Amazon deforestation and EU-Mercosur deal

After coming to a political agreement on the trade pillar of the three-pronged EU-Mercosur association agreement in June 2019, the EU and the four founding members of Mercosur (Argentina, Brazil, Paraguay and Uruguay) reached agreement on the political dialogue and cooperation parts in July 2020. However, as environmental deregulation and deforestation continue unabated in Brazil, opposition to the deal is growing. It is unlikely to be submitted to the European Parliament for consent in its current form. A study of the trade pillar’s provisions concludes that, taking the risk of deforestation into account, the deal’s environmental costs are likely to exceed its economic gains. This raises doubts as to whether Brazil’s compliance with its climate change commitments can realistically be achieved based on provisions devoid of an effective enforcement mechanism.

Rising Amazon deforestation in Brazil in 2020

In 2012, Brazil, which hosts 12% of global forests, saw a historically low yearly deforestation level of 4 600 km² in the Legal Amazon. The region is composed of nine federal states and corresponds to 58.9% of Brazil's territory (Figure 1), down 80% from 2004. In 2004, Brazil was well placed to reduce its yearly overall deforestation rate to 3 925 km² by 2020 – a government commitment under the country’s legally binding National Policy on Climate Change. Brazil curbed deforestation based on a range of policies, including the 2004 Action Plan for the Prevention and Control of Deforestation in the Legal Amazon and the recently contested, but investor-supported, voluntary 2006 Soy Moratorium signed by major soy traders pledging not to purchase soya from Amazon areas deforested after 2008. However, a 2012 Forest Code revision has reversed this positive trend.

In 2019, deforestation in the Legal Amazon soared to 10 129 km², an area similar to the territory of Lebanon and up from 7 536 km² in 2018, according to annual satellite-based data from the Brazilian National Institute for Space Research (INPE). From August 2019 to July 2020, INPE’s monthly real-time data report a 34% rate of deforestation associated with an area of more than 9 200 km², up from over 6 800 km² in the previous reporting period. Brazil is now expected to miss its Paris Agreement target of zero illegal deforestation in Amazônia by 2030.

Brazil’s continued environmental deregulation to open the Amazon for business

In 2020, the Brazilian government has continued to pursue a policy of deflecting responsibility for the deforestation of the Amazon and of portraying itself as the victim of a disinformation campaign, while it has continued to open up the Amazon for economic development, and to alter Brazil’s legal framework and institutional arrangements accordingly. Brazil’s Minister for the Environment, Ricardo Salles, made this plain when he proposed to ‘run the cattle herd’ through the Amazon and ‘change all the rules and simplify standards’, while the public’s attention is distracted due to the coronavirus pandemic. In the legal sphere, the government has emphasised the distribution of land titles and has fast-tracked pesticide approvals. It has initiated two controversial legislative proposals: one allowing impact-heavy mining on indigenous lands and another, dubbed the ‘land grabbing law’, aimed at legalising claims to illegally occupied land. The latter bill was set to transpose a contested 2019 provisional government measure intended to allow squatters (possessos) and land grabbers (grileiros) to self-declare their land ownership, with an amnesty until 2018, and to include indigenous territories whose protection has not yet been formally confirmed. The bill followed in the footsteps of similar legislation adopted by previous governments in 2009 and 2017. However, even soy and meat businesses were opposed, fearing reputational damage, and Brazil’s Congress ultimately refrained from voting on the proposal. A recent reversal of rules for unrecognised indigenous
areas issued by Brazil's indigenous agency, the National Indian Foundation (FUNAI), adopted after a controversial new FUNAI head took office, has been associated with this legislation. In the institutional sphere, the government re-assigned the certification of protected indigenous lands from FUNAI to the agro-business-friendly Ministry for Agriculture. It has empowered the military to carry out selected law enforcement operations in the Amazon, while it has slashed the budget for forest monitoring of the Brazilian Institute of the Environment and Renewable Natural Resources (IBAMA), undermining its operational capacity to perform inspections. The government has weakened the IBAMA and scientific research institutes by firing renowned scientists and staff. At the same time, a presidential decree has hampered IBAMA's fining policy and facilitated impunity of environmental criminals. A report reveals that thousands of fines against environmental offenders have gone unpaid. Various stakeholders heavily contest these changes. Three legal actions were launched to overturn some of Brazil's harmful deforestation policies, and opposition parties initiated a Federal Supreme Court public hearing. Faced with mounting foreign and domestic criticism, the government created the Amazon Council for inter-agency coordination, headed by Vice-President Hamilton Mourão, a former general, and a new environmental police force. As in 2019, the military was again tasked in 2020 to enforce a temporary presidential Amazon fire moratorium under Operação Verde Brasil 2, the effectiveness of which has, however, been widely questioned.

Could leveraging the EU-Mercosur deal curb Amazon deforestation?

EU-Mercosur deal ratification has become more uncertain in 2020, as the Brazilian government has proved resilient against criticism. EU citizens polled have been predominantly opposed, and Parliaments in Austria, Belgium, Ireland and the Netherlands have voted against. In France a vote is pending. Previously strong advocates of the deal such as Germany, which in 2019 froze part of its funding to the Amazon Fund due to the Brazilian government's interference in the Fund, have become sceptical. Weak enforceability of the trade pillar's trade and sustainable development chapter, built on dialogue alone, is an issue. The idea of making climate change pledges an 'essential element' of trade deals allowing for sanctions is more recent.

A recent study considers the EU-Mercosur trade pillar a 'missed opportunity' for the EU to leverage its negotiating power to obtain solid guarantees on environmental, labour and (phyto)sanitary standards, matching citizens' expectations. The study posits that the deal will fuel deforestation and that the environmental costs are likely to exceed the economic gains. Brazil has dismissed these conclusions as protectionist and ignoring its technology-based productivity gains in agriculture and traceability of agricultural goods. Brazil relies on diplomacy to solve the matter.

On one hand, it is evident that Brazil's development strategies include agribusiness and mining expansion into remote areas, exposing environmental defenders and indigenous peoples to deforestation-linked violence. Brazil's military-led anti-deforestation action consists of temporary and selective remedies at best. Brazil's policies seem contrary to EU commitment to ambitious green policies and its obligation to promote human rights in external policies. On the other hand, without an EU-Mercosur deal, the current Brazilian trend is likely to become further entrenched, cancelling out EU climate change mitigation efforts. As China has replaced the EU as the first destination of Brazilian beef and soy, pressure on Brazilian agricultural associations to comply with high EU standards has diminished. This has led to the withdrawal by some from the Brazilian Coalition on Climate, Forests and Agriculture, which recently issued a study on beef chain traceability. A 2020 study estimates that 17 % of the meat and 20 % of soy imported into the EU from the Amazon and the Cerrado may have been produced in illegally deforested areas, but that only 2 % of the locations analysed accounted for 60 % of the illegal deforestation detected. Focusing law enforcement on this 2 % could be an effective remedy, in tandem with the current EU due diligence initiatives that may act as a safeguard to ensure deforestation-free supply chains from Brazil to the EU. Zero-deforestation commitments by Chinese traders would be key to avoiding a fragmented market. Argentina, Paraguay, and Uruguay have remained silent on deforestation.

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