 2008-2009. The European Union has been the primary investor in Brazilian industry. However, foreign investment has not helped to raise Brazilian industry's competitiveness, nor so much as change the face of its foreign trade structure.

The health crisis of COVID-19 caused an even worse global economic crisis than the financial crisis of 2008-2009. Despite many uncertainties around the recovery periods and speeds of different countries' economies, there is an almost blanket reduction in international competition and increased protectionism, including advanced economies (such as the USA). This framework does not favour marginal economies and those with low competitive capacity, such as Brazil. In both the short and medium term, the Brazilian government runs the risk of intensifying its adoption of a liberal agenda for promoting labour reforms and unions with a view to reducing wage costs. Increased competitiveness due to »spurious« factors might also include regression on environmental issues caused by pressure from agribusiness, despite the fact that this would have an overall negative effect on society. Paradoxically, the deepening economic crisis brought on by a fall in domestic demand may not dissuade foreign capital, just as it did not during the financial crisis of 2008-2009. Factors such as a devalued exchange rate, opportunities for equity gains with the privatisation of public entities and the acquisition of Brazilian private entities should attract foreign capital, including European, which already has heightened interest in the country.

On that note, one of the few positive opportunities from a free trade agreement between MERCOSUR and the EU might be promoting structural change within the country. Under the remit of the industrial and technological revolution currently in progress (Industry 4.0), if European companies bring technological development and increased foreign investment into Brazil at the same time, such a strategy could promote competitive and productive gain in the current industrial fabric, along with the creation of new markets and business models within the country.

Besides the obvious interests in pre-salt exploration (extraction, production, refining and distribution) and agribusiness, European capital could strengthen technology and the production of electric and/or hybrid vehicles within Brazil, taking advantage of the experience and training acquired in the production of flex-fuel vehicles by subsidiaries of European companies. It would also provide an important opportunity for productive and technological development in the health industry, which encompasses the pharmaceutical and biotechnological sectors, medical equipment and devices, and specialised health services; sectors in which European companies present a global productive and technological dynamic. Lastly, European capital could bring resources into the weakened Brazilian economy for areas such as urban mobility, renewable energy, telecommunication (5G) and basic sanitation, amongst others.

4

NON-TARIFF-RELATED ASPECTS OF EUROPEAN UNION-MERCOSUR AGREEMENT: OBSERVATIONS ON THE CHAPTERS ON TRADE IN SERVICES AND ESTABLISHMENT, GOVERNMENT PROCUREMENT AND INTELLECTUAL PROPERTY

Lucas da Silva Tasquetto[1]

After 20 years of negotiations, at a ministerial meeting held on 27 and 28 June 2019 in Brussels, negotiation of the trade part of the Association Agreement between MERCOSUR and the European Union was brought to a close. Hailed by Brazilian ministers as an agreement about what will become one of the greatest areas of free trade in the world,[2] the swift outcome of negotiations over the past six months also marks a turn in Brazilian international trade policy. Under the government of Jair Bolsonaro and the leadership of the Minister of Economy in trade negotiations, historical demands of the Brazilian trade agenda have been put to one side and the country has come to defend offensive positions also on non-tariff-related topics. Along with an attempt to join the Organization for Economic Cooperation and Development, the trade agreements are part of a strategy for bringing about and consolidating domestic structural reforms and privatisation within the country.

In the relationship between the two economic blocs, there is an immediate trade-off between the potential MERCOSUR gains in the agricultural sector in return for the inevitable losses in the industrial sector, reinforcing its structures for primary exports. Nevertheless, the trade pillar of the agreement is found beyond import tariffs and quotas and surpasses regulatory issues. International agreements in these areas have far more ambiguous economic consequences than simply reducing traditional trade barriers.[3] Their impact on well-being and economic efficiency are fundamentally unknown, and the regulation of behind-the-border measures stands at odds with the regulatory nature of the domestic economic organisation of each State, the particularities of each legal culture and the values and policies favoured by each kind of regulation.[4]

Indeed, the present article aims to analyse the chapters of the EU-MERCOSUR Agreement on trade in services and establishment, government procurement and intellectual property. It seeks to understand the characteristics of the sectors and current trade between the blocs, and the possible positive and negative effects of their regulation. These observations were made based on the wording of the agreement made public by the Parties at the beginning of July 2019. The agreement, which is still undergoing technical and legal review, will be ready for signing and subsequent analysis by the respective parliaments once it has been revised and translated. It is therefore necessary to assess not only what has already been agreed, but also what may be negotiated by the blocs in the near future when it comes into force.

TRADE IN SERVICES AND ESTABLISHMENT

According to Eurostat data, in 2017, service exports from the European Union to MERCOSUR reached EUR 23 billion, whereas service exports from MERCOSUR to the European Union totalled EUR 11 billion.[5] According to information from the Integrated System of Foreign Trade in Services, Intangibles, and Other Operations that Produce Variations in Equity, referred to as SICOSERV, Brazil counts five European Union countries amongst its top 10 destinations for Brazilian service exports worldwide. However, in 2016, Brazil sold around USD 6 billion to the European Union and received over USD 22

1 Professor at the Federal University of ABC (UFABC, Brazil)

2 BRASIL. Conclusão das Negociações do Acordo entre o MERCOSUL e a União Europeia – Nota Conjunta dos Ministérios das Relações Exteriores, da Economia e da Agricultura, Pecuária e Abastecimento – Brussels, 27 and 28 June 2019. Available at: http://www.itamaraty.gov.br/pt-BR/notas-a-imprensa/20560-conclusao-das-negociacoes-do-acordo-entre-o-mercosul-e-a-uniao-europeia-nota-conjunta-dos-ministerios-das-relacoes-exteriores-da-economia-e-da-agricultura-pecuaria-e-abastecimento-bruxelas-27-e-28-de-junho-de-2019.

3 RODRIK, Dani. What Do Trade Agreements Really Do? Journal of Economic Perspectives, v. 32, n. 2, p. 73-90, 2018.

4 BADIN, Michelle Ratton Sanchez; TASQUETTO, Lucas da Silva. Os acordos de comércio para além das preferências: uma análise da regulamentação sobre os »novos temas«. Revista de Direito Internacional, v. 10, n. 1, p. 105-127, 2013.

5 GRIEGER, Gisela. The trade pillar of the EU-MERCOSUR Association Agreement. European Parliament: European Parliamentary Research Service, August 2019. Available at: https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/640138/EPRS_BRI(2019)640138_EN.pdf

billion from that same regional bloc, resulting in a deficit of USD 15.9 billion.[6] Under the remit of foreign investment, Brazil is the primary destination for foreign direct investment (FDI) from European countries in Latin America. Over 60% of FDI stock in the country comes from the European Union.[7]

The EU-MERCOSUR Agreement, in the chapter entitled »trade in services and establishment,« although it follows the structure of the General Agreement on Trade in Services (GATS), it contains clauses that exceed the multilateral standards currently in force, in particular a set of rules on the conditions and procedures on licensing and qualification. Embedded between the clauses, which are applicable to all trade in services, there is an acknowledged 'right to regulate' for the States to achieve legitimate public policy objectives. Similarly, the GATS exception is reproduced when excluding services provided in the exercise of governmental authority from its scope. It seeks thereby to guarantee that limits will not be imposed on the provision of public services by the Parties.

The chapter encompasses all forms of service provision, including investment liberalisation ('establishment') and the setting out of technical categories and businesspersons that may temporarily carry out economic activity within the other bloc's territory. Following the positive list model, which is in principle more flexible, the specific market access commitments were listed in individual liberalisation schedules, establishing in which economic activities and under which conditions companies, investors and service providers from the other Party may operate. The Brazilian government states, in its informative summary of the agreement, that it has excluded from the commitments more sensitive and strategic sectors for the country, such as defence, health, education, mining and oil extraction. The Brazilian list would consolidate the current status of its domestic regulatory framework in representative sectors, such as telecommunications, financial services, construction, engineering, architecture, advertising, distribution services, retail trade, consulting and IT services.[8]

In specific subsections, it adopts topics relating to the regulation of the postal service, telecommunications, financial services and e-commerce. The digitalisation of the economy and global data flows that sustain international digital trade have been placed at the centre of the principal trade negotiations, in both bilateral and regional agreements and agreements with the World Trade Organization (WTO). The EU plays a fundamental role in the global governance of privacy and personal data protection and, since 2015, the European Commission's trade and investment strategy has recognised the free cross-border flow of data as an offensive interest for the bloc.[9] In turn, Brazil also faces the challenge of reconciling its General Personal Data Protection Law, which will come into force in May 2021, with its recently negotiated provisions on e-commerce, with an ever-increasing alignment with the interests of the United States ('Silicon Valley Consensus'[10]).[11] The subsection of the EU-MERCOSUR Agreement on e-commerce presents what is still a rather restricted set of rules to be applied to all sectors. Binding provisions have been adopted that prohibit the collection of customs duty on electronic transmissions and encourage the recognition of documents and electronic signatures, in addition to the Parties' commitment to work together to combat spam and protect consumers.

In particular, the ban on charging customs duty on electronic transmissions will have far-reaching implications for the participation of MERCOSUR countries in global trade and their industrialisation efforts. For the most part, developing countries are net importers of electronic transmissions. With e-commerce growing faster than physical trade and the development of digital technologies such as 3D printing and big data analysis, the potential loss of annual tariff revenue from the ban on charging customs duties will be far greater for the developing countries than for developed countries.[12]

In Article 51, the subsection on e-commerce adopts an 'understanding of computer services.' First promoted at the beginning of the 2000s by the EU in the WTO and in its free trade agreements (FTAs), this 'understanding' subtly expands the classification of 'computer services' into agreements on trade in services. The EU's adherence to this open definition guarantees practically unrestricted access to digital infrastructure companies and operating rights with extremely limited regulation. Full commitment to market access rules and national treatment obligations would deepen this framework and hinder the development of local competitors. In the words of J. Kelsey, this 'understanding' could work as a 'Trojan horse' for the e-commerce rules which some developing countries still resist in trade agreements.[13]

The chapters on trade in services and establishment include a revision clause (Article 53) at the very end, which allows the Parties to review the chapter at the latest three years after

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6 Seminário destaca comércio e serviços entre Brasil e UE. Ministério da Economia, 14 May 2018. Available at: http://www.mdic.gov.br/index.php/ultimas-noticias/3291-seminario-destaca-comercio-e-servicos-entre-brasil-e-ue

7 BANCO CENTRAL DO BRASIL. Relatório de Investimentos Direto no País. Brasília, 2018.

8 BRASIL. Acordo de associação Mercosul-União Europeia. Resumo informativo. Brasília, 4 July 2019. Available at: http://www.itamaraty.gov.br/images/2019/2019_07_03_-_Resumo_Acordo_Mercosul_UE.pdf.

9 YAKOVLEVA, Svetlana; IRION, Kristina. Pitching trade against privacy: reconciling EU governance of personal data flows with external trade. International Data Privacy Law, p. 1-21, 2020.

10 STREINZ, Thomas. Digital Megaregulation Uncontested? TPP's Model for the Global Digital Economy. In: KINGSBURY, Benedict; MALONE, David M.; MERTENKÖTTER, Paul; STEWART, Richard B.; STREINZ, Thomas; SUNAMI, Atsushi (ed.). Megaregulation Contested: Global Economic Ordering After TPP. New York: Oxford University Press, 2019, p. 312-342.

11 See: AZMEH, Shamel; FOSTER, Christopher; ECHAVARRI, Jaime. The International Trade Regime and the Quest for Free Digital Trade. International Studies Review, v. 0, p. 1-22, 2019; and

12 BANGA, Rashmi. Growing Trade in Electronic Transmissions and Implications for the South. United Nations: UNCTAD Research Paper No. 29, February 2019.

13 KELSEY, Jane. Understanding the European Union's Understanding on Computer and Related Services. Penang, Malaysia: Third World Network, 2019.

the agreement's entry into force. As such, the agreement can be updated with regard to trade in services and matters related to foreign investment. For example, in the current version, the agreement does not consider rules regarding the protection of foreign investment, nor an investor-State dispute settlement mechanism. In the European Union, since the Treaty of Lisbon in 2007, European countries negotiate all trade matters as a Union, except for investment, which is left to the internal workings of each member state. However, since 2015, the European Union has led reform of the investor-State dispute settlement regime. To this end, agreements that were negotiated without chapters on investment, such as the agreements with Mexico and Chile, are being renegotiated to contain specific chapters with the provision of dispute settlement, but in the form of the EU's investment court system.[14]

The absence of specifics rules on the protection of foreign investment in the current version of the EU-MERCOSUR Agreement therefore may not be definitive. Updating the agreement under the aforementioned terms would have a direct impact on the way in which foreign investment is protected within MERCOSUR, above all with regard to Brazil. Argentina, Paraguay and Uruguay have various bilateral investment treaties (BITs) that have already been ratified and form part of the Washington Convention. Brazil signed various short-term BITs throughout the 1990s. The 14 agreements negotiated were never ratified, and in 2002 they were finally removed from the legislative agenda with the technical explanation that there was resistance to investor-State dispute resolution and to provisions that set out compensation for expropriation.[15] In March 2015, the country signed its first cooperation and facilitation investment agreement, a model designed to combine its characteristics as an historical receiver of investment and a late exporter of capital, based on the prevention of disputes and interstate arbitration.[16] The MERCOSUR Protocol on Investment Cooperation and Facilitation follows this model.

GOVERNMENT PROCUREMENT

By means of the guiding principles of non-discrimination, transparency and equity, the chapter on government procurement promises reciprocal openness to the government procurement market in the area of goods and services, including construction services. The measures expose national markets to a new level of competition and enable European companies to participate more easily in public bidding procedures in all MERCOSUR countries. In Brazil alone, on an average calculated over the period between 2006 and 2016, the domestic government procurement market represented 12.5% of the country's gross domestic product.[17]

Minimum values have been drawn up for the process of government procurement, which must be open to foreign competition. To begin with, the rules will extend only to federal and central entities, including ministries and other autarchies. In Brazil, this will also include judicial and legislative powers. MERCOSUR countries are committed to working with their state, provincial and municipal entities to enable all EU companies to also participate in bidding procedures at those levels. The objective is to draw this process to a close no later than two years after the entry into force of the agreement.[18]

Article 5 of this chapter excludes measures related to the acquisition of arms, munitions, defence products or war supplies, or acquisitions indispensable to national security or defence. The same applies to activities related to goods and services for disabled persons, philanthropic institutions or prison work and those who protect moral, human, animal and plant health, the environment or intellectual property. The Brazilian government guarantees also to have safeguarded public policies in technological development, public health, promotion of micro and small businesses and food safety.[19] In the specific area of agriculture, such measures will enable the continuation of programmes similar to the Family Allowance, the Food Acquisition Programme and direct purchases from family farming.[20]

In May 2020, Brazil submitted its request to join the Government Procurement Agreement (GPA),[21] having joined the agreement as an observing member in the second semester of 2017. It will be one of few developing countries and the first Latin-American country seeking to join the GPA. Besides reflecting a desire to bring regionally negotiated rules in line with the multilateral instrument on which they are based,[22] the Brazilian government believes that the negotiation of rules on government procurement will increase competition

14 GHIOTTO, Luciana. El Acuerdo MERCOSUR-UE y las futuras implicancias en el área de protección de las inversiones extranjeras. In: BIANCO, Carlos et al. La actualidad de las negociaciones entre la Unión Europea y el MERCOSUR: una peligrosa forma de »volver al mundo«. Friedrich Ebert Stiftung Argentina, Análisis n. 28, 2018, p. 17-19; BAS, Magdalena. Acuerdo MERCOSUR-Unión Europea: sombras y ausencia de la solución de controversias inversor-Estado. Fundación Carolina, Documentos de Trabajo 21/2019, November 2019.

15 CAMPELLO, Daniela; LEMOS, Leany. The non-ratification of bilateral investment treaties in Brazil- a story of conflict in a land of cooperation. Review of International Political Economy, v. 22, n. 5, p. 1055-1086, 2015.

16 MOROSINI, Fabi; BADIN, Michelle Ratton Sanchez. ACFI: o que está por trás destainovação regulatória? Pontes, v. 12, n. 1, p. 9-12, March 2016.

17 RIBEIRO, Cássio Garcia; INÁCIO JÚNIOR, Edmundo. O mercado de compras governamentais brasileiro (2006-2017): mensuração e análise. Text for discussion 2476. Brasília: Instituto de Pesquisa Econômica Aplicada (IPEA), May 2019.

18 European Union. New EU-MERCOSUR trade agreement: The agreement in principle, Brussels, 1 July 2019. Available at: https://trade.ec.europa.eu/doclib/docs/2019/june/tradoc_157964.pdf

19 BRASIL. Acordo de associação Mercosul-União Europeia. Resumo informativo. Brasília, 4 July 2019. Available at: http://www.itamaraty.gov.br/images/2019/2019_07_03_-_Resumo_Acordo_Mercosul_UE.pdf

20 TÁVORA, Fernando Lagares. Acordo Mercosul-União Europeia: Riscos e oportunidades para o agronegócio brasileiro. Brasília: Núcleo de Estudos e Pesquisas/CONLEG/Senado, December 2019 (Text for discussion n. 268).

21 Brazil submits application to join government procurement pact, 19 May 2020. Available at: https://www.wto.org/english/news_e/news20_e/gpro_19may20_e.htm.

22 Afghanistan, Brazil welcomed as observers to the WTO Government Procurement Agreement, 18 October 2017. Available at: https://www.wto.org/english/news_e/news17_e/gpro_20oct17_e.htm

in public bidding procedures and prove to be the most efficient use of public resources.

The emphasis on efficiency pushes to the background issues such as, in the case of the EU-MERCOSUR Agreement, European companies' greater experience and competitiveness in competing internationally. The difficulties in accessing the European market for government procurement are even greater for Argentina, Paraguay and Uruguay. Owing to size and scale within MERCOSUR, it would be mainly Brazilian companies that could obtain some degree of positive impact from the competition for the European Union market.[23] Furthermore, subscribing to this model of openness for the public procurement market severely restricts the political space so that the countries' governments can form a development agenda. State purchasing power is a powerful tool for promoting technological and industrial development and generating income and employment, amongst other objectives.

INTELLECTUAL PROPERTY RIGHTS

The regulation of intellectual property rights has been a main point of contention between MERCOSUR and the European Union over many years of negotiations. The meetings that preceded the announcement in June 2019 led to a general agreement on the most problematic topics for the two blocs. The chapter includes provisions relating to key intellectual property and related rights, particularly copyright, trademarks, patents, industrial designs, geographical indications, plant varieties and industrial secrets. The rules consolidate and reaffirm international protection patterns that guide countries' domestic legislation, such as the TRIPS Agreement and the Madrid Protocol, but also agreements Brazil is still preparing to join, such as the Copyright Agreement and the WIPO Performances and Phonograms Treaty.

Observations on this chapter vary: from appreciating the increase in the intellectual property protection system within countries as leading to a conducive environment for attracting investment in Brazil[24] to potential social and developmental effects, especially on public health policies and access to medicines, and farmers' access to agricultural inputs.[25] Previous proposals by the European Union on intellectual property included rules that went beyond those set out in the TRIPS Agreement, such as data exclusivity measures, customs protection implementation/measures and complementary certificates, which could increase the cost of medical treatments, creating new monopolies and delaying the entry of affordable generic drugs into the market.[26] Under pressure from civil society and public sectors, the Parties agreed to preserve the commitments of the TRIPS Agreement with regard to patents and undisclosed information. This covered the protection of clinical testing data required for introducing medicines and pesticides.[27] The extension of patents is not included and the chapter is restricted to requiring that the countries involved make more of an effort to comply with the Patent Cooperation Treaty, to which Brazil has been a signatory since 1978.

Granting patents might also affect issues related to seeds. Article X.41 establishes that each Party should protect the rights of vegetable varieties according to the International Convention for the Protection of New Varieties of Plants in 1961, or its 1978 or 1991 revisions. As stated, the article allows the application of both versions of the Convention. Prior negotiations tell of a dispute between the blocs on the final wording of the provisions, when MERCOSUR argued that adherence to the 1991 revision should not be mandatory. The countries of the bloc are not party to the latter convention and follow the 1978 revision, which permits the conservation of a seed for the farmer's own use or products to develop a variety.[28]

Lastly, the aspect of intellectual property in which MERCOSUR has conceded more than the EU was with regard to mutual recognition of geographical indications.[29] The bloc recognised 355 European geographical indications, which will automatically be protected within their countries under the terms of the agreement. Without such a rich history of investing in geographical indications, Brazil has put itself at a relative disadvantage.[30] Its list included 38 recognised products, such as »Cachaça,« »Canastra« cheese and the wines and sparkling wines from »Vale dos Vinhedos.« According to the principle of open lists, the agreement will allow the inclusion of new names, whether from the EU or MERCOSUR. The rights of producers who used in good faith and on a continuous basis names that are confused with geographical indications were preserved, guaranteeing the sectors a suitable amount of time to readjust production.

23 ZERAIK, Claudia Maria. Acordo Mercosul-UE e tratado fomentam proteção da propriedade intelectual. Consultor Jurídico, 14 de julho de 2019. Available at: https://www.conjur.com.br/2019-jul-14/claudia-zeraik-acordo-mercosul-ue-beneficia-propriedade-intelectual

24 BADIN, Michelle Ratton Sanchez; TASQUETTO, Lucas da Silva. Os acordos de comércio para além das preferências: uma análise da regulamentação sobre os »novos temas«. Revista de Direito Internacional, v. 10, n. 1, p. 105-127, 2013.

25 SOUTH CENTRE. Statement by the South Centre on EU-MERCOSUR Trade Negotiations, 29 November 2017. Available at: https://www.southcentre.int/wp-content/uploads/2017/12/171129_SC_Statement_EU-MERCOSUR-Trade-Negotiations_EN.pdf

26 MSF. Propostas da UE para acordo com Mercosul prejudicariam acesso a medicamentos, 28 September 2017. Available at: https://www.msf.org.br/noticias/propostas-da-ue-para-acordo-com-mercosul-prejudicariam-acesso-medicamentos

27 BRASIL. Acordo de associação Mercosul-União Europeia. Resumo informativo. Brasília, 4 July 2019. Available at: http://www.itamaraty.gov.br/images/2019/2019_07_03_-_Resumo_Acordo_Mercosul_UE.pdf

28 GHIOTTO, Luciana; ECHAIDE, Javier. El Acuerdo entre el MERCOSUR y la Unión Europea: Estudio integral de sus cláusulas y efectos. The Greens/EFA in the European Parliament, Fundación Rosa Luxemburgo, CLASCO: February 2020.

29 SOUTH CENTRE. Estudio preliminar del capítulo sobre propiedad intelectual del acuerdo MERCOSUR – UE. Documento de Investigación 110. Geneva: South Centre, 2020.

30 TÁVORA, Fernando Lagares. Acordo Mercosul-União Europeia: Riscos e oportunidades para o agronegócio brasileiro. Brasília: Núcleo de Estudos e Pesquisas/CONLEG/Senado, December 2019 (Text for discussion n. 268).

FINAL OBSERVATIONS

A few key points stand out within the negotiations of the Association Agreement between MERCOSUR and the European Union, from the perspective of developing countries: the choice of the positive list for the liberalisation of trade in services and the 'right to regulate' as a horizontal device in a particular chapter; not opting for a clause regarding the free cross-border flow of data in the subsection on e-commerce; the lack of protective devices for foreign investment and an investor-State dispute settlement mechanism; and the chapter on intellectual property being less ambitious than the measures set out by previous FTAs signed by the European Union, with a significant absence of binding commitments in areas such as patents.

On the other hand, the agreement involves a series of GATS plus devices – although due analysis of the commitments made in the services sector depends on the publication of the Parties' liberalisation schedules – along with TRIPS plus rules, essentially in the field of geographical indications, with a major economic impact for MERCOSUR countries. Via the government procurement chapter, the European Union achieves an important concession in guaranteeing privileged access to an as-yet relatively closed market. Competition is increased in the bidding processes, while MERCOSUR countries give up an important instrument in order to achieve public policy objectives. The impact on creating jobs and on small and medium businesses might still deepen with the extension of commitments to subnational entities within the countries.

Overall, the economic and social conditions for enjoying the trade openness granted by the agreement are profoundly asymmetrical between the countries of the two blocs. Its negotiators point to gains in competitiveness and efficiency in production, but tend to ignore the dimension of cost adjustment. The expansion of market integration is accompanied by regulatory harmonisation, particularly in the non-tariff-related topics of the agreement. Despite being able to stimulate trade between the two blocs, this harmonisation has the potential to prevent regulations from reflecting specific domestic preferences and realities. Under the banner of trade liberalisation, trade agreements can put an end to autonomy on fronts such as public health, regulatory experimentation, promotion of structural change and industrialisation.[31]

Negotiations on FTAs have continued without interruption in various spheres during the Covid-19 pandemic. In this context, at the WTO, developing countries are already faced with demands to liberalise their markets permanently for health-related products and to agree on new rules on digital trade.[32] We must be attentive to the distinction between short- and long-term measures and how the crisis is managed in order to push forward on matters not related to combating the pandemic. Public officials may inadvertently find themselves with less flexibility when it comes to designing policies, amid efforts to overcome the profound economic crisis with which we are faced.

31 RODRIK, Dani. What Do Trade Agreements Really Do? Journal of Economic Perspectives, v. 32, n. 2, p. 73-90, 2018.

32 KWA, Aileen; ROSALES, Fernando; LUNENBORG, Peter. COVID-19 and WTO: Debunking Developed Countries' Narratives on Trade Measures. South Centre Policy Brief n. 77. Geneva: South Centre, May 2020.

5

WHAT OPPORTUNITIES HAS THE MERCOSUR-EU TRADE AGREEMENT PROVIDED FOR BRAZIL'S AGRIFOOD SECTOR?

Fernanda Cristina Franco[1]

BRAZIL: MAJOR GLOBAL FOOD PRODUCER

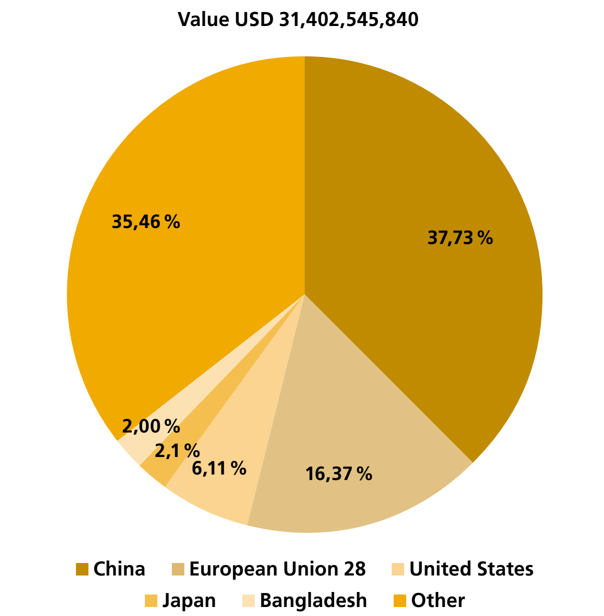
Brazil naturally lends itself to food production: lots of land, fertile soil, a tropical climate and rich biodiversity. Perhaps that is why agriculture has historically played a central role in the country's economic development. Until the 1970s, Brazil had a production shortfall, but that has changed over in recent years and, helped by technology and new production arrangements, it has become one of the world's major food producers. Brazil is now amongst the world's major grain producers, especially of soya and maize (sweetcorn), meat (beef, pigmeat and poultry), orange juice, coffee, milk, fruit, cachaça, cocoa and cassava (ARAÚJO et al. 2015).

High points in this agricultural revolution were the following record harvests, which have boosted the country's gross domestic product (GDP). Although Brazil's GDP suffered a 1.5% decline in the first quarter of 2020, food production recorded a positive result (3.3%) and the sector is predicted to end the year on a high, despite the unexpected COVID-19 pandemic (SOUSA JR, 2020). These statistics confirm studies showing that the agribusiness sector is Brazil's most economically competitive sector and the main contributor to its positive balance of trade (FIESP, 2020).

The growth of the agribusiness sector is the result of Brazil's agreements with world markets and the inclusion of its products in the global value chain. Closer analysis confirms that Brazil's success in international trade is basically due to the fact that it supplies primary products of low aggregate value, making it one of the world's major commodity producers. Amongst the various side effects of this production arrangement are the reprimarisation of exports and progressive de-industrialisation, which, although only mentioned briefly here, are worthy of note.

Currently, China is Brazil's major export trading partner and the largest importer of Brazilian grain soya, meat and sugar (FIESP, 2020). This is followed by exports to the European Union (EU), as shown on the graph:

Figure 1
Brazilian Agribusiness Exports By Market – 2020



Source: Brazilian Ministry of Agriculture

The EU is currently the second largest market for Brazilian exports and Brazil is, in turn, Europe's second most significant supplier of agricultural products. In 2018, agribusiness exports from Brazil to the EU comprised 40% of total exports from Brazil to the bloc (NONNEMBERG, 2019). In 2019, Brazil exported around USD 16 billion in agricultural products to the EU, especially soya products (over USD 5 billion), coffee (USD 2.4 billion), juice (USD 1.3 billion) and meat (USD 1.2 billion). Another major export product is ethanol. However, as it is not a foodstuff, it is not included here.

The volume Brazil can produce is largely a result of agricultural production that is highly industrialised, intensive, transgenic, delocalised, and aggressive towards local communities and indigenous people. It is based on monoculture and Brazil is one of the largest consumers of pesticides in the world (PIGNATI et al., 2017).

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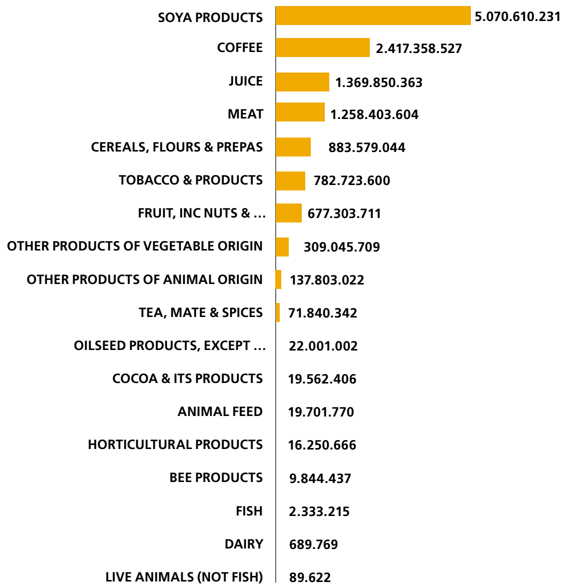
Table 1
Main agribusiness exports from Brazil to the European Union



Drawn up by the author using information available at the Ministry of Agriculture (http://indicadores.agricultura.gov.br/index.htm)

This agricultural model is a result of a systemic attitude known as the »green revolution« or the »livestock revolution«, which is showing clear signs of being under ecological, social, cultural and even epistemological strain. Efforts at changing the paradigms in food consumption and production are gaining strength, showing that food production and consumption are of political and global relevance. International trade not only embraces but also reinforces this production model. Often, sustainable agricultural models clash with economic rationality, which dominates global production, and, in particular, with export rules and institutions.

However, there have been some innovative efforts at linking international trade and sustainability. In the EU-MERCOSUR Agreement, some cautious and indirect steps are being taken in this direction. One of these is the requirement for all the countries to comply with the measures set out in international treaties such as the Paris Agreement, a matter of controversy for current Brazilian policy.[2]

These matters are raised by European farmers, who claim that it is unfair to ask them to compete with products from MERCOSUR countries because the latter are not subject to the same production control or safety and sustainability standards as European farmers. Then there are environmental concerns, violation of the rights of indigenous people and the use of illegal pesticides. All of these are arguments used against the Agreement by European Governments.[3]

THE EU-MERCOSUR FREE TRADE AGREEMENT

The signing of the EU-MERCOSUR Free Trade Agreement in 2019 was celebrated by many who believe that Brazil's GDP will not increase until the agricultural sector is liberalised. Even then, there are at least two matters of continuing concern: the EU's agricultural protectionism, characterised by high tariffs in specific sectors, and the non-tariff barriers (NTBs).

In terms of tariffs, the agreement will remove import tariffs for over 90% of the products traded between the two blocs (currently, only 24% of Brazilian exports to the EU are completely tariff-free).[4] The tariff removal process for agricultural products varies depending on the product and can take up to 15 years from entry into force. Key Brazilian agricultural products are included in this group, including roasted and soluble coffee (tariff removal in four years); manufactured tobacco (seven years) and non-manufactured tobacco (four years); avocados (four years); lemons and limes (seven years); melons and water melons (seven years); table grapes (immediate removal); apples (10 years); fish (most from entry into force); crustaceans (farmed shrimps, from zero to four years) and vegetable oils (immediate removal). This shows that positive results for Brazilian producers may take some time to come into effect.

On the other hand, some tariffs will not be removed from Brazilian agricultural exports as they belong to sectors protected by the EU. For these products, instead of removing tariffs, preferential import quotas with reduced tariffs, with incidence of intra quota rates (the application of lower tariffs for products imported within the quota) and special tariffs (fixed value in euros to be paid for each imported tonne of the product). Agricultural products included in this regime are: a) Beef; b) Chicken; c) Pigmeat; d) Sugar; e) Rice; f) Honey and g) Maize. Each of these products has its own specific tariffs that are set to be negotiated over time (NONNEMBERG, 2019).

Amongst the list of products mentioned above, studies show that, given the conditions negotiated in the agreement and the volumes currently exported to the MERCOSUR by the EU, there is space for an effective increase in access to the market for products such as chicken, pigmeat and honey, as the quotas allocated are higher than current exports. For others, such as beef, sugar, rice and maize, the benefit may be in terms of lower tariff incidence, as there will not be a significant increase in the amounts actually exported (NONNEMBERG, 2019). In this scenario, Kume and others (2004) have already calculated that the European offer is not much of a concession to Brazilian agriculture, because tariffs remain on many key Brazilian products.

Apart from the issue of tariffs, the Agreement contains a chapter on Sanitary and Phytosanitary Measures, which makes provisions to ensure transparency, predictability and the use of scientific principles in the trade of agribusiness

2 https://www1.folha.uol.com.br/mercado/2019/06/macron-diz-que-nao-assinara-acordo-com-mercosul-caso-brasil-deixe-pacto-climatico.shtml

3 http://blogs.correiobraziliense.com.br/4elementos/2020/06/04/desmatamento-da-amazonia-paises-da-ue-sao-contra-acordo-com-mercosul/

4 https://www12.senado.leg.br/noticias/infomaterias/2019/08/acordo-mercosul-ue-deve-baratear-produtos-mas-forcar-eficiencia-e-produtividade

products. It also provides for the creation of mechanisms to recognise sanitary and phytosanitary status, which is one of the main non-tariff barriers faced by Brazilian products.

A controversial point is the precautionary principle which, according to the EU, is »a strategy used to deal with possible risks in areas where scientific knowledge is still incomplete, such as the areas of nanotechnology, genetically-modified organisms and systemic insecticides«.[5] The provision of the principle has alarmed the Brazilian agribusiness sector because, depending on the approach, it can imply a type of non-tariff barrier on the purchase of Brazilian agri-food products considered to be »suspect«.

A study by Thorstensen and Ferraz (2014) showed that tariffs between Brazil and the EU are already low on many key Brazilian export products and therefore Brazil stands to gain little from the removal of these barriers. On the contrary, they suggest that any gains for Brazilian exports will in fact be determined by NTBs in the agricultural sector, highlighting that these trade rules are of greater importance to new production models than tariffs. By looking at these trade rules rather than at tariffs, there seem to be new opportunities to encourage a shift towards strengthening a sustainable agri-food model in Brazil.

HOW MIGHT THE EU-MERCOSUR AGREEMENT CONTRIBUTE TO SUSTAINABLE CHANGE IN THE BRAZILIAN FOOD PRODUCTION CHAIN?

Of the main markets for Brazilian agri-foodstuffs, China, the European Union and the United States, the EU seems to be the trade partner most well-placed to support a global change in sustainable food production systems. The EU recently published a document entitled »Farm to Fork – for a fair, healthy and environmentally-friendly food system«, setting out a strategy that aims, by means of its external policies – which include international cooperation and trade policies – to pursue »The development of Green Alliances on sustainable food systems with all its partners in bilateral, regional and multilateral fora« (EU, 2020).

In light of this, it is worth noting that agricultural production in Brazil also includes a sizeable segment characterised by family farming, which is a type of small-scale agriculture that uses labour within the family, with income related to the farm and managed and administered by relatives. It is local, diversified and better adapted environmentally to the surroundings than intensive production and monoculture. Types of agriculture included in this group include forestry, aquaculture, mining, fishing, indigenous farmers, *quilombola* communities and land reform settlements,[6] which shows the plurality and potential for sustainability that this segment encompasses.

To give an idea of the importance and capacity of family agriculture production in Brazil, the following are the percentages of national production for which it is responsible: beans 70%, rice 34%, cassava 87%, maize 46%, coffee 38%, milk 60%, pigmeat 59%, poultry 50% and beef 30%. It is also the major supplier in Brazil's domestic market. It is interesting to note that, although it only makes up 23% of all agricultural establishments, family agriculture production employs 67% of Brazil's agricultural workers (IBGE, 2017).

Family farming forms the basis of the economy of 90% of Brazilian towns of over 20,000 inhabitants, which means it is the main productive activity in the interior of Brazil, providing an income for 40% of the country's economically active population (IBGE, 2017). Unlike the industrial commodity chain, family agriculture often has diversified production, produces more organic foods and uses agroecological practices (PADUA *et al.*, 2013).

Although it tends to supply the internal market, the segment has shown an interest in producing for the export market. Some initiatives have been successful in bringing together sustainable, agroecological production and exports.[7] So much so that in the MERCOSUR area, family farming has been formally recognised in the Specialised Meeting of Family Farming of MERCOSUR (REAF), which advises the Common Market Group, the executive body of MERCOSUR, linked to the Common Market Council.

The REAF was founded in 2004, with the objective of increasing regional family farming policies and promoting meetings between family producers, organisers and rural bodies of the MERCOSUR countries, though this does not exclude dialogue with other countries, such as Bolivia and Colombia. At its most recent meetings, the REAF was of the opinion that internationalisation was a great opportunity for family farming, once the world realised that it needed the MERCOSUR to feed it. It highlighted the importance of sustainable production models and focused on the EU-MERCOSUR Agreement as a means of expanding this type of agriculture in the bloc.[8]

FINAL CONSIDERATIONS

The EU-MERCOSUR Agreement is innovative in that, instead of focusing on traditional tariff arrangements, it focuses on domestic matters, such as sustainable development, small and medium companies and government procurement. Thus, this is not just a tariff agreement, but a means of encouraging technical cooperation, cultural and political integration between the two blocs, as well as increasing the exchange of relevant agri-food production technologies. It is an invitation

5 http://www.precautionaryprinciple.eu/

6 Definition given in Law 11.326/2006, which establishes guidelines for the formulation of the National Policy for Family Farming and Rural Family Enterprises.

7 For example, see: http://www.organicsnet.com.br/2017/02/do-brasil-para-a-alemanha-agricultura-familiar-brasileira-presente-na-biofach-2017/ ; and https://brasil.elpais.com/brasil/2019/05/28/internacional/1559071099_802312.html

8 https://www.gov.br/agricultura/pt-br/assuntos/noticias/sob-a-coordenacao-do-brasil-comeca-a-reuniao-especializada-sobre-agricultura-familiar-do-mercosul

to Brazil to concentrate on changing internal processes, with a view to meeting new international agri-food production standards.

Despite the need to obtain further approval, the terms of the agreement already point the way to the strengthening of international trade systems based on sustainable agri-food products. Examples of this are: i) incentives for organisations and dialogue between family farmers, both in Brazil and in the whole MERCOSUR region; ii) identification of best practice, key products, regions and collectives representing the inclusion of Brazilian agriculture in the global sustainable exports market; iii) civil participation in supervising agreement terms, which includes perspectives on sustainable agri-food production for export; iv) support for international cooperation projects that strengthen this type of production, including sustainable agri-food production by traditional local communities.

These are some of the possible ways forward in this huge agri-food universe. We still need to see a transformation in global consumer habits, innovation in the production model, creativity in reinventing the foundations and the development of new, environmentally friendly technologies. International trade definitely has an important part to play in this.

6

POTENTIAL IMPACT OF THE EUROPEAN UNION-MERCOSUR AGREEMENT ON EMPLOYMENT AND LABOUR RIGHTS IN BRAZIL

Maria Silvia Portela de Castro[1]

The agreement between the European Union and MERCOSUR became public on 28 June 2019. The Agreement contains three chapters: Trade, Cooperation and Politics. Only the chapter on trade (tariffs and regulations) has been finalised to date.

When it was published, Brazil's trade unions came out publicly against the free trade terms proposed. They also wanted to retain the bloc x bloc negotiating format, rather than the bilateral trade agreement model, which was similar to that made between the EU, Chile and the CAN (Andean Community) countries.[2]

On the other side, will the EU be able to ratify the signed pre-agreement? In May, the Dutch Congress came out against the agreement. In Germany,[3] the government has expressed strong doubts about the possibility of reaching a conclusion. The main reason for this discontent is the aggressive actions of Bolsonaro's government against the environment and indigenous peoples and his irresponsible actions in the face of the Covid-19 epidemic. Bolsonaro's behaviour has put the country at the epicentre of the pandemic and made the efforts of other countries all the much harder. The following analysis attempts to estimate the negative and positive effects for Brazil, bearing in mind the country's current economic and political crisis.

WHAT IMPACT MIGHT THE EU-MERCOSUR AGREEMENT HAVE ON BRAZIL?

Beginning in the 1990s, there was a rise in the number of liberal and conservative parties in several European countries. In South America, politics went in the opposite direction, with a rise in progressive and expansionist parties in government between 1998 and 2005. The integrationist trend began with the victory of Chávez in Venezuela and gained strength with the victory of the PT (Workers' Party) in Brazil in 2002, followed by Argentina, Bolivia, Paraguay, Uruguay and Ecuador. For the first time since the independence of South America, the region's three main economies (Venezuela, Argentina and Brazil) experienced a period of total harmony between their governments.

It is important to note this, because the starting point for Brazil's foreign policy was the consolidation of an economic, commercial and political bloc with its neighbours and the establishment of multilateral agreements in the global context. Brazil's leadership upped its game and allowed local companies to join regional and global production chains.

Lula's government was opposed to the Free Trade Area of America, believing it to be a disadvantageous proposal from all perspectives – trade, production, technology etc. The European Union agreement, on the other hand, was believed to be positive because it was a trade and cooperation agreement. It could facilitate development in technology and production. Rural and industrial producers were also interested in this agreement. The trade unions were also in favour, subject to certain admission criteria. The first of these was transparency and access to the negotiation process.

In 2000, the European Union began to change its exterior trade strategy, opting for a free trade agreement (FTA) bilateral agreement model, rather than agreements between regional blocs. The agreements with Mexico in 2000 and Chile in 2002 covered subjects like investment, intellectual

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2 The trade unions argued for: »A real association agreement that strengthens political, social, economic and cultural relations between the two regions, and promotes respect for human rights, decent work, sustainable development and democratic values.« The document was signed by: Vagner Freitas – President of the Central Única dos Trabalhadores (CUT); Miguel Torres – President of the Força Sindical (FS); Ricardo Patah – President of the União Geral dos Trabalhadores (UGT); José Calixto Ramos – President of the Nova Central Sindical dos Trabalhadores (NCST); Antônio Neto – President of the Central dos Sindicatos Brasileiros (CSB).

3 On 4 June, the Dutch Parliament approved a motion against the signing of the trade agreement between the European Union (EU) and MERCOSUR. MPs demanded that the Dutch government withdraw its support for the proposal. The decision makes it hard to conclude a negotiation process that has been trying to reach an agreement for over 20 years – Poder 360, 05 June 2020. And on 11 June, the German Ambassador said that growing deforestation makes the MERCOSUR agreement very difficult – G1, 11 June.

property, services and other points not yet agreed in the WTO. The agreement negotiated with the Andean countries in 2012 was a typical FTA and helped bury what remained of the CAN.

After 2012, the political panorama of South America began to become unstable, and this instability reached its peak with the coup in Brazil in 2016.[4] One of the main motivations for the Brazilian coup was to destroy labour legislation and weaken the trade unions. To impose a neo-liberal accumulation model, you need to paralyse the trade unions. That is why most of the Brazilian elite supported the coup, which was nothing more than the anteroom to the election of Bolsonaro.

President Dilma was overthrown and Vice-President Michel Temer took over. He was a conservative politician, leader of a party inherited from the dictatorship, which was physiological and the object of corruption accusations. Supported by the business elite, Temer started a privatisation policy and used the PEC (Constitutional Amendment Proposal) 95 to make big changes to taxes, capping public spending at 20%. Labour rights and the trade union movement came under heavy attack with the approval of Law 13467 in 2017, which was a retaliation against the CLT – Labour Laws Decree and directly attacked the financing of the trade unions, leaving them in a severely weakened position.

It is important to note that in 2014, the National Confederation of Industry published a manual defending a change to labour legislation, which it considered to be very strict, by means of collective negotiation. For this, it was necessary to end the proactivity of labour agreements and establish in law the prevalence of collective agreements (made individually by each company) over the law and collective labour conventions.

With the election of Bolsonaro in 2018, these reversals were taken up once again and the new government continued the flexibilisation of labour and social rights. One of Bolsonaro's first acts was to extinguish the Ministry of Labour and change it to a liberal secretariat that came under the Ministry of the Economy and suited the interests of management.

Then the President brought in a Provisional Measure (which he later withdrew) prohibiting trade unions from obtaining financial contributions through salaries. Workers would have to make direct contributions. At the end of 2019, Bolsonaro sent Provisional Measure 905 to Congress, which created the Carteira Verde Amarela (yellow/green card), a rehash of the old way of removing rights so that companies could hire young people on low salaries. In compensation, companies would be given a discount on their social security contributions, a measure which could de-capitalise social security and compromise the payment of retirement payments and pensions.

The new legislation created the possibility of collective negotiation directly between employees and the company (which is unconstitutional) without the presence of the trade union. It did not include trade union representation at workplaces. From the results of the collective negotiations of 2019 we can see that: the volume of negotiations has decreased; the main objective of management was to gain flexibility on rules around the working day and individual contracts and build the foundations to implement a system of trade unions by company.

Currently, only 40% of Brazil's workers have a formal working contract. There is increasing outsourcing,[5] and the reforms have created a home office environment, intermittent employment contracts, etc. They have also paved the way for collective firing of individuals without any obligation to negotiate with the unions.

Around 5 million workers, almost 15% of the country's formal labour market, lost their jobs that year – either by being dismissed, having their contracts suspended, or seeing cuts in their working day or their salary. According to the CLT, the total number of people employed is 33.6 million people, but the rate of unemployment may be up to 25%.

Around 4.3 million formal workers had their contracts suspended or working days and salaries reduced for up to three months. Most of them lost their contracts completely, according to a partial report presented in the last week of April 2020. Brazil's GDP is estimated to have fallen from 5% to 8%, which would take the rate of unemployment to over 25%. For the first time in the last 15 years, the service sector is set to decrease by 4.4%.

It is estimated that families will end up 5% in debt in relation to their income. At the same time, the minimum salary will not be readjusted, and the government is threatening to freeze public service workers' salaries.

All these statistics are mere estimates, because the country appears to be in some kind of statistics void. No precise statistics on the country's employment status are available at present.

One thing that makes the Brazilian labour reform different to that of other countries is the political factor. The coup-installed government first needed to destroy the power of the trade unions so that these did not support the return of Lula or his candidate in the 2018 elections. With Bolsonaro, the political factor is paramount.

The terms of the agreement proposed by the EU mainly suit the interests of Brazilian agribusiness and do not create

4 In 2012 a coup overthrew Lugo in Paraguay; in 2015 Macri, a liberal politician, won the elections in Argentina. In 2017, there was a coup in Ecuador; in 2019, at the same time as the Peronists were getting back the government in Argentina and taking Argentina back to the former integrationist policies, there was a coup in Bolivia that overthrew Evo Morales and, in Uruguay, the Frente Ampla (Broad Front) lost the government after 15 years in power..

5 On 31 March 2017, still under the Temer government, Congress approved law 13429/2017, which took away all restrictions on sub--contracting labour.

conditions for a return to industrial development. This merely serves to increase the imbalance between the two blocs, especially the imbalance in industrial production and services. The result of this will be increased imports by Brazil for these sectors, and the closure of companies.

In services, the only sectors that had the capital and expertise required to compete against Europe and compete internationally were Brazilian heavy construction and Petrobras. After 2015, these segments were destroyed by »Operation Carwash« which, under the pretext of fighting corruption, paralysed these companies and led them to bankruptcy and huge losses. The most positive outlook is in agriculture, but advances are small. In meat, the most important of these sectors, the only concession was export quotas, which in effect are restrictions to free trade.

Elsewhere, in government procurement, intellectual property and investment, the proposed terms are not favourable to Brazil. The policies used, instruments of »commercial integration«, will only aggravate the imbalance without bringing development to the poorer countries. Liberalising the participation of private European companies in public regional and national bids will put Brazil's companies at a disadvantage and potentially accelerate the privatisation process for state companies and public services, as well as increasing the sub-contracting of labour.

The EU approved a 21st century industrial policy project in order to maintain its position as an industrial power. One of the proposals is to seek ways to facilitate expansion of companies by opening up the market for government procurement with reciprocal agreements such as the example we gave on government procurement. The EU is not just interested in opening up trade for its products, but in imposing its regulations on public procurement, transparency, competition and reciprocity with public companies.

Examples of where the gap may widen are the automotive and chemical sectors. According to Schutte, the plan is for the tariff of

> *»35% on imports of European vehicles will be reduced to 17.5% in ten years, and to zero in the 15th year. There will also be a provisional quota of 50 thousand cars for MERCOSUR from entry into force of the agreement, 32 thousand of these being for Brazil. Manufacturers will end up using this quota to export luxury cars, as the agreement makes no mention of transfer of technology or any obligation to invest in the country […] Over the next 15 years, in which time the sector will go through profound changes, MERCOSUR will open its market with no quotas and zero tariffs. What will all this lead to? Using market logic, we predict it will lead to parts and components of lower aggregate value and, perhaps, final assembly.«*[6]

The automotive sector is not just a sensitive sector for Brazil and Argentina but, much more than that, it is one of the pillars of the bloc.

Another key sector that could be affected in Brazil is the pharmaceutical sector. The proposal to extend the duration of patents and data protection of evidence may, for example, limit or severely restrict the production of generic drugs.

Before 2008, the main exports of Chile, Colombia and Peru were raw materials and lower aggregate value goods. Then, between 2008 and 2018, exports from Chile to the European Union fell by 25%, whilst imports from Europe almost doubled (97%). In 2008, the trade balance was 6,267 million Euros in favour. In 2018, it was 1,514 million Euros in Europe's favour. The same could happen in Brazil.

In agri-industry, there is no perspective of new jobs being created. According to a survey by the CEPEA (Centre for Advanced Studies in Applied Economics) of the Agronomy School of USPESALQ and the FEALQ (Luiz de Queiroz College of Agriculture), this sector employed 19.68% in the second quarter of 2019, but from 2018 to 2019, agricultural jobs grew by only 1.61%. The sector in which jobs increased most was commodities (2.65%), particularly the production of fertilisers and agrochemicals (13.07%). This is an area where there is no hope of competing against Europe.

The same survey also found an increase in the number of informal jobs, an improvement in the average level of qualification of the employed population and higher female participation in the sector. From 2018 to 2019, the number of self-employed workers increased by 5.19% and that of workers without signed contracts increased by 1.66%. The reason qualification levels rose for those employed in the agri-industry was due to a high level of automation and more jobs in technology.

The European proposal is that environmental conservation and fundamental social rights work on the »precautionary principle«[7] This clause which has always been vetoed by Brazilian negotiators because it is seen as a chance for the Europeans to practise protectionism. Any serious risk event, whether it be environmental or related to the health and safety of the population, could mean suspension of the agreement. But who will have the say on whether there has been a breach? This could lead to protectionist measures.

After it has been in effect for over a decade, the agreement with Chile has shown us that the inclusion of a social chapter outlining this type of safeguarding has not served to promote respect of social rights and environmental standards. Rather, what we see in Chile is growing imbalance and insecurity in the job market.

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6 Schutte, Giorgio Romano. União Europeia – Mercosul: um acordo regressivo. Observatório da Economia Contemporânea – Le Monde Diplomatique, July 2019

7 JAKOBSEN, Kjeld – »Acordo União Europeia – Mercosul: Uma nova ALCA.« Observatório de política externa e da inserção internacional do Brasil – UNIVERSIDADE Federal do ABC, 2019.

The protectionist »precautionary principle« has little effect in Brazil because its labour system has been destroyed. The Ministry of Labour no longer exists, and the trade unions are weak. The terms of trade may even be prejudicial to Brazil. Under the PT governments, innumerable Institutional Councils were created to allow society participation in drawing up and applying laws on specific topics. Most of these have been abolished or no longer exist. Congress (the majority of whom are management and conservative) approved a social security reform that was completely unfavourable to workers. In the environmental sphere, Ibama (The Brazilian Institute of Environment and Renewable Natural Resources) has been stripped of its power to inspect environmental crimes. In the social sphere, in matters such as gender, race, youth and human rights, there has been a strong reversal in public policy. Many policies designed to protect the Indians and stop the demarcation of indigenous and environmental reserves have been abolished.

Suffice to say that the demarcation of land and protected forests now comes under the auspices of the Ministry of Agriculture, which represents the interests of agri-industry.

The current government has also got rid of trained experts and professionals and replaced them with army and army reserve officials. There are currently over three thousand military officers in the service of the State.

WHAT SHOULD BE DONE?

It is important to point out that the negotiation of a bilateral agreement between Brazil and the European Union will reinforce the liberal external trade policy, which is to weaken MERCOSUR and turn it into a kind of informal free trade area. The trade unions and Brazil's democratic opposition feel that this will be a very negative move.

If the negotiation process is taken up again, a whole set of proposals, below, need to be looked at in more detail. This will depend on the European Union.

1. Renegotiate the negative points mentioned here. Conclude the other chapters. Change the terms for government procurement and intellectual property.

2. Ensure that the negotiations are democratic and give space for regional and national economic, social and trade union bodies to participate in the negotiations. So far, only the Business Forum, which brings together businesses in both blocs, has been consulted.

3. Install the supervisory committee that was approved over 10 years ago, allowing the European Economic and Social Committee – EESC and –MERCOSUR's equivalent, the FCES, to supervise the agreement.

4. Create a chapter on Socio-Labour (MERCOSUR has an example of this) to deal specifically with the impact on jobs and labour relations. Use the European Social Charter and the MERCOSUR Socio-Labour Declaration as models.

5. Create a Labour Forum, but not just as an afterthought to the Chapter on Sustainable Development, rather as a body that can propose themes for negotiation.

6. Maintain the *bloc to bloc* negotiating model and the project of a bi-regional association, to promote development by means of investment and complementary instruments in compatible sectors, with a full guarantee of fundamental labour rights and respect for the environment, without any type of safeguard

7

THE EU-MERCOSUR AGREEMENT: SOCIAL EFFECTS AND MORE …

***Graciela Rodriguez*[1]**

The period of the pandemic and the growing global crisis has attracted increasing criticism of a tendency to neo-liberalism over the past few decades. There have been a host of global economic policies that follow this trend. International economic and financial organisations such as the World Trade Organization have pushed for these policies. Their top priority has been the liberalisation of trade and investment. Such neo-liberalism has been heavily criticised and substantial controversy has arisen around, in particular, free trade.

In a post-pandemic world, the commercial and political war between the USA and China is predicted to be intense, being set, as it is, in the context of global recession. Competition between countries will increase, and this will most probably mean more policies that exploit outlying areas and impact the growing developmental divide between countries, which Harvey refers to as »accumulation by dispossession.«[2] In the face of such increased global exploitation, international trade and trade agreements play a key role in consolidating the legal security of the unequal exchange of trade.

In fact, we have seen over the past few decades that free trade agreements facilitate reprimarisation of economies by relocating production and increasing the centralisation of global production chains in China and South-East Asia. This process is currently exposing the deindustrialisation of many countries and the fragmentation of production processes which in turn leads to a shortage of essential products, even in more developed countries.

Already in some outlying countries, especially South America, such agreements simultaneously encourage the growth in exports of primary products and strengthen the power of the traditional elite countries of the region, concentrating in the hands of the few the riches of our »comparative advantages.« True, this reprimarisation allows us a retrospective view of the fragility of such processes and of the sectors that promote national industries. It also necessarily opens our eyes to see these elite »winners.« They characterise the most refractory and anachronistic side of the outlying colonies, which are patriarchal and racist, and which perpetuate and multiply a history of inequality and discrimination.

It is also clear that trade agreements have restricted the democratic power of countries to implement public policies and reduced the chance of governments gaining any kind of autonomy and civil society being able to participate.

The developed countries need to think carefully before making trade agreements if they do not want to end up stemming the advance of democracy in outlying countries, concentrating riches in the hands of the few and increasing poverty, inequality and social instability in our countries. As has always been the case for subordinate lands and territories, colonial thought still continues to reinvent itself today.

There are various levels to the unending debate here, which only serves to remind us of the profound inequality that the colonial relationship, expressed in asymmetric agreements, has perpetuated and multiplied.

MERCOSUR-EUROPEAN UNION

The EU-Mercosur Agreement, concluded in June 2019, is the result of almost 20 years of negotiations which followed the vicissitudes of the international context: first the pressure of the Free Trade Area of the Americas negotiations, and then the highs and lows of the WTO process. Some initial aspects of the agreement appeared to be promising, including the triangle of political dialogue, cooperation and trade negotiations, but so far only this last chapter on trade has moved forward. The others appear to have been all but forgotten.

The context in which the agreement was signed was far from ideal.

> *»On the one hand Europe, in crisis since 2008, sees the expansion of the interests of its transnationals in Mercosur and other regions as part of the solution to its serious social, environmental, economic and political problems, especially at a time when it is feel-*

1 Sociologist, Director of Instituto EQUIT – Gender, Economy and Global Citizenship. Member of REBRIP –The Brazilian Network for the Integration of Peoples – a Gender and Trade Network.

2 Harvey, David. (2003). The New Imperialism. Oxford University Press.

> *ing the strain and has been almost paralysed by the trade war between China and the USA. On the other hand, Mercosur with its two main negotiating countries, Brazil and Argentina, is going through a difficult time politically and economically, with neo-liberal and authoritarian leaders and a dependence on foreign interests.«*[3]

In Brazil, the conclusion of negotiations was celebrated as a diplomatic success. However, as the Bolsonaro government had aligned itself with the USA, there was a quick reaction from that government, playing down the importance of the agreement. This reaction makes sense if we put it in an international context. Europe has never been keen on making trade agreements with the USA. As Mineiro has already stated, by making trade agreements with countries in the region, Europeans not only match the USA in access to those markets, but can also use them to sell to the Americans themselves.[4]

The conservative recovery of South America was the context for the hurried signature of a negotiation that had been going on for 20 years. It was an opportune moment for the conservative governments in both the main countries of the bloc, which had recently removed from Venezuela from membership. However, the pandemic may end up bringing back the obstacles that had paralysed negotiations since last year. The recession already operating in Mercosur countries is now affecting Europe, which is seeing internal disputes and criticism from governments, parliaments, institutions and social players. They are in a hurry to see their economies boosted by the agreement. The new German presidency of the European bloc, which seems keen to sign, particularly because of the strong interest from its automotive and chemical industries, may find itself facing criticism and resistance in the complex battle that we will witness between the USA and China.

We will now attempt to analyse, in particular, the social impact of liberalisation of international trade and investment.

SOCIAL IMPACT

ENVIRONMENTAL IMPACT

The first question that needs to be posed is whether the social impact can be separated from the economic, environmental, cultural and democratic impact. We believe that in fact these matters »are inextricably linked, so that change in any of these domains implies change in the others.«[5] This means the consequences of the developmentalist project in Brazil become totally interdependent.

In particular, the liberalisation of agricultural trade – giving rise in most Latin American countries to the brutal concentration of land for monoculture of primary products for export, has increased under Bolsonaro's government »with the destruction of eco-systems and socioenvironmental crimes,«[6] particularly against indigenous peoples. These attitudes are now attracting demands from the European Parliament to include in the agreement binding legislation and measures or mechanisms to restrict deforestation and loss of biodiversity in the Amazon.

If the agreement negatively affects the balance of trade it will also affect the balance of regulations, especially environmental regulations. This is riskier for the EU, which has stricter preventative regulations than Mercosur, with the prevalence of agrotoxins, antibiotics, hormones and other contaminants in the soil and water, which affects the health of rural populations and nearby urban proximities.

POVERTY AND INEQUALITY

This agreement, as the saying goes, will have its winners and its losers. Amongst the winners will be the large exporting corporations of both blocs, but amongst the losers will be numerous social sectors within Mercosur, (but also in the European Union, where they are already starting to protest).

It is not necessary to look far to see more and more social inequality in the countries of South America, inequality that has been gaining ground since the first decade of this century, with the so-called progressive governments. These governments have stemmed the advance of trade liberalisation, whilst making the most of the international boom in commodity trading. Alongside this structural dependency, which the countries of South America have not overcome or even fought during this period, it is clear that in recent years this has helped fuel the decrease in poverty and inequality in the short period of time in which the region managed to distance itself to some extent from the neo-liberal precepts of Washington and protect itself in some measure from trade liberalisation. Although it was short-lived, the reduction in poverty was the most positive sign of such times, in a region where poverty has been endemic since colonial times.

A UNDP (United Nations Development Programme) report points to Latin America as being the most unequal region

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3 »Acordo EU\Mercosul: Uma tragédia que ainda se pode evitar«. Nota pública de posicionamento da REBRIP – Rede Brasileira pela Integração dos Povos, diante do fechamento das negociações do Acordo EU/MERCOSUL. 2019

4 Mineiro, Adhemar. Acuerdos Comerciales entre la EU y las Américas: Algunos elementos comparativos. PSI – Public Services International. São Paulo. 2019

5 http://revistagreenpeace.org/debate-verde/impactos-ambientais-tambem-sao-sociais/

6 Marciano Silva e Leonardo Melgarejo https://mpabrasil.org.br/noticias/artigo-ogms-15-anos-no-brasil-em-epoca-de-coronavirus/

on the planet.[7] We could point out various reasons why this is the case. Amongst them, rural migration to towns, which has exploded over the past 40 years, slavery and racism, gender inequality and sexism, the continued »backward« elite, constant disputes over land and natural resources, etc. All of these hail back to Latin America's colonial past and are multiplied by the agri-mining export model which continues to recreate and consolidate colonial attitudes. Free trade that focuses on agricultural and mining exports will, without a doubt, only continue this tragic scenario.

SECTORS IMPACTED AND JOBS

Flexibilisation of labour protection laws has been a big attraction in the process of trade negotiations stimulated by globalisation. Free trade is closely linked to this process, which focuses very particularly on global rural and industrial jobs and, more particularly, on the female workforce.

The EU-MERCOSUR Agreement is focused specifically on agricultural exports, where jobs are already scarce and qualifications low. It could, at the same time, reduce the number of better qualified jobs with better pay in the industrial sector.

All this in the context of a country with 13% unemployment and 28 million people under-employed. According to statistics from the 2019 PNAD (National Household Sample Survey) published in April 2020, 10 million people are surviving on less than 10 euros a month, 104 million people earn no more than half a minimum monthly salary (around 90 euros) and 41.4% of the economically active population earn no more than BRL 413 (around 70 euros). Women's salaries are 28.7% lower than those of men and black people earn only 25.5% of the whole. Add to this the population employed in Brazilian agribusiness. According to The Brazilian Institute of Geography and Statistics figures,[8] in 2017 and 2018, this remained stable at 18.20 million people, of whom over 70% are in employment linked to family farming. Into such a context of inequality has come the pandemic, which has only made things worse.

The European Union, the second biggest global purchaser of Brazilian agricultural products will, with this agreement, increase such production, strengthening a sector that offers very few low-quality jobs and threatens jobs in family farming. This will also affect the sector of aggregate value exports and aggravate the country's deindustrialisation process,[9] with grave consequences for higher quality jobs and a heavy toll on a society that is more and more polarised.[10] In summary, the inequality between the blocs will in fact serve to perpetuate and aggravate the same problems we have faced for decades because of the unequal balance of international trade.

EFFECTS OF THE NEGOTIATION PROCESS ON PUBLIC PROCUREMENT

We have already said a lot about how trade agreements are supranational restrictions that limit the power of countries to draw up their own national policies, especially social policy. For procurement by means of public contracts, the impact tends to aggravate the social problems, affecting not only jobs but also food security for the population. This can now be seen in the commitment of the Brazilian government to buying from family farms by means of the PAA (Food Acquisition Programme) to supply food to state schools, hospitals and other state-run sectors. The agreement will serve to weaken family farming in yet another way, by limiting the purchasing power of the national government. Non-discriminatory rules and disloyal competition from EU farmers, who continue to enjoy subsidies and support with which Mercosur countries cannot compete, may end up gradually pushing national governments out.

ECONOMIC FINANCING AND POPULATION DEBT

Perhaps the least evident social effects in Brazil are the complex liberalisation of financial services. At national level, these act in tandem with structural adjustment policies, which seek to increase resources for payment of public debt by using privatisation policies in a way that forces the State to offer public services and release budget resources.

In turn, this two-edged sword of privatisation of essential public services and liberalisation of financial services is part of the EU-MERCOSUR negotiations for services. In fact, the privatisation of public services ends up causing debts for families that are forced to pay more for the supply of key services. It just so happens, the debt of the poorer sectors is one of the most lucrative activities of the financial economy, with its high interest rates and high returns. The banks, many of them European, have an aggressive strategy of expanding the so-called fintechs, especially in the cities of the Brazilian north and north-east. This explosion of debt in families who bear the costs of the informal and popular economies, has a grave social impact on the territories and urban peripheries of the country, with the deepening precariousness of peoples' lives.

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7 The report shows that the richest 10% in Latin America have a smaller joint income than any other region (37%), .and the opposite is also true: the poorest 40% receive the smallest slice (13%) according to the UNDP report of December 2019.

8 https://revistagloborural.globo.com/Noticias/Economia/noticia/2019/03/emprego-no-agronegocio-se-manteve-estavel-em-2018.html

9 Brazilian industrial production has decreased over the past few years. In 2020 it is 17.9% of national GDP, when in 2005 the sector was responsible for 28.5% of production from its factories.

10 At the end of 2016, the sector employed 7.7 million people – 1.3 million less than the peak in 2013, when over 9 million people worked in the country's industries. https://agenciabrasil.ebc.com.br/economia/noticia/2018-06/brasil-perdeu-13-milhao-de-empregos-na-industria--entre-2013-e-2016

WOMEN'S RIGHTS AND DISCRIMINATION

The impact of free trade on women can basically be observed in two spheres, the domestic sphere of daily living and the employment sphere.

In the domestic sphere, privatisation policies have had a painful impact on the life of women. They have been obliged to extend their working days and get into debt to make ends meet. This makes daily living more complicated and makes it difficult for them to get paid work, which consolidates their subordinate position in society. Various studies show that the effects of these situations reinforce a lack of autonomy for women, suffocating them in terms of opportunities and making the gender inequality gap even wider.

In the employment sphere, the increase in female workers in the factories of the world, with women hired on lower pay and in precarious conditions, has been key to making large-scale production feasible.[11] In a 2008 study on the impact of a possible EU agreement with Mercosur, the conclusion was categorical.

> *»Trade policies per se do not help diversify production structures or generate more jobs for women. Exports are concentrated in fewer sectors, and these are sectors with few jobs for women, whilst imports threaten lower-qualified jobs more than others.«*[12]

In the case of imports from the European Union, studies show that the female jobs that would be threatened would tend to be better paid industrial jobs that have been »driving up« women's salaries.

Finally, for this point, we should mention that the women's and feminist movement has repeatedly spoken out against the inclusion of *gender clauses*, which it believes end up camouflaging agreements that are prejudicial to women and whose short-sighted attitudes »clean up the surface« of agreements that take advantage of and even promote gender inequality as a tool to attract investment in production.

HUMAN RIGHTS

With the irregular removal of President Dilma Rousseff and the growing alignment of Brazil with ultra-neo-liberal politics, the country has become the only one in the world to constitutionalise austerity as a long-term economic policy. The state's commitment to ensuring social rights for its people is seriously under threat, and now extremely weakened by the consequences of the pandemic. Last April,

> *»UN specialists issued a new communique to the Brazilian government in which they stated that the economic policy of the country has placed millions of lives at risk. To fight the pandemic, they recommend ending austerity policies like cost capping and invest more in fighting inequality.«*

As if this was not enough, there is the increasing power of the paramilitaries, hailing from state police bodies and other national security forces. These paramilitaries illegally claim land and even end up getting into power in public authorities. Whether or not this paramilitary presence is linked in any way with the trade agreement, I believe it is part of the social conflict arising from historical policies that have facilitated and even promoted the absence of the State and guaranteed rights, especially in the popular territories of the country. Latin American societies have seen 40 years or more of staunch neo-liberal policies, and free trade is a part of this. It has caused job losses, the increased precariousness of life and reduction in the role of the State, leading to the violence that we are now seeing. How can we even talk about human rights within this reality?

CONCLUSION

The 20 years of negotiations have been totally undemocratic. There has been a total dearth of essential debate and fundamental partnerships. We could mention north-south cooperation, technology transfer, partnerships with universities and support for scientific training, climate change, concerns about the Amazon, cooperation and reconciliation with indigenous people, as well as aspects of transparency, democracy, civil participation, etc. All these have been completely left out of an agreement which has forgotten about dialogue and cooperation. Social participation through Mercosur's FCES – Economic and Consultative Forum and Europe's EESC – European Economic and Social Committee has been largely ignored by the institutionalist official negotiating process. The coordination of these bodies would have allowed for or facilitated partnerships, analysis and recommendations. But all this was ignored when the agreement was hurriedly concluded.

The warnings and hesitations of various national parliaments and civil society bodies in Europe about rushing through an agreement in the light of so many questions are reasonable and substantiated. Amongst the concerns are the potential risk to European standards, a lack of executable agreements that protect the Amazon and stop unlawful deforestation, a rejection of the Paris Agreement by Brazil's current government, the possibility of Brazil leaving the WHO, violation of international human rights agreements, threats and persecution of indigenous peoples with violation of their rights to land, etc. Not to mention the innumerable list of crimes and violations of the rights of Brazilian citizens, which threaten a multilateral world which is committed to civilised values.

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11 Rodriguez, G. »Una relación conflictiva« NUSO nº 218. Nov/Dec 2008. Buenos Aires

12 Bidegain Ponte, N. Comercio y Desarrollo: el orden de los factores altera el producto. IGTN – Rede Internacional de Género y Comercio y CIEDUR. Uruguay, 2009

Neo-liberalism has shown that it is incapable of improving the lives of our societies, and the pandemic has exposed very clearly the diseases of poverty and inequality and, in Brazil, the barbarianism into which the Bolsonaro government wants to plunge the country.

From the start, Brazilian social movements have rejected this agreement, which really boils down to matters of free trade. They believe the result will be the aggravation of Brazil's structural and conjectural problems. However, any agreement with this particular government must be rejected by Europe's democrats, committed as they are to the preservation of nature, human rights and social cohesion.

8

EU-MERCOSUR AGREEMENT: EFFECTS ON REGIONAL INTEGRATION AND THE FUTURE OF MERCOSUR

***Karina Lilia Pasquariello Mariano*[1] *e Marcelo Passini Mariano*[2]**

The free trade agreement negotiation process between MERCOSUR and the European Union (EU), which started in the mid-1990s, came to a close in June 2019. The initial objective was to forge a key inter-regional trade agreement. For MERCOSUR, it would mean expanded trade interests, improved conditions for international integration of its members and support for domestic policies of economic liberalisation. It would also consolidate the integration process itself. For the EU, it was part of a strategy to defend its economic interests and consolidate its political interest in Latin America in the face of the advance of the United States, which was negotiating the Free Trade Area of the Americas (FTAA). The two blocs were demonstrating to the world a tendency that was popular at the time, the creation of regional and inter-regional agreements alongside the multilateral trade system, founded on the idea of »open regionalism.«

However, over the past ten years of negotiations, relations between the EU and MERCOSUR have run very much parallel to US gains in the hemisphere, and it has become clear that negotiations with Europe depended on the FTAA negotiations. In the mid-2000s, this parallelism began to lose ground as Brazil's regional and global position became stronger as it gave preference to negotiating with the World Trade Organization (WTO), diversifying its trade partners and encouraging MERCOSUR to follow suit. This strategy, which had seemed promising at first, gradually began to weaken in the face of the consequences of the 2008 international economic crisis. This then intensified the flaws that were already beginning to show in the multilateral trade system and encouraged unilateral and protectionist practices which, in their turn, increased pressure on the regional blocs and heightened political, economic and social instability in domestic markets.

The election of Donald Trump in 2016 added to global uncertainty for various reasons, including the adoption of policies designed to weaken international institutions and regimes, interruptions to the trend of regional mega-agreements (with the withdrawal of the USA from the Trans-Pacific Partnership), growing tensions with China and the US trade war with China.

The MERCOSUR-EU Agreement was concluded in the context of this crisis of expectations and confidence. It was both a response to MERCOSUR's change of direction, giving preference to relationships with developed countries after the impeachment of Dilma Rousseff and the taking of office by Michel Temer's government in 2016, as well as to the economic liberalism of the Argentinian government. The same situation arose again in 2019, when Bolsonaro's new government needed to show positive results and abate the criticism aimed at it by the international community and by Macri's government, which was locked into an economic crisis in the middle of an election campaign.

Entering into the agreement with MERCOSUR is part of the EU's global strategy to increase its trade links by creating new free trade agreements and expanding existing agreements, evidenced by its negotiations with Australia, Canada, Mexico, Japan and Vietnam. It is an attempt to regain importance on the international stage, weakened not only by its traditional dispute with the US government, but also by the transition of world power, which is now concentrated increasingly in Asia, with the lead player being China.

The whole EU-MERCOSUR Agreement negotiation process has been characterised by the absence of a favourable atmosphere for its conclusion. From the start of negotiations until the mid-2000s, MERCOSUR experienced political and economic instability, which peaked in the period between the Brazilian currency crisis in 1999 and the Argentinian crisis in 2001.

Between 2003 to 2008, both the MERCOSUR countries and the EU countries enjoyed greater stability. However, the benefits of an inter-regional agreement were subject to the conclusion of the WTO's Doha Round. From that point, with the onset of the international economic crisis and the impasse in multilateral negotiations, the two regions were yet again unable to come to an agreement. Up until 2013, South America experienced increased economic growth

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and greater regional cooperation – which some even considered to be a phenomenon worthy of study. Meanwhile, Europe had to deal with the severe effects of the economic crisis on some of its members, particularly Greece, Ireland, Italy and Portugal, as well as the effects of the admission of new members and the problem of migration. This crisis peaked with the exit of the United Kingdom from the European bloc (Brexit).

After all these events, inter-regional negotiations finally started up again in 2016, when the negotiators on both sides found themselves in a favourable position to conclude the agreement, which offered benefits to the main countries of both blocs. The conclusion of negotiations in 2019 happened at a very specific time in which, despite the positive potential of the agreement, the domestic, regional and international atmosphere was one of great instability and uncertainty. This was the case right up to the moment of the Covid-19 pandemic, which only served to make it more severe.

THE TURNING POINT OF 2016: UNDERSTANDING THE NEW ECONOMIC CLIMATE

If we can talk about a turning point in EU-MERCOSUR relations, it was the year of 2016. The keenness to conclude the agreement on the part of the negotiators was not due to the process itself but was largely down to the context. Firstly, the rise of the populist/transnational conservative movement, strengthening extreme right political groups in many countries, including the USA, with the election of Donald Trump, and Germany, with the growth of Alternative for Germany.

This movement has taken its toll on the blocs on both sides of the Atlantic. For Europe, it is shown in increased xenophobia in response to the migration crisis and the growth of authoritarian governments. The movement has also had an influence on the whole Brexit process, especially the referendum. In South America, the impact has been felt just as much. The movement has provoked a strong negative reaction to the left and centre-left governments that governed the region in the first fifteen years of this century. Evidence of this is the impeachment of Brazil's Dilma Rousseff in 2016.

It was amidst this tense and unfavourable economic climate that the negotiation process for an agreement between the two blocs was resumed. Hopes were that it would be implemented despite the unfavourable conditions, albeit in the medium term. So, why was it resumed in such an unfavourable climate? It was pure opportunism on the part of both players.

The new Brazilian government understood that an agreement would be politically and economically advantageous to the country. To distance himself from the centre-left governments that came before him, Brazil's new president, Michel Temer, wanted to implement a new external political strategy. This would be based on south-south cooperation in the form of an agreement that would be of particular interest to Brazil's agri-exports sector. The agreement represented not only a change in direction of its foreign policy, but a strategy designed to legitimise a transitory government that had not been fully recognised by much of the national population and the international community.

In 2018, this new position continued with President Jair Bolsonaro , who did not only consolidate the breaking with PT governments,[3] as enter the international stage as a main player in this conservative movement, aligning himself ideologically and unconditionally with the US government.

Brazil's new position was supported by its main MERCOSUR partner, Argentina, whose president was also conservative in his political stance and who was grappling with a major economic crisis. Argentina's government felt that the agreement would bring trade benefits and political support from international creditors to help mitigate the country's economic problems.

President Macri also had a vested interest when it came to getting elected. Closing the deal on the agreement with the EU could help him get elected because it would provide concrete evidence of a new direction for Argentinian policy. It would also ensure continuity of the more liberal economic profile if his government lost the elections.

For the EU, this opportunism took the form of an attempt to mitigate Europe's regionalism crisis and the political and economic effects of Brexit, and to show the international community that the bloc was doing what it could to improve internal unity and regain its place on the world stage. As well as domestic and regional reasons, the European negotiators also considered the political and economic fragility of the two main MERCOSUR countries to be opportune, as they needed to appease criticism and would therefore be more inclined to economic openness.

In Brazil at least, support for conclusion of the agreement that had been dragging its heels for over twenty years was seen as a victory by the political and economic sectors and by the mainstream media. This was evidenced in media coverage both at the time of the announcement and in the weeks following it, although the general content of the agreement was largely unknown. Unexpectedly, its contents were only published gradually, perhaps because, in Brazil's case, the government was in the middle of a serious international environmental crisis, the Amazon fires. The new president had also only just come into office and was facing criticism from international institutions and regimes for his disastrous actions and anti-diplomatic position.

For the EU, Brexit was casting doubt on whether the bloc could actually promote the interests of its citizens and solve the problems arising from the crises in the decade of 2010. In response, Europe's leaders wanted to show that Europe was

3 PT refers to Partidos dos Trabalhadores (Workers' Party).

effective as a bloc. One way to do this was to actively promote trade agreements.

Trade agreements not only support economic interests, but they help strengthen EU policies in the international system. These policies are, at the end of the day, based on the clauses and regulations governing European international trading standards. Thus, extending and negotiating trade agreements should bring economic benefit and restrict the influence of North America and China.

EU-MERCOSUR AGREEMENT: THE ENDS DO NOT JUSTIFY THE MEANS

The entering into of the EU-MERCOSUR free trade agreement on 28 June 2019 was met with great enthusiasm by both sides. There was great hope surrounding the benefits it would provide. After 25 years of negotiation, it seemed that the obstacles had finally been overcome and a new phase had begun in the relationship between the two economic blocs.

However, there are still contradictions to be ironed out, and the agreement will not be fully functional for another two decades. Even when it is implemented, there are likely to be problems. These problems can be grouped into structural and conjectural contradictions. In the first group is the main contradiction: the cost-benefit balance of the agreement's negotiation process. This conjectural contradiction is based on the need to enter into an agreement in a very uncertain climate.

A favourable cost-benefit balance has not yet been found by either bloc, which explains the current hesitation. From the EU's point of view, there is still resistance from key players of different sectors, interests and countries. From the start, the European agricultural sector has been against the agreement, expressing its doubts and protesting about its discontent and lack of confidence in reaching a successful conclusion to the negotiation process.

This lack of confidence is shown in the position of some European negotiators, who have been clear about their interests. A good example of this was shown in the 2018 speech by France's Minister of State, Jean-Baptiste Lemoyne, a year before the conclusion of the agreement:

> *»MERCOSUR should come to the EU with stronger proposals. We refer to the automotive sector, the agricultural sector with its protected geographic indications and the dairy sector, because in the agricultural world, there are stronger interests that we need to make work. The deal is not yet closed.«*[4]

The ranks of this opposition group have recently been swelled by representatives of environmental and human rights movements, who are protesting at the actions of Brazil's government in these matters. Feeling they are justified in their opposition and in their concerns about agriculture, MPs from Wallonia (Belgium), Ireland and Austria have protested in symbolic votes against rejection of the agreement.

In fact, even before President Jair Bolsonaro was elected, some European Members of Parliament, such as the members of the European United Left and the Green Party, were critical of the negotiations. They asked that the negotiation process be suspended after the impeachment of President Dilma Rousseff, which was considered by many to be a political coup.[5]

In contrast are the direct benefits for the EU of implementing the agreement. Firstly, it will guarantee European interests and investment in the region and mitigate the impact of Asian competition which has, over the past few decades, been ousting Europe from its trade position in South America and the MERCOSUR countries.

This matter has been a huge incentive to the European negotiators in reaching an agreement with MERCOSUR. The agreement is also clearly favourable to Europe. In fact, if we consider the potential ramifications, there is definitely an imbalance in the distribution of benefits. For MERCOSUR, the main benefits will be seen by the agri-export sector. In Europe, on the other hand, the agreement will benefit the industrial and services sectors, and has infinite potential for expansion.

Fears about this imbalance and its possible effects on MERCOSUR's trend towards de-industrialisation explains historic resistance to the agreement in the main economies of the bloc: Argentina and Brazil. In both countries, key industrial segments have been reluctant to support the agreement.[6]

At the same time, new trade-related matters and the resulting changes to the rules of the agreement are grounds for concern among key economic and political groups. These doubts about the real costs of signing and implementing an agreement have been regularly expressed by the current President of Argentina, Alberto Fernández.

Although Kirchnerist governments[7] have been repeatedly accused of protectionist logic that has been an obstacle to con-

4 AFP. Berlim tem pressa para concluir acordo com Mercosul. Jornal de Santa Catarina. 27/02/2018. Available at http://jornaldesantacatarina.clicrbs.com.br/sc/mundo/noticia/2018/02/berlim-tem-pressa-para-concluir-acordo-com-mercosul-10. Accessed on 28/02/2018.

5 MARIANO, Karina L. P.; LUCIANO, Bruno T.; SANTOS, Lucas B. dos. Parlamentos regionais nas negociações comerciais: o Parlamento Europeu e o do Mercosul no acordo União Europeia-Mercosul. Opinião Pública, vol. 25, n.2. Campinas: CESOP (Central Electronic System of Payment information), May-August 2019, p. 377-400.

6 For more information, see: SANTOS, Lucas Bispo dos. As negociações do Acordo de Associação Inter-Regional Mercosul União Europeia: o posicionamento dos grupos agrícolas e industriais de Argentina e Brasil. São Paulo: San Tiago Dantas, Master's Dissertation, Post-Graduate Programme in International Relations, March 2018.

7 Refers to the presidencies of Néstor Kirchner and Cristina F. de Kirchner and now often used to refer to Alberto Fernández' government.

cluding the negotiations, the fact is that both in Argentina and Brazil there are those who doubt that their industrial and service sectors can compete against Europe.

On the other hand, some groups in Brazil are strongly in favour of the agreement. Firstly, the agri-exports sector which, as we mentioned before, believes that the agreement will improve access to European agricultural and commodity markets. Much of this group is made up of MPs in the so-called Ruralist Contingent, which has 257 out of the total of 513 MPs in Brazil's Congress.[8] In other words, it makes up almost 40% of the Brazilian Parliament.

Allied to this group is the ultra-liberal sector, which forms the basis of Bolsonaro's government. A strong supporter is Paulo Guedes, Minister of the Economy, who believes that forcing a radical opening of Brazil's economy would lead to economic modernisation and although the social impact would be huge at the beginning, it would be worth it in the long-term.

This group is also supported by Brazil's media, which is very much in favour of free trade agreements with developed countries, including this agreement with the EU. The role of the press cannot be underestimated. It has helped to build strong public support for a conclusion to the negotiations with Europe, as well as for liberal labour and social security reform, despite the impact this would have on social rights and the growing discontent in relation to MERCOSUR and South American integration, which has delayed the integration process on many occasions in the past.

These structural contradictions are made worse by the conjectural contradictions. The gains seem to be diminishing fast in the face of potential costs arising from the free trade agreement. In the first place, there is, as we said before, an uncertain economic outlook, heightened by the new coronavirus pandemic. Then there is the instability created by Brazil's president, Jair Bolsonaro, whose political logic is based on constant questioning of institutions and questioning social values and behaviour. This attitude has created conflict, as many groups challenge his actions in relation to human rights and the environment, as evidenced in increased deforestation of the Amazon and his attacks on democracy.

President Bolsonaro's behaviour has made it harder for European governments to sign the agreement, as they face constant criticism from public opinion, social movements and political parties. Since the end of 2019, changes to the Amazon Fund by the Brazilian government have led to a diplomatic crisis with many European countries, regularly refuelled by the actions of President Bolsonaro and the Environment Minister, Ricardo Salles and leading to an unprecedented international isolation of Brazil. Then there are the undiplomatic actions led by the Foreign Minister, Ernesto Araújo. Despite being a career diplomat he has broken with tradtion by making changes in the organisation of the Ministry of Foreign Affairs (Itamaraty) which have called into question its decade-long credibility.

This isolation of Brazil has been at both regional and international level. The attitude and statements of President Bolsonaro have led his neighbours to put a distance between them. This has accelerated the process of disintegration in the region that started with the dismantling of the Union of South American Nations (Unasul) in 2018. The crisis in South American regionalism was aggravated by the position taken on the deteriorating situation in Venezuela, unconditional alignment with North American wishes and the disastrous attempt by Brazil's president to interfere in Argentina's 2019 elections by publicly favouring Mauricio Macri, the defeated candidate, and pressuring MERCOSUR to change its rules and structure. Minister Paulo Guedes even threatened that Brazil would leave the bloc if Argentina did not support more open trade by the organisation.

CONCLUSIONS

It might be assumed that the regulatory constraints of the free trade agreement between the EU and MERCOSUR would force Brazil's president to change his attitude and put pressure on the government to adopt policies more favourable to the environment and human rights. However, there are no signs of this and Bolsonaro has shown himself to be unmoved by growing pressure and the political cost of his behaviour.

Apparently, the South American side is not overly concerned about his behaviour. Evidence of this is that key economic and political sectors that are in favour of more liberalism – such as agri-exports – feel that their interests have been taken into consideration by the government. Their main focus is on ensuring that the agreement becomes a mechanism for the continuity of liberalisation.

This may not be true on the European side. Their main objective, ensuring that European standards are followed in new trade matters, may be infeasible when we consider the Brazilian government's position on key matters, such as the environment and human rights. In the medium term, there is also no guarantee that Brazil's position will change. It has a firm support base, even with the constant problems caused by government-generated crises, and even if the president is removed or not re-elected.

The current Covid-19 crisis only serves to intensify these contradictions and to increase Brazil's isolation – its pariah status in the international system has made it a threat, and its denial of the disease has added to this. For the EU, the Brazilian government's handling of the pandemic has complicated the politics and may well give rise to new vetoes.

8 CONGRESSO EM FOCO. Com 257 parlamentares, bancada ruralista declara apoio à reforma da Previdência. Available at https://congressoemfoco.uol.com.br/economia/com-257-parlamentares-bancada-ruralista-declara-apoio-a-reforma-da-previdencia/. Accessed on 15/06/2020.

Other considerations, highlighted by the pandemic, are global dependency on Chinese production, particularly by South America and regionalism, which has made it more difficult to find joint solutions to the problem. The intensification of nationalism in fighting the pandemic (especially at the beginning), has shown the delicate nature of regional cooperation and cast doubt upon the advantages of integration.

Perhaps the post-pandemic period will highlight the important role of cooperation and encourage actions such as the EU's current efforts to support the countries most affected by the disease and with the most serious economic problems, actions that promote economic growth and mitigate the social effects of the crisis. The EU-MERCOSUR Agreement could be an important tool in this post-pandemic recovery, though it is more likely to benefit only the most competitive sectors on each side.

At the same time, pressure is increasing from fragmentation and disintegration. An example of this is the current MERCOSUR discussion on setting up different »tracks.« This would mean that the bloc's agreements with third parties could be individually negotiated and implemented without the consent of all members being required. This proposal is defended by the Brazilian government as a means of making MERCOSUR more flexible and facilitating negotiations, but in practice it spells the end of integrationist thought, which favours negotiation in blocs. This trend is the reason some analysts are talking about a Braxit (in a play on the word used for the British exit process).

Thus, the EU's main objective for the agreement, to strengthen its position on the international stage, is called into question, because regional integration as a mechanism for economic and social development is weakened. It also casts a shadow on the value of the whole EU model for the rest of the world. At the same time, increased vulnerability of European interests in the region would be likely to increase the influence of other players, such as the USA and China. To sum up, the possibility of an agreement that will strengthen the EU's influence in the region and in the world may be more remote than it appears.

9

CONCLUDING REMARKS

Dörte Wollrad

For representatives of civil society organisations, the recently published Sustainability Impact Assessment of the economic, social and environmental impact of the Association Agreement between the EU and MERCOSUR leaves questions unanswered and, given the post-coronavirus challenges, certainly needs reassessing. But the arguments of the Brazilian experts interviewed, which refer to existing data and experiences with agreements with other countries, give cause for concern. Brazil's continued fixation on raw material exports and Europe's competition in industrial products and services will cost many jobs in manufacturing (particularly in supply chains) and create few – and low-skilled and low-paid – jobs in agriculture, mining and services. This asymmetrical exchange of goods of high-value – because they are processed – against raw materials will widen the chronic trade deficit, while COVID-19 will increase the pressure on exports as a source of foreign exchange for servicing debt. In MERCOSUR, this will lead to the expansion of agricultural land and mining activities, thereby exacerbating the already immense environmental damage and violation of the rights of small farmers and indigenous peoples. And in light of climate change, Brazil's currently profitable soya and beef business has no medium-term development prospects.

But whether the EU really wins from the situation is questionable. It is tapping into a huge market, but one whose post-coronavirus demand capacity is likely to be limited. The price for this could be further deforestation of the »lungs of the Earth« and pollution of one of the world's largest freshwater reserves. In addition, hard-won standards in health and consumer protection risk being undermined by the difficult-to-control use of genetically modified seeds and pesticides.

Simply rejecting the agreement does nothing to solve the problems inherent in this general trend in North-South trade. Conversely, it would be to the EU's credit to set an example of sustainable trade regulation rather than simply trade liberalisation; and it would do well to work together on a sustainable development model and, in the context of climate change and COVID-19, critically review trade, production and consumption.

Our authors present some suggestions for this. With European cooperation, Brazil's key manufacturing industries could become more competitive and have a brighter future, in the case of the automotive sector by switching to e-mobility. With European advice, Brazil's smallholder agriculture could be introduced to European standards and ecological and complementary production, for which EU demand will increase. And the strong tradition of social dialogue should also help protect workers' rights interregionally.

However, for these and other proposals for improvement to be implemented, this presupposes that the agreement's two hitherto empty pillars – political dialogue and cooperation – are fleshed out and that a trade agreement is transformed into a genuine association agreement. The Bolsonaro government is not the only obstacle to this. There are no tools to effectively check compliance, by any government and on either side, with what has been agreed or to sanction breaches. International partnerships of equals, which the EU will need more than ever before if it is to strengthen multilateralism and overcome global challenges, require communication and cooperation, along with clear rules.

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EU-MERCOSUR TRADE AGREEMENT

Analysis of Sectoral Impacts in Brazil

Sectoral analyses of agriculture, industry, the environment, labour, services, government procurement, intellectual property and non-trade barrier aspects of the EU-MERCOSUR Trade Agreement presented in this volume all agree that there will not be any great changes in bilateral relations and that the regulatory restrictions which the agreement will give rise to in environmental, social, gender and labour terms do not guarantee gains for these key areas of Brazilian society.

In relation to the opportunities, the agreement might carry some weight in the transition to industry 4.0, in the area of health (pharmaceutical and biotechnology), or in the areas of urban mobility, renewable energy, even in raising social and environmental standards and reactivating the sustainability discussion, which includes conservation of The Cerrado and Amazônia, as well as a dialogue with family farming and agroecology inspired by some of the good practice of Europe. The agreement might also reactivate the important discussion on MERCOSUR integration, so important, in particular, to Brazil's global and regional order. These promises are not part of the signed text, which focuses only on trade aspects, but may be included in future discussions.

The agreement still faces contradictions that have hindered its conclusion for over two decades and which will definitely make it difficult to implement. A favourable cost/benefit balance has not been solved in either bloc. From Europe's point of view, there is still resistance from main players representing various sectors, interests and countries. Recent opposition from Europe's agricultural sector was strengthened by representatives from environmentalist and human rights groups because of the Brazilian government's actions in relation to these two themes.

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