

Response from The Netherlands to the European Commission's request for input on strengthening the Trade and Sustainable Development dimension of the EU - Mercosur trade relationship

The Hague, October 2021

In response to the Commission's request for Member States to provide input on trade-related Sustainable Development concerns as well as opportunities for cooperation with Mercosur countries, the Netherlands would like to submit this paper. The Netherlands reserves the right to modify and/or complement its input to the Commission.

The Netherlands would like to stress that this contribution is without prejudice to the position of the Netherlands on the draft EU-Mercosur agreement that the Commission has negotiated. As consistently communicated, the Netherlands will only decide its position on the draft agreement after all required documents and information have been presented to the Council.

The following paragraphs describe priorities with regard to trade related Sustainable Development, covering environmental protection (climate change, deforestation and biodiversity loss), indigenous peoples and labour rights. This is followed by suggestions for short and long term action¹ that the EU and Mercosur countries could work on together. These priorities and suggestions reflect the policy of the Netherlands on these issues, regardless of the possible conclusion of a trade agreement.

Priorities for EU - Mercosur Trade and Sustainable Development cooperation

The EU and Mercosur have a common interest to advance sustainable development, address the unsustainable use of natural resources and tackle climate change and biodiversity loss. The environmental and social-economic effects of climate change and biodiversity loss are already apparent. Building back better, sustainable and inclusive economies after the COVID-19 pandemic is therefore of the highest priority. There is an urgent need to address global climatic challenges, labour rights and environmental issues together.

In order to maximize the potential of the current and future relationship between both regions as a means to advance sustainable development, it is necessary that additional actions and long term cooperation focuses on halting deforestation and climate change. Addressing deforestation, forest degradation, biodiversity loss and reducing carbon emissions are a priority for the Netherlands and the EU. At the same time deforestation and degradation are increasing. Agriculture, forestry and other land use are important causes of global deforestation, degradation and emissions. Moreover, recent studies such as the EU Sustainability Impact Assessment (SIA) on Mercosur underscore the potential that deforestation policies and regulation effectively reduce deforestation and decouple production increases from deforestation. The prevention of deforestation is indispensably linked with land rights, especially of indigenous peoples, as the SIA also points out. The Commission, therefore, has to integrate both topics in its Trade and Sustainable Development cooperation with the Mercosur countries.

Moreover, attention should be paid to the social dimension of sustainable development. In this regard it is relevant to note that the EU and all Mercosur countries but one have ratified the eight fundamental ILO conventions². Proper attention should be paid to the effective implementation of all fundamental labour conventions by all countries.

Short term actions

National policies combined with a multilateral approach are needed to address sustainable development topics. As ILO member states, EU and Mercosur countries have endorsed the principles that the ILO considers fundamental.³ These principles provide the framework for cooperation on labour topics. Furthermore, both the EU and its Member States and the Mercosur

¹ Short term actions can be undertaken as part of confidence building. Long term actions can be part of the continued cooperation between the EU and MERCOSUR.

² Brazil has not yet ratified convention 87 on the freedom of association.

³ ILO Declaration on Fundamental Principles and Rights at Work, adopted in June 1998

countries are committed to the Paris Agreement (and its framework agreement, the UNFCCC) and to the Convention on Biological Diversity (CBD). These conventions and related agreements provide procedural instruments, concrete objectives including shared long-term goals, and tools for future action.

This year presents a major opportunity to advance the multilateral environmental agenda. In the run-up to the UNFCCC COP 26 in Glasgow in November, the Nationally Determined Contributions (NDCs) will be analysed. While many countries have already submitted their revised and enhanced NDCs, as agreed under the Paris Agreement, others still need to come forward. In the Mercosur region, Brazil and Argentina have already submitted an updated NDC, with Argentina significantly raising its ambition. The CBD has met in Kunming in October for its 15th framework review. The EU and Mercosur countries **should ensure that their efforts and contributions in the framework of the Paris Agreement and CBD are sufficiently ambitious**. This means submitting ambitious plans, exchanging these and cooperating in the run-up to, during and after COP26 and the CBD COP15. Consequently, the NDCs of the EU and Mercosur countries have to **present a progression in ambition** compared to their previous NDC.

The EU and Mercosur should ensure that they do **not weaken environmental protection and enforcement in their laws and regulations**, or by reducing the capacity of respective national competent authorities. The Netherlands therefore proposes **that policies and actions that undermine the capacity of environmental institutions and enforcement agencies are reversed**, and that such policies or actions are not (re-)introduced. Where there has been a remarkable decrease of budgets and staff in national environmental agencies, such policies and actions have to be reversed. Such immediate, short term changes will make long term commitments more credible, as they already showcase a change in the desired direction and are therefore indispensable for progress.

Long term cooperation

Successful implementation of national forest plans

The EU and Mercosur countries should commit to **finalize, adopt and implement existing strategic plans with regard to halting deforestation and climate change**, in line with commitments in NDCs. They could work on improved forest governance and make respective plans publicly available. Countries could include references to existing national forest plans in a detailed agreement on trade and sustainability issues, such as the National Action Plan on Forests and Climate Change in the case of Argentina. Moreover, countries could come up with an agenda and cooperative actions aiming at the success of national plans. An area of interest for cooperation and knowledge exchange could be sustainable intensification of agriculture that could contribute to decoupling growth of the sector from negative effects of land use change. Sustainability Impact Assessments underscore that decoupling is possible if the right mitigating policies are in place.

As a prerequisite the EU and Mercosur countries should also agree on **policies and systems to monitor, report and verify implementation**. They have to strengthen regulatory controls. This includes developing a system to verify that products are not linked to deforestation. In order to strengthen regulatory controls, they will have to conduct periodic audits, including reviews of the implementation and enforcement of forest' laws and regulations.

Long-term cooperation on fighting deforestation (incl. biodiversity loss) and restoration requires a common baseline. Various EU institutions have been intensively working with institutions at the federal and state level in Mercosur on tracking deforestation, and EU member states have a lot of knowledge and expertise that could be shared to reinforce monitoring capabilities. It is imperative that the EU and Mercosur countries capitalize on collaborations and **reach a common definition on deforestation and its measurement, reporting and verification**.

Involving civil society

To collect and discuss facts, also with a view to broaden public support, the EU and Mercosur countries should engage civil society organizations and scientific institutions during the implementation of the above-mentioned additionally agreed actions. Many of such partnerships already exist that can contribute to the implementation of commitments on deforestation, such as

cooperation between the Netherlands Wageningen University (WUR), Brazil's national space agency INPE and forest and environmental agency IBAMA.⁴

Strengthening land registration and rights

Land registration systems need to effectively regulate all land and all land use. Trade and Sustainable Development cooperation could **underscore the importance of land registration, recognition of tenure rights and parties could cooperate on mapping of land where relevant**. The basic problem of unregistered land ownership, unregistered citizens, companies or other organizations needs to be resolved by an effective legal system. Such a land registration system is necessary to prove compliance with national deforestation and environmental policies. It allows entities to track (agricultural) products and thereby verify where these come from. Moreover, land registration is of importance for monitoring land use change and environmental protection. For the implementation of these commitments the EU could draw from existing partnerships.

Indigenous peoples will benefit substantially from official, detailed land demarcation and registration. It would confirm and officially register their status as landowners under specific Mercosur member states' laws (e.g. Brazil's constitution) and contribute to further define and implement those rights.⁵ As the Sustainability Impact Assessment points out, theoretical efforts do not always translate into practical action. Land demarcation would also provide a clear legal basis in the discussion over projects governments consider of national interest for industrial agriculture, forestry and mining. Ensuring effective implementation on the ground would be in line with the commitment of states under , the UN Declaration of Rights of Indigenous peoples according to which states shall provide effective mechanisms for prevention of and redress for any action, which has the aim or effect of dispossessing indigenous peoples of their lands, territories or resources.⁶ International cooperation on land demarcation and implementing an effective mechanism to enforce land rights and sustainable use of natural resources will protect indigenous peoples and halt impunity. Finally, the UN-SDG performance indicators confirm that official, detailed land registration contributes to poverty alleviation and ending hunger.⁷

The Netherlands already cooperates on land registration with third countries through the Dutch Kadaster, the land registration and mapping agency. Kadaster conducts research and shares knowledge and works on improved land registration. In some parts of Mercosur, the Kadaster land registration agency has well established contacts.

Collaborate on the fundamental ILO conventions

To complement a focus on environmental sustainability, parties could **cooperate on the implementation and ratification of fundamental labour conventions through detailed action plans**. As noted above, all Mercosur countries and the EU have ratified the fundamental ILO convention, except for Brazil which has not yet ratified convention 87 on the freedom of association. Mercosur countries have responded to cases of forced labour with policy interventions. Nonetheless, the SIA amongst others stresses that further improvements can be made with regard to forced and child labour, labour inspection and protection of labour unions. Elimination of forced labour has been of particular importance for indigenous populations. Parties could also commit to work on implementation of national policies, ensure sufficient funding for government agencies and work on a joint agenda for Responsible Business Conduct.

⁴ WUR Remote Sensing department operates an automated analytical system that monitors forest, water movement (including soil moisture) and land use in near-real-time, which can be used for land demarcation, forest fire avoidance and to detect human preparatory work for deforestation ([Laboratory of Geo-information Science and Remote Sensing - WUR](#)).

⁵ Constitution of Brazil of 1988, articles 67 on the demarcation of indigenous territories and 231 recognising territorial rights of indigenous peoples.

⁶ Resolution adopted by the UN General Assembly on 13 September 2007 [without reference to a Main Committee (A/61/L.67 and Add.1)] nr. 61/295. Such "effective mechanism" could in Brazil be FUNAI, the national Indian Foundation, whose budget was cut recently as the EU-SIA found.

⁷ UN-SDG 1. End poverty, indicator 1.4.2. Secured land tenure supported by legally recognized documentation; 2. End hunger, indicator 2.3.2 income, to be established under rural surveys and SDG 5. Gender equality, indicator 5.a.1 proportion having secure rights over agricultural land.

Towards reciprocal engagement

The Netherlands appreciates the Commission's request for input from Member States on Trade and Sustainable Development and looks forward to further engagement.

In support of individual bilateral and other relevant multilateral initiatives on upscaling efforts to conserve, restore and sustainably manage forests globally, the Netherlands will:

- Use international diplomacy and strengthen the dialogue on sustainable and deforestation-free agricultural supply chains with other major consumer and producer countries.
- Intensify work in partnership with both producer countries and other consumer countries, as well as with actors along the agricultural commodity supply chains [including producers, traders, importers, civil society, indigenous peoples and scientists] to facilitate and harmonize efforts and instruments to reach sustainable and deforestation-free agricultural commodity supply chains and long-term demand for sustainably produced goods.

The Netherlands is committed to work on a Trade and Sustainable Development agenda and remains available to discuss the above mentioned concerns and suggestions.