



## LATIN AMERICA'S ENVIRONMENTAL POLICIES IN GLOBAL PERSPECTIVE

*This series explores the international dimensions of Latin America's environmental challenges and the role of environmental issues in shaping the region's most important diplomatic and economic relationships.*

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# Fire in the Amazon—EU Policy Approaches and Climate Action in the Americas

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## INTRODUCTION

The Association Agreement between the European Union (EU) and the Southern Common Market (MERCOSUR) was signed on July 28, 2019, after 20 years of negotiations.<sup>1</sup> The event was celebrated as a great milestone in strengthening the connection between Latin America and Europe and overcoming the past decade's stagnation in the relations between the regions. However, at the time of ratification, environmental issues had become the main obstacle to the agreement entering into force. France, Austria, the Netherlands, Ireland, and Belgium were the main opponents. These countries argued that entering into

the agreement would violate the EU's environmental obligations and slow the fight against climate change, since the agreement does not contain sufficient environmental safeguards regarding agricultural production and deforestation.

Latin America and the Caribbean (LAC) is one of the regions hardest hit by the effects of climate change, especially Central America and the Caribbean. It also has some of the greatest biodiversity on the planet, making it a reserve territory that requires significant protection. This is particularly true of the Amazon region, which is seen as the "lungs of the world" but has suffered high levels of deforestation. According

Photo credit: A burned area in the Jamaxim National Forest, a section of the Amazon rain forest, in Pará, Brazil: Marcio Isensee, Shutterstock



Photo credit: Demonstrators take to the streets in Rio de Janeiro, Brazil, to denounce the indiscriminate burning in the Amazon: Rodrigo Jorda, Shutterstock, August 2019

to the Deforestation Alert System of the Institute of People and the Environment of the Amazon, the deforested area in May 2021 amounted to 1,125 square kilometers, 70 percent more than in the same month in 2020.<sup>2</sup> It is estimated that in the past 50 years, 20 percent of the native Amazon rain forest has disappeared.<sup>3</sup> There are multiple reasons for the decline, but they are all related to the exploitation of natural resources and the lack of sustainable trade. The main causes that have been identified are illegal logging for the use of wood; the expansion of areas for livestock and the cultivation of soybeans and other products; the extraction of hydrocarbons and other minerals; and urbanization and the construction of road infrastructures and dams to sustain these activities.<sup>4</sup> To expand the geographical space necessary for some of these activities, large areas of the jungle are indiscriminately burned, without an effective response from governments—which are usually more concerned with satisfying the agriculture, mining, energy, and infrastructure sectors than the environmental activists and indigenous communities living in protected areas.

In the summer of 2019, alarms went off due to a significant increase in fires in the Amazon. Although it was not a particularly dry season, the fires were the largest since 2010, when an extreme drought hit the region. The fires occurred mainly in Brazil and Bolivia, although they also affected Colombia, Peru, and other countries. Experts stated that most fires in the Amazon forest “are not natural, but related to economic activity in the region, and usually happen along transport axes and areas of recent agricultural expansion.”<sup>5</sup> Deforestation of the Amazon is a problem that not only affects the region but also has global consequences and therefore has evoked concern from the international community—particularly the EU and several of its member states. At a summit in Biarritz, France, French President Emmanuel Macron urged leaders from the Group of Seven (G7) to discuss what actions were warranted by the international community to curb deforestation in the Amazon.<sup>6</sup> Brazilian President Jair Bolsonaro, who considered the summit to be an interference in internal affairs, rejected the appeal to change Brazil’s environmental policies. Even so, at that meeting, US \$20 million was approved to help the countries affected by the fires. The G7 agreed to work on medium- and

long-term protection plans for the Amazon within the framework of the United Nations (UN). However, Bolsonaro's defiant attitude made Germany decide to cut 35 million euros from the bilateral funds for programs destined for reforestation in Brazil.<sup>7</sup>

At that time, with US President Donald Trump and the United States absent from climate change initiatives, the EU assumed a leadership role and adopted the EU communication "Stepping Up EU Action to Protect and Restore the World's Forests"<sup>8</sup> on July 23, 2019. The EU also agreed to support the Leticia Pact for Amazonia,<sup>9</sup> an initiative launched by the governments of Peru and Colombia that seeks greater coordination to combat the loss of biodiversity. The pact joined the ranks of previous initiatives, such as the Amazon Fund,<sup>10</sup> whose main funders are Germany and Norway, and the Amazon Cooperation Treaty Organization, which enacts the commitments derived from the Paris Agreement and other goals developed within the framework of the UN.

However, the concern that European leaders have shown for the conservation of the environment does not always transfer to the European companies that operate in LAC. In 2019, an Amazon Watch report<sup>11</sup> denounced the complicity of Western companies, including European ones, in the destruction of the forest and the degradation of the environment in Brazil, due to either the importation of products or unsustainable financing. In the report, companies were accused of supporting livestock farms, agribusiness, and logging companies that were not complying with some of the Paris Agreement's deforestation obligations. To prevent a continuation of these practices, the report recommended that strict regulations

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be established to oblige companies to trace wood imports and prohibit the entry of products that do not respect international commitments and European standards.

Other concerns highlighted in the same Amazon Watch report included the ongoing threats and attacks—including killings—against environmental defenders. Michel Forst,<sup>12</sup> the UN special rapporteur on the situation of human rights defenders, had already pointed this out in 2016. Forst got a mandate after the murder of Berta Cáceres, an environmental campaigner from the Civic Council of Popular and Indigenous Organizations of Honduras. The highest numbers of crimes against environmentalists occur in Brazil, Mexico, Peru, and Colombia. A recent report discussed in the European Parliament<sup>13</sup> concluded that more than two-thirds of the killings of environmental activists worldwide in 2019 took place in Latin America.<sup>14</sup> According to this report, most of these crimes are connected to mining activities in communities where there is heavy opposition to carbon-intensive oil, gas, and coal projects. But attacks, murders, and massacres have also been used to clear the path for commodities such as palm oil and sugar. In 2019 alone, Global Witness documented 34 killings linked to large-scale agriculture.

## COMMITMENTS AND AGREEMENTS: HOW EUROPE TRIES TO PROTECT FORESTS IN LATIN AMERICA

The EU and its member states are committed to using the main international instruments for the protection of the environment and, in particular, for the fight against deforestation. To that end, the UN Strategic Plan for Forests was adopted by the UN Forum on Forests in 2017, establishing the Global Forest Goals.<sup>15</sup> Within the framework of the UN, the EU and its member states participated in the UN Framework Convention on Climate Change (UNFCCC), as well as the UN Convention on Biological Diversity and the



Photo credit: A loader sits beside piles of logs harvested from the Amazon rain forest in Brazil: Tarcisio Schneider, Shutterstock

Convention to Combat Desertification. The EU and its member states are also actively engaged in the UN Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries (REDD+),<sup>16</sup> a multilateral body negotiated under the UNFCCC to reduce greenhouse gas emissions from deforestation and forest degradation in developing countries.

Article 5 of the Paris Agreement on climate change,<sup>17</sup> adopted in 2015, emphasizes the parties' commitment to reducing emissions from deforestation and forest degradation and to promoting sustainable management of forests. One year earlier, the New York Declaration on Forests (NYDF)<sup>18</sup> was adopted in an attempt to "At least halve the rate of loss of natural forests globally by 2020 and strive to end natural forest loss by 2030." The NYDF also called to eliminate deforestation from the production of agricultural commodities and other economic sectors by 2020, to support alternatives to deforestation, to restore degraded landscapes and deforested areas, and to reduce emissions from deforestation as part of a post-2020 global climate agreement. All of these goals are set for not only governments but also

companies and business associations, indigenous peoples, civil society, organizations, and multilateral institutions. More than 190<sup>19</sup> entities have endorsed the declaration and the action plan. Although the nature of the document is voluntary, the NYDF Global Platform was created with the aim of monitoring compliance of the commitments made through annual progress assessments. In the 2020 edition of the NYDF progress agenda, the authors concluded: "according to all indicators, we are failing to halve forest loss and associated greenhouse gas emissions by 2020 and are not on track to stop them by 2030."<sup>20</sup> They also stated that supply chain efforts have not been successful in eliminating deforestation from the production of agricultural commodities. Although a large number of companies based in Europe and North America announced commitments and set requirements for their suppliers to address forest risks, tracking and engagement are often limited to immediate suppliers and fail to reach producers, in particular the millions of smallholders.

At the UN Climate Change Conference held in Madrid, Spain, in December 2019, the Santiago Call for Action on Forests<sup>21</sup> was approved. The parties

committed to reducing emissions from deforestation and forest degradation. They also called for increased transparency and greater predictability of the resources destined for reforestation with public and private participation. These principles are not binding (as is the Paris Agreement), but they are in line with the G7 initiatives.

At the European level, after the Paris Agreement was adopted, the Amsterdam Declarations Partnership was launched.<sup>22</sup> It is a “non-legally binding, political intention and supports the private sector goal of net zero deforestation.”<sup>23</sup> In 2016, the Amsterdam Declarations Partnership Implementation Strategy<sup>24</sup> established four main strategic targets: Facilitate European action on climate, deforestation, and trade; stimulate the global value chain approach for agricultural commodities, in particular palm oil; enhance the dialogue with major consumer and producer countries; and enhance transparency and the use of voluntary corporate social responsibility reporting. Every six months, there is a coordination meeting, and once a year, a multistakeholder meeting. On January 11, 2021, the new Amsterdam Declarations Partnership Statement of Ambition 2025<sup>25</sup> was adopted, renewing the commitment to “join forces through our technical and economic cooperation to better support producer countries, as well as relevant stakeholders, and build capacity to promote sustainable, deforestation-free landscapes and jurisdictions, including through transparent and inclusive land use governance.”

Furthermore, the aforementioned July 2019 EU communication “Stepping Up EU Action to Protect and Restore the World’s Forests” established several priorities:

1. Reduce the footprint of EU consumption on land and encourage the consumption of products from deforestation-free supply chains in the EU.
2. Work in partnership with producer countries to reduce pressures on forests and to “deforest-proof”

EU development cooperation.

3. Strengthen international cooperation to halt deforestation and forest degradation, and encourage forest restoration, including promoting trade agreements that include forest conservation provisions.
4. Redirect finance to support more sustainable land-use practices.
5. Support the availability and quality of information on forests and commodity supply chains, as well as access to that information, and support research and innovation.

In all the objectives, emphasis is placed on the need for transparency and traceability to prevent any products linked to deforestation and forest degradation from entering the EU. Furthermore, the EU Forest Law Enforcement, Governance and Trade Action Plan (FLEGT),<sup>26</sup> put in place in 2003, obliges all timber operators to take due diligence measures. The plan sets out measures to prevent the importation of illegal timber into the EU, improve the supply of legal timber, and increase demand for timber from responsibly managed forests. A key element of the FLEGT Action Plan is a voluntary scheme to ensure that only legally harvested timber is imported into the EU from countries that agree to take part in a voluntary partnership agreement (VPA)<sup>27</sup>. Member states submit voluntary annual reports, and the commission provides a report on the implementation of the FLEGT licensing scheme. The current FLEGT work plan for 2018 through 2022<sup>28</sup> identifies specific priority activities, milestones, implementation responsibilities, and monitoring and accountability for each action area.<sup>29</sup>

Additionally, the EU Regulation No. 995, approved in October 2010,<sup>30</sup> lays down the obligations of operators who place timber and timber products on the EU market—establishing the obligation of traceability, due diligence systems, monitoring organizations, and penalties for infringements. The penalties provided for must be effective, proportionate, and dissuasive.



Photo credit: Burned meadow near a cattle farm in the Amazon rain forest in Brazil: Paralaxis, Shutterstock

In 2014, the commission set up the Expert Group on EU Timber Regulation (EUTR) and the FLEGT Regulation<sup>31</sup> to act as a forum for member states and stakeholders. Its purpose is to advise the commission on issues related to deforestation and forest degradation, and to work toward better implementation of the EUTR and FLEGT. A group working on deforestation and forest degradation had its first meetings in October 2020, and the last one was in February 2021.<sup>32</sup> In this meeting, the experts noticed a positive increase in stakeholder participation and improved governance, but they also stated that there was no evidence of reduced illegal logging in partner countries. The VPAs with third countries to help timber-exporting countries stop illegal logging by improving regulation and governance of the forest sector were noted to be slow and costly, with only one country (out of 15) having an operating licensing system. The “EUTR: Union-Wide Overview for the Year 2020”<sup>33</sup> report, based on national reports from member states,<sup>34</sup> indicates that the effect of VPAs is still very limited, “since their implementation has not reached the level of operational readiness necessary to fully and effectively assure that timber exported from these countries in the form of timber or timber

products was legally harvested.”

Among the actions proposed in the July 2019 EU communication “Stepping Up EU Action to Protect and Restore the World’s Forests” is the creation of an EU observatory on deforestation, forest degradation, changes in the world’s forest cover, and associated drivers. The communication also explores the feasibility of developing a Copernicus REDD+ service component to strengthen the existing global or national forest-monitoring systems, as well as to establish long-term European capacity and leadership in this domain. It also encourages member states to support partner countries in improving policy and regulatory frameworks, with innovative financing instruments and better development cooperation, to ensure that financial contributions do not add to deforestation, and to support the management of protected areas. The communication also encourages the industry to make voluntary commitments to reduce reliance on supply chains associated with deforestation, promote supply chain transparency, and integrate deforestation into their corporate social responsibility.

In its communication on the European Green Deal in 2019,<sup>35</sup> the commission indicated that it would “take measures, both regulatory and otherwise, to promote imported products and value chains that do not involve deforestation and forest degradation.” It also remarks that, as the world’s largest single market, the EU can set standards that apply across global value chains and will develop a stronger “green deal diplomacy” focused on convincing and supporting others to take on their share of promoting more sustainable trade. In October 2020, the European Parliament adopted a legislative initiative resolution with recommendations to the European Commission to establish an EU legal framework to reverse EU-driven deforestation.<sup>36</sup> In this resolution, the parliament stressed that lessons can be learned from the EUTR for improved implementation and enforcement rules for a future EU legal framework to halt and reverse EU-driven global deforestation. Another resolution in the European Parliament, “EU Biodiversity Strategy for 2030: Bringing Nature back into Our Lives”<sup>37</sup> from June 9, 2021, urged the commission to present a legal framework to ensure that no products that enter the single market are tied to value chains engaged in deforestation.

In July 2021, the European Commission launched the new EU forestry strategy for 2030,<sup>38</sup> replacing the strategy adopted in 2013 and evaluated in 2018.<sup>39</sup> The new strategy reaffirms the EU’s commitment to protecting and restoring the world’s forests by working with its global partners on sustainable forest management, as well as adopts a legislative proposal to ensure that products from third countries sold on the EU market do not contribute to global deforestation.

The EU has also included clauses on the sustainable management of forests in its bilateral and regional trade and association agreement chapters on trade and sustainable development (TSD). In the earlier agreements, like the ones signed with Colombia and Peru, the clauses were very general. But in recent ones, like the one signed with Vietnam in 2019, articles are more specific and include a list of areas of cooperation in sustainable forestry, including an ex-

PLICIT reference to the EU FLEGT Action Plan. One of the main points of criticism about the TSD chapters is that the dispute resolution process in case of non-compliance is insufficient. These chapters are exempt from the general dispute settlement mechanism of EU free trade agreements (FTAs) and are supposed to be examined by panels of experts, but trade sanctions are excluded.<sup>40</sup> Other criticisms allude to the lack of follow-up mechanisms for the participation of civil society, which guarantee transparency.

**“To move forward, in addition to more binding regulation, more cooperation with developing countries and more international coordination are necessary.”**

The latest developments in the current European regulation for the international protection of forests demonstrate rapid development of planning and programming, but implementation is still deficient. A big part of the commitments with third countries and stakeholders are still voluntary, which makes their homogeneous application difficult. But even in those sectors in which the regulation is binding, such as the import of wood, it’s difficult to carry out follow-up due to lack of capacity in the exporting countries. To move forward, in addition to more binding regulation, more cooperation with developing countries and more international coordination are necessary.

## **EU ACTION IN RELATION TO THE PROTECTION OF THE AMAZON RAIN FOREST**

Most of the Latin American countries are part of the Green Climate Fund and are committed to the Paris Agreement, including the seven countries whose territory includes the Amazon rain forest. But the Amazon continues to be threatened by increased pressure from economic exploration. The total defor-



Photo credit: A protestor holds up a sign during a climate demonstration in Brussels, Belgium, organized by climate action group Fridays for Future: Alexandros Michailidis, Shutterstock, March 2021

ested area and related gross carbon losses in South America from 1990 to 2005 reached 57.7 million hectares and 6,460 teragrams of carbon, respectively. Agriculture was the dominant follow-up land use (88.5 percent), in particular pasture (71.2 percent) and, to a lesser extent, commercial cropland (14.0 percent).<sup>41</sup> But few countries in Latin America monitor deforestation drivers in a systematic manner, and national-level information on quantities and the space affected are often lacking.

The EU and its member states have been cooperating for decades with the countries that make up the Amazon habitat, in both multilateral and bilateral actions. At the Fifth EU-LAC Summit, celebrated in Lima in 2008, sustainable development was a key priority. The Lima Agenda<sup>42</sup> reaffirmed the commitment with the UN Framework Convention on Climate Change, the Convention on Biological Diversity (CBD), and the Convention to Combat Desertification, and pursued the EU-LAC dialogue on environmental policy. A joint EU-LAC environmental program called EUROCLIMA was approved and became the regional flagship program for environmental issues, divided into different phases.<sup>43</sup> In the first phase,

from 2010 to 2013, the budget was 5,175,000 euros; in the second, from 2014 to 2017, it was 12,587,500 euros.

Among the priorities approved in the EU-LAC Action Plan in 2015 at the Second EU-Community of Latin American and Caribbean States Summit were sustainable development, the environment, climate change, biodiversity, and energy, including activities to reduce emissions from deforestation and forest degradation. In 2017, EUROCLIMA+ was launched as a broader program in line with the goals of the Paris Agreement, with a budget of 80 million euros for 2017 to 2021. The EU is the main donor to this program, but EUROCLIMA+ is also cofinanced by German, French, and Spanish cooperation agencies and implemented by six agencies.<sup>44</sup> Among the six priorities of EUROCLIMA+ is the sector of forests, biodiversity, and ecosystems (FBE). Between January 2019 and December 2021, nine projects in 12 countries, with a budget of 30 million euros, were realized in the Latin American and Caribbean FBE sectors. All of the projects implement policies in at least two countries, modeling south-south cooperation. According to the EUROCLIMA+ 2019–2020

annual report,<sup>45</sup> the projects contribute to the resilience and adaptation capacity of the most vulnerable populations to the effects of climate change and reduce environmental, social, and economic impacts through the improvement of multilevel governance capabilities. Projects include the Amazon rain forest in Bolivia, Brazil, and Peru, as well as the most vulnerable tropical forests, watersheds, and subwatersheds of Central America, the Gran Chaco Americano region, and some Andean countries. The projects have been a very good source for generating good practices and strengthening capacities, although their small size limits the impact on the management of the entire forest area.

**“Despite many conservation and sustainable management efforts, the deforestation and forest degradation of the Amazon rain forests has not slowed down.”**

Under the EU FLEGT Action Plan, the EU concluded negotiations with Honduras and Guyana, and both countries are in the process of implementing a VPA on forest law enforcement. But the EU could not come to an agreement with the most important exporters: Argentina, Brazil, Colombia, and Peru. The EU’s REDD Facility<sup>46</sup> only has stakeholders in Colombia and Ecuador. In general, these projects and other bilateral initiatives show some success developing national strategies and plans, building capacities and developing instruments for better governance of forest conservation,<sup>47</sup> improving traceability systems, and ensuring and undertaking policy and legal reforms.<sup>48</sup>

But despite many conservation and sustainable management efforts, the deforestation and forest degradation of the Amazon rain forests has not slowed down. This is because in most Latin American countries, the environmental sector has less political power in decision-making related to land use than the agriculture, mining, energy, and infrastructure

sectors. The management of the territories occurs at different levels of government, and the national regulations follow different dynamics according to the territories and actors that influence decision-making. The agriculture, mining, and energy sectors oversee several important processes, such as the titling and assignment of use of land.<sup>49</sup> Hence, these sectors usually have the upper hand in conflicts. In contrast, community leaders and environmental activists are subject to harassment, threats, and assassinations.<sup>50</sup> That is why strengthening the capacities of the most vulnerable sectors should be a priority for the international community—giving them a voice in the different government institutions, identifying existing conflicts, and monitoring what kind of resolution mechanisms are in place.

The EU has made advances in reducing the number of products linked to deforestation entering the European market. For example, as previously explained, EU laws prohibit selling timber tied to illegal logging. However, for most other products, only voluntary schemes are in place. Direct help for third countries to develop their own national frameworks on sustainable forest management is still lacking. The voluntary FLEGT initiative and VPAs with Honduras and Guyana are still in a pilot stage.

The EUROCLIMA + program offers examples of good practices, with local effects<sup>51</sup> for direct conservation and restoration funds going to producer countries, but it is at an insufficient volume to have a relevant impact in the region. A major problem is the lack of capacity and sustainable finance for governance reform and implementation in partner countries.<sup>52</sup>

The current agreements in force with Latin American countries, including the principle of agreement with MERCOSUR in 2019 and the principle of agreement with Mexico<sup>53</sup> in 2018, contain clauses that refer to international commitments, as well as generic references to the need for transparency and cooperation in the fight against climate change and deforestation. A lack of binding commitments on deforestation be-



Photo credit: A burned area of the Amazon rain forest in Colombia: Brester Irina, Shutterstock

came the main reason for several EU member states to object to the ratification of the EU-MERCOSUR agreement.

## EUROPEAN REACTIONS TO THE AMAZON FOREST FIRES

In 2019, the signing of the EU-MERCOSUR Association Agreement and the fire crisis in Brazil and Bolivia, together with the changes in Brazil's forest policy, prompted a series of reactions from different European institutions and member states that put the EU's external policies for combating deforestation in question.

On September 15, 2020, the Amsterdam Declarations Partnership countries sent an open letter to Brazilian Vice President Hamilton Mourão, expressing concerns that "deforestation has increased at alarming rates," worrying European consumers, businesses, investors, and civil society.<sup>54</sup> The countries urged the Brazilian government to renew its firm political

commitment to "reduce deforestation being reflected in current and real action."

After the Amazon fires, the European Parliament organized a debate on land grabbing and deforestation in June 2020 in which different groups expressed concerns about the EU-MERCOSUR agreement and called for support for stakeholders and initiatives in Brazil opposing deforestation.<sup>55</sup> In the debate, European Commissioner Virginijus Sinkevičius said that "the EU is addressing the root causes of deforestation through our significant development assistance to forests, land use, sustainable livelihoods and indigenous people in the Amazon basin, with a total of ongoing projects amounting to [166 million euros]."

Some months later, a European Parliament resolution on October 22, 2020,<sup>56</sup> recommended that the commission adopt an EU legal framework to halt and reverse EU-driven global deforestation. The resolution reiterated that EU trade and investment policy, including the FTA with MERCOSUR, should include binding and enforceable sustainable development chapters that fully respect international commitments, comply with World Trade Organization rules,

and respect human rights. It called on the commission “to ensure that all future trade and investment agreements contain legally binding and enforceable provisions, including illegal logging-related and anti-corruption provisions, to prevent deforestation and forest degradation and ecosystem destruction and degradation.”

In September 2019, Austria’s parliament adopted a motion to oblige the government to veto ratification of the EU-MERCOSUR accord in the Council of the EU. This happened in the final stretch of the electoral campaign before the general election. Austria’s current coalition government (the conservative Austrian People’s Party and Green Party) confirmed in a March 2021 letter to the EU presidency that it continues to block the landmark EU-MERCOSUR Association Agreement.<sup>57</sup>

### **“The refusal to ratify the EU-MERCOSUR agreement should be expected to have little direct impact on deforestation rates or emission increases in MERCOSUR.”**

In February 2020, the Walloon parliament in Belgium unanimously adopted a motion to oppose the signing of the EU-MERCOSUR agreement.<sup>58</sup> The motion stressed the dangers to the climate, to consumer health and safety, and to the existence of small-scale and sustainable agriculture, and it called on the Belgian federal government to produce an impact study showing the effects of the agreement on MERCOSUR. In October 2016, Wallonia also blocked the ratification of the Comprehensive Economic and Trade Agreement between the EU and Canada for similar reasons, although it was finally accepted after the treaty was amended.

The Irish government also expressed concerns about ratifying the EU-MERCOSUR agreement without changes and commissioned an independent study,

“Economic and Sustainability Impact Assessment for Ireland of the EU-MERCOSUR Trade Agreement.”<sup>59</sup> The study found that changes in Ireland-MERCOSUR trade “are forecast to have negligible impacts on sustainability” in the MERCOSUR countries. In addition, it pointed out that the refusal to ratify the EU-MERCOSUR agreement should be expected to have little direct impact on deforestation rates or emission increases in MERCOSUR.

The government of France has also been critical of the EU-MERCOSUR agreement, expressing that it will not sign without modifications in terms of sustainability. To support his position, the French prime minister commissioned an independent report on the potential effects of the agreement on sustainable development. This study concluded that “dispositions of the Agreement concerning respect for the precautionary principle, respect for the commitments made in the framework of the Paris Agreement and the recognition of European preferences vis-à-vis environmental and health standards, labor standards and animal welfare preferences offer relatively weak guarantees.”<sup>60</sup> With respect to the possible increase in pressure on forests in MERCOSUR countries associated with an increase in the production of beef as a result of the partial opening of European markets due the EU-MERCOSUR agreement, the same study foresaw an expected “relatively small increase, of the order of 2 percent to 4 percent of the region’s annual production volume.” In the absence of the EU-MERCOSUR agreement, the report admitted that the same increase could be absorbed “by increases [in the] productivity of livestock or production driven by Chinese demand.” However, the study warns that the guarantees offered by the various existing sustainability initiatives and the nontariff clauses provided by the agreement do not rule out the risk that additional exports to the EU may be associated with deforestation actions.

In June 2020, the Dutch parliament also rejected the EU-MERCOSUR agreement with the support of one of its coalition government parties, the conservative Christian Union. The motion requested that the



Photo credit: A ferry transports logs cut from an area of the Amazon rain forest in Pará, Brazil: Tarcisio Schnaider, Shutterstock, October 2020

country's government notify the commission that the Netherlands had withdrawn its support for the FTA. However, Mark Rutte, the Dutch prime minister, and Sigrid Kaag, the trade minister, are both in favor of signing the agreement, seeing it as an opportunity to export European standards to the region.<sup>61</sup>

The German government has been less clear on its position. Initially, Germany was one of the countries driving to sign the agreement, but after the fire crisis, Chancellor Angela Merkel expressed "considerable doubts" over the ratification due to the worsening deforestation in the Amazon.<sup>62</sup> Consequently, during the German presidency of the EU in the second half of 2020, the ratification of the MERCOSUR agreement was not a priority.<sup>63</sup> On the other hand, German Federal Minister for Foreign Affairs Heiko Maas "assured that they wanted to see the agreement come to fruition and expressed the need to continue the process of dialogue between the two blocs."<sup>64</sup> But the German general elections on September 26, 2021, changed the scenario, since the Green Party (opposed to the agreement) will probably be part of the new coalition government forming with the win-

ning Social Democratic Party and the Free Democratic Party.

Spain and Portugal (the latter having held the rotating EU presidency during the first half of 2021) have been the main supporters of the agreement in recent months, but Portuguese diplomacy, which managed to open spaces for dialogue, failed to remove the obstacles for ratification.

Meanwhile, the report "Sustainability Impact Assessment in Support of the Association Agreement Negotiations between the European Union and MERCOSUR,"<sup>65</sup> issued in December 2020, admits that "Environmental policies in MERCOSUR (like in many other developing regions) are, in general, less stringent than in the EU." But according to modeling results, the agricultural frontier would not expand further as a result of the agreement, especially compared to past productivity trends: "Deforestation in Brazil has been on the increase since 2012 having previously declined very sharply in the period 2004–2012, while meat production continued to increase. This period 2004–2012 demonstrates that it is possible to increase agricultural and meat produc-

tion without increasing pressure on forests. But such a positive outcome will be dependent on the choice of flanking policies.” So the study recommends that the MERCOSUR countries achieve “greater harmonization of deforestation regulations and monitoring across regions to prevent shifting deforestation towards weaker regulated and monitored areas.”

The Amazon fires in 2019 and the lack of commitment from the Bolsonaro government had a very negative impact on public opinion and influenced the position of European governments on the MERCOSUR agreement. A survey conducted by the Rainforest Foundation Norway<sup>66</sup> in 12 European countries showed that an average of 75 percent of those interviewed were opposed to ratifying the agreement until deforestation of the Amazon rain forest stops. A coalition of 450 organizations from Europe and Latin America endorsed the statement “Stop EU-MERCOSUR,” which received more than half a million signatures.<sup>67</sup> However, not all deforestation hazards receive equal attention, as countries with the same problems with deforestation have FTAs with the EU.

## BRAZIL AND COLOMBIA: DIFFERENT APPROACHES TO BIG FOREST CONCERNS

Brazil and Colombia are both affected by deforestation, but the approach from the EU and its member states toward these countries differs. While the lack of commitment by the Bolsonaro government generated a strong response from European governments and led to the blocking of the EU-MERCOSUR agreement, the use of glyphosate for the eradication of coca crops and violent attacks on environmental defenders have not had any repercussions on the active FTA between the EU and Colombia.

**“In 2020, more than 171 thousand hectares were lost, most of them in the Amazon.”**

Colombia signed its FTA with the EU in 2012, and it has been applied provisionally since August 2013.<sup>68</sup> Like in Brazil, deforestation grew in Colombia during the past decade. In 2020, more than 171 thousand hectares were lost, most of them in the Amazon. The causes of deforestation in 2020 were mainly to create grazing land; followed by poor livestock practices, extensive and unplanned transportation infrastructure, the planting of illicit crops and mineral extraction, illegal logging, and the expansion of the agricultural frontier in prohibited areas.<sup>69</sup> The beginning of the implementation of the peace agreement between the government of Colombia and the Revolutionary Armed Forces of Colombia–People’s Army (FARC-EP), signed in 2016, has not ended the conflict, and the absence of territorial control by the FARC-EP has been exploited by those who seize land illegally. As part of the peace agreement, in 2018 the Colombian government defined a National Agricultural Frontier, which prohibits any agricultural activity in areas that were forests in 2010. Areas that have been deforested since 2010 should be restored. Nevertheless, after a decade of reduced deforestation, illegal logging has increased in the past several years.

To confront the situation, the government of Colombian President Iván Duque Márquez promised to halve deforestation during his term, with the ultimate goal of reaching zero deforestation by 2030. To contain logging, in April 2019, the Artemisa campaign<sup>70</sup> was launched, consisting of military and judicial operations to arrest and prosecute offenders. However, this was considered an insufficient measure by environmental associations and local communities, which are asking to design land policies, land titling, and land use planning in Colombia—and especially around natural parks—to address the problem. Duque announced that, in 2021, at least 50,000 land titles will be delivered,<sup>71</sup> but legal uncertainty continues to be a problem, since only 15 percent of the land registry is up-to-date—a discrepancy that facilitates land grabbing and deforestation.<sup>72</sup>

The EU cooperates with Colombia through the EU REDD Facility. It assesses the sustainable use of land



Photo credit: Trees cut and burned to make way for agriculture and cattle grazing in Pará, Brazil: Paralaxis, Shutterstock

for community forest management<sup>73</sup> and supports developing a traceability system to monitor and trace sustainable zero-deforestation cocoa through the Institute for Hydrology, Meteorology, and Environmental Studies; the Ministry of Environment and Sustainable Development (MADS); and the Roundtable for Traceability, Monitoring, and Verification. The REDD+ program also finances the regional project Amazonia 2.0 to strengthen forest governance models in indigenous and farming territories of the Amazon biome<sup>74</sup> in six countries: Brazil, Colombia, Ecuador, Guyana, Peru, and Suriname.

### **“53 percent of human rights defenders killed worldwide were in Colombia.”**

With the support of the FLEGT program and the EU, in 2019, Colombia was the first country in Latin America to achieve an Intersectoral Pact for Legal Timber, which has become a model for the region. This initiative was led by MADS, together with civil society, communities, and the private sector, and today brings together more than 90 entities committed

to the concept of “legal wood,” meaning wood extracted, commercialized, and used from legal sources. The Food and Agriculture Organization-FLEGT program also supported forest control, surveillance capacities, and the training of more than 50 percent of environmental authorities.<sup>75</sup>

However, the practice is not so virtuous and is clouded by the high degree of violence in the country. In a recent motion for resolution<sup>76</sup> in the European Parliament, on the fifth anniversary of the Peace Agreement in Colombia, it was stated that in 2020, 53 percent of human rights defenders killed worldwide were in Colombia. The UN High Commissioner for Refugees has registered the killings of 133 human rights defenders and 795 threats and attacks against human rights defenders. The highest number of environmental defenders were killed in Colombia: 65 registered homicides. In 2020, when asked what measures the EU had taken to ensure that Colombian products from areas with increased deforestation were not imported, the EU High Representative and Vice President Josep Borrell said that the commission had launched an impact assessment of regulatory and nonregulatory options for additional measures

to minimize the risk that products linked to deforestation are placed in the EU market. He also explained that the TSD subcommittee monitors trade agreement commitments, including effective implementation of the CBD and Paris Agreement.<sup>77</sup> On June 14, 2021, a group of signatories, including members of the European Parliament, published a letter calling for the suspension of the EU-Colombia FTA due to the violation of human rights and large-scale deforestation in the Amazon, as well as in other regions,<sup>78</sup> but nothing happened.

Brazil was one of the first signatories of both the CBD and the Paris Agreement, and from 2005 to 2014, it experienced an important drop in deforestation numbers. But recent figures issued by the Brazilian government show that since 2015, illegal logging, clear-cutting, and forest fires have increased again.<sup>79</sup> The current rate of Amazonian deforestation and the country's infringement of a long-standing proindigenous social pact challenge global trust in the country's commitment to international agreements. Brazil has extensive environmental legislation, including a law on climate change, an action plan for the prevention and control of deforestation, and a successful moratorium on soy<sup>80</sup> that prevents the purchase soy from illegally deforested areas. However, a controversial 2012 update to the Brazilian Forest Code, which reduced the area required for legal reserves on rural private properties, entered into force in 2019, following a ruling by the Brazilian Supreme Court.<sup>81</sup> The new code pardons illegal deforestation prior to 2008 with impunity. But in practice, 70 percent of Amazon deforestation occurs illegally, so many experts believe that more than changing laws is needed, and "ceasing to prioritize large-scale industrial agribusiness above conservation and all other economic and social goals"<sup>82</sup> is warranted.

Brazil has a sophisticated deforestation monitoring system, with satellite geomonitoring,<sup>83</sup> aerial surveillance, ground-based radar, and on-site verification with personnel trained by the Brazilian Forest Service (IBAMA)—all of which can rely on the support of federal institutions such as the National Institute

for Space Research (INPE), the Amazon Surveillance System, and the Brazilian Agricultural Research Corporation.

Brazil participates widely in REED+,<sup>84</sup> and in 2019, the Green Climate Fund approved the first-ever results-based payments to Brazil for the reduction in its deforestation rates from 2014 to 2015, compared to the 1996 to 2010 average. In 2020, the Brazil Floresta+ Program<sup>85</sup> launched—an initiative by MADS to create, develop, and consolidate a market for environmental services that provides monetary and nonmonetary incentives in all Brazilian biomes. The services include territorial surveillance, protection and monitoring, combating wildfires and subsequent restoration; soil, biodiversity, and water resource conservation; environmental inventories; use of an agroforestry system; reforestation with native trees; natural regeneration; and ecological restoration. The Pilot Project Floresta+ Amazon was designed with the REDD+ results-based payment system.

However, under Bolsonaro, Brazilian environmental performance has deteriorated due to the lack of commitment to address climate change. The government opened forestland to commercial interest and handed out mining licenses in protected indigenous reserves. It also questioned its own satellite data from INPE.<sup>86</sup> In 2019, Bolsonaro undermined IBAMA, eliminating or blocking 30 percent of the agency's budget for fire prevention, and reduced inspection funds in the Amazon by 15 percent.<sup>87</sup> According to Global Witness, the killings of land defenders increased in Brazil (at least 20 in 2020), although it is still less than in Colombia (65 in same year).<sup>88</sup>

As a result of the widespread national and international criticism for the Amazon fires, Bolsonaro launched a decree of law and order for the environment that allows for the armed forces to fight fires, with auxiliary forces to combat organized crime. It also launched a joint operation between IBAMA and the armed forces called Operation Brazil Verde, with 8,170 operators who found 112 environmental violations and imposed fines totaling 36.37 million reais

(US \$9 million) related to deforestation or pollution caused by mining.

In April 2021, at the virtual Climate Summit hosted by US President Joe Biden, Bolsonaro changed the defiant attitude he adopted at the UN general debate during the General Assembly's seventy-fifth session<sup>89</sup> and offered greater action on climate change, including an aim for carbon neutrality in 2030 and the elimination of illegal deforestation. In response to questions from the parliamentary group The Left about possible sanctions against Brazil, Borrell answered that Brazil had committed to achieving climate neutrality by 2050 and promised double funding for deforestation enforcement. Brazil's Minister of Foreign Affairs Carlos França has included sustainable development among his most urgent priorities.<sup>90</sup> However, it does not seem that these promises will end the resistance to ratification of the MERCOSUR agreement if they are not accompanied by results in reducing deforestation rates.

### **“The Amazon rain forest is becoming an irresolvable obstacle to ratifying the EU-MERCOSUR agreement”**

In the current version of the trade and sustainable development chapter of the EU-MERCOSUR agreement, Article 8, which is explicitly related to sustainable forestry, commits the parties to encourage trade in products from sustainably managed forests, to promote the prior informed consent of forest-based local communities and indigenous peoples in the sustainable supply on forest products, and to combat illegal logging. The article also commits to information exchange and cooperation on trade and forest conservation. In Article 13, the parties recognize the importance of working together to achieve the objectives of the chapter, and Article 14 establishes a Subcommittee on Trade and Sustainable Development composed of senior officials to facilitate and monitor the effective implementation of the chapter,

including the cooperation activities. Finally, Article 15 establishes a dialogue, consultation, exchange of information, and cooperation mechanism to address any disagreement on the interpretation or application of the chapter, but excludes this chapter from the dispute settlement under Title VIII provided for trade questions. In any case, these provisions go well beyond those contained in the FTA with Colombia, which is being provisionally implemented.

In short, we are dealing with two countries with similar levels of deforestation and violence against land defenders and the EU maintains similar cooperation projects with similar instruments with both. However, in the case of Colombia, there has not been a complete rejection of the FTA, and in the case of Brazil, the Amazon rain forest is becoming an irresolvable obstacle to ratifying the EU-MERCOSUR agreement. No doubt that the fight against deforestation has become a major priority on the international agenda after the signing of the Paris Agreement, and it is logical that more guarantees are requested by trade partners. But it is worth wondering if trade agreements are the most appropriate way to promote better forest policies, or are there complementary instruments that allow a greater commitment of the countries through cooperation? Since different criteria have been applied to Colombia and Brazil, the EU member nations are reacting more based on the internal political situations in their respective countries than based on reports by experts, which are not conclusive.

## **CONCLUSIONS**

The greater awareness of the need to act against climate change has permeated European society and increased pressure on the EU to implement stricter measures against behaviors that undermine the international commitments within the UN framework and the Paris Agreement. This means incorporating internal measures in EU countries to reduce policies that contribute to climate change by taking legislative

and strategic action involving both public and private actors. But the EU also holds responsibility to contribute to the international governance of the environment, promote cooperation instruments around the world, and guarantee the coherence of its internal and external policies. The fires that devastated the Amazon rain forest in 2019 induced a greater awareness of the problem. Yet the fragmentation of the different instruments that have been created and the inconsistencies between the environmental diagnoses and regulations prove that there are no unanimous perceptions and policies among EU members.

The diverse positions of EU member states regarding the EU-MERCOSUR agreement are one example of the different national interests in play and the influence of internal political situations in each country. Most European countries and social organizations that oppose the agreement do so based on the notion that more imports to the EU could generate an increase of illegal deforestation in countries like Brazil. These critics demand the incorporation of binding clauses, monitoring instruments with the participation of the civil society, and the possibility of applying sanctions in case of noncompliance of the agreement. All this would require far more sophisticated bilateral and multilateral trade agreements.

**“A more holistic approach to the different instruments available to the EU would be more helpful and balanced in tackling a problem that is regional, not just national.”**

Numerous international agreements establish objectives, standards, and instruments for cooperation in the fight against climate change. But economic and technical resources to render them effective are lacking. In South America, two new regional coordination initiatives that deserve the EU's support have recently launched. In 2019, Brazil, Bolivia, Colombia, Guyana, Peru, and Suriname signed the Leticia Pact, which includes measures that will need to be devel-

oped further on a voluntary basis. Among the proposals is the launch of a coordinated action mechanism for the biodiversity of the Amazon, further regional cooperation mechanisms to combat illegal activities, and the creation of an Amazonian Cooperation Network in the face of natural disasters and emergencies, such as large-scale forest fires. The pact also advocates for greater participation by indigenous and tribal peoples and local communities in sustainable development. In April 2021, the Escazú Agreement (the Regional Agreement on Access to Information, Public Participation, and Justice in Environmental Matters in Latin America and the Caribbean) entered into force. The main aims of this agreement are to promote transparency, provide access to timely environmental information, and protect environmental leaders. These measures are a precondition for improving and increasing governance and implementing regulatory measures effectively.

Although the need to strengthen trade treaty provisions regarding sustainable development is a priority on the EU's international agenda, and the EU-MERCOSUR treaty is a powerful negotiating instrument, the EU should seek a coherent response to similar situations. While Colombia, with high levels of deforestation and high rates of social conflict, enjoys an FTA (as do most of the countries of the region), the MERCOSUR countries are denied preferential access based on the temporary action of the Bolsonaro government. A more holistic approach to the different instruments available to the EU would be more helpful and balanced in tackling a problem that is regional, not just national. Measures such as the conditionality of tariff reductions on the deployment of effective forestry policies, the strengthening of existing initiatives such as FLEGT and REDD+, and the deployment of VPAs, coordinated with more technical and financial assistance cooperation programs (such as EUROSOLAR+) and the creation of a fund to support sustainable development, can be much more effective in achieving more political will from the MERCOSUR governments than just rejecting the agreement.

The current terms of the EU-MERCOSUR agreement do not respond to the expectations and international commitments to combat deforestation. But with complementary measures that include stronger regional cooperation, the agreement could become an instrument to improve the governance of the environment. At the same time, the EU should regulate the entry of deforestation-related products to the European market, similar to how it regulates imports of wood. Progress with internal regulations, better cooperation in multistakeholder alliances and through monitoring instruments, and promoting sustainable production while ensuring human rights seem to be a more effective path than just reducing trade between the countries. There is great potential to improve various instruments and initiatives to foster international cooperation.

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