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„No pain, no gain: environmental justice in the shadow
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Trade Agreement negotiations, preferences and
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On my honour as a student of the Diplomatische Akademie Wien, I submit this work in good faith and pledge that I have neither given nor received unauthorized assistance on it."



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Abstract

Verhandlungen über ein mögliches Freihandelsabkommen zwischen der EU und Mercosur (Argentinien, Brasilien, Paraguay, Uruguay) wurden im Jahr 2000 aufgenommen. Rund zwei Jahrzehnten vergingen, bis sie 2019 einen neuen politischen Durchbruch erhielten und ein Grundsatzabkommen von beiden Parteien unterzeichnet wurde. Sollte dieses Abkommen ratifiziert werden, würde es die größte Freihandelszone der Welt schaffen, die ein Viertel des weltweiten BIP erwirtschaftet (Luciano & Junqueira, 2023). Diese Untersuchung beleuchtet die politische Prioritäten und bevorzugte Interessen der jeweils beteiligten Handelsblöcke während der Verhandlungen von 2016 bis 2019, die letztlich das Abkommen prägten. In dieser Arbeit wird argumentiert, dass sowohl die EU als auch der Mercosur, Handelserwägungen gegenüber Umweltbelangen in den Vordergrund stellten und damit den Verlauf der Verhandlungen strategisch beeinflusste. Die Gründe für die Vernachlässigung umweltschützender Aspekte sind vielfältig und reichen von politischer Instabilität in Lateinamerika, die zur Stärkung marktliberalisierender Parteien, die den Freihandel fördern und Umweltschutzbedenken hintanstellen bis hin zu dem Einfluss von europäischen Handelslobbies während den Verhandlungsprozessen. Außerdem, unterstreicht die Studie, die Auswirkungen einer begrenzten Beteiligung der Öffentlichkeit und der Zivilgesellschaft auf die Verhandlungsergebnisse. Ziel dieser Untersuchung ist es, ein besseres Verständnis für die Ergebnisse des Freihandelsabkommens zu schaffen und zu zeigen, wie wirtschaftliche Machtdynamiken dem gerechten Klimaschutz entgegenstehen.

Aspirations for creating a free trade area zone between two important blocs, the EU and Mercosur countries including Argentina, Uruguay, Paraguay and Brazil started more than two decades ago, in 2000. Facing ups and downs in their negotiations process in 2019, a new political momentum was reached, with the signing of the Agreement in Principle by the two parties. Awaiting its ratification, this agreement, if entering into effect, would establish the world's greatest free trade area in the world, generating a quarter of the global GDP (Luciano & Junqueira, 2023). Over the extended period of negotiations, political priorities and global issues have significantly shifted. This research illuminates the political priorities and preferred interests of the respective trading blocs from 2016 until 2019, which ultimately shaped the agreement. This paper argues that both the EU and Mercosur prioritised trade considerations

over environmental concerns, strategically shaping the narrative of negotiations. The reasons for neglecting environmental aspects are diverse, ranging from political instability in Latin America, which strengthened market-liberalizing parties promoting free trade and sidelining environmental concerns, to the influence of European trade lobbies during negotiation processes. Moreover, the present research underlines the impact of limited public and civil society participation on negotiation outcomes. The aim of this research is to provide a greater understanding of the Free Trade Agreement outcomes and how economic power dynamics hinders equitable climate protection.

1.Introduction

1.1 Brief overview of EU-Mercosur Free Trade Agreement (FTA) and current trends

Negotiations for a potential EU-Mercosur Free Trade Agreement lasted 20 years until a final political consensus was achieved. The political context twenty years ago as well as political priorities from governments differed from what the present challenges look like. Although talks and negotiations about environmental protection started in the 90's, the issue was not given significant attention. In the current global trends, one can say that the question of environmental issues and concerns with regards to climate change are at the top of nearly every government political agenda. As a result, public discourse on this matter has drastically changed. Therefore, it is mutually understood that the priorities concerning the EU-Mercosur FTA have shifted. One of the major concerns of this FTA are the limitations in environmental protection contained in the agreement. Despite efforts in including provisions to support this, the commitments are not outlined strongly enough, which has led to criticism. Even after the signing of the agreements, EU countries have publicly reconsidered their decisions and are blocking its ratification process, further prolonging the negotiations. Thus, the French government has been highly vocal about opposing the ratification of the Agreement as it is “a very bad deal for you (Mercosur countries) and for us (the EU)” according to President Macron (Morland, 2024). While stars seemed to be aligned in 2019, this alignment has drifted apart, as per expert of the EU Trade Commission Mr Schlegelmilch (Schlegelmilch, 2023). Reasons for this shift was, inter alia, the discontent in public opinion, as illustrated in the following two examples.

First of all, protests held in Europe expressed disagreement towards the implementation of this agreement. By the end of December, a series of farmer protests across European Union countries were blocking the streets. Although the reasons varied from country to country, the primary motivations were complaints about overbearing EU regulations, high costs, and falling income. Additionally, the spontaneous increase in energy and input prices, combined with a

collapse in the actual prices farmers receive for many of their products, drove farmers to the streets. The protests started in Poland and quickly spread across the continent. The French government was one of the first European government to oppose the agreement, with respect to its sensitive social and political climate, after riots due to new pensions reforms escalated already. This indicates that not only political disagreements persist, even after the consensus found in 2019, but also public discontent with regards to the EU-Mercosur FTA is evident. This dissatisfaction is particularly rooted in environmental protection issues and their lack in the EU-Mercosur cooperation.

Secondly, by the end of February this year, over 1,500 protesters were expected at the Latin America and Caribbean Summit of Peoples' Integration in Foz do Iguaçu, Brazil. The aim of this summit was to gather together 'activists and leaders of the peasant, feminist, trade union, student, environmental justice, and popular movements and representatives of Indigenous peoples' to debate the challenges of Latin American and Caribbean integration with political parties, parliamentarians, and government actors, and enhance dialogue between the two parties (Coelho, 2024). This emphasizes the importance for Latin American people, including those in Mercosur countries, to have the right to be consulted when important agreements are negotiated. The EU-Mercosur Free Trade Agreement plays a key role in this debate as it will affect thousands of local farmers, and the indigenous right to be consulted comes to the foreground of this debate. At the same time, the newly elected right-wing populist, Javier Milei in Argentina, declared Mercosur as 'defective' and 'harmful' for Argentina (Klaver, 2024), which has the potential to shape public discourse regarding the Free Trade Agreement.

Generally speaking, the current Free Trade Agreement faces severe criticism in particular due to its lack of environmental and labor rights protection, especially from the agricultural sectors. Thus, this research attempts to better understand how this agreement was reached and why the lack of environmental justice prevailed in the negotiation process. To begin with, this research provides a brief historical background of the relationship between the EU and Mercosur, highlighting key facts, followed by a review of the current literature. The theoretical framework introduces the main theories and key concepts are asserted, that will be analysed and interpreted in the empirical analysis. The paper concludes with a summary of the major findings and perspectives on the future of the agreement.

2. Historical background

2.1 Historical overview of the bilateral relationship between the EU and Mercosur countries

This section briefly introduces the historical development of the bilateral relationship between the EU and Mercosur countries.

To begin with, relations between Europe and Latin America can be traced back to Europe's colonial past¹, starting with the voyages of Christopher Columbus in 1492 (Sebastian, 2017). In the search for gold, Columbus and his allies were responsible for a mass depopulation of indigenous people in the region. After his discovery of Latin America, the rulers of Spain and Portugal decided to divide the continent into two pieces, through the famous Treaty of Tordesillas (1494). During that time, Portugal occupied Brazil and Spain the rest of the Americas (Sebastian, 2017). The Spaniards imposed the *encomienda* system, a labour system by which the crown granted Spanish colonialists to extract labour from indigenous people (Cartwright & Artist, 2024). In essence, this system permitted colonialists to exploit indigenous people and use them as slaves, as a reward for protecting their colonies and implementing Christianity in the continent. With the time the wider potential of the Latin American continent was discovered and European colonies from France to the UK or the Netherlands colonized in particular the small islands (Sebastian, 2017). However, when the French Revolution began, political dynamics reached a shift in the South American continent. At the beginning of the 19th, independence movements ushered by Latin America's prominent political figure *Simón Bolívar*² shaped a new political environment and resistant sentiment. In Brazil, independence was reached in 1822 with comparatively little conflict. Despite the ambitious goals proclaimed in Latin America's new constitutions, leaders prioritized economic gains and individual power over democracy. Thus, slavery persisted in numerous countries (Sebastian, 2017). The 20th century, marked by two World Wars inflicted political instability and led to social and economic decline all around the globe. The end of World War II also marked the beginning of independency and democratisation waves for many, previously colonised countries in Africa, Asia and Latin America and the Caribbean. New hopes for creating a political landscape of democratic consolidation and economic as well as social improvements appeared to be the trend. Nevertheless, economic and political developments in Latin America were comparatively slower than in Europe or Asia. Facing an increasing income gap compared to

¹ Refers to the people who lived in self-determining societies in an area prior to European colonization, and, subjected to domination and 'conquest' by European settlers, have struggled to regain self-determination and land and resource rights following the establishment of a settler state (Wilmer, 2008)

² Venezuelan soldier and statesman who led the revolutions against Spanish rule in the Viceroyalty of New Granada. He was president of Gran Colombia (1819–30) and dictator of Peru (1823–26) (Masur, 2024)

industrialized nations and trying to reducing dependence on foreign markets, Latin America's economic post-war policies focused increasingly on internal development. This idea was supported by the concept of Import substitution industrialisation (ISI), an economic strategy boosting domestic industry and decreasing dependence on imported, mostly manufactured goods. In most cases, governments introduced protective measures and tariffs for foreign trade partners while supporting its local industries through, inter alia, subsidies. As a result, in many major countries, the output of intermediate and capital goods flourished considerably (Bushnell et al., 2024). One of the prominent examples of economic improvements can be found in Argentina, where the state played a crucial role by essentially undertaking the construction of a steel industry, thereby expanding its economic role. Similarly, Latin America's biggest economy, Brazil, nationalized its nascent oil industry in 1953, forming the state-owned company Petrobrás. The latter eventually developed alongside Mexico's PEMEX in 1938 and Venezuela's PETROVEN in 1975, as one of Latin America's three largest state-run economic enterprises. (Bushnell et al., 2024). In the 1960's the spirit of regional economic integration was legally concretized with the establishment of the Latin American Free Trade Association, which later set the basis for the creation of the Mercado Común del Sur (Mercosur) and the Central American Common Market, followed by the Andean Pact of 1969. However, unlike Europe's economic policies, trade barriers persisted within the region, and imbalances were evident between countries in Latin America. Hence, strong economies like Brazil or Panama nearly doubled their GDP, while Argentina's economic advancement was rather unsuccessfully in comparison s the advantages of ISI diminished, many Latin American countries believed that to maintain economic growth, greater attention had to be paid to exporting goods (Bushnell et al., 2024). To achieve this, favourable conditions and measures making exported goods attractive in the global market had to be proposed. Brazil again, served as role model, with a booming number of manufactured goods, particularly in the automobile industry, proving to be highly successful. On the US-Mexican border, an alternative strategy to boost exports was the implementation of 'maquiladoras,' manufacturing plants that assembled imported materials into consumer goods, predominantly employing women workers. Another important option, especially in Colombia, was the development of new export industries outside of traditional primary commodities. In Colombia's case, the cut flower industry allowed the country to become the second-largest flower exporter (Bushnell et al., 2024).

Besides economic challenges the 80's in Latin America were highly marked by democratic transitions processes. In the beginning of the 1980's most of Latin American countries were

under military rule. (Shixue, n.d.) An important driver that influenced democratisation waves in Latin America was the failure of the military government in Argentina in 1982 (Shixue, n.d.). Attempts by the Argentinian government on April 2, 1982, to take over the Malvinas Islands were defeated by the United Kingdoms. The defeat and the public discontent led to the step-down of Argentina's military government. The sentiment in transitioning to democratic countries spread across the continent. Thus, as a result 1999, most Latin American countries reached important democratic reforms and experienced the development of stronger institutions in the region. (Shixue, n.d.) Although the beginning of 2000 was marked by closer cooperation between the two blocs. Over the last two decades, China has overtaken the EU in Latin America in 2017, in becoming the key trading partner of major economies including the Mercosur block. (Carballeira Fernandez, 2021)

Nevertheless, the historical ties between the EU and Mercosur countries and the postcolonial traces in South America still persist. In the whole region of Latin America, the presence of European companies remain noticeable. (Schlegelmilch, 2023) In addition, aspirations from countries like Spain to serve as a bridge between the EU and Mercosur countries are evident. The South American continent remains additionally an attractive partner in the question of the transition towards a green economy, as the continent shares rich reserves of hydrocarbons. (Schlegelmilch, 2023)

2.2 Creation of Mercosur

As aforementioned, efforts for economic regional integration led to several agreements within Latin America. Two key actors in this process are Argentina and Brazil. In 1985, the two countries decided to reinforce their bilateral relationship and signed the Declaration of Iguaçu³. In the following years, various commercial agreements seeking to expand their trade partners with neighboring countries laid the groundwork for what we now call the Mercado Común del Sur (Mercosur). From a legal perspective, the Treaty of Asunción (1991), signed by Argentina, Brazil, Paraguay, and Uruguay, and the Ouro Preto Protocol (1994) established the organizational structure of Mercosur as we know it today. Since then, several countries including Venezuela, Bolivia, Chile, Colombia, Ecuador, Guyana, Peru, and Suriname have participated as associate members. In 2006, the four member states officially signed Venezuela's Accession to Mercosur. However, rising political disagreements and years-long blockage of its final ascent by the Brazilian and Paraguayan Congresses made it impossible for

³ Declaration which created a bilateral commission to promote the integration of their economies between Argentina and Brazil (Britanna Academic).

the Caribbean nation to attain full membership until 2013. Only three years later, Venezuela was indefinitely suspended.

At the same time, the accession protocol of Bolivia was signed on July 7, 2015 (Tozzini Freire, 2023). However, the same procedure of full approval by the parliaments of all Mercosur parties must be fulfilled for the country to become a full member of Mercosur. For years, this decision was blocked by the Brazilian Congress. At the end of November, the Brazilian Congress finally signed the protocol (Kanas, 2023), opening the door for Bolivian membership within the next few years, provided conditions highlighted in the Protocol are fulfilled. One of the conditions includes cancelling all bilateral relationships with its suspended neighbouring country, Venezuela (Kanas, 2023).

In the same vein of opening to the global market while fostering regional economic integration and political cooperation, another important institution was born only one year earlier in 1990 – the European Union. Hence, the beginning of the 90s marks an attempt by different regions to come together and foster regional political and economic interests. The rapprochement of the two blocs can be outlined through their almost concurrent creation. In this context, looking at trade policy developments after the creation of both institutions, attempts to bring the two blocs together took shape already in 1995 with the signing of the Interregional Framework Cooperation Agreement (SICE: Trade Policy Developments: MERCOSUR-EU, 2022) between the EU and the Mercosur countries, which came into effect in 1999. The objectives and scope, as stated in Article 2 of the Cooperation Agreement, focus on strengthening existing relations between the Parties and preparing the conditions for an interregional association to be created. It covers trade and economic matters, cooperation regarding integration, and other fields of mutual interest to bring about closer relations between the Parties and their respective institutions (Interregional Framework Cooperation Agreement, 1996).

In this context, the overall goal of creating this Cooperation Agreement was to reach an Interregional Association between the EU and the Mercosur participating states that goes beyond a solely economic nature, but also includes political dialogue, trade and economic issues, and cooperation (SICE: Trade Policy Developments: MERCOSUR-EU, 2022.).

2.3 Towards the EU-Mercosur Association Agreement

In light of this willingness from both sides to foster cooperation, the first practical negotiation took place on November 24, 1999, in Brussels during a meeting of the EU-Mercosur Cooperation Council. During this meeting, results regarding the structure, methodology, and calendar of the next negotiations took shape. It is worth mentioning that the Free Trade

Agreement constitutes only a part of the overall Association Agreement between the EU and Mercosur. The latter covers additional aspects and key areas, such as political dialogue, cooperation on democratic principles, and the institutional framework for managing the agreement, including setting up councils and (sub)committees to ensure dialogue with parliamentarians and civil society.

At the beginning of the 2000s, a political momentum regarding EU-Mercosur rapprochement and negotiations on a potential Association Agreement was reached. Through the EU-Mercosur Bi-regional Negotiations Committee (BNC), the Subcommittee on Cooperation (SCC), and several Technical Groups (TG), trade policies such as market access and competition policy were not only negotiated but also saw accelerated implementation processes. Accordingly, from 2000 until October 2004, fifteen formal rounds of negotiation were held, and three ministerial meetings, including those in Lisbon (2004) and Luxembourg (2006), took place, highlighting the importance that the two blocs placed on the Association Agreement.

However, in the ensuing years, negotiations encountered many ups and downs, with periods of total freeze and new political momentums. After 20 years of negotiations, 2019 marked a milestone in the EU-Mercosur establishment process of the Association Agreement. By the end of June, on the 28th, former EU Commission President announced that the two blocs had reached a consensus on an Agreement in principle regarding the Free Trade Agreement. One year later, in 2020, additional steps were made concerning the political component of the Association Agreement.

Free Trade Agreement in the AA

The Free Trade component within the Association Agreement was often considered one of the most challenging and a major reason why negotiations stalled at times, as it focused on eliminating trade barriers. With the elimination of trade barriers, many concerns arose, from contradicting domestic policies to security issues, where countries found it difficult to align. From a statistical point of view, at the beginning of the 21st century, the EU significantly increased its investments in the Latin American continent, promoting regional and interregional agreements (Luciano & Junqueira, 2023), even surpassing the US as the number one investor in Mercosur (Klom, 2000). Additionally, Mercosur considered the EU its most important trading partner at that time. In 2004, due to disagreement over tariffs protecting European agriculture from Latin American exports, negotiations were officially suspended again. It was only in May 2010 that negotiations relaunched at the EU summit in Madrid.

During these years of freeze, changing governments in the Mercosur countries and Europe's new political landscape, strongly affected by the financial crisis, encouraged both parties to

restart dialogue with new ambitions. Since then, negotiations have been ongoing but progressing rather slowly due to various internal factors. Internally, Mercosur faced institutional changes with the suspension of Paraguay from Mercosur in 2012 over the impeachment of President Fernando Lugo and Venezuela joining the organization. At the time, Argentina and Brazil's foreign policy strategies were more dedicated to closer cooperation with neighboring countries than the EU. When center-right-wing parties came into power in Argentina in 2015 and Brazil the year after, trade liberalization was eased up. These aspirations aligned with the EU pursuing its value-based trade agenda outlined in the 2015 Trade for All strategy. However, the agriculture sector remained a significant issue in these discussions. Thus, EU Member States emphasized their defensive interests in protecting their domestic agricultural sectors.

By the end of 2018, progress seemed to slow down again as no consensus could be found regarding the EU's stringent interests, particularly related to market access for cars, car parts, dairy products, maritime services, and the protection of Geographical Indications (GIs). On a global level, even more serious issues arose under Trump's presidency, incentivizing protectionist measures. The trade war with China and Brexit accelerated these trade challenges for the EU and Mercosur. With new governments and a new EU commission, new strategic conveniences emerged. In fact, center-right to far-right-wing governments favoring trade liberalization in the EU created new political momentum for the agreement. On June 28, 2019, the EU and Mercosur seized this opportunity and agreed on an "Agreement in principle."

This research will clarify the negotiation priorities and preferences that dominated the debate on ensuring environmental justice. The following sections will highlight the current state of the literature, present the theoretical framework of this research, describe the empirical analysis findings, and provide an interpretation of the results. Finally, a conclusion of the key findings will be given, with an outlook on the potential future of the Agreement.

3. Literature review

This chapter presents an overview of the current literature. The current literature focuses strongly on harmful environmental impacts of this trade agreement may entail. Scholars like Krämer, in his research paper “a lost opportunity? The Environment and the EU – Mercosur Trade Agreement”, clearly outline and examine the lacking environmental elements of the Agreement (Krämer, 2023). Specifically, the current draft agreement provides one out of 17 chapters on the environment, titled “Trade and Sustainable Development” (Krämer, 2023). Krämer criticizes the two parties for not stating clear legal consequences in case of a breach of the commitment of member states to act in favor of sustainable development, making member

states less committed to taking the latter seriously and rather leaving environmental questions to each member state.

One problem that Krämer identifies lies in the nature of the Agreement. The Agreement was designed and agreed upon as an exclusively EU competence agreement. For the inclusion of environmental aspects, this plays an important role, as in an exclusive competence agreement, only one competence—in this case, the trade divisions of both sides—is considered. As Krämer notes, an agreement that would be of shared competence, a so-called mixed agreement, “may also contain detailed provisions which establish levels of environmental protections, or which provide for other means of protecting the environment in the Parties’ territories,” (Krämer, 2021, p.147) as it would include other divisions and departments into the negotiation process. In his article, he also provides solutions on how to better integrate the environmental aspect into the agreement, by referencing several environmental agreements to which both parties are committed, such as The Rio Biodiversity Convention, which could be easily integrated into the agreement provisions. In addition, various environmental NGO’s such as WWF, or Friends of the Earth Europe strongly voice concerns and oppose the ongoing FTAs, arguing that “it kills the climate” and “props up neo-colonialism” (Zalcman, 2023, p. 1-2).

Despite numerous important literatures on potential environmental aspects and social implications that go hand in hand, no real and detailed document is currently available that provides an assessment of how these social and ecological implications would look if the draft agreement, as it is now negotiated, were to come into force. For now, numerous scholars and researchers have focused on providing initial directions, but without any extensive and alarming content. The Economic Commission for Latin America and the Caribbean (ECLAC) frequently provides rich data based on economic assessments in the region and useful statistics to analyze future trends. Nevertheless, a general qualitative assessment of a free trade agreement between the European Union and Mercosur has not yet been made.

In July 2023, the Economic Commission for Latin America and the Caribbean, short ECLAC, presented potential opportunities and challenges during the Third Summit of Heads of State and Government of the Community of Latin American and Caribbean States, CELAC, and the European Union in Brussels, with a particular focus on the green transition and digital developments. However, the serious social implications for Mercosur's indigenous people and European farmers are not highlighted as serious concerns. Hence, one can argue that there is a lack of literature combining these interlinked elements of social and ecological implications. At the same time, there is a research gap in combining the concept of climate justice with the EU-Mercosur Free Trade Agreement and understanding how this consensus was reached. This

will be elaborated on in the following chapter on the theoretical framework of the research, with current trends between the EU and Mercosur countries.

3.1 Current critics of EU-Mercosur negotiations

The current Free Trade Agreement faces several critiques. Prominent NGOs like Greenpeace and WWF regularly condemn the Agreement for not taking environmental concerns seriously. In a publication from Greenpeace Netherlands, it is stated that 'This free trade agreement is a neo-colonial instrument under which cheap raw materials and agricultural products such as cattle feed, meat, and biofuels from Mercosur countries will be exchanged for high-value industrial products from the EU – with all the consequences thereof. The agreement will lead to further deforestation and loss of biodiversity. The survival of unique natural areas such as the Amazon rainforest, which are indispensable to counteract climate change, will be jeopardized' (Greenpeace, 2021).

Additionally, it is not solely non-governmental organizations that are speaking against this Agreement. In recent years, dynamics within the European Union have also changed. Just a few days before the Rio Summit, which was supposed to be held on December 7 last year, France, under President Emmanuel Macron, hindered the signing of the Agreement, arguing that it is not adapted to climate challenges. Additionally, the French president shares political concerns. As the Free Trade Agreement opens the gate for uncontrolled imports of animal products, potentially causing side effects within the EU and its local farmers, Macron might fear that opposition could instrumentalize these provisions of the agreement and gain support from European farmers, a risk he is not willing to take right before the European Parliament elections in the coming weeks. Besides France, the Austrian government also raises concerns about the FTA and is willing to freeze negotiations, arguing similarly to their French counterparts.

At the same time, the EU has also been criticized by their counterparts, particularly from Brazil, for putting protectionism before fruitful negotiations. During a climate summit in Belém, the former Brazilian president Lula accused the EU of trying to impose 'green neocolonialism' on the Mercosur countries due to Eurocentric environmental demands. In May 2023, Brussels vetoed EU imports of cocoa, soybeans, coffee, and meat originating from illegally logged or degraded areas. This law significantly affects Mercosur countries, especially Brazil, which is one of the top producers of coffee and meat. According to Lula, these tensions are one of the main reasons why the ratification process of the Agreement is hindered.

All in all, both contracting parties accuse each other of not taking the necessary steps to respect the environment. The price for these political conflicts of interest is paid by nature. While Lula achieved a 50% decrease in deforestation during his first presidential term, this is not enough. Results could be higher if the EU provided more financial support for deforestation activities in the Southern Hemisphere. Additionally, given the current political dynamics and the upcoming European Parliament elections, EU countries seem to prefer working strategically rather than cooperatively. By keeping the Agreement on hold, the agricultural sector and farmer protection remain untouched, and member states do not have to fear losing support from the agricultural sector.

Lastly, another important factor to consider in this debate is the question of influential zones. Many scholars and critics from Global Southern countries, including Lula, condemn the EU for trying to continue imposing their neo-colonialist agenda in South America. When looking at the relationship between the EU and Mercosur countries, it is evident that the EU has lost influence lately, while China is becoming an increasingly important trade partner in Mercosur. Especially between Brazil and China, trade relations have reached remarkable developments, as seen through the signing of an agreement enabling mutual trade and investment in local currencies, sidestepping the US dollar as an intermediary, in March 2023 (Besliu, 2024).

3.2 Relevant current theories

Several scholars have established theories to explain negotiation outcomes and understand which parties may have the upper hand during the negotiation process. For the assessment of the current research, the literature argues that negotiation outcomes can be explained through three main factors influencing the narrative during negotiations in general.

The first factor appears to be the more obvious one, which is the power of bargaining (Crystal, 2010). According to Crystal, the power of bargaining proves to be especially successful when a party threatens the counterpart with market closure, such as imposing tariff barriers, if their preferences are not integrated into the negotiation. The worst-case scenario in this context would be that no agreement is reached, and negotiations are blocked. From an empirical point of view, the US used this strategy when negotiating the liberalization of the domestic telecom and financial service sectors of developing countries (Crystal, 2010). By threatening not to reach an agreement at all, the US created a "new status quo" (Crystal, 2010, p.554). Developing countries, fearing that foreign investment would significantly decrease without an agreement with the US, eventually became open to liberalizing their telecom and financial sectors (Crystal, 2010). It is important to note that this bargaining power can only succeed if countries

lack competitive firms. If this is not the case, developing countries would not feel threatened by market closure as it would not affect them.

The second key factor in shaping the outcomes of a negotiation is domestic politics. When establishing an agreement between two blocs, it is clear that national interests within an institution, be it the EU or Mercosur, persist, and domestic support or opposition can strongly affect the outcome of the negotiation. In the case of the EU-Mercosur agreement, one could argue that if domestic politics are not truly considered, resistance from domestic actors will arise, leading to non-compliance. At the same time, if the imposed threat in a negotiation, such as imposing extra tariffs on specific countries not part of the agreement, aligns with national interests, it would gain more prominence and support from national states, and outcomes would be linked to this.

Another vital aspect is the exchange of knowledge and learning in the context of negotiation processes and their establishments. This concept, based on Crystal's paper analyzing the theories of bargaining, emphasizes the art of persuasion and education, and how developed countries can use this as a strategy to influence policy outcomes. For countries of the Global North, efforts in spreading the concept of liberalization in trade and overall economic growth define this narrative. In this context, the EU, with its greater capacity to invest in knowledge exchange and spreading public awareness of the benefits of a liberal market, can shape the preferences and positions of Mercosur countries, convincing them that the liberalization of their markets will lead to greater wealth and economic and social benefits on a national and regional level.

At the same time, the consideration that there is a pragmatic shift in the approach of developing countries towards trade and investment negotiations plays a crucial role in understanding the outcomes of such free trade agreements better. In fact, developing countries increasingly prioritize foreign investments and embrace liberalization policies imposed by developed countries as a means to stimulate economic growth and development, even if it means setting aside ideological considerations or initial reluctance. This shift in approach could be seen in Latin America already at the end of the 1980s and the beginning of the 1990s, where countries distanced themselves from the previous concept of Import Substitution Industrialization.

3.3 The role of environmental politics in the EU and Mercosur

Since the research question focuses on understanding what led to the development of the existing EU-Mercosur agreement and the position the environment held in these negotiations, it is important first to understand environmental politics in the context of regional institutions,

meaning the European Union and the Mercosur countries. For this, the theory of scholar Kathryn Hochstetler contributes significantly to understanding the role environmental politics play within Mercosur as an organization. The general message of her paper explains how developing countries, to which all Mercosur countries (including Brazil, Argentina, Paraguay, and Uruguay) belong, find themselves in a constant dilemma between achieving economic growth through increased trade and preserving the environment (Hochstetler, 2003). The underlying reason is that developing countries particularly depend on natural resource exports, which are vulnerable to environmental degradation with increased trade activities. For example, deforestation activities in the Amazonian rainforest in Brazil for the export of products such as beef or palm oil (Global Witness, 2020) heavily exacerbate climate change. Another important factor to consider is the restricted domestic capacities of developing countries to implement environmental measures and promote environmental public awareness within society. It's important to note that, although some current issues are interlinked, developing countries tend to have other social and political issues, all limiting their ability to mitigate the negative impacts of trade-related environmental pressures. Nevertheless, domestic environmental protection measures can strongly differ between Mercosur participating states. Hochstetler highlights the role of Brazil in possessing higher standards in environmental protection than its neighbors. When it comes to the institutionalization of environmental protection within Mercosur, the Mercosur environmental agency is the primary institution to consider. Despite efforts to address environmental challenges, the institution remains weak (Hochstetler, 2020).

To summarize, it is essential for the theoretical framework to understand that Mercosur, as an institution, faces the challenge of being a rather heterogeneous group, with Brazil addressing environmental problems differently than Paraguay, considering the fact that they are differently affected by the effects of climate change. The fact that no strong unified legal instrument is present within Mercosur also slows the process of holding trade activities accountable for harming the environment and detracts from the responsibility of climate change prevention.

At the same time, since the research centers on the importance of including environmental issues during the negotiations between the EU and Mercosur countries, it is crucial to look at environmental standards within the EU, particularly when it comes to preferential trade agreements (PTAs). Scholars like Ida Bastiaens and Evgeny Postnikov have tried to explain the EU's approach to negotiating environmental standards in PTAs, arguing that the establishment of PTAs is an effective tool for pursuing environmental objectives outside of more stagnant multilateral settings like the WTO. The assumption that the EU's approach is

based on a proactive strategy that integrates civil society during the implementation phase to address non-compliance is central to this research. As Bastiaens and Postnikov argue, the actual impact this proactive approach truly has depends significantly on the design and enforcement mechanisms of the PTAs. Another crucial insight for this research is that, rather than creating explicit global environmental agreements, a party, in this case the EU, can impose environmental standards as a condition through a trade agreement (Bastiaens & Postnikov, 2017).

3.4 No climate justice with free trade and free trade only without climate justice?

When addressing the research question about the conformity of climate justice and the current Free Trade Agreement, the first question that may arise is about the relationship between free trade and climate justice, and whether they are negatively correlated. In other words, does free trade always stimulate climate injustice, and vice versa, does greater climate justice mean less free trade? To assess this question, an important research report from the Vienna Institute for International Economic Studies has analyzed the relationship between sustainability and its depiction in free trade agreements.

On a global scale, the world's largest institution for free trade is the World Trade Organization (WTO), encompassing a total of 164 members. Simultaneously, the Paris Agreement, embedded in the United Nations Framework Convention on Climate Change (UNFCCC), stands as the largest international agreement combating greenhouse gas emissions (GHG), with around 187 countries having ratified it by the end of February 2020. In addition, as previously mentioned regarding the Sustainable Development Goals (SDGs) that UN member states committed to achieving by 2030, climate protection and action are also addressed in some of the SDGs, particularly in SDG 17, and play a key role in this debate.

Looking at the nature of the World Trade Organization and its provisions, it appears clear that it does not have any explicit environmental provisions nor a chapter on environmental protection. This shows that the incorporation of environmental clauses in trade agreements remains non-vital (Gruebler et al., 2021).

3.5 Potential economic impact of FTA

When looking at the economic impact that the FTA may have, the current literature provides important economic assessments. The European Union, as the fourth greatest polluter of CO₂ emissions, usually tries to offset its environmental debts and, compared to its counterparts the US and China, often commits to a rather ambitious ecological agenda. An important outcome of these ambitions was the European Green Deal, which is the EU's strategy for achieving climate neutrality by 2050. However, when signing the EU-Mercosur FTA, it appears that the

clauses of the European Green Deal are not applicable nor aligned with what the EU is committing in their deal. To illustrate this, the Vienna Institute for International Economic Studies (WIIW) conducted a significant study on the "environmental pains from trade" in the context of the FTA. This economic assessment calculated the increase in CO₂ emissions associated with additional export flows (Gruebler et al., 2021), which is an important argument and reason to reconsider the agreement.

Figure 1

CO₂ emissions in trade between the EU, Austria and Brazil

Table 10 / CO₂ emissions in trade between the EU, Austria and Brazil

	Actual CO ₂ emissions in trade (2014) in '000 tonnes		CO ₂ emissions in trade under EU-Mercosur FTA in '000 tonnes		Additional CO ₂ emissions due to EU-Mercosur FTA in '000 tonnes	
Country	with Brazil		with Brazil		with Brazil	
Austria	693.5		738.9		45.5	
EU	17,132.4		21,567.0		4,434.6	
Country	with Austria	with the EU	with Austria	with the EU	with Austria	with the EU
Brazil	132.6	26,947.0	136.4	30,246.0	3.8	3,299.1

Source: Authors' own calculations.

Note. Data retrieved from Wanted! Free Trade Agreements in the Service of Environmental and Climate Protection by Vienna Institute for International Economics Studies (2021, p. 70). Author's own calculation.

When looking at the example of Austria, the EU, and Brazil, the assessment concluded that an additional 44,346,000 tonnes of CO₂ emissions would be generated by the EU in trade with Brazil. Conversely, Brazil would produce 3,299,100 tonnes more of CO₂. In monetary terms, this would mean, according to the EU's Emissions Trading System, short ETS, that the EU would have to pay an additional 124.1 million euros due to the increase in CO₂ emissions from trade with Brazil. At the same time, Brazil would have to pay an additional 92.3 million euros, according to ETS calculations, as illustrated in figure 2.

Figure 2

Environmental costs in monetary terms linked to the EU-Mercosur FTA

Table 12 / Environmental costs in monetary terms linked to the EU-Mercosur FTA

		Implied additional CO ₂ emission costs (in million USD) arising from the EU-Mercosur FTA							
Additional CO ₂ emissions		EU ETS	Perry (2019)			IMF (2019)	Stiglitz- Stern	Swedish carbon tax	
Exports (from to)	in '000 tonnes	price (USD/tCO ₂)	28	35	/	70	75	100	123
Austria → Brazil	45.5		1.3			3.2	3.4	4.5	5.6
EU → Brazil	4,434.6		124.1			310.4	332.6	443.5	546.1
Brazil → Austria	3.8		0.1	0.1			0.3	0.4	0.5
Brazil → EU	3,299.1		92.3	115.5			247.4	329.9	406.3

Source: Authors' own calculations.

Note. Data retrieved from Wanted! Free Trade Agreements in the Service of Environmental and Climate Protection by Vienna Institute for International Economics Studies (2021, p. 72). Author's own calculation.

Hence, apart from environmental standards not being prioritised, there is evidence that significant financial costs will also arise with the free trade agreement.

4. Research

4.1 Research gap

This chapter highlights the relevance of the study and outlines the research gap that scholars have yet to cover. Currently, the fight against climate change has become an integral part of our daily lives. At domestic and national levels, various policies to preserve biodiversity or reduce carbon emissions are included in the national programs of states and have, at least from a legal point of view, become a national priority for most member states. On an international level, sustainable development, as incorporated by the development of the Sustainable Development Goals (SDGs), has also gained priority on the political agenda.

An important element in this debate is the question of free trade agreements (FTAs). The economic benefits and potential developments for both participating parties are usually at the forefront of FTAs. Nevertheless, several cross-cutting matters must be considered. In a context of globally rising climate change issues with severe social implications, perspectives on the environment must become an integrated part of negotiation processes.

Speaking specifically of the EU-Mercosur FTA, the conclusion of this agreement would lead to the world's greatest international free trade zone, including 743 million inhabitants (De Oliveira, 2023). The implications for the environment, economy, and the lives of indigenous

populations would be enormous. Hence, the importance and relevance of this agreement, especially in the current time, is evident. This research's main interest revolves around the preferences in negotiations that led to the consensus of the agreement, ultimately creating a better understanding of which priorities take the lead in the EU-Mercosur FTA. This is important to study, as ongoing negotiations may affect the lives of many future generations and will set a crucial baseline for how future ecological and social challenges are dealt with.

Since no consensus has yet been found on the final draft proposal, this research aims to collect these arguments to understand why this is the case and what alternative measures can be implemented to address environmental challenges in this agreement. In the future, this research may serve as a potential source to detect the prioritization of interests during negotiations of free trade agreements.

4.2 Research question

Negotiations of a free trade agreement among Mercosur countries, including Argentina, Brazil, Chile, and Uruguay, and the EU have been ongoing officially since 1999, experiencing various fluctuations and challenges throughout their timeline. In June 2019, however, the negotiations regained momentum as member states reached an agreement on a free trade area, which led to the drafting of an Association Agreement (Flórez Mendoza & Moshammer, 2023). Various factors and key actors played an important role in reaching this agreement.

This research will attempt to explain, 'How can we explain the lack of environmental justice in the current EU-Free Trade Agreement?' To elaborate on this question, a deeper look will be taken into the reasons and motives of different actors. In general, the research question encompasses two dimensions.

In the first dimension, the research will analyze the types of actors, from private individuals to public institutions, that were engaged in the negotiation processes and describe their preferences and positions as highlighted in the negotiation reports, minutes, or official statements from the parties. This part of the research will provide a descriptive process of the outcomes to better understand and identify the predominant parties.

The second dimension will focus on the reasons why certain outcomes and positions tend to gain more prominence than others. This concept will be linked to the theoretical framework of the research, and possible dependency tendencies (if any) will be outlined.

5. Theoretical Framework

In this chapter, three hypotheses will be presented, each aiming to explain why the absence of environmental justice is embedded in the EU-Mercosur FTA. This research includes a dependent variable, which is the lack of environmental justice, and independent variables, which consist of the relative powers outlined in H1, H2, and H3. The aim of this chapter is to explain how the dependent variable, the lack of environmental justice, will be measured through the assessment of the established hypotheses. The empirical analysis part will present and discuss these elements of environmental justice.

To begin with, when defining this theoretical framework, this research will focus on a political stream that explains the relationship between the EU and Latin America, referring to the Global South (Latin America) and the Global North (the EU). The Global North can be understood as those countries that benefit from the resources of countries in the Global South. This definition has been redefined in the context of globalization, where the world has become more interconnected, making it more complicated to distinguish between developing and developed countries. Many scholars believe that this stringent distinction does not adequately include emerging countries and does not reflect today's reality. Hence, in this research, the terms Global South and Global North will be used to adapt to today's challenges.

In the context of this research, the Global North and Global South relationship is crucial when discussing climate change. Here, Global North countries are high-income countries benefiting from advanced technologies and developed infrastructures, leading to greater energy consumption and emissions, which further exacerbate climate change. In contrast, Global South countries are responsible for fewer emissions and consumption, as their countries are less developed and have denser populations. Consequently, Global South countries bear the climate change consequences created by countries from the Global North. When considering the relationship between the EU and Mercosur countries, it is clear that the EU is better developed, with stronger infrastructures and greater wealth than Mercosur countries. From this perspective, Mercosur countries, as part of the Global South, will have to bear a greater extent of the potential ecological consequences arising from the Free Trade Agreement.

Furthermore, when considering the theoretical framework of this research, a few concepts and assumptions need to be defined before delving into the analysis.

5.1 The concept of environmental justice

The first concept to be defined is environmental justice. Within its definition, there is a mutual understanding that climate change does not equally affect all communities. Hence, climate justice inherently involves an imbalance component. This imbalance highlights the disproportionate impacts of climate change between the Global South—people and places least responsible for the problem (University of California Center for Climate Justice, n.d.)—and the Global North, where communities are the greater polluters, taking the least responsibility for their behavior as consumers.

Speaking of climate justice implies that the countries and parts of the world contributing significantly to the climate crisis, namely the Global North, have an unconditional responsibility to help those countries and communities in the Global South affected by the repercussions of climate change due to the former's consumption. When referring to communities affected by climate change, the term primarily refers to indigenous people as they are the most directly affected. Therefore, the inclusion of indigenous people in environmental issues is essential to ensure proper environmental justice. Article 19 of the UN Declaration on the Rights of Indigenous Peoples clearly states, "States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them." Thus, this research underscores that achieving true environmental justice means also implementing Article 19 (United Nations General Assembly, 2007) otherwise, environmental justice cannot be assured.

In other words, the concept of climate justice incorporates several conditions. The first is the consensus that climate change affects wealthier and poorer countries differently, with the latter bearing the expense of the former. The second understanding is that since climate consequences are disproportionately distributed, there is environmental injustice. Thirdly, to dismantle environmental injustice, countries from the Global North must take greater responsibility for their actions and consequences that affect the Global South. This requires ensuring meaningful consultation with indigenous people throughout all stages of decision-making. These three factors are important to consider in this research as they set the baseline for environmental justice within the Free Trade Agreement.

An assessment concluded that the top 10 percent of households with the highest per capita emissions, including those in China, the US, and the EU, contribute 34–45 percent of global household greenhouse gas emissions (source missing). The acquisition of data to measure the

lack of environmental justice will be outlined in the chapter on methodology and presented in the empirical analysis.

5.2 Potential explanations for environmental injustice

In addition, since my research question focuses strongly on how negotiations developed and which positions and preferences may appear more relevant than others, the theory of bargaining by Crystal regarding liberalizing trade in services will help set the theoretical framework of this research. The main theoretical approach will be based on three main hypotheses/assumptions, linked inter alia to Crystal's theory.

- 1) *Hypothesis/argument 1 (relative power): The EU, as the stronger power, has dominated the trade negotiations and marginalized Mercosur countries, leaving out core environmental provisions in the draft EU-Mercosur agreement (H1).*

This hypothesis (H1) focuses mainly on power relation theory, arguing that the EU, being a stronger institutional organization, has more power to impose its positions and preferences than Mercosur. The reasons for this can vary, such as stronger financial institutions, with the EU having a common currency that is stronger than any currency of the Mercosur countries. Structurally, the EU and Mercosur also differ significantly. The EU is often referred to as a “supranational institution” as EU institutions make supranational binding decisions in their legislative, executive, budgetary, appointment, and quasi-constitutional procedures (Schonard, 2023). This rationale is less applied within Mercosur institutions, which tend to be less autonomous, independent, and centralized (Mukhametdinov, 2007). From a structural point of view, decision-making strongly differs, with Mercosur countries requiring unanimous consent, while the EU uses a variety of decision-making tools, including simple majority, qualified majority, or consensus (Mukhametdinov, 2007). Hence, this hypothesis argues that since the EU is a relatively greater power, it has managed to marginalize Mercosur preferences, putting environmental concerns in the shadow of the agreement.

- 2) *Hypothesis/argument 2 (internal EU): The leading EU actors involved in the trade negotiations were from its trade division, whilst environmental actors were marginalized (exclusive EU competence).*

The second hypothesis this research aims to test is based on the assumption that key actors during the negotiations predominantly came from the trade division, and environmental actors, such as NGOs, were not given sufficient active involvement. As a result, the outcomes of the

current agreement prioritize economic development and benefits, often excluding environmental concerns. Thus, within the EU, domestic and national laws regarding environmental protection did not play a leading role, as the mandate to establish this agreement was delegated to the EU's exclusive competences, particularly involving the trade divisions in negotiating the deal. Hypothesis 2 sheds light on the key EU actors during the negotiation talks.

3) *Hypothesis/argument 3 (internal Mercosur): Mercosur negotiators involved in the trade negotiations primarily focus on trade issues, while environmental actors were marginalized.*

Looking inside Mercosur as an institution, one could argue that, similar to the EU, environmental actors did not have much influence on what was being negotiated. Since developing countries are characterized by slower economic development than industrialized nations, it appears logical that Mercosur countries placed a greater focus on trade policies than environmental policies. The prioritization of economic development over environmental protection, to address other social inequalities (e.g., poverty, unemployment), can explain this tendency. In the context of the negotiations, NGO and public participation was rather restricted, and citizens were not publicly aware of the details of the negotiations. Subsequently, an examination of the internal structure will be described in the following chapter.

Finally, in the empirical analysis chapter, the above-mentioned hypotheses will be tested and linked with empirical observations, particularly from current literature and official documents. However, before proceeding to the empirical analysis, the next chapter will explain how the information for this research and the aforementioned hypotheses will be assessed.

6. Methodology

6.1 Data acquisition of hypothesis 1, hypothesis 2 and hypothesis 3

After presenting the key provisions on environmental issues enshrined in the agreement and the three hypotheses of this research, the aim of this chapter is to outline the methodological framework that applies to this research.

Firstly, when it comes to the methodology, this research will use a mixed-method approach combining qualitative and quantitative data, with a Convergent (parallel or concurrent) design (Alele, 2021), where data are collected simultaneously but analyzed separately, and the results are merged or integrated (Alele, 2021). The qualitative analysis will concentrate on reviewing existing literature to understand the strengths and weaknesses of the current discourse on the EU-Mercosur agreement. This includes scholarly articles, policy papers, and reports from reputable organizations (e.g., NGOs). Furthermore, the content of key documents such as the

draft agreement, statements from negotiating parties, and additional reports from different organizations will help to complement the qualitative data collection and identify the specific provisions related to the environment, human rights, and sustainable development. The research primarily utilizes qualitative analysis, drawing from a range of primary and secondary sources.

At the same time, quantitative data will be collected from official trade statistics and databases, including potentially trade volumes, patterns, and trends, between the EU and Mercosur countries to shed light on the economic implications of the agreement. This comprehensive approach allows for a nuanced understanding of how environmental issues are integrated into trade negotiations and the varying impacts these have across different Latin American countries. Finally, an advantage of the convergent mixed methods design is that it allows for a more comprehensive and nuanced understanding of what motivates and demotivates the two blocs (EU and Mercosur) when negotiating the draft agreement by drawing on both types of data.

Data acquisition of Hypothesis 1 (H1)

The first hypothesis concentrates on the EU marginalizing Mercosur countries during trade negotiations, ultimately leading to a prioritization of trade issues over environmental concerns. To assess this hypothesis, this research will examine how trade power can be measured. Data such as GDP per capita of EU countries in comparison to Mercosur countries can serve as a reference. Additionally, understanding the positions of the trade partners is crucial. To assess how the EU could have marginalized Mercosur in the trade agreement negotiations, one could look at which of the two blocs is in greater "need" of the agreement.

If it is argued that Mercosur countries needed this agreement more than the EU, the independent variable, which is relative power, could be explained. Demonstrating that the EU was in less need can be assessed through current literature providing evidence for positions regarding the agreement, which will be discussed in the empirical analysis chapter.

Data acquisition for H2

The second hypothesis (H2) argues that the balance of power within the EU was unequal, with the trade division taking the lead in negotiation talks, marginalizing environmental negotiators. To gather information for H2, this thesis will need to outline the internal issues and balance of power dynamics within the EU. Specifically, the distribution of key actors from the trade and environmental divisions will be compared. This will involve examining the negotiation mandate of the EU and other official documents, as well as current academic literature, to support this hypothesis.

The independent variable in this case is the factor influencing the outcomes (dependent variable), which is the predominance of EU trade actors on the one hand and the underrepresentation of environmental actors, such as those from the EU's environmental divisions, on the other hand.

Data acquisition for H3

For H3, the focus shifts to the Mercosur side and its actors. Through current literature and official documents, the positions and current trends in foreign trade policies of the respective South American countries will be analyzed. Once these trends and positions are established, this will help to explain how far they were prioritizing (or not) trade issues over environmental problems. The independent variables here are the prioritization of economic concerns by Mercosur negotiators and the marginalization of environmental actors during the negotiations, while examining the internal structure of Mercosur. To evaluate this, the negotiating mandate, as well as official documents (minutes, official statements), and media reports outlining participation during the meetings, will be examined.

Acquisition of limitations of environmental provisions

The limitations of environmental provisions will be presented in the empirical chapter. For this, the legal document of the agreement and the chapters focusing on environmental protection will be analyzed and interpreted. Before adhering to the legal provisions within the Free Trade Agreement, the context in which negotiations and consultations were held will be exposed. This information will be gathered through reports on the rounds of negotiations as well as examining potential Sustainability Impact Assessments that were conducted during the negotiation periods, from 2016 until 2019. The aim of this section is to prove in the first place that limitations of environmental provisions leading to a mismanagement of the share of responsibilities with regards to environmental protections, are evident.

6.2 Assessment of Environmental justice

This subchapter will evaluate whether the agreement acknowledges and addresses issues of environmental justice, such as the equitable distribution of environmental benefits and burdens. During the research, two major components emerged as necessary to ensure climate justice for both parties.

The first component is support for vulnerable or marginalized communities. In the theoretical framework, the concept of Global South and Global North countries was illustrated. When it comes to climate change repercussions, the concept of environmental justice can be understood in the context of the Global South and North relationship. Global North countries are the major

polluters, while Global South countries, in this case, Mercosur countries, bear the burden. To acquire this information, the research will examine provisions that support adaptation and resilience-building for communities most affected by the consequences of climate change.

Secondly, another approach to gather information on climate justice included in the FTA is by examining the participation and transparency processes. This involves looking at the involvement in the negotiation process and the representation of affected communities during the negotiations. Transparency will be evaluated by determining whether the public can access information on the involved parties easily. This will include reviewing documentation and minutes of negotiations, the availability of reports, and whether these reports are published promptly after negotiation talks to see if the timeline is consistent with the negotiations.

7. Empirical analysis

The empirical analysis chapter will be divided into two sections. The first section will describe the outcomes, specifically the limitations in environmental justice. The second part of the empirical analysis will offer possible explanations for these limitations, supported by the three established hypotheses. After analyzing the findings from all three scenarios, the most adequate hypothesis will be used to answer the primary research question, which focuses on understanding why there is a lack of environmental justice in the current EU-Mercosur FTA. Thus, the aim of this chapter is to compile all the information gathered during the research and find an explanation for the dependent variable.

7.1 Sustainability Impact Assessment (SIA)

When discussing the inclusion of environmental protection to ensure environmental justice, it is important to study the potential economic, environmental, social, and human rights effects that the proposed agreement may have. As with other free trade agreements, sustainability impact assessments (SIAs) are crucial, as they allow civil society and other non-state actors to raise their concerns. For the researched free trade agreement, the EU Commission published their first Trade Sustainability Impact Assessment nine years after the initial negotiations began. This was followed by two other publicly available assessments in 2011: one focusing on the potential economic effects on both contracting parties through an Economic Impact Assessment and the other studying the impact on agriculture. After this, no Trade Sustainability Impact Assessment was published until the signing of the Agreement in principle. Only after the conclusion of the agreement, and under public pressure, was an SIA finally published on July 8, 2020 (Commission publishes final SIA and Position Paper on EU-Mercosur trade agreement - European Commission).

The absence of such reports and assessments is crucial, as it highlights the problem of transparency during the negotiations and simultaneously hinders the ability to ensure real environmental justice, making it more difficult to detect environmentally harmful effects. Important findings in the SIA indicated that European countries, which are already responsible for more than a third of global deforestation linked to trade in agricultural products (Beyond the Bolsonaro policy, it is the very content of the EU-Mercosur (...) - Veblen Institute), may increase deforestation in the region by over 25% in the upcoming years if the agreement is approved. Additionally, the SIA conducted by the Commission faces several limitations, attempting to minimize the real environmental impact. An estimation from the data suggests that CO2 emissions would fluctuate between 4.7 and 6.8 million tonnes. Simultaneously, the Commission clearly states in their text that the conducted study does not account for freight transport or deforestation (Beyond the Bolsonaro policy, it is the very content of the EU-Mercosur (...) - Veblen Institute)—a bold oversight for a region that ranks third in the world for deforestation.

7.2 The EU-Mercosur FTA substantive elements and legal provisions

The Agreement, as signed in 2019, is divided into 17 sections, as indicated in the 'Agreement in principle.' When examining the substance of the EU-Mercosur FTA, four major types of clauses can be identified. The first and strongest type is a legally binding clause. Here, the wording for the clause would be 'shall implement,' indicating a legal obligation for implementation. The second type is a supportive clause (Zengerling, 2020), which is a nuanced version of the first one and tends to use the term 'shall promote/support.' In this case, a provision is not legally binding, but parties to the agreement can still be held accountable for breaching this provision or condemned for not supporting it. The third type is voluntary, usually referred to as 'cooperate' or 'discuss.' The last option occurs when it is not enshrined in the chapter at all. The following table (figure 3), inspired by the assessment of the WBGU, shows which environmental and social clauses the EU-Mercosur FTA contains and how much weight they are given by ranking them accordingly.

Figure 3

Legal provisions of sustainable development within EU-Mercosur Free Trade Agreement

FTA		Mercosur	
Clause			
Trade and Sustainable Development			
Objective SD		X	

Right to regulate	XX
Non derogation	XX
Enhancing protection levels	XX
Multilateral Environmental Agreements	X
Climate change, PA	XX
Forests / timber trade	X
Biodiversity	X
Supply chain management	X
Precautionary principle	X
Environmental goods	-
Review impact on SD	-
Cooperation	X
Contact points	X
Consultations	X
Panel of experts	X
Civil society	X
No regular DS	X
Trade in Goods	
General exception	X
Technical Barriers to Trade (TBT)	
Transparency	X
Marking / labelling	X
Technical Regulations	-
Sanitary and Phytosanitary Measures (SPS)	
Objective	X
General exception	-
Trade in Services	
Licensing	X
Right to regulate	-
Environmental Services	-
General exception	-
Public Procurement	

General exception	X
Environmental considerations	-
Technical specifications	XX
Evaluation criteria tenders	XX
Cooperation	X
Competition/Subsidies	
Public policy goals	X
Environmental Purposes	-
Transparency	-
Cooperation	X
Dialogue / Cooperation and Capacity Building	
Animal welfare	X
Biotechnology	-
Agricultural biotech	X
Scient. mat. food safety, animal and plant health	X
Forestry	-
Raw materials	-
Sustainable development	-

Legend: XXX: legally binding

XX: supporting

X: voluntarily

/: no clause at all

Note. The data is retrieved from “Strengthening Climate Protection and Development through International Trade Law”, by Vienna Advisory Council on Global Change, May 2020, *Commissioned Expert’s Study for the WBGU Flagship Report „Rethinking Land in the Anthropocene: from Separation to Integration“*.

In the following sections, the main chapters of the Agreement will be presented, and examples of articles contained within these chapters will be analyzed and discussed. For the purpose of

providing a clearer overview, only specific elements with major consequences or those that set conditions for inaction on environmental concerns will be addressed.

7.3 Environmental provisions in the FTA and their limitations

As aforementioned, this sub-chapter of the empirical analysis will outline the lack of environmental provisions in the FTA. This section focuses on the main chapters integrating substantive environmental aspects into their legal provisions of the FTA. Before identifying these, a brief context will be given to better understand the framework in which the Agreement was negotiated. An important consideration in the 'background' is that until the official announcement and conclusion of the FTA, no sustainability impact assessment was available. Hence, the agreement, as concluded in 2019, was accepted without a specific 'comprehensive social and environmental impact assessment.'

Considering this lack of information on environmental protection, one can already claim that the FTA has been limited in climate justice from the outset, providing no SIA and mentioning accountability. This next sub-chapter will examine the main environmental provisions, clauses, and commitments related to climate and environmental protection, as well as sustainability, contained in the Agreement, providing concrete examples.

Trade and Sustainable Development Chapter in the FTA

The first chapter to be analyzed is the chapter on Trade and Sustainable Development. As stated in Article 1, the objective of this chapter is “to enhance the integration of sustainable development in the Parties' trade and investment relationship, notably by establishing principles and actions concerning labor and environmental aspects of sustainable development of specific relevance in a trade and investment context.” Already at the outset of the chapter, there is the nuance of a “trade and investment context” that can indicate sustainable development must be framed within the bounds of trade, potentially subordinating environmental priorities.

In addition, a legal analysis on the compatibility of environmental standards and the Agreement illustrates potential violations of “international climate protection law,” related to the UNFCCC and Paris Agreement. Although the Agreement has a specific Chapter on “Trade and Sustainable Development,” where they legally “commit” (the word used in the legal document is “shall”) to comply with the UNFCCC and the Paris Agreement (as stated in Article 6), certain legal provisions risk directly contravening the Paris Agreement. To illustrate, Article 2 of the Paris Agreement (PA) states to “promote the positive contribution of trade to a pathway towards low greenhouse gas emissions (GHG) and climate-resilient development.” (Paris Agreement, 2015, Article 2) However, as depicted in table 3, greenhouse gas emissions are

expected to rise through the Agreement, eventually directly contradicting the commitment of the PA to lower GHG. Accordingly, when it comes to accountability, legal provisions on climate justice and the fair distribution of climate protection measures are not mentioned in the treaty.

In the same chapter, Article 2 highlights the “right to regulate and levels of protection,” allowing parties of the Treaty a broader legal margin, not fully obligating them to adhere to environmental protection provisions. In addition, in the context of climate justice, no accountability can be assured. As aforementioned in previous sections, the concept of climate justice integrates a component that there must be a fair distribution of climate protection responsibilities. However, this idea can only be supported if parties breaching climate justice obligations can be held legally accountable. Moreover, in the same Chapter of the FTA, dispute resolution regarding trade and sustainability development matters, as mentioned in Article 15, is only possible through informal dispute mechanisms. This means that parties entering into disagreements or disputes on sustainability issues are required to use “dialogue, consultation, exchange of information, and cooperation to address any disagreement on the interpretation or application” (European Commission, 2022, p.12)

A major problem with the exclusion of formal dispute settlement for trade and sustainable development concerns is that there are no legal consequences for parties that do not adhere to the provisions of environmental protection. In other words, if informal dispute resolution methods fail, parties breaching the commitment of the provisions under the trade and sustainability chapter cannot be held legally accountable. Since no sanctions can be imposed, the only option that a contracting party is left with is suggestions and recommendations. Accordingly, no real climate justice can be assured. All in all, although the sustainability chapter contains a general statement of intent on the objective of sustainable development, clauses on “right to regulate” and “levels of protection” (European Commission, 2022, p.2) undermine the focus on environmental protection and revoke the credibility in assuring climate justice.

Besides the chapter on Trade and Sustainable Development, the FTA gives only limited space to environmental issues, which will be analyzed in the following sub-chapters.

Chapter: trade in goods

When examining the chapter on “Trade in Goods,” other environmental clauses can be found, though they tend to be relegated to the background of the discussions, as the chapter's main focus is on trade facilitation processes. Article 13 of this chapter sets the basis for “general exceptions” with regards to Art. XX of the General Agreement on Trade and Tariffs (GATT),

ultimately justifying trade restrictions if they protect “human, animal, or plant life or health” and/or prevent the “conservation of exhaustible natural resources.

Chapter: Technical barriers to trade

Another source where environmental issues are raised in the Agreement is the chapter on Technical Barriers to Trade. In this chapter, Article 8 highlights the importance of transparency obligations that parties are required to respect. Article 8 clearly states that public consultation processes are to be undertaken to inform the public about “major technical regulations and conformity assessment procedures which may have a significant effect on trade” and that environmental protection is one of the exceptions where trade barriers can be implemented. Although this provision highlights a special consideration for environmental issues, the emphasis is placed on free trade interests rather than environmental protection interests. Thus, ensuring the visibility of environmental regulations affecting trade again places the focus on trade efficiency over environmental problems.

Furthermore, Article 9 on Marking and Labelling addresses requirements for labelling and marking products and the exceptions that can be granted “where it considers that the protection of public health and the environment, the protection against deceptive practices, and any other legitimate objectives under the TBT Agreement are not compromised.” Accordingly, products that fall under this category could obtain non-permanent or detachable labels instead of physical ones and may include relevant information about the product in accompanying documentation. However, this preference for “non-permanent or detachable labels” and the shifting of product information is rather beneficial for marketing purposes rather than environmental protection, as it minimizes barriers to trade resulting from labelling requirements.

To conclude, while there are environmental provisions included in the FTA, these provisions often take a back seat to trade facilitation and economic priorities. The lack of a comprehensive sustainability impact assessment at the agreement's inception illustrates this conception. Moreover, the "Trade and Sustainable Development" chapter, despite its intent, integrates clauses that permit broad regulatory flexibility and lack robust accountability mechanisms (e.g., the ability to impose sanctions), undermining serious environmental protection. Finally, environmental clauses in the "Trade in Goods" and "Technical Barriers to Trade" chapters further highlight the focus on trade efficiency over environmental interests, with the latter often framed as exceptions rather than core components.

7.4 Explanations for shortcomings of environmental protection in FTA

Previously, evidence was shown that environmental provisions were rather limited than strengthened in the current FTA. The reasons for these limitations are multiple, with some factors being interlinked. This research tries to argue these limitations through the aforementioned three hypotheses.

First of all, the first hypothesis argues that the EU, as the stronger power, could influence the priorities enshrined in the Agreement. This outsourcing of Mercosur countries' concerns has led to prioritizing other elements, such as economic benefits, over environmental protection. As mentioned earlier, to assess the relative power and analyze the power dynamics of both contracting parties, this research will shed light on economic indicators, such as GDP per capita, as well as the trade volume and balance between the EU and Mercosur. Through the current literature and the economic and political context of the two regions, information can be collected to conclude whether there was an imbalance of necessity to establish this agreement, arguing that Mercosur countries needed the agreement more than the EU.

First economic factor: GDP per capita (annual) and GDP per capita in Purchasing Power Standards (PPS)

The first economic factor to consider in order to establish so-called economic power disparities is obtained by looking at the respective GDP per capita growth. The data shown is measured annually in percentages. Table 1 shows the GDP per capita growth from the EU and Mercosur countries over the entire negotiation process, spanning 20 years. This table is illustrated for reference purposes. The main focus will be limited to the last three years before the agreement reached a consensus. As negotiations over an agreement face several administrative challenges and legal steps that can extend over a period of years, a focus is put on the last three years, meaning 2016, which marks the year where negotiations regained political momentum as negotiations intensified (Handelsabkommen der EU mit dem Mercosur, 2023)

Figure 4

GDP per capita growth (annual %) - European Union, Brazil, Paraguay, Uruguay, Argentina from 1999-2019



Note. Data retrieved from the World Bank (2023). GDP per capita growth (annual %). Retrieved from <https://data.worldbank.org/indicator/NY.GDP.PCAP.KD.ZG?end=2019&locations=EU-BR-PY-UY-AR&start=2016&view=chart>

Figure 5

GDP per capita growth (annual %) - European Union, Brazil, Paraguay, Uruguay, Argentina from 2016 to 2019



Data retrieved from the World Bank (2023). GDP per capita growth (annual %). Retrieved from <https://data.worldbank.org/indicator/NY.GDP.PCAP.KD.ZG?end=2019&locations=EU-BR-PY-UY-AR&start=2016&view=chart>

According to the provided data, the EU experienced a slight decrease of 1% in its GDP per capita growth from 2017 until 2019. Looking at the two key actors of Mercosur, Argentina and Brazil, both nations faced a significant increase in GDP per capita from 2016 until 2017. For Argentina, this lasted only one year. In 2018, the country's GDP decreased to levels lower than in 2016. Brazil augmented its GDP per capita until 2018 and then faced a similar percentage decline as the EU. Overall, countries from the two blocs, with the exception of Argentina and Uruguay, experienced a reduction in their annual economic activity, partially explaining their readiness to open up their trade markets.

Nevertheless, when expressed in purchasing power standards (PPS) (Fenech, 2024), the EU ranks as the third largest economy globally, after the US and China (Statistics | Eurostat). Since

the Mercosur countries do not act as a single market, information regarding the entire economy of the South American countries cannot be gathered.

Second economic factor: trade volume

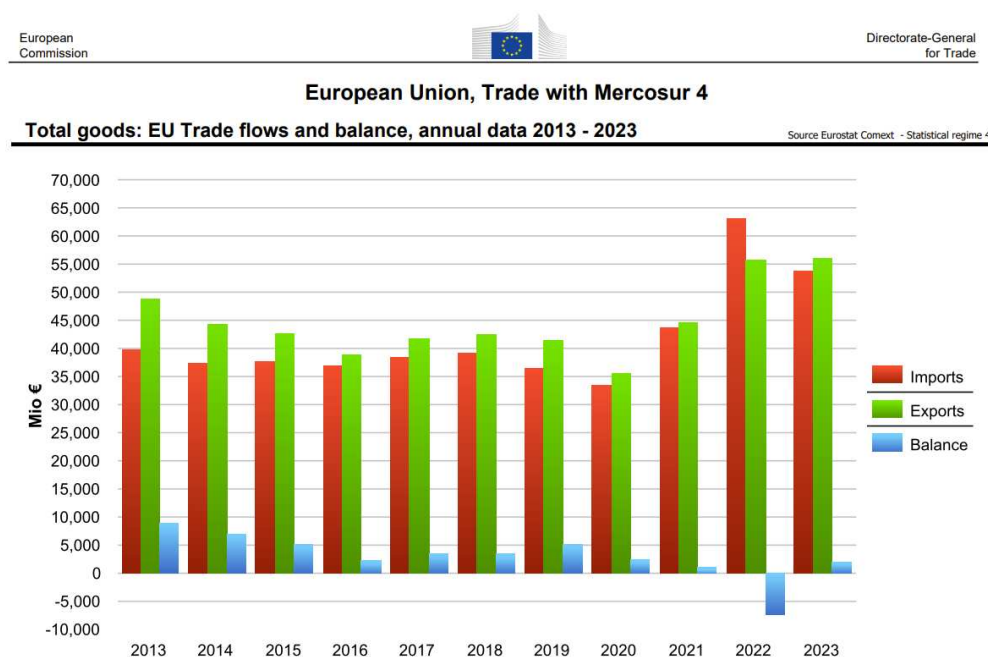
When examining the second factor, trade flows may indicate that Mercosur countries were facing a lack of foreign trade activities and were in urgent need to boost their domestic economies. This situation left the EU with the privilege to determine core elements of the Agreement.

❖ *EU-Mercosur trade relationship from 2016 - 2019*

Before gathering information about Mercosur trade on a global scale, it is crucial to understand the EU-Mercosur trade relationship. In Table 4, the focus will be on the period from 2016, when the agreement regained new political momentum, until the FTA reached an agreement in 2019.

Figure 6

Total goods: EU Trade flows and balance, annual data 2013 - 2023



Note. Data retrieved from European Commission (2024), from https://webgate.ec.europa.eu/isdb_results/factsheets/region/details_mercosur-4_en.pdf

According to figure 6 the EU's trade balance with Mercosur countries from 2016 until 2019 was generally in a trade surplus, with the EU exporting more goods to Mercosur than vice versa. Nonetheless, it is important to note that despite this overall trade surplus from the

European side, a significant and constant trade deficit in the food sector can be observed. In 2021, this trade deficit amounted to €17 billion (EU Commission DG Trade, 2024). As noted in the chapter on the substantive elements of the agreement, imports in the food sector play a key role in this FTA as it eliminates trade tariffs by nearly 92%. When considering this trade deficit in the food sector, one could argue that the EU relies on Mercosur imports, and with the signing of this agreement, this dependence would likely expand further.

❖ *Mercosur trade flows*

Nonetheless, if the EU was Mercosur's first trading partner at the beginning of the negotiations in 2000, today's political and economic context has significantly changed these tendencies. In recent years, China has become Mercosur's most important trading partner. Particularly under President Trump, America's foreign trade policy imposed protectionist measures and declared a trade war with China, which also affected the EU's global political and economic influence. As Chinese influence increased in South America, one could argue that the EU was committed to "winning back" its trading partner to regain more global influence.

Third factor: current trends for trade agreement by both blocs

Generally speaking, one can argue that the EU has a stronger institution than Mercosur, due to its special nature, often referred to as a 'supranational institution.' Overall, the EU had an advantage as it benefits from a more stable institution. However, in recent years, the EU has been losing its influence in South America. Therefore, it was in their interest to establish this FTA.

All in all, it is true that the EU remains a more stable institution than Mercosur and can be regarded in economic terms as having greater economic activity than its trading partner. However, the rise of Chinese influence in the Mercosur region has definitely impacted the EU's foreign trade policies. Establishing a new free trade zone between Mercosur and the EU would greatly enhance the EU's influence in the region and counter China's influence. Considering this argument, one could argue that Mercosur countries did not need the agreement more; rather, it was in the EU's interest to establish this FTA. Hence, H1 could not be used to explain the lack of environmental justice.

The second hypothesis focuses on the assumption that the leading EU actors involved in the trade negotiations were from its trade division, while environmental actors were marginalized. Here, the focus is on the EU and its exclusive competence. In fact, the EU's Common Commercial Policy grants the European Commission exclusive competence with trade-related

issues. Regarding the EU-Mercosur FTA, it was mandated under the supervision of the Director General for Trade. It is worth mentioning that the negotiating mandate, established in 1999, has never been made officially public. When it comes to trade matters, it is in the hands of the Trade department of the EU to negotiate the best deal. The lack of involvement of the Director General of Environment highlights the marginalization of environmental actors in these negotiations. Since environmental matters are considered not directly linked with economic questions, the trade repercussions on the environment and its protection are indisputable. In the previous section of this chapter, evidence showed attempts to establish sustainability provisions in the Agreement's text. Nevertheless, looking at the actors involved during the negotiations and the lobbies that invested significant amounts of money to influence negotiation dynamics clearly undermines the impact of environmental actors, as outlined in the following sub-chapter.

Actors involved during negotiation process

This sub-chapter will describe the key actors involved during the bilateral negotiations between the two blocs. It is important to note that this can vary from non-state actors to heads of state and include a variety of actors acting on behalf of groups, including but not limited to, lobbies, NGOs, and heads of state.

To better understand how the EU-Mercosur agreement came to be, it is essential to know who the involved actors were. Throughout the research, it became clear that a lack of transparency is an important element that hinders fully tracking the negotiation actors and analyzing their preferences.

From the European side, two important actors were involved in drafting the Agreement. First, it was the European Commission (specifically, its Director General for Trade), which, under a negotiating mandate authorized by the European Council and in close cooperation with the latter and the European Parliament, negotiated the Agreement with their counterparts—the Mercosur countries. On 28 June 2019, after nearly two decades of negotiations, consensus was found on the text of the agreement, and a formal proposal was submitted by the Commission to the Council of the EU for its adoption. The next step requires the Council to adopt a decision for the signature of the Agreement on behalf of the EU. This is the stage where the Free Trade Agreement is still on hold, and the ratification process cannot proceed until the decision has been adopted. At the same time, the European External Action Service (EEAS) negotiated the political part, which was only signed the year after, on 18 June 2020 (Verheyen & Winter, 2024). Even though this text has not been officially published yet, Greenpeace leaked parts of this political agreement in principle.

To define the main actors during the negotiation process, it is important to divide the analysis into two blocs. The first bloc will concentrate on Europe's most influential actors, while the second bloc will cover the Mercosur countries' engagement and vital actors. After analyzing these two parties separately, a short overview of the results when they sat together at the negotiation table will be drafted.

One of the most influential lobby groups involved in Brussels is Business Europe. According to recent research published by Friends of the Earth, Business Europe invested more than €4 million in EU lobbying efforts. Among the partner companies included in Business Europe are major car manufacturers such as Volkswagen and Toyota, as well as steel industries such as ArcelorMittal (ASGroup - Our Partner Companies | BusinessEurope, 2024) Although benefits for enterprises may vary, big businesses are still looking to expand their trade. The EU-Mercosur Free Trade Agreement sets a good basis for this by allowing free trade of pesticides, polluting vehicles, and ethanol (Tansey et al., 2022).

Clearly stated in their Trade Agenda for the 21st century. Business Europe (2020) highlights: "EuropeBusiness supports a high level of standards in the social and environmental areas. Pursuing these standards in our bilateral trade negotiations can boost the competitiveness of European business and make trade fairer. However, these objectives cannot supersede economics and prevent the EU from pursuing its bilateral trade agenda (ASGroup - our partner companies, p.24)."

This statement clearly illustrates the prioritisation of the EU's economic agenda over their green one.

In the same report, Friends of the Earth reveal the top-level trade meetings on the EU-Mercosur deal since it reached an agreement and conclude that industry and farming lobbies constitute more than half of the key actors in further negotiations. Meanwhile, 20% of the key actors are trade unions, environmental, and human rights groups, and another 20% are institutional fora or mixed groups involved in the debate.

Figure 7

Top-level trade meetings on the EU-Mercosur deal since agreement was reached



Note. The powers pushing for the planet-wrecking EU-Mercosur trade deal...and using it as a license to greenwash (p. 6), by R. Tansey, A. Changoe, L. Hieber, P. de Clerck, M. Douo, & C. Hutin, 2022, Friends of the Earth Europe. ©2022 by Friends of the Earth Europe. Reprinted with permission.

Another important finding that came to light while delving into details regarding the negotiators is the lack of transparency. As the report from Friends of the Earth illustrated, important minutes from meetings could not be retrieved. Specifically, this includes two meetings with the European Chemical Industry Council short CEFIC in 2019 and 2020 and a meeting with the car lobby ACEA (Tansey et al., 2022).

To conclude, the marginalization of environmental actors in the negotiation processes was proven to be true. From important industries investing and pushing for an agreement to a strong focus on trade actors without consultation of environmental actors and without a proper sustainability impact assessment prior to the drawing of the agreement in principle, a consensus was reached in 2019.

The third hypothesis directs attention to the internal structure of Mercosur, arguing that it was Mercosur actors who neglected environmental parties in the process. As aforementioned, the negotiating mandate cannot be analyzed as it is not accessible to the public. However, observing Mercosur's internal changes in their foreign trade policies, important findings can be assessed.

First of all, looking at the three years before reaching consensus, Argentina turned towards a market-friendly and open government under President Mauricio Macri (2015–2019)

(Brudzińska, 2018). In Brazil, 2016 was politically challenging, with several protests and the impeachment of President Dilma Rousseff. When right-wing president Jair Bolsonaro came into power in 2018, aspirations for a free trade agreement gained momentum. Despite a 34 percent increase in deforestation in 2019—the biggest jump in this century—Bolsonaro's deforestation policies took precedence, and expanding foreign trade policies became one of his top priorities (Rainforest Foundation Norway, n.d.). The absence of environmental action raised severe criticism in Europe, eventually leading to a freeze of the agreement, initially achieved by the veto from the French government. France's resilience affected other national governments within the EU, including Austria and Germany. The political situation in Uruguay and Paraguay between 2016 and 2019 was relatively stable. The Uruguayan government and national stakeholders in Paraguay expressed support for the Agreement, with meetings held on several occasions with Spanish stakeholders.

When looking at the two main players in Mercosur, Brazil and Argentina, it is evident that their internal domestic policies and political orientations played a role in drafting the agreement. Under Bolsonaro and Macri, it became clear that global trade relations needed to expand to address domestic challenges. Bolsonaro, in particular, was publicly known for his high trade ambitions and lack of environmental consideration. In this regard, Hypothesis 3 remains valid in suggesting that Mercosur did not prioritize environmental issues to accelerate trade negotiations. However, since this hypothesis excludes the EU's responsibility to take action, it cannot be considered entirely valid. The EU, in 2019—the same year the Agreement was signed—bore significant responsibility regarding deforestation escalations. If greater consideration had been given to this matter, such an agreement would not have been signed in the first place.

7.5 Assessment of environmental justice and key findings

This sub-chapter is dedicated to assessing the components of the concept of environmental justice within the EU-Mercosur Free Trade Agreement. As previously mentioned, the evaluation of environmental justice in this research involves presenting evidence that shows environmental repercussions due to the consequences of the agreement are being considered, and that there is an equitable distribution of environmental benefits and burdens for all affected communities. Despite the inherent limitations in measuring environmental justice, as it remains a rather abstract concept or idea, this assessment summarizes the major findings that stood out during the research, including the marginalisation of indigenous rights and protection, lack of

transparency and accessible data and the need for enhance legal provisions assuring accountability.

Risk of environmental degradation and environmental negligence

The outcomes of the negotiations were characterized by significant risks for the environment and a lack of considering labour conditions, all linked to the shortcoming of environmental considerations in the Free Trade Agreement. Despite aspirations for an increase in economic activities and the creations of jobs, ensuring equitable distribution of benefits and burdens, as a consequence of this Agreement, were not included. Furthermore, economic studies shows that the costs of high CO₂ emissions related to these agreements would increase significantly, and the two trading blocs would have to pay for this. Hence, the rationale behind the agreement that it would create jobs and exacerbate economic developments especially in Mercosur countries, is partially true, as the ecological impacts also have a price, an aspect that was not really considered by the negotiators.

Limitations of environmental legally-binding provisions and Accountability

Additionally, the current agreement faces a significant gap with regards to legal provisions that ensure accountability when it comes to violation of environmental protection. Through the research, in particular when analyzing the legal provisions, the dispute settlement mechanisms and legally-binding provisions, strongly affected the seriousness of committing to environmental protection within the Free Trade Agreement. This lack of accountability measures results in the sidelining of environmental concerns and puts greater focus on solely economic gains, gained through the Agreement. In this regards, reasons why the outcomes of this Free Trade Agreement resulted in a lack of environmental protection, can be reasoned because of its lack of legally binding provisions when it comes to environmental protection.

Marginalisation of indigenous rights and protection

One of the key findings that came out during the research in order to explain the shortcomings of environmental protection was the marginalisation of indigenous rights and protection in the current Agreement in principle. Thus, the consideration of vulnerable communities in the Free Trade Agreement falls short in the provisions of the Agreement. The few chapters that mention environmental aspects, such as the Trade and Sustainable Development Chapter or the Chapter on Trade in Goods, do not include any provisions for the protection of indigenous rights (Brasier, 2023). Although these communities are among the first to be affected, they are not adequately addressed in the Agreement. As previously shown in Table 4, the EU has a significant trade deficit when it comes to importing food from Mercosur countries. The

Agreement aims to directly increase the trade of agricultural commodities through the reduction of trade tariffs, which would significantly magnify the pressure on indigenous lands. In addition, Brazil has been experiencing serious issues with deforestation and land-grabbing of indigenous lands in recent years. Accordingly, many NGOs have expressed concerns about the potential harms this agreement will cause not only to the environment but also to indigenous rights (FERN, n.d.). The absence of explicit protections for indigenous people, who have the “right to free, prior, and informed consent about any trade or investment that may affect them” (Tuxa & Brasier, 2023), clearly speaks against environmental justice. Besides not mentioning indigenous rights, the agreement does not contain provisions on the traceability of goods. As the number of imported and exported goods between both blocs will significantly increase, it is essential to ensure traceability so that companies are aware of the place of origin of the goods they import. Without indigenous rights provisions, there is no accountability in cases of land robbing or similar crimes, nor are there resilience-building measures to support the most vulnerable communities. The lack of indigenous rights provisions clearly suggests that no environmental justice can be considered, as environmental justice encompasses the fair treatment and meaningful involvement of all affected communities in the development, implementation, and enforcement of laws and policies that may affect them.

Lack of transparency and public consultation

Additionally, negotiations patterns were strongly characterized by a significant lack of transparency and absence of public consultations. The aspect of transparency is important to indicate whether environmental justice was considered through the participation and consultation with the public. Aligned with this, transparency plays a key role. Although it is not considered a factor per se, it is an important tool to assess environmental justice. Transparency matters regarding the EU-Mercosur Free Trade Agreement process were enshrined in the EU’s proposal on transparency, published in March 2017. Additionally, when looking at organized events by the EU Commission to encourage civil society dialogue related to the Free Trade Agreement, three so-called partner meetings can be found on the official website, with only one held physically. It is crucial to note that these meetings were organized after the EU-Mercosur Agreement was signed, with the first one happening in March 2020 (European Commission, n.d.).

Regarding reports forecasting negotiation processes, 13 official rounds of reports have been accessible to the public since 2016. However, the counting of the reports starts with negotiation round number 26, as no minutes of negotiation rounds prior to October 2016 have been

published to date. These reports, however, focused on the basic progress made during official meetings, excluding consultations from public opinion, such as NGOs.

7.6 Interpretation

To wrap up, this sub-chapter provides an interpretation of the key findings of this research.

The aim of this research was to explain why there was a lack of environmental justice component when the agreement was concluded in 2019. One of the biggest problems this research faced was the lack of transparency during the negotiation processes. From missing minutes to the absence of events calling for public consultation with civil society, explaining the rationale behind the agreement was challenging. However, proving the shortcomings and lack of environmental justice was clear. Vague, non-binding provisions with no real possibility to act when it comes to disputes heavily illustrated the limitations of environmental protection. The absence of the rights of indigenous communities—central actors in the debate of environmental justice—in the legal text added to this conclusion. Furthermore, regarding potential explanations for this shortcoming of environmental provisions, the three presented hypotheses were tested. The hypothesis that suggested to be the most accurate according to the findings of the research was hypothesis number two. The first hypothesis, which suggested that the EU had relative power over Mercosur countries and therefore took the lead in negotiation talks, does not align with the findings of this research. In fact, Mercosur countries, despite the region's internal challenges, showed resilience. As depicted by the lengthy back-and-forth of negotiations, despite suffering from greater economic barriers, Mercosur countries have their own interests. If they had been in more need of this agreement than their counterpart, they would have concluded the deal years ago.

The third hypothesis focused primarily on the internal structure of Mercosur, claiming that it was Mercosur that did not want to include sufficient environmental protection and responsibility. The EU, facing an immense trade deficit in agricultural goods, has an economic interest in signing this agreement. Additionally, the pressure to conduct a sustainability impact assessment regarding the potential effects on the environment was not a priority, not even for the EU Commission.

When observing the actors invited to the negotiation table and those invested in this trade agreement, it was mainly the industrialists' union rather than labor unions. Therefore, the second hypothesis, arguing that overall trade negotiators dominated the discussions, is valid. The trade agreement will have, in the first instance, positive major economic impacts. From the South American side, governments showed openness towards the liberalization of their

market. From the European side, attempts to overcome internal crises, including economic and social crises (e.g., high unemployment), and the desire to maintain influence in the region, led former Luxembourgish president of the European Commission to enthusiastically conclude in June 2019 that

“This deal sends a real message in support of open, fair, sustainable, and rules-based trade because trade creates good jobs for all concerned.” (Juncker, 2019)

The emphasis on trade, jobs, and economic gain becomes crucial, but how sustainable rules-based trade can be without proper dispute settlement mechanisms remains a question. Hence, this research finds that the reason for the lack of environmental justice during the negotiation process is due to the marginalization of non-trade actors and negotiators at that time.

8. Conclusion and Outlook

In summary, this research seeks to understand the outcomes that led to the finalization of the EU-Mercosur Free Trade Agreement back in 2019. Despite the lack of transparency during negotiation talks, the paper outlines significant limitations in the provisions designed to ensure a fair distribution of environmental benefits and burdens within the Free Trade Agreement. This lack of transparency raises questions about the inclusiveness and fairness of the negotiations process, especially regarding environmental sustainability and protection issues. The key findings of this research shows that the marginalization of environmental actors and prioritization of negotiators emanating from the respective Trade departments played a crucial role in how negotiation preferences and priorities evolve. Thus, this marginalization aspect and outsourcing of environmental negotiators resulted in an agreement neglecting environmental protection measures and lacking substantial legally binding provisions that would ensure accountability when there is a breach of environmental protection. Furthermore, the major results showed the risks of environmental degradation and absence of indigenous rights considerations.

Moreover, the research highlights that the political shift in Latin America from right-wing parties exhibit a greater readiness for trade liberalization as opposed to left-wing governments. This tendency towards liberalization among right-wing parties aligns with their broader foreign trade policies favoring deregulation and market-driven growth. Consequently, this political inclination affects the nature of trade agreements, often sidelining environmental and social protection, in favor of economic benefits and growth. Another major factor that explains the shortcoming of environmental protection was the absence of public consultation

during the discussions combined with a lack of transparency. It proves that the exclusion of public consultation and prioritization of businesses are not timing and aligned with today's environmental and social challenges, which are also highlighted in the protests from civil society.

Finally, the research concludes that the inclusion of environmental actors in the negotiations of free trade agreement, play a pivotal role to ensure the right balance of economic, environmental, and social considerations and is crucial to ensure that goals of sustainable development and environmental protections are respected.

Future of EU-Mercosur Agreement: to be or not to be?

The exchange of a potential EU-Mercosur Free Trade Agreement has captivated stakeholders for nearly 15 years. In 2016, there appeared to be a year of political momentum, reinitiating talks. Ambitions from both blocs seemed high, as only three years later, they came up with a full "Agreement in principle." The governments of the Mercosur region, especially its key actors Brazil and Argentina, have experienced several political challenges over the past years. Due to its unique nature, the region will remain a spot of political instability. Newly elected far-right liberalist Javier Milei is expected to influence future negotiation talks. In Brazil, after Lula took office again in 2020, the discourse on combating deforestation has also changed, becoming a priority on his agenda. European governments, particularly France under Macron and Germany under Scholz, have expressed great concerns, negatively impacting the future of a potential agreement.

Finally, upcoming elections this week will have a huge influence on the EU's stance on environmental justice. On Sunday, after the European Parliament elections, the future of the environment will also be decided. As tendencies rise and political priorities shift with regards to current global developments, the EU-Mercosur Free Trade Agreement remains in limbo, even for the next few years. The prolonged negotiation period and hesitation to ratify the agreement highlight its sensitivity and polarization.

To forge a truly fair and honest agreement that addresses today's challenges, especially with regards to the environment, stakeholders must reposition themselves and actively invite civil society, as far as possible, to the negotiation tables. Only this formula will provide a solid proposal that considers the consent of all affected parties and guarantees environmental justice.

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