

Effects of the Elections in Brazil on trade and climate policy and law and the Draft EU-Mercosur FTA

Dr. Markus Gehring and Marios Tokas¹

The existing perception of the trade and climate policy and law of Brazil under the President Bolsonaro administration raised considerable international concern. The criticism is focused on promotion of illegal mining and logging in the Amazon by the Bolsonaro administration through weakening of environmental agencies, ignoring the rights and concerns of local indigenous communities and heavily promoting the domestic agricultural sector at the expense of the Amazon rainforest. These developments have had detrimental impact on Brazil's international image on climate change since the significant deforestation of the world's largest rainforest amplifies the climate change crisis. This tarnished image was further supplemented by the practice of Bolsonaro administration to avoid participating in international climate change conferences and fora.

The impact of the environmental policy in Brazil can be found also in its trade agenda. It is no secret that the EU-Mercosur Draft Agreement, which reached an agreement in principle on 28 June 2019, has reached a stalemate following the significant criticism of Austria, France, and Ireland on Brazil's environmental policy and the insufficiency of the Proposed Agreement in introducing environmental commitments and obligations. Indeed, the European Commission in its 24 March 2021 position paper summarized the results of the sustainable impact assessment of the draft agreement by stating 'the assessment 'highlight[ed] concerns in relation to the agreement's potential impact on environment, in particular on deforestation'. It should be noted though that the EU-Mercosur has been negotiated for a long period of time, even before Bolsonaro's presidency; hence, the environmental concerns should be attributed to the present administration.

The potential election of Luiz Inácio Lula da Silva in the Brazilian Presidency may be seen a positive development in the field of climate change. Lula proclaims that his presidency will be

¹ **Dr. Markus Gehring**, Associate Professor University of Cambridge, Lead Counsel for Sustainable Trade, Investment, Financial Law at CISD; and **Marios Tokas**, PhD candidate (Graduate Institute of International and Development Studies, Geneva). Associate Research Fellow- Trade and Investment Program Manager CISDL.

based upon its party's "Rebuild and Transform Brazil" plan which promotes the plan of reaching a new green deal that would heal the environmental 'wounds' caused by Bolsonaro administration and pave the way for an ecological transition to a low carbon economy. Members of Lula's party, such as congressman Nilto Tatto and Penildon Silva Filho, have noted that boosting green economy, by creating green jobs, and restoration of the rainforest, is at the forefront of Lula's campaign. Further, it is proclaimed that Lula would reopen its Amazon Fund, which was suspended in 2019 by Bolsonaro administration, and was financed by other nations as a way to support Brazil to monitor and combat deforestation.

Despite these proclaims, it is important to examine the record of Lula during his last tenure at the presidency. Indeed, his actions were controversial since, on the one hand, his administration reduced deforestation rates and empowered environmental agencies; yet on the other hand, genetically modified crops were widely introduced following an introduction of a relevant law and large hydroelectric dams were opened in the Amazon. This had led the first environment minister, Marina Silva, an Amazon-born environmentalist, to resign, citing lack of support by the presidency. Further, Lula was and remains a Labour's party leader whose main concern is job creation; hence, environmental protection may not be always at the forefront of his agenda.

It is noteworthy that Brazil during Lula's Presidency actively tried to present itself as a climate change leader and an emerging power in international trade and environmental regulation. However, Brazil was always reluctant to assume ambitious climate mitigation commitments, especially in trade agreements, while at the same time there was an increased discrepancy between Brazil self-proclaimed climate image and actual policy. Indeed, an important minority of the energy mix remained dependent of fossil fuels, significant resources were channelled to the oil industry, and the economic policy was dedicated to boost economic growth at all costs. Here, however, an initiative to further boost Brazil's exportation of commodities, which is of primary concern for Brazil, will inevitably bring environmental concerns more and more in the agenda, especially with the recent EU initiatives on carbon tax adjustment and on deforestation-free products.

In nutshell, Lula's campaign is particularly focused on environmental protection and climate change, mainly as a juxtaposition to Bolsonaro's existing policy. There is no significant evidence that these proclaims will become concrete policy actions. Still, these may be enough to reinvigorate the negotiating processes under the EU-Mercosur Agreement, by offering more ambitious environmental protection commitments. Besides, Lula's administration was primarily responsible for most of previous EU-Mercosur negotiations. Further, it will be interesting to see whether Lula will push for more multilateral solutions or keep his focus on south-south relations.

The comparison with the recent developments in Chile with the election of the leftist Gabriel Boric Font, allows us to conclude that while the election campaign will undoubtedly yield significant antitrade rhetoric, a left leaning Lula administration is equally likely to pursue the 'right kind' of trade agreements, ideally coupled with an ambitious new Brazilian NDC that unlike the present one is Paris Agreement compliant and more ambitious than the previous iterations.