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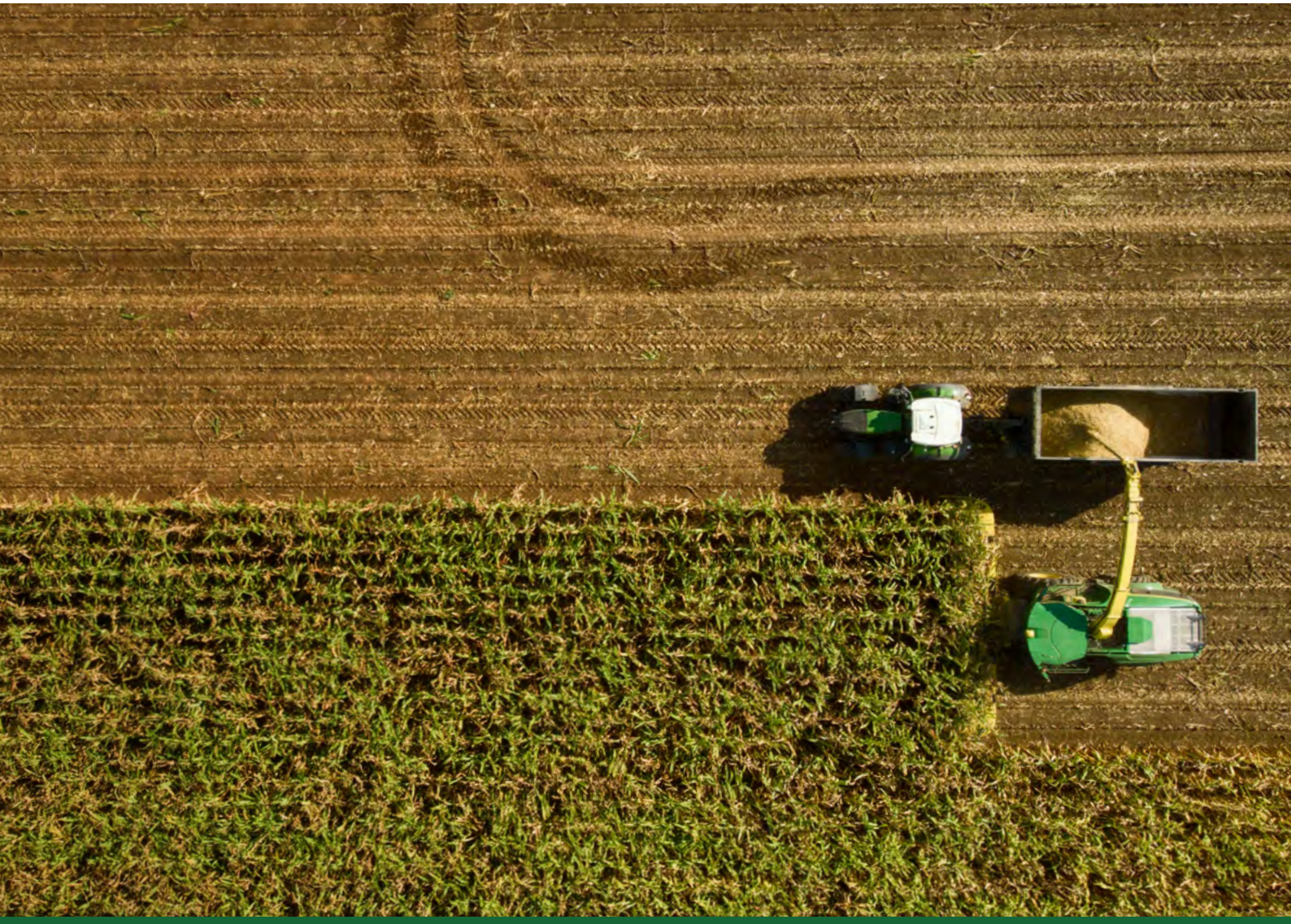

Traded Away

EU Free Trade Agreements and the Undermining of Agroecology in Brazil, Kenya, and Indonesia

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This report is dedicated to the millions of agroecological practitioners and people around the world who, every day, care for seeds, soils, and plants, and defend food sovereignty against enormous odds. The rules analysed in this report are negotiated in Geneva, Brussels, and capital cities far removed from their fields, forests, and communities. Yet the impact of those rules reach all the way into the soil, into the seed, and can determine whether a family farm survives another season. The people most affected by trade negotiations never get a seat at the negotiation table. This report is an attempt to make this problem visible, and to insist that it must change.

It is also dedicated with deep affection and respect to our retired colleague Burghard Ilge, whose many years of careful, principled work on trade and investment rules and intellectual property rights laid much of the foundation on which this report stands.

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Summary

This report analyses how European Union trade agreements actively undermine agroecology in the Global South. Agroecology – a practice, field of science and social movement rooted in biodiversity, farmer autonomy, and territorial food systems – represents one of the most credible pathways available to countries seeking climate-resilient agriculture, food sovereignty, and dignified rural livelihoods. The trade rules that currently govern agricultural markets are pulling in the opposite direction. This report argues that EU trade policy, as currently designed, actively undermines the conditions necessary for agroecological transitions to take root and scale.

Three agreements – one pattern

The report examines three agreements: the **EU-Kenya Economic Partnership Agreement (EPA),** in force since July 2024; the **EU-Mercosur Association Agreement** (between the EU and Brazil, Argentina, Paraguay and Uruguay), whose trade pillar was adopted in September 2025 and is now facing a legal challenge from the European Parliament over its conformity with EU Treaties; and the **EU-Indonesia Comprehensive Economic Partnership Agreement (CEPA)**, politically agreed in July 2025, formally concluded in September 2025, and currently in a pre-signature phase with formal signing expected in 2026.

> **All three agreements were concluded under conditions that raise serious questions of democratic legitimacy and policy coherence.**

All three agreements were concluded under conditions that raise serious questions of democratic legitimacy and policy coherence. The EU-Kenya EPA was signed bilaterally after Tanzania, Uganda, and Burundi declined to sign, leaving Kenya with the choice of accepting the agreement or losing preferential EU market access. The EU-Mercosur agreement was split into a trade-only pillar and a political pillar to avoid full parliamentary ratification, a manoeuvre that leading legal analysts have described as an attack on democracy. The EU-Indonesia CEPA was concluded even as the EU fails to comply with a World Trade Organization (WTO) panel ruling, won by Indonesia in January 2025, on palm oil discrimination.

The undermining mechanisms

The report identifies three mechanisms through which these agreements undermine agroecology.

The first mechanism is the restriction of seed sovereignty through intellectual property rules aligned with the International Convention for the Protection of New Varieties of Plants 1991 (UPOV), which criminalise farmer seed saving and exchange, consolidate corporate control over seed markets, and are incompatible with the rights of peasants recognised under the United Nations Declaration on the Rights of Peasants (UNDROP) and the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA). In Kenya, UPOV-aligned rules have made it a criminal offence to save, exchange, or sell uncertified seeds, with penalties including fines of up to KSh 1 million and up to two years' imprisonment. In Indonesia, the CEPA pushes equivalent obligations onto a country whose seed governance framework has explicitly sought to preserve policy space for farmer-managed systems. In Brazil, UPOV 1991 provisions in the EU-Mercosur chapter on intellectual property (IP) risk accelerating the commodification of seeds and consolidating corporate control over varieties on which family farmers and agroecological producers depend. Even in places where UPOV is not (yet) part of trade agreements, it creates a chilling effect, as governments are pressured to align their policies with it.

The second mechanism is the erosion of public procurement as a tool for supporting agroecological food systems. Brazil's National School Feeding Programme (PNAE), which requires 30 percent of budgets to be sourced from family farms, represents one of the most significant public policy instruments for connecting agroecological producers to stable institutional demand. A hard-won family farming carve-out was secured in the EU-Mercosur procurement annex, but its scope is limited. Kenya's Access to Government Procurement Opportunities (AGPO) and Buy in Kenya frameworks are not yet formally constrained, but no explicit protections are yet in place and the active negotiating deadline is 2029. Indonesia enters CEPA procurement commitments without any equivalent carve-out.

The third mechanism is the systematic weakness of sustainability provisions relative to trade and investment disciplines. In the EU-Mercosur agreement and the EU-Kenya EPA, Trade and Sustainable Development (TSD) chapters (or their equivalent) rely on cooperation and dialogue rather than binding obligations backed by dispute settlement. The EU-Mercosur agreement explicitly excludes its TSD chapter from dispute settlement procedures. The EU-Indonesia CEPA marks a partial departure: its TSD chapter is formally subject to the agreement's dispute settlement mechanism, with trade sanctions available as a last resort for breaches of core ILO conventions and the Paris Agreement. However, the scope of enforceable commitments remains narrow, the mechanism is untested, and its sustainable food systems chapter relies primarily on cooperation frameworks. The result across all three agreements is that sustainability commitments carry far less legal weight than trade and IP disciplines. As such, agribusiness expansion, deforestation, and biodiversity loss go essentially unregulated.

EU trade deals with Kenya, Brazil, and Indonesia structurally undermine agroecology – through seed patent rules, weakened public procurement, and sustainability commitments that carry no legal force.

Recommendations

The report concludes with three sets of recommendations.

- For the EU to exclude UPOV 1991 from all FTAs, make TSD chapters subject to dispute settlement equivalent to that of trade chapters, conduct mandatory agroecological impact assessments, protect public procurement space for food sovereignty programmes, and resolve outstanding WTO disputes before concluding new agreements.
- At the systemic level, the report calls for WTO Agreement on Agriculture reform to restore genuine policy space for food security, and explicit recognition of agroecology in international trade frameworks.
- It also calls on the EU to adopt binding policy coherence obligations between trade policy and climate and human rights commitments, and provide full transparency over EU trade negotiating mandates. For their part, the governments of Brazil, Kenya, and Indonesia are called on to defend and expand sui generis seed governance frameworks, protect public procurement tools as non-negotiable in all trade negotiations, coordinate across the three countries, use WTO and TRIPS flexibilities actively, and ensure open, participatory processes in all ongoing negotiations.

Introduction

Agriculture is a terrain of contested power, where rules about trade, seeds, markets, and public spending determine whose food systems survive and whose do not. As the climate crisis deepens and the failures of industrial agriculture become harder to ignore, the question of which agricultural model governments are willing and able to support, and which they are effectively blocked from supporting, has become urgent.

This report examines how European Union trade agreements shape that question in three countries: Brazil, Kenya, and Indonesia. In all three, governments have adopted national frameworks that recognise agro-ecology as a credible pathway to food security, climate resilience, and rural livelihoods. And in all three, the trade agreements they are negotiating, or have already signed, with the EU contain provisions that risk undermining precisely that transition.

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EU agricultural trade with Brazil, Kenya, and Indonesia

To understand why EU trade rules matter in these three countries, it is worth establishing the scale of the relationships involved. The EU remains a significant trading partner for all three countries.

EU trade relationships shape agricultural markets

While intraregional trade between the trading blocs of the East African Community (EAC), South America (MERCOSUR), and the Association of Southeast Asian Nations (ASEAN) is on the rise, the scale of EU trade relationships continues to shape agricultural markets in each country. In 2024, the EU was Brazil's second-largest trading partner (after China), accounting for 15.9% of Brazil's total trade. Bilateral trade between the two partners reached €89.5 billion in 2024, with Brazil recording a trade surplus of €2.4 billion and serving as the world's largest exporter of agricultural products to the EU.[1] This trade was dominated by coffee, tea, cocoa, and spices (€5.2 billion); fruit, nut and vegetable preparations (€1.3 billion); fruit and nuts (€944 million); and cereals (€333 million), among others.[2]

The EU was Kenya's second largest trading partner in 2024, with total trade between the two countries amounting to €3.4 billion, of which €1.40 billion corresponded to exports from Kenya.[3] During this period, in addition to traditional products (tea, cut flowers, and coffee), Kenya's main agricultural exports to the EU included fruit and nuts (€216 million), vegetables (€95 million), and preparations of fruit, nuts and vegetables (€94 million).[4]

Bilateral trade in goods between the EU and Indonesia totalled €27.3 billion in 2024, with EU imports of goods from Indonesia reaching €17.5 billion.[5] This trade included agricultural exports from Indonesia to the EU, such as coffee, tea, cocoa, and spices (€555 million); preparations of fruit, nuts and vegetables (€80 million); fruit and nuts (€51 million); and preparations of cereals and milling products (€32 million).[6] According to the FAO, the monetary value of global agricultural exports in 2022 was 2.9 times higher in nominal terms than in 2005, while agriculture's share of total merchandise trade increased from 6.2% in 2005 to 7.6% in 2022 [9]. These figures confirm that agriculture is not a peripheral issue in EU trade with the Global South: it is central, and the rules that govern it carry real consequences for the food systems and livelihoods of millions of people.[7]

These figures confirm that agriculture is not a peripheral issue in EU trade with the Global South: it is central, and the rules that govern it carry real consequences for the food systems and livelihoods of millions of people.

1 European Commission. (2025). EU trade relations with Brazil. Facts, figures and latest developments; policy.trade.ec.europa.eu
2 European Commission. (2025). Factsheet on agri-food trade statistics: European Union – Brazil; agriculture.ec.europa.eu
3 European Commission. (2025). European Union, Trade in goods with Kenya; webgate.ec.europa.eu
4 European Commission. (2025). Factsheet on agri-food trade statistics European Union – Kenya; agriculture.ec.europa.eu
5 European Commission. (2025). Key elements of the Trade Agreement and Investment Protection Agreement between the EU and Indonesia; policy.trade.ec.europa.eu
6 Ibid
7 FAO. 2022. Trade of agricultural commodities 2005-2022; openknowledge.fao.org

EU trade with Brazil, Kenya, and Indonesia (2024)

Country	Trade flow	Total value	Selected products
Brazil	Brazil → EU (Exports)	€45.95 bn	Coffee/tea/cocoa/spices (€5.2bn); Prepared fruit/nuts/veg (€1.3bn); Fruit & nuts (€944m); Cereals (€333m)
	EU → Brazil (Imports)	€43.55 bn	Industrial goods, machinery, chemicals (not specified in text)
	Total bilateral trade: €2.4 bn		
Kenya	Kenya → EU (Exports)	€1.40 bn	Fruit & nuts (€216m); Vegetables (€95m); Prepared fruit/nuts/veg (€94m); Tea, coffee & cut flowers (not disaggregated)
	EU → Kenya (Imports)	€2.0 bn (approx.)	Machinery, manufactured goods, chemicals
	Total bilateral trade: €3.4 bn		
Indonesia	Indonesia → EU (Exports)	€17.5 bn	Coffee/tea/cocoa/spices (€555m); Prepared fruit/nuts/veg (€80m); Fruit & nuts (€51m); Prepared cereals (€32m)
	EU → Indonesia (Imports)	€9.8 bn	Industrial and manufactured goods
	Total bilateral trade: €27.3 bn		

Agroecology: a holistic approach that promotes healthy ecosystems and food sovereignty

As climate breakdown accelerates – driven in significant part by large-scale industrial monocultures, soil degradation, and the destruction of ecosystems for commodity agriculture – the question of what kind of food systems we build is no longer abstract. Agroecology is increasingly recognised as a necessary response: a model that can restore ecological function, strengthen communities' adaptive capacity, and secure food sovereignty. As such, agroecology has the power to reverse the very crises industrial agriculture has produced.

The International Panel of Experts on Sustainable Food Systems (IPES-Food) defines agroecology as a holistic approach to redesigning agricultural systems that maximises biodiversity and stimulates interactions between plants, animals, and people.[8] With the aim of building long-term soil fertility, healthy agroecosystems, and secure livelihoods, agroecology is simultaneously a science, a set of practices, and a social movement that promotes food sovereignty, equity and the struggle for land justice.[9] Its key elements include: system redesign, which goes beyond input substitution to reconfigure agricultural systems for resilience and ecological balance; diversity and natural synergies, which leverage ecological processes to reduce dependence on synthetic inputs; farmer autonomy and knowledge sharing, which are grounded in exchange between farmers, traditional knowledge, and participatory research; and social dimensions, which are anchored in food sovereignty, cultural values, and solidarity-based economies.[10]

> **Agroecology is not simply a set of farming practices, it is a response to the political and ecological failures of the dominant food system.**

Agroecology is not simply a set of farming practices, it is a response to the political and ecological failures of the dominant food system, and is deeply concerned with power, equity, and justice. Its climate and adaptation credentials are substantial: agroecological systems build soil carbon, reduce input dependency, increase resilience to weather shocks, and support the biodiversity on which

8 iPES Food. (2020). The added value(s) of agroecology: Unlocking the potential for transition in West Africa; ipes-food.org

9 Ibid

10 Ibid

long-term food production depends. Far from a niche alternative, agroecology is a pathway that countries across the Global South are actively choosing.

Rejection of corporate-led industrial agriculture

In both Africa and Asia, and to a lesser extent in Latin America, pressure for a new Green Revolution led to the intense adoption of conventional agriculture, opening markets for transnational agrochemical, fertiliser, and agricultural biotechnology companies. This model has followed a single technological package involving external inputs, large-scale agricultural infrastructure, and commercial seeds, to which genetically modified varieties have since been added.[11] For the countries examined in this report, even where political frameworks for agroecology and food sovereignty exist, policies and public spending remain largely rooted in a corporate-oriented production model. Kenya, for example, is one of the leading implementers of agricultural research for development in sub-Saharan Africa and ranks third in agricultural research spending. Yet most funding continues to support corporate-led industrial agriculture.[12] The result has been the spread of monoculture and a systematic displacement of traditional seeds and food systems.

The consequences of this model are well documented. Over-reliance on commercial hybrid seeds and synthetic fertilisers has reduced soil fertility and locked smallholder farmers into dependency on agricultural input suppliers.[13] Many smallholder farmers cannot afford soil testing, further constraining their options and threatening their livelihoods.[14] Agricultural input companies profit while farmers remain trapped in cycles of dependency.

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This trajectory is increasingly being rejected. In Africa, after nearly 15 years and more than US$1 billion spent to promote commercial seeds, chemical fertilisers, and pesticides in 13 countries, plus another US$1 billion per year in government subsidies,[15] the establishment of 119 seed companies, and the funding of more than 700 scientific articles,[16] the Alliance for a Green Revolution in Africa (AGRA) has been abandoned by the small farmers it was meant to serve. The reason is straightforward: AGRA has failed to produce credible evidence of sustained improvements in productivity, income, or food security for smallholder farming families in target countries.[17] Farmers are increasingly choosing agroecology instead.

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A global movement and national policy commitments to agroecology

These farmers are part of a broader global movement that has been building for decades. In 2007, the Global Forum for Food Sovereignty, held in Nyéléni village, Sélingué, Mali, brought together more than 500 representatives from peasant, fishing, pastoral, forest, and urban communities across 80 countries to articulate a shared vision of food sovereignty grounded in agroecological principles.[18] The Nyéléni Declaration insisted that communities have the right to define their own food and agriculture systems, and has since provided a political and organising framework for movements across Africa, Asia, and Latin America.

11 Daño, E. (2017). Unmasking the Green Revolution in Africa: motives, players and dynamics; rural21.com
12 Slow Food. (29 November 2023). They will feed us: a counter-narrative to corporate-led African food systems; slowfood.com
13 BIBA. (2020). False promises: The Alliance for a Green Revolution in Africa (AGRA); rosalux.de
14 Ibid
15 AFSA. (8 September 2021). Call to end support for Green Revolution programs in Africa; afsafrica.org
16 Pelz, D. (15 August 2020). Has Africa's Green Revolution failed?; dw.com
17 AFSA. (8 September 2021). Call to end support for Green Revolution programs in Africa; afsafrica.org
18 Nyéléni 2007 – Forum for Food Sovereignty. (2007). Declaration of Nyéléni; viacampesina.org

International platforms including La Via Campesina, the Alliance for Food Sovereignty in Africa (AFSA), and the Asian Peasant Coalition have continued to advance this agenda, connecting local struggles over seeds, land, and markets to global norm-setting processes.[19]

The countries examined in this report – Brazil, Kenya, and Indonesia – are home to some of the most active agroecological movements in the world. Their national policy frameworks reflect, at least in part, the organising and advocacy of these movements. What EU trade agreements risk undermining is therefore not only a set of government policies, but a thriving, globally connected movement and practice of food sovereignty. This is visible in each of the three countries examined

Brazil is recognised as the first country to institutionalise a national policy aimed at promoting agroecology.[20] The National Plan for Agroecology and Organic Production (PNAPO) aims to integrate and coordinate policies that promote agroecological transition and organic production, ensuring sustainable development, food security, biodiversity conservation, and improved quality of life.[21] From a commercial perspective, PNAPO seeks to strengthen local markets for organic products, increase family farming income, and expand fair trade opportunities at national and international levels.[22]

In Kenya, the National Agroecology Strategy for Food System Transformation 2024-2033 was launched with the objective of promoting a sustainable transformation of the food system to ensure food security and nutrition, climate-resilient livelihoods, and social inclusion for all.[23] The strategy aims to strengthen mechanisms for the production, distribution, and use of locally produced agroecological inputs; promote the conservation and use of indigenous and locally managed seeds and livestock breeds; and protect traditional food culture.[24] Farmers in Kenya have established Community Seed Learning Centres to select, save, and distribute nutritious, high-yielding varieties of local food crops, supporting both farmers and agroecological traders in local markets across Kenya and neighbouring countries.[25]

In Indonesia, agroecology was given an important role in the 2021 National Pathway for Food Systems Transformation, complementing government objectives around food diversity and the preservation of local knowledge of food resources.[26]

It is within the context of growing national and global commitments to agroecology alongside deepening EU trade ties that the risks analysed in this report arise. Existing analyses of EU trade policy have pointed to negative effects on agroecology-based food systems, specifically on family and small-scale farmers in countries of the Global South.

These effects stem from two distinct but interrelated processes:

- the reduction of national policy space for agroecology,
- and increased competition from private companies, particularly agro-industrial actors.

Together, these processes transform local value chains, alter cost structures, and reduce market access for small-scale agroecological and family farmers.

19 La Via Campesina. (2025). About La Via Campesina; viacampesina.org; Alliance for Food Sovereignty in Africa; Asian Peasant Coalition; viacampesina.org
20 Petersen. P. (2025). Steps and Missteps of Agroecology in Public Policies in Brazil; boell.de/en
21 IPEA. (2017). The National Policy on Agroecology and Organic Production in Brazil; ipea.gov.br
22 Ibid
23 MoALD. (2024). National Agroecology Strategy for Food System Transformation 2024-2033; kilimo.go.ke
24 Ibid
25 Maina, A. (2023). Abandoning the disastrous Green Revolution model; nation.africa/kenya
26 Laos-Facilitated Initiative on Agroecology (2025). Agroecological Transitions in ASEAN – LICA and Policy Guidelines; aseanaetguidelines.org

Purpose and scope of this report

This report is published at a moment of acute political urgency. The EU-Mercosur agreement, covering four of Latin America's largest economies, including Brazil, was formally signed in January 2026 after 25 years of negotiations. Within days, the European Parliament referred the agreement to the EU Court of Justice over concerns about whether the Commission's decision to split the deal into a trade-only component and a broader partnership agreement is compatible with EU treaties. Despite this legal challenge, the Commission announced provisional application of the trade component in late February 2026, meaning its rules are already beginning to take effect. The EU-Indonesia Comprehensive Economic Partnership Agreement, concluded in September 2025, is currently in its final pre-signature phase and expected to be formally signed in the coming months. The EU-Kenya Economic Partnership Agreement entered into force in July 2024. All three agreements examined in this report are therefore live, not pending. The window to contest their most damaging provisions, to demand safeguards for agroecology, seed sovereignty, and public procurement for family farming, is narrow and closing.

The report addresses four core questions:

- Which specific provisions of EU trade agreements affect agroecology-based food systems?
- What are the impacts of EU trade policies on local value chains that depend on agroecology in the Global South?
- How do EU trade policies limit national policy space for agroecology in the Global South?
- What policy recommendations can be made to remove obstacles and create enabling conditions for agroecology within EU trade agreements?

The research addresses these questions through country-specific evidence from Brazil, Kenya, and Indonesia – three countries where recently ratified or near-concluded agreements with the EU are set to produce significant changes to local food systems and the livelihoods of smallholder farmers. The report analyses how specific provisions of EU trade agreements actively undermine the conditions necessary for agroecological transitions in the three countries. It focuses on three agreements at different stages of implementation. The EU-Kenya Economic Partnership Agreement entered into force in July 2024. The EU-Mercosur agreement was formally signed in January 2026 and its trade component is now moving toward provisional application. The EU-Indonesia Comprehensive Economic Partnership Agreement was concluded in September 2025 and is currently in its final pre-signature phase. Together, these three agreements represent the most consequential contemporary instruments through which EU trade rules are reshaping agricultural markets, seed systems, and public policy space in the Global South.

Three provisions

The report focuses on three provisions that directly determine whether agroecological transitions are viable: intellectual property rules on seeds, particularly UPOV 1991-based standards; public procurement disciplines that constrain governments' ability to support local and family farming; and Trade and Sustainable Development chapters whose weak enforceability limits their capacity to counteract agribusiness-driven harms. For each country, the report links these provisions to concrete conditions on the ground, examining how they reshape local value chains, increase competitive pressure from agro-industrial actors, and reduce the policy tools available to governments that have committed to agroecological transitions.

A note on scope: the original concept for the report identified both EU trade agreements and WTO agriculture rules as relevant arenas. This report focuses primarily on EU bilateral agreements. This is a deliberate choice, not an omission. EU FTAs currently represent the most active and concrete threat vector: they are being negotiated, signed, and entering into force now. They go beyond WTO disciplines in areas such as UPOV 1991, procurement liberalisation, and regulatory cooperation, and they create bilateral lock-in, which is harder to reverse than multilateral rules. WTO agriculture negotiations remain important, particularly on public stockholding, domestic support asymmetries, and special safeguard mechanisms, but they are slower-moving and more diffuse. A tighter focus on EU FTAs produces a more actionable analysis. Where WTO rules provide essential context, they are referenced throughout the report.

Cross-cutting issues in EU Trade Agreements

EU trade agreements are not simply arrangements for reducing tariffs. They are frameworks that redistribute power: determining which actors gain market access, which governments retain the ability to regulate in the public interest, and which forms of agriculture are rewarded or penalised by the rules. This matters enormously in the current moment. Climate breakdown is accelerating, and the agro-industrial agricultural model that currently dominates global trade is a primary driver of the emissions, deforestation, and biodiversity loss that are making food systems more fragile everywhere. At the same time, agroecology offers a proven and politically supported alternative – one that builds resilience from the ground up, restores ecological function, and keeps control of seeds, land, and markets in the hands of farming communities.

Brazil, Kenya, and Indonesia are not peripheral cases. They are three of the most agriculturally significant countries in the Global South, each with active agroecological movements, nationally adopted policy frameworks that support agroecology, and millions of smallholder farmers whose livelihoods depend on being able to choose a different path. They are also three countries where the EU has concluded, or is concluding, trade agreements that directly threaten that choice. The provisions examined in this section recur across all three agreements. Taken together, they form a coherent architecture that systematically advantages large agribusiness actors, narrows the policy space available to governments pursuing agroecological transitions, and embeds corporate interests in rules that are difficult to reverse once agreed.

The EU has concluded more than 40 agreements with over 70 countries and regions.[27] Its negotiating positions consistently cover trade in goods and services, foreign direct investment, public procurement, intellectual property, and sustainable development.[28]

These are precisely the areas where governments most need flexibility to support agroecological transitions, build local food economies, and protect farmer-managed seed systems. Locking them into binding bilateral rules does not level a playing field. It tilts it further toward those with the capital, legal capacity, and corporate infrastructure to exploit liberalised markets, while systematically penalising the smallholder and agroecological producers who are already delivering climate resilience, biodiversity conservation, and food security on the ground.

These agreements are signed by sovereign governments, and in each case national decision-makers exercised agency in accepting, negotiating, or contesting specific provisions. But the conditions under which negotiations take place, including the threat of losing preferential market access, geopolitical pressure to conclude deals rapidly, and significant asymmetries in legal and technical negotiating capacity, systematically constrain the range of outcomes available to governments in the Global South.

The EU has concluded more than 40 agreements with over 70 countries and regions.

I. Broader scope and policy space

EU FTAs often go beyond traditional trade issues to cover a 'broader scope' of economic issues. They routinely include binding commitments, often through so-called rendezvous clauses, to negotiate and lock in rules on services, investment, public procurement, intellectual property, and competition policy. These are the exact instruments governments

27 CECE. (2025). Trade Policy: EU Position in World Trade; cece.eu
28 Council of the EU. (2025). EU trade agreements; consilium.europa.eu

use to direct development, support local industries, and regulate in the public interest. Developing countries, including EAC partner states, have consistently resisted their inclusion in WTO negotiations precisely because they constrain policy space. When the EU pursues them bilaterally instead, it achieves through trade agreements what it cannot achieve multilaterally, while presenting the outcome as a mutual arrangement rather than an asymmetric concession. For countries seeking to scale agroecological transitions, the loss of this policy space is not just a technical inconvenience: it removes the levers governments need to support territorial food systems, protect biodiversity-based agriculture, and prioritise smallholder farmers over agribusiness.

II. Export taxes and the raw materials agenda

Export taxes are a legitimate and WTO-compatible development tool. They encourage domestic value addition, support industrialisation, and help countries capture more of the economic benefit from their own natural resources. EU FTAs systematically seek to restrict or eliminate them, typically by requiring EU notification, limiting product coverage and time periods, and subjecting their use to review by joint agreement bodies. The logic is straightforward: the EU wants access to cheap raw materials, and export taxes obstruct that. For countries in the Global South, accepting these restrictions means surrendering a tool that is permitted under multilateral rules in exchange for market access that primarily benefits export-oriented agribusiness, not agroecological or smallholder producers.

> **It is the Global South that concedes, and what it concedes is the right to shape its own agricultural and industrial development.**

When presented as a concession by the EU, this framing should be rejected. It is the Global South that concedes, and what it concedes is the right to shape its own agricultural and industrial development.

Cross-Cutting issues in EU trade agreements

Issue	What the EU seeks/includes	How it works in agreements	Key implications for Global South countries
Broader scope of agreements	Binding rules on services, investment, public procurement, IP, competition policy, and sustainable development	Commitments (often in rendezvous clauses) to negotiate and lock in rules beyond trade in goods	Shrinks policy space for industrialisation and development; limits use of tools to promote local industries and private sector growth; strongly resisted by developing countries in WTO negotiations
Export taxes & MFN treatment	Restrictions or prohibitions on export taxes; MFN clauses	Export taxes allowed only under strict conditions (EU notification, limited scope/time, review by joint councils) or banned outright	Undermines industrialisation strategies based on value addition; prioritises EU access to cheap raw materials; Global South effectively gives up a WTO-permitted development tool
Intellectual Property Rights (IPRs)	TRIPS-plus IPR protection favouring EU firms	Extends patent, seed, and plant variety protections (often modelled on UPOV)	Benefits EU corporations (notably pharma and agribusiness); undermines constitutional/national flexibilities; erodes seed and food diversity; concentrates control over food systems in transnational corporations
Public Procurement	Opening government procurement markets to EU firms	Requires non-discrimination and equal treatment of EU suppliers in public tenders	Weakens use of public spending to support local farmers, workers, and SMEs; threatens food security programmes (though limited carve-out exists, e.g. family farming exemption in Mercosur after civil society pressure)
Trade & Sustainable Development (TSD)	Inclusion of environment, labour, and climate chapters	References Paris Agreement, CBD, and sustainability commitments, but without enforceable sanctions	Sustainability obligations are non-binding; no dispute settlement or sanctions for violations; trade rules override environmental and social objectives
Expanded agricultural market access	Expanded agricultural market access	Liberalisation benefits agribusiness sectors (meat, coffee, soy)	Reinforces extractive export model; increases deforestation, GHG emissions, land conflicts, labour abuses (including slave-like conditions); contradicts EU climate rhetoric

III. Intellectual property rights on seeds

Of all the cross-cutting provisions in EU trade agreements, intellectual property rules on seeds carry the most direct and damaging implications for agroecology. EU FTAs consistently push for Trade-Related Aspects of Intellectual Property Rights (TRIPS-plus) protections modelled on the 1991 UPOV Convention, which grant commercial breeders exclusive rights over new plant varieties and severely restricts farmers' customary practices of saving, exchanging, and replanting seeds. Unlike the more flexible 1978 UPOV framework, UPOV 1991 treats seeds as corporate property rather than common heritage. Even in cases where UPOV 91 is not (yet) part of active trade agreements, it creates a chilling effect, as governments are under pressure to align their policies with it.

The consequences for farmer-managed seed systems – on which the vast majority of smallholder famers depend[29] – are severe: criminalisation of informal seed exchange, increased dependency on commercial seed suppliers, erosion of agro-biodiversity, and the steady transfer of control over food systems from farming communities to a handful of transnational corporations. Companies such as Bayer-Monsanto, Syngenta, Corteva, and BASF already control between 50 and 60 percent of the global seed market.[30] UPOV 1991 provisions in EU FTAs entrench and extend that control. The countries examined in this report, Brazil, Kenya, and Indonesia, are each at different stages of exposure to this regime, and its effects on their seed systems and agroecological capacity are documented in detail below.

50-60%

of the global seed market controlled by four companies (Bayer-Monsanto, Syngenta, Corteva, BASF)

29 Farmer Managed Seed Systems; afsafrica.org
30 Clapp. J. (2025). How a few giant companies came to dominate global food; landclimate.org

IV. Public procurement

Public procurement is one of the most powerful tools governments have to build local food economies, support family farming, and create stable markets for agroecological producers. Programmes such as Brazil's National School Feeding Programme (PNAE), which requires 30 percent of food to be sourced from family farmers, demonstrate that public purchasing can directly sustain agroecological livelihoods at scale.

EU FTAs undermine this by requiring non-discrimination and equal treatment for EU suppliers in public tenders.

In practice, this means governments can be prevented from privileging local, sustainable, or smallholder-sourced food in publicly funded programmes. Large agribusiness exporters – backed by subsidies, mechanisation, and economies of scale that agroecological producers cannot match – gain access to institutional markets that were previously anchored in local food systems. Following sustained civil society pressure, a limited carve-out protecting family farming in food and nutrition security programmes was secured in the EU-Mercosur agreement's procurement annex.[31] But this was a hard-won and only partial exception. It should be the floor, not the ceiling, of what is negotiated, and it should not require a civil society campaign to achieve what is a basic public interest protection.

31 Government Procurement Chapter Mercosur's market access offer; mre.gov.py

V. Trade and Sustainable Development chapters: commitments without consequences

Every major EU FTA now includes a Trade and Sustainable Development chapter referencing the Paris Agreement, the Convention on Biological Diversity (CBD), and labour rights. In the EU-Mercosur agreement, these commitments are explicitly excluded from the agreement's main dispute settlement mechanism. The text is unambiguous: 'No Party may resort to the dispute settlement mechanism provided for in Chapter 21 to address any matter arising under this Chapter.'[32] Sanctions, retaliation, and suspension of concessions are available for commercial violations, but not for environmental or social ones. A party that withdraws from the Paris Agreement triggers a suspension clause, but the agreement contains no mechanism to resolve the structural contradiction between its trade provisions – which accelerate agribusiness expansion, deforestation, and emissions – and its climate commitments. The European Parliament's legal referral to the Court of Justice in January 2026 cited, among other concerns, the rebalancing mechanism that could penalise future EU environmental regulations that reduce Mercosur agricultural imports, confirming that in this agreement trade policy constrains environmental policy, not the other way around.[33]

This is not a design flaw. It is the design. The five mechanisms examined in this section do not operate in isolation. They form an interlocking system. Procurement liberalisation opens institutional markets to agribusiness while restricting governments' ability to favour local and agroecological producers. UPOV 1991 criminalises the seed practices upon which agroecological farming depends. Export tax restrictions remove development tools that would otherwise support value addition and diversification away from commodity monocultures.

The broader scope of agreements locks in these constraints before national parliaments or civil society can contest them. And sustainability chapters provide the political cover of environmental and social commitments without the legal substance to enforce them.

> **When these provisions operate together, the cumulative effect is severe. They actively obstruct the agroecological transitions that Brazil, Kenya, and Indonesia have each committed to pursuing.**

When these provisions operate together, the cumulative effect is severe. They actively obstruct the agroecological transitions that Brazil, Kenya, and Indonesia have each committed to pursuing. The following chapters describe how this plays out in practice through analysis of specific agreement texts, on-the-ground evidence, and the lived realities of farming communities, whose livelihoods, seeds, and markets are directly at stake.

32 EU-MERCOSUR, 2025, p. 381
33 Real Instituto Elcano. (2026). The European Parliament halts the EU-MERCOSUR agreement in court: what is at stake; realinstitutoelcano.org

Country case studies

3.1 Brazil
The EU-Mercosur Trade Agreement

Brazil is the world's largest exporter of agricultural products to the EU and home to one of the most active agroecological movements in the Global South. It is also the first country to have institutionalised a national policy framework for agroecology, through the National Plan for Agroecology and Organic Production (PNAPO). Brazil's public procurement programmes, most notably the National School Feeding Programme (PNAE), directly connect family farming to stable institutional markets.

The EU-Mercosur agreement, formally signed in January 2026 after more than two decades of negotiations, places these achievements under direct pressure. The agreement's legal architecture consists of two parallel instruments: the EU-Mercosur Partnership Agreement and the Interim Trade Agreement (iTA), adopted by the European Commission on 3 September 2025.[34] The iTA covers the trade-specific provisions and is the component now moving toward provisional application. It will be replaced by the full agreement once ratification is complete.

This report focuses on the provisions of the trade component, which are the most immediately consequential for agroecology and smallholder farmers in Brazil. The manner in which provisional application has been pursued is itself a matter of serious legal and democratic contestation. By splitting the agreement into two parallel instruments, the Commission sought to avoid the need for unanimous adoption, originally assumed when

34 European Commission. (2025). EU-Mercosur: Text of the agreement; policy.trade.ec.europa.eu

the negotiating mandate was issued in 1999, and instead put the agreement to a qualified majority Council vote. The original negotiating mandate explicitly called for a single, unified agreement, described as an 'engagement unique.' A legal analysis by Professor Markus Krajewski concludes that this splitting likely breaches the original mandate and could violate EU law.[35] The scale of democratic opposition to the Mercosur agreement – which the Commission's manoeuvre was designed to circumvent – is substantial: national and regional parliaments in Austria, France, the Netherlands, Wallonia, and Brussels voted against the deal; more than 400 organisations formally opposed it; and farmer protests spread across at least six EU member states.[36]

The Commission nevertheless proceeded. Provisional application of the Mercosur agreement was announced in February 2026, even as the European Parliament's legal referral to the Court of Justice was under way. The commercial provisions of the agreement are therefore beginning to take effect under active legal challenge, without full democratic ratification, and over the explicit opposition of multiple governments, parliaments, and civil society coalitions on both sides of the Atlantic. The agreement's provisions on trade in goods, intellectual property, public procurement, and trade and sustainable development each carry concrete and immediate risks for Brazil's agroecological producers, family farmers, and the communities whose food systems depend on them.

I. Provisions on trade in goods and implications for agroecology and family farming in Brazil

The trade in goods chapter of the Mercosur agreement prioritises liberalisation and market access for companies without corresponding safeguards for farmer-managed food systems, seed sovereignty, or agroecology. The agreement removes tariffs on more than 90 percent of trade in goods between the two blocs, with progressive elimination of customs duties under Articles 2.4, 2.8, and 2.9. This level of liberalisation systematically advantages large agribusiness exporters that can expand production and compete at scale, while exposing small farmers to price pressures and market share losses in local markets. Agroecological systems, which depend on local diversity, shorter value chains, and territorially rooted food economies, are structurally disadvantaged in this model.

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Brazil's experience with previous liberalisation rounds makes this risk concrete rather than hypothetical. During the Structural Adjustment Programmes of the 1980s and 1990s, tariff reductions, privatisation, and market opening accelerated the expansion of export-oriented monocultures – soybeans, sugarcane, and beef – at the expense of diverse smallholder farms and indigenous territories.[37]

35 Krajewski, M. & Werner, J. (2023). The European Commission's possible attempts to fast-track the EU-Mercosur deal: an attack on democracy. Friedrich-Alexander-Universität Erlangen-Nürnberg, commissioned by Greenpeace; europeantradejustice.org

36 Friends of the Earth Europe. (2025). The EU-Mercosur splitting: a democratic hijack; friendsoftheearth.eu

37 Stiglitz, J.E. (2002). Globalisation and its discontents; Norton Paperback.

Soybean expansion in the Cerrado intensified after liberalisation reduced import tariffs on machinery and agrochemicals, displacing small farmers and Indigenous communities, eroding agrobiodiversity, and deepening land concentration.[38] Cheaper imported commodities, including wheat, milk powder, and processed foods, undermined domestic prices and threatened the viability of small farmers.[39] The EU-Mercosur agreement reproduces this logic at greater scale and with binding legal force.

The governance architecture of the agreement reinforces these dynamics. Proposed subcommittees on trade and technical issues contain no provision for small producer representation or agroecological perspectives in decision-making. This reflects established governance patterns in Brazil, where agribusiness lobbies have historically dominated the National Agriculture Council and the Ministry of Agriculture, leaving agroecological movements such as the Landless Rural Workers' Movement (MST) and the National Agroecology Network (ANA) structurally marginalised.[40] The Mercosur agreement does not alter this balance, it entrenches it.

The Mercosur agreement does not alter this balance, it entrenches it.

II. Provisions on intellectual property rights, and implications for agroecology and seed sovereignty in Brazil

Chapter 13 of the agreement emphasises the protection, enforcement, and corporate rights of intellectual property, while farmers' rights and agroecological principles receive minimal and non-binding recognition.[41] This creates a structural bias in favour of large agribusiness actors and biotechnology companies, directly undermining farmers' seed sovereignty and community-based innovation systems.

Brazil's experience since joining UPOV 1991 in 1999 demonstrates what these provisions deliver in practice. Seed markets consolidated rapidly, soybean and cotton producers faced lawsuits for replanting seeds, and genetically modified soybeans came to dominate more than 70 percent of the market.[42] Companies have invoked trade secret protections to block access to environmental data on genetically modified soybeans and sugarcane, undermining public and farmer-led agroecological research.[43]

Geographical indication systems, such as Vale dos Vinhedos and Cachaça de Paraty, have been dominated by medium and large producers, with family farmers priced out due to high certification and inspection costs.[44] Weak protections for traditional knowledge have opened the door to biopiracy: Japan's attempt to patent cupuaçu and the foreign appropriation of açaí genetic resources illustrate what happens when disclosure and benefit-sharing provisions have no teeth.[45]
The EU-Mercosur agreement does not remedy any of these problems. Rather, it extends the legal architecture that produced them.

38 Oliveira, G., & Hecht, S. (2016). Sacred forests, sacrifice zones and soy production: Globalisation, Intensification and Neo-nature in South America. The Journal of Peasant Studies, 43(2), 251-285. doi.org; Sauer, Sérgio and Sérgio Pereira Leite (2012). Agrarian structure, foreign investment in land and land prices in Brazil, Journal of Peasant Studies, 39(3-4), 873-98

39 Oxfam. (2002). Rigged Rules and Double Standards: trade, globalisation and the fight against poverty; oxfamilibrary.openrepository.com

40 Wolford, W. (2010). This Land Is Ours Now: Social Mobilization and the Meanings of Land in Brazil; doi.org

41 INESC. Mercosur-European Union Agreement. INESC, 2025; inesc.org.br

42 Garcia, M. & Altieri, M. (2005). Transgenic crops: implications for biodiversity and sustainable agriculture. Bull. Sci. Technol. Soc. 25, 335-353

43 C.D. Marinho; F.J.O. Martins; O.J.A.P. dos Santos et al. (2014). Genetically modified crops: Brazilian legislation and Overview; ncbi.nlm.nih.gov

44 Niederle. P. & Gelain. J. (2013). Geographical indications in Brazilian food markets: quality conventions, institutionalisation and path dependency. Journal of Rural Social Sciences. 28. 26-53.

45 Darrell A. P. & Graham D. (1996). Beyond intellectual property: towards rights over traditional resources of indigenous peoples and local communities. IDRC Books

Controversial provisions in the chapter on intellectual property rights in the EU-MERCOSUR Partnership Agreement and implications for agroecology and small farmers' rights

Article	Implications for agroecology and small farmers' rights
Protection of plant varieties (Article 13.41)	Requires parties to protect plant varieties under UPOV 1978 or 1991. UPOV systems favour breeders' rights over farmers' rights, restricting seed saving, exchange, and replanting. Farmers risk becoming dependent on purchasing seeds from commercial companies.
Enforcement of Intellectual Property (Articles 13.44–13.58)	Provides strict enforcement including border measures and injunctions, prioritising corporate IP holders. This can criminalise informal seed systems and the sharing of traditional knowledge, creating legal risk for farmers whose practices sustain agroecological agriculture.
Protection of undisclosed information (trade secrets) (Articles 13.42–13.43)	Benefits large agricultural companies controlling genetic resources and biotechnological innovations. Limits transparency and restricts access to information necessary for community seed systems and agroecological research.
Geographical indications Articles 13.33–13.39)	Compliance complexity and costs favour large producers. Small farmers frequently cannot meet certification requirements and risk losing market access.
Biodiversity and traditional knowledge (Article 13.6)	Recognition of the CBD and traditional knowledge is weak and non-binding. No strong safeguards against biopiracy or corporate appropriation of genetic resources.

III. Provisions on public procurement and implications for family farming and agroecology in Brazil

Chapter 12 of the agreement liberalises public procurement, allowing EU companies to compete in Brazilian government tenders for the supply of food to schools, hospitals, and other public institutions.[46] In a country where public procurement has been one of the most effective tools for supporting agroecological producers, this is a direct threat to a proven model.

Brazil's National School Feeding Programme requires that at least 30 percent of food purchased for school meals be sourced from family farmers. This provision has created stable institutional demand for agroecological and family farming producers across the country, channelling public spending into territorial food systems and away from industrial supply chains. The EU-Mercosur agreement's non-discrimination and equal treatment requirements for EU suppliers directly challenge the legal basis for this kind of targeted procurement. Brazil and the other parties to the agreement risk being challenged under the agreement's market access rules if they prioritise local, sustainable, or smallholder-sourced food in public tenders.

30%

of Brazil's school feeding budget required to be sourced from family farms (PNAE)

46 CIRCABC. (2024). Chapter on government procurement; circabc.europa.eu

Following sustained civil society pressure, a limited carve-out protecting family farming in food and nutrition security programmes was secured in the procurement annex.[47] This is a hard-won exception: it required an organised civil society campaign to achieve what should be a baseline public interest protection in any trade agreement. But the carve-out is only partial. It does not protect all public procurement programmes that support agroecology, and it applies only within a defined scope. Without binding and broad safeguards for small-scale and agroecological producers, procurement liberalisation risks removing one of the most effective instruments Brazil has developed to connect family farming to stable markets and sustain agroecological transitions at scale.

IV. Trade and sustainable development: enforceable trade rules, unenforceable climate commitments

The EU-Mercosur agreement's Trade and Sustainable Development chapter, Chapter 18, is the clearest illustration of how the agreement's architecture prioritises commercial interests over environmental and social ones. The chapter includes commitments on the Paris Agreement, the Convention on Biological Diversity, and labour rights, but explicitly removes these obligations from the agreement's main enforcement mechanism. The text is unambiguous: 'No Party may resort to the dispute settlement mechanism provided for in Chapter 21 to address any matter arising under this Chapter.'[48] Sanctions, retaliation, and suspension of concessions are tools available for commercial violations. They are not available for environmental or social ones.

This matters in Brazil because the sectors that benefit most from the agreement are precisely those most responsible for the country's environmental crisis. In Brazil, the agricultural sector accounts for approximately 72 percent of greenhouse gas emissions, with the sector itself contributing around 29 percent and land use change accounting for 43 percent.[49]

Agriculture is the primary driver of deforestation, responsible for 97 percent of native forest loss in the last six years.[50] The agreement's main agricultural beneficiaries – the meat, coffee, and soy sectors – are driving these harms.[51] Agribusiness in Brazil is also responsible for systematic violations of the territorial rights of Indigenous Peoples and traditional communities, and for labour conditions amounting to modern slavery.[52] Coffee, a direct beneficiary of the agreement, accounted for 214 workers rescued from slave-like conditions in 2024 alone.[53]

The EU's own regulation to prevent deforestation (EUDR) has been presented as a safeguard against these dynamics. But its implementation has already been postponed twice.

The EU's own regulation to prevent deforestation (EUDR) has been presented as a safeguard against these dynamics. But its implementation has already been postponed twice, and the agreement may accept Brazil's Rural Environmental Registry, the CAR, as a compliance document. The CAR is self-declared and contains overlaps with Indigenous and traditional community lands equivalent in total area to the size of Colombia, approximately one million square kilometres.[54]

47 Santos, Maureen. EU-Mercosur Agreement: Old promises, new potential impacts on food systems and a just transition. FASE, 2025; fase.org.br; The Greenhouse Gas Emissions and Removals Estimation System (SEEG). SEEG, 2024; seeg.eco.br
48 EU-MERCOSUR, 2025, p. 381
49 The Greenhouse Gas Emissions and Removals Estimation System (SEEG). SEEG, 2024; seeg.eco.br
50 MAPBIOMAS. RAD 2024: Annual Report on Deforestation in Brazil. MAPBIOMAS, 2025; alerta.mapbiomas.org
51 CNN Brasil. Agriculture and industry are the "winners" of Mercosur-EU, experts say. CNN, 2026; cnnbrasil.com.br
52 RODRIGUES, Beatriz. Territorial dynamics and socio-territorial conflicts in the Southwestern Amazon; Le Monde Diplomatique; Available at: diplomatique.org.br
53 Zem, Rafaela. EXCLUSIVE: Reports of slave labour reach new record high in Brazil. G1, 2026; g1.globo.com
54 GHAZALI, Fernanda. Survey points to overlap of areas in CAR equivalent to the size of Colombia. Brasil; correiobraziliense.com.br

The EUDR's credibility as an environmental safeguard is directly undermined by this gap, and the EU-Mercosur agreement does nothing to close it.

A further dimension of the agreement's extractive logic concerns critical minerals. As the global transition away from fossil fuels creates new demand for nickel, cobalt, and other minerals, the EU-Mercosur agreement secures preferential European access to these resources from the Mercosur region. Although Brazil retained a formal right to restrict critical mineral exports in order to support domestic industry, it must comply with percentage caps and prioritise EU exports when exercising that right.[55]

The territories of the Global South are therefore under pressure not only from agricultural commodity expansion, but from the resource extraction logic of the Global North's energy transition.

The territories of the Global South are therefore under pressure not only from agricultural commodity expansion, but from the resource extraction logic of the Global North's energy transition, which is already having severe socio-environmental consequences. The TSD chapter provides no enforceable obligations against any of this. Trade policy shapes environmental policy, and the agreement's design ensures that this remains the case.[56]

55 DeutscheWelle. How the Mercosur-EU mega free trade zone will work; dw.com

56 INESC. Mercosur-European Union Agreement; INESC, 2025; inesc.org.br

3.2 Kenya
The EU-Kenya Economic Partnership Agreement

Kenya has adopted one of the most explicit national commitments to agroecology on the African continent. The National Agroecology Strategy for Food System Transformation, launched in 2024, sets out a decade-long framework for promoting climate-resilient, farmer-led, and bio-diversity-based food systems. Community Seed Learning Centres operate across the country, supporting the selection, saving, and distribution of locally adapted varieties. Smallholder and family farmers remain the backbone of Kenya's food system, producing the majority of food consumed domestically.

The EU-Kenya Economic Partnership Agreement, which entered into force on 1 July 2024, places this entire trajectory under pressure.[57] The circumstances under which that agreement came into force deserve scrutiny. The EPA was never meant to be a bilateral deal between the EU and Kenya alone.[58] It was conceived as a regional agreement with the full East African Community. Three EAC members – Tanzania, Uganda, and Burundi – refused to sign the regional EPA in 2016, citing concerns about revenue losses, market asymmetries, and the threat to nascent industries.

57 European Commission. (2025). EU-Kenya: Text of the Agreement; policy.trade.ec.europa.eu
58 TripleOKLaw LLP. (2025). An Overview of the EU-Kenya Economic Partnership Agreement; tripleoklaw.com

They could afford to do so because, as Least Developed Countries, they access the EU market duty-free under the Everything But Arms arrangement without needing to open their own markets in return.[59] But Kenya, which is classified as a middle-income country, does not qualify for that arrangement. It faced a stark choice: sign bilaterally or lose preferential access to its largest export market. The EU exploited that asymmetry to extract a bilateral agreement that the broader region had rejected. This is not a minor procedural point. It means the EPA reflects the negotiating leverage of one party over another, not a genuinely mutual agreement between equals.

The agreement's legitimacy is now under active legal challenge. On 24 November 2025, the East African Court of Justice issued an interim injunction suspending implementation of the EPA, following a petition by the Centre for Law, Economics and Policy on East African Integration. The court found that Kenya had violated provisions of the EAC Treaty and the Protocols on the Customs Union and Common Market by proceeding without adequately notifying or consulting EAC partners, including the Democratic Republic of Congo and Somalia, which joined the EAC after the EPA was originally negotiated. The court specifically cited the risk of irreparable environmental and biodiversity harm as grounds for the suspension, noting that 'the environment, once damaged is rarely ever repaired.'[60] Kenya has appealed and insists that trade continues, but the agreement is operating under a judicial suspension at a regional court while that case is heard.

Thus, like the EU-Mercosur iTA, the EU-Kenya EPA is an agreement whose commercial provisions are taking effect under active legal challenge and whose procedural legitimacy is formally contested. Its core trade provisions on tariff liberalisation, rules of origin, and market access entered into force in July 2024 and are already producing effects on Kenyan producers and food systems. Its most consequential provisions for agroecology – which cover intellectual property rights on seeds, public procurement, and trade, environment and sustainable development – are not yet agreed.

Under Article 3, both parties committed to concluding those negotiations within five years of entry into force, meaning by 2029.[61] Those negotiations are now under way. What emerges from them will determine whether the EPA entrenches or undermines Kenya's agroecological commitments, which is why this chapter analyses both what is already in force and what is at stake in the negotiations ahead.

82.6%

of Kenyan tariff lines liberalised under the EPA, including staple crops

I. Provisions on trade in goods and tariff liberalisation: implications for agroecology in Kenya

The EPA liberalises 82.6 percent of product lines (known as tariff lines), including a substantial share of agricultural products. It does so progressively, but without adequate safeguards for agroecological producers. Products including sesame seeds, soybeans, and maize will reach zero tariff in year 15. Cassava, sweet potatoes, and yams will be fully liberalised by year 25.[62] These are not peripheral commodities. They are staple crops central to the food security, livelihoods, and agrobiodiversity of smallholder farming communities across Kenya.

The consequence of opening these product lines to EU competition is direct and measurable. Kenyan agroecological farmers producing indigenous soybeans or open-pollinated maize varieties will face competition from EU imports produced with advanced mechanisation, synthetic inputs, and export subsidies that agroecological producers cannot match. Farmgate prices will be driven down, discouraging the cultivation of traditional and climate-resilient crops.

59 Afronomicslaw. (2021). Bilateralizing the EU-EAC EPA: An Introductory Legal Analysis; afronomicslaw.org
60 East African Court of Justice. (24 November 2025). EACJ Halts Implementation of Kenya-EU Economic Partnership Agreement; eacj.org
61 European Commission. (2025). EU-Kenya: Text of the Agreement; policy.trade.ec.europa.eu
62 Ibid

Local processing industries, small cassava flour mills, sweet potato puree processors, and similar enterprises rooted in agroecological value chains, face displacement as cheaper EU alternatives flood the market. The result is not greater efficiency. It is the systematic erosion of agroecology-based rural economies that have sustained Kenyan food systems for generations.

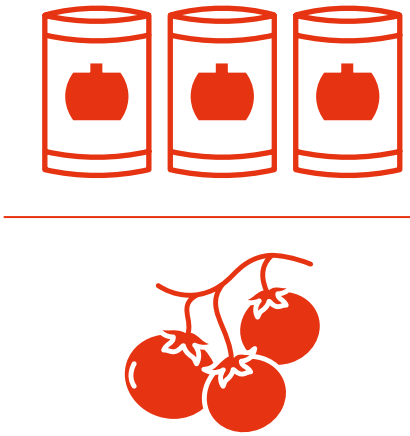
II. Rules of origin: cumulation provisions and their effect on local agroecological value chains

Under the EPA, the parties issued a joint statement confirming that the EU-EAC EPA Protocol on Rules of Origin (RoO) will form the basis for the future rules of origin protocol.[63] A critical analysis of the cumulation provisions in that framework reveals a structural risk for agroecological producers in Kenya.

Diagonal cumulation is a RoO provision whereby products from one country of origin can have value added to it in another as if it were native to that country. Diagonal cumulation rules allow European companies operating processing facilities in Kenya to treat EU-origin inputs as local, meaning that processed foods (e.g. tomato paste, juice concentrate) can qualify as Kenyan origin even when the primary agricultural raw material was imported from Europe.

For example, a European company could import tomato concentrate from the EU, process it in Kenya, and export the finished tomato paste to the EU duty-free under the EPA, despite the fact that no Kenyan farmer supplied the tomatoes.

For example, a European company could import tomato concentrate from the EU, process it in Kenya, and export the finished tomato paste to the EU duty-free under the EPA, despite the fact that no Kenyan farmer supplied the tomatoes. This directly undermines agroecology and farmers' rights in two ways. First, local agroecological tomato farmers lose market opportunities because processors can rely on cheaper, standardised EU concentrate rather than sourcing from diverse small Kenyan producers. Second, it consolidates



EPA creates incentives to use imported, uniform inputs rather than agroecologically grown, pesticide-free crops adapted to local conditions

industrial agriculture by creating incentives to use imported, uniform inputs rather than agroecologically grown, pesticide-free tomatoes adapted to local conditions. Cumulation provisions marginalise small farmers, weaken seed sovereignty by reducing demand for locally adapted varieties, and accelerate the shift toward input-dependent value chains that are structurally incompatible with agroecological production models.

63 CIRCABC. (2025). Joint Declaration on Rules of Origin by the European Union and the Republic of Kenya; circabc.europa.eu

III. Intellectual property rights on seeds: UPOV 1991 and the erosion of farmer-managed seed systems in Kenya

Kenya already operates within a legal framework shaped by UPOV 1991, having acceded in 2016. The Seeds and Plant Varieties Act, revised in 2019, prohibits farmers from sharing, exchanging, or selling uncertified and unregistered seeds. Farmers face fines of up to one million Kenyan shillings and imprisonment of up to two years for non-compliance.[64] Civil society analyses and litigation brought by smallholder farmers document how this legal architecture has favoured commercial seed companies, undermined community seed banks and participatory plant breeding, and created a chilling effect on farmers' customary seed practices that have sustained Kenyan agriculture for generations.

The EPA commits both parties to negotiate an intellectual property rights protocol within five years. Based on the EU's established negotiating positions, reflected in the Mercosur IP chapter and in the EU-Indonesia CEPA negotiations, that protocol is highly likely to push for UPOV 1991-aligned standards, strict plant variety protection, and enforcement mechanisms that prioritise commercial breeders over farming communities.[65] This would deepen and entrench the corporate-friendly seed regime already in place.

> **This would deepen and entrench the corporate-friendly seed regime already in place.**

The consequences for agroecology in Kenya are concrete. Studies have shown that the adoption of hybrid maize increased sharply in the Rift Valley after Kenya aligned with UPOV-1991 through the Seed and Plant Varieties Act (2012, rev. 2019), which restricts farmers' rights to save and exchange seeds.[66] Research in Trans Nzoia documents the shift from local maize varieties to proprietary hybrids, such as the H614 and Pannar lines, which are imported or licensed largely through European seed multinationals, including Syngenta, Bayer/Monsanto, and Corteva.[67] These hybrids require higher inputs of fertilisers and pesticides, increasing production costs and reducing the agroecological resilience that makes smallholder farming viable in the face of climate shocks.[68]

Kenya's National Agroecology Strategy explicitly supports indigenous seed systems, biodiversity conservation, and farmer autonomy.[69] These principles are in direct conflict with the EPA's trajectory on seeds. An IP protocol modelled on UPOV 1991 would not merely create tension with the National Agroecology Strategy. It would actively sabotage it, giving legal force to corporate seed monopolies while criminalising the farmer-managed seed practices on which Kenya's agroecological transition depends.

64 Gordon, G. (24 July 2023). How the World Bank is restricting farmers' rights to own, save, and sell seeds; ids.ac.uk

65 AFSA. (2021). The food we want: AFSA supports global call to action against UPOV. Kampala: Alliance for Food Sovereignty in Africa; afsafrica.org; Štrba, S. I. (15 April 2019). In conversation with Dr Susan Isiko Štrba. Afronomics Law; afronomicslaw.org

66 La Via Campesina. (2015). Seed laws that criminalise farmers: resistance and reaction; viacampesina.org

67 AFSA. (2021). Stories of seed activism: journalists from 14 countries report on grassroots solutions to corporate control of life in Africa; afsafrica.org

68 FAO. (2019). Country report: The state of Kenya's biodiversity for food and agriculture; openknowledge.fao

69 AFSA. (2025). Shifting financial power: cutting funding for industrial agriculture, redirecting funding to agroecology; afsafrica.org

Controversial provisions in the EU-Indonesia CEPA chapter on intellectual property rights and implications for agroecology and smallholder rights

Article	Implications for agroecology and smallholder rights
Plant variety protection (PVP)/UPOV-type rights	Strengthens breeders' rights and protects new plant varieties. Prevents farmers from saving, exchanging, or selling farmer-bred seeds, undermines traditional seed systems and agrobiodiversity, and increases dependence on corporate varieties.
Patent protection on biological innovations	Grants exclusive rights to patented products and processes, including some biological and genetic innovations. Limits small farmers' access to locally adapted crop varieties, increases input costs, and concentrates seed markets in the hands of multinational companies.
Enforcement and sanctions	Requires effective enforcement mechanisms and remedies for intellectual property violations. Risks criminalising small farmers who use unlicensed seeds or traditional crop varieties, directly stigmatising customary practices that sustain agroecological farming.
Geographical indications (GI)	Protects names and brands associated with specific regions and products, 221 in the EU and 72 in Indonesia. While this may benefit some niche indigenous products, it primarily serves export branding and may favour EU GI holders, with limited direct benefit to subsistence farmers.
Trade secrets and undisclosed information	Designed to protect proprietary commercial information. Strengthens corporate control over seed breeding and agricultural inputs, excluding small farmers from innovation systems and limiting transparency in genetic resource governance.

This tension raises a fundamental question of policy coherence: how can Kenya reconcile a national commitment to agroecology and food sovereignty with trade obligations that systematically privilege corporate seed patents?

This tension raises a fundamental question of policy coherence: how can Kenya reconcile a national commitment to agroecology and food sovereignty with trade obligations that systematically privilege corporate seed patents?

Without explicit safeguards for farmer-managed seed systems and agrobiodiversity, the EPA risks becoming a legal instrument deployed against Kenya's own agricultural policies. Legal challenges from farmers' rights organisations under Kenya's constitutional guarantees on indigenous knowledge and food sovereignty are a foreseeable consequence.[70]

IV. Trade, environment, and sustainable development: conduct norms without enforceable commitments

The Trade, Environment and Sustainable Development (TESSD) annex of the EPA formally commits both parties to environmental protection, climate action, and biodiversity. It states that neither party should weaken environmental standards to attract trade or investment. These are presented as meaningful safeguards. They are not.71 The TESSD provisions are formulated as norms of conduct rather than enforceable obligations. There is no dispute settlement mechanism for violations of the sustainability annex equivalent to what applies to commercial provisions. This means Kenya cannot be held to account for failing to protect agroecological farmers from environmental harms linked to the EPA, nor can the EU be held to account for the environmental consequences of the market access it is gaining.

70 Ibid

71 European Commission. (2025). EU-Kenya: Text of the Agreement; policy.trade.ec.europa.eu

Compliance requirements linked to EU sustainability standards create an additional risk: they may pressure Kenyan producers to adopt certification systems and traceability technologies that favour large exporters and industrial producers, and marginalise small agroecological farmers, who lack the capital to access such systems. The TESSD annex mentions cooperation on biodiversity, but does not safeguard local agrobiodiversity or the equitable sharing of benefits from genetic resources, which are foundational to agroecological practice. The EPA's sustainability commitments provide political cover without legal substance – exactly the pattern identified in the cross-cutting analysis.

V. Public procurement: a model under threat

Kenya has developed public procurement policies specifically designed to support local producers and disadvantaged groups. The Access to Government Procurement Opportunities (AGPO) programme allocates 30 percent of public procurement budgets to specific disadvantaged groups, including women, youth, and people with disabilities.[72] The Buy in Kenya, Build in Kenya strategy requires that at least 40 percent of supplies be purchased from local companies.[73] These are not incidental policies. They are important and deliberate tools for directing public spending toward local food systems and away from large foreign suppliers.

The EPA commits both parties to negotiate a procurement transparency agreement within five years.[74] Based on the EU's standard negotiating positions and the Mercosur model, any procurement agreement would require non-discrimination and equal treatment for EU suppliers in Kenyan public tenders. This directly threatens the AGPO programme and the Buy in Kenya strategy. Municipal governments that are currently purchasing indigenous vegetables, sorghum flour, maize, and agroecologically grown beans from local cooperatives for school feeding programmes could be required to open these tenders to EU suppliers offering cheaper, industrially grown alternatives. Given the scale, mechanisation, and subsidy backing of EU agribusiness, small local farmers producing diverse, low-input, and climate-resilient crops would be priced out of the institutional markets on which many agroecological enterprises depend.

Kenya has yet to secure a carve-out for family farming, because the procurement negotiations have not yet happened. These negotiations are part of the Article 3 commitments to be concluded by 2029, meaning the outcome is still open. This is both a risk and an opportunity. The risk is that a procurement agreement modelled on the Mercosur framework would impose non-discrimination and equal treatment for EU suppliers as a default, forcing Kenya to fight for exceptions to a liberalisation logic it never agreed to in the first place. The opportunity is that Kenya's existing procurement tools – the AGPO programme and the Buy in Kenya strategy – are still intact and can be explicitly protected if the negotiation is approached from the right starting position. That starting position must be the preservation of Kenya's right to use public procurement in support of local food systems, family farming, and agroecological producers as a non-negotiable baseline, not a concession to be traded away. Civil society organisations, farmers' networks, and agroecological movements in Kenya have a narrow but real window to shape that outcome before it closes.

The *Buy in Kenya, Build in Kenya* strategy requires that at least 40 percent of supplies be purchased from local companies.

72 National Treasury. (2021). Access to Government Procurement Opportunities (AGPO); treasury.go.ke
73 Department of State for Industry. (2017). Buy in Kenya, Build in Kenya Strategy; industrialization.go.ke
74 European Commission. (2025). EU-Kenya: Text of the Agreement; policy.trade.ec.europa.eu

3.3 Indonesia
The EU-Indonesia Comprehensive Economic Partnership Agreement

Indonesia is one of the most biodiverse countries on earth, and home to some of the most active seed sovereignty and food sovereignty movements in South East Asia. Its 2021 National Pathway for Food Systems Transformation gave agroecology an explicit role in national food policy, complementing government objectives around food diversity and the preservation of local knowledge of food resources.[75] Smallholder farmers, including millions of women farmers who are central to seed preservation and local food systems, produce the majority of food consumed domestically.

The EU-Indonesia Comprehensive Economic Partnership Agreement was politically agreed in July 2025, with negotiations formally concluded in September of that year. The agreement is now in a pre-signature phase, with formal signing expected in 2026. Its terms already define what Indonesia will be legally committed to once it enters into force, and are directly at odds with Indonesia's agroecological commitments.

The circumstances of the CEPA's conclusion deserve scrutiny. The compressed timeline, from political agreement in July to formally concluded negotiations in September 2025, stands in stark contrast to the previous decade of stalled talks.

75 Laos-Facilitated Initiative on Agroecology (2025). Agroecological Transitions in ASEAN – LICA and Policy Guidelines; aseanaetguidelines.org

The acceleration was driven by geopolitical optics, including pressure to compete with US trade overtures to Indonesia, rather than by resolution of the underlying substantive disputes. Most significantly, the agreement was concluded while an active WTO dispute between Indonesia and the EU over palm oil remained unresolved. The WTO panel ruled on 10 January 2025 that EU biofuel policies under the Renewable Energy Directive discriminated against Indonesian palm oil compared to EU and other non-palm biofuels.[76] The EU was given until 24 February 2026 to comply. It did not. On 7 March 2026, Indonesia formally requested WTO authorisation to suspend EU trade concessions.[77] The CEPA contains a dedicated Palm Oil Protocol, but it does not resolve the conflicts that are the substance of the dispute.

> **The EU is therefore asking Indonesia to open its markets, accept UPOV 1991 seed rules, and liberalise public procurement while simultaneously refusing to comply with a WTO ruling in Indonesia's favour.**

The EU is therefore asking Indonesia to open its markets, accept UPOV 1991 seed rules, and liberalise public procurement while simultaneously refusing to comply with a WTO ruling in Indonesia's favour. This asymmetry is not incidental. It reflects the structural imbalance of power in which the CEPA agreement was concluded.

Civil society organisations were highly critical in their assessment. In February 2025, more than 120 civil society organisations and trade unions from Indonesia and Europe, including Both ENDS, called on both governments to stop the negotiations.[78] In a joint analysis, they concluded that the CEPA serves the interests of multinationals and large landowners, reinforces an extractive economic model, and deprives Indonesia of the policy space to build its own economy while nature, workers, and local communities pay the price. The agreement was concluded nonetheless.

More than 120 civil society organisations and trade unions from Indonesia and Europe called on both governments to stop the negotiations

The CEPA eliminates tariffs on more than 98 percent of tariff lines, with 80 percent liberalised upon entry into force and 96 percent of trade liberalised after a five-year transition period.[79] Its provisions on national treatment and market access for goods, intellectual property, public procurement, and sustainable food systems each carry concrete risks for Indonesia's agroecological producers, farming communities, and the seed systems on which they depend.

I. Provisions on trade in goods and tariff liberalisation: implications for agroecology in Indonesia

The national treatment and market access chapter requires Indonesia to progressively eliminate tariffs and treat EU products no less favourably than domestic products, significantly reducing protections for local agricultural markets. Under this chapter, Indonesia will eliminate customs duties on most EU agri-food exports, including dairy products, meat, processed foods, and fresh produce, thus opening Indonesian markets to a large influx of subsidised and industrialised European agricultural products. [80]

Agroecological producers in Indonesia typically rely on local markets, minimal external inputs, and diverse cropping systems adapted to local ecological conditions. Increased competition from EU industrial agriculture will reduce their market share and incomes. The national treatment obligation also directly limits Indonesia's policy space to

76 Palm Oil Magazine. (9 March 2026). Indonesia Seeks WTO Approval to Suspend EU Concessions Over Palm Oil Dispute; palmoilmagazine.com
77 Ibid
78 Both ENDS. (2025). The EU-Indonesia Free Trade Agreement: a critical analysis and an alternative; bothends.org
79 European Commission. (2025). Factsheet: EU-Indonesia Comprehensive Economic Partnership Agreement; policy.trade.ec.europa.eu
80 Ibid

design differentiated taxation, subsidies, or preferences for sustainable small-scale farms, including instruments that would specifically support agroecological producers over agro-industrial ones. Governments that have committed to agroecological transitions need precisely this kind of differentiated policy capacity. The CEPA removes it as a default and requires Indonesia to justify any deviation from non-discrimination as an exception rather than a right.

II. Intellectual property rights on seeds: UPOV 1991 and seed sovereignty in Indonesia

Indonesia has maintained a degree of policy space on seed governance through its own plant variety protection framework, developed as a sui generis system that sought to balance breeders' rights with farmers' rights and agrobiodiversity conservation. The CEPA directly threatens this. The agreement pushes for stronger protection and enforcement of intellectual property standards – including plant variety rights, trademarks, patents, and trade secrets – measures that are explicitly modelled on UPOV 1991 and that mirror the EU's strategy in other trade agreements, including EU-Vietnam and EU-Mercosur.[81] The EU's push for strong intellectual property rights on seeds reflects the interests of its seed industry: companies such as Bayer-Monsanto, Syngenta, Corteva, and BASF control between 50 and 60 percent of the global seed market, valued at US$45 billion.[82] The Netherlands alone is the world's largest exporter of plant reproductive materials, valued at over €5 billion in 2023.[83] UPOV 1991 provisions in EU FTAs are the legal instrument through which that market dominance is extended and locked in.

By entrenching UPOV 1991, the CEPA directly contradicts Indonesia's commitments under the International Treaty on Plant Genetic Resources for Food and Agriculture, which protects farmers' rights over seeds, and under the UN Declaration on the Rights of Peasants.[84]

Research consistently shows no evidence that joining UPOV improves food security or increases crop yields in developing countries.[85] The convention's uniformity and stability requirements marginalise diverse local varieties while its patent-like protections facilitate biopiracy of Indonesia's extraordinarily rich genetic heritage. Women farmers, who are central to seed preservation in Indonesian farming communities, face disproportionate exposure: legal risks increase when farmers can be sued for unintentionally growing patented varieties through natural cross-pollination, a risk that is particularly acute in the diverse, polyculture systems that characterise agroecological production.[86]

III. Sustainable food systems chapter: standards as non-tariff barriers

Chapter 16 of the CEPA is the provision that makes this agreement superficially distinctive. No other EU FTA examined in this report has a dedicated sustainable food systems chapter. That novelty has been read as a sign of progress. The reality is more complex and ultimately more damaging to agroecology than the headline suggests.

81 GRAIN. (2019). Asia under threat from UPOV91; grain.org
82 Clapp, J. (2025). How a few giant companies came to dominate global food; landclimate.org
83 Ministry of Agriculture, Nature and Food Quality of the Netherlands. (2024). Dutch seeds: innovation with global reach; topsectortu.nl
84 Eaton, Derek. Trade and intellectual property rights in the agricultural seed sector. Centre for International Environmental Studies, Research Paper No. 20/2013; ssrn.com
85 APBREBES. (2021). UPOV misleads developing countries with absurdly incorrect information; apbrebes.org
86 GRAIN. (2019). Asia under threat from UPOV91; grain.org

The chapter frames sustainable food systems as an objective aimed at promoting food security, animal welfare, climate-sensitive production, and cooperation on sustainability standards. In practice, it is the EU imposing its technical and private standards on Indonesian producers through the trade relationship. These standards, including traceability requirements, certification systems, cold chain infrastructure, and compliance with EU sustainability criteria, favour large capitalised supply chains that can absorb the administrative and financial costs involved.[87] Small agroecological producers in Indonesia, who lack access to certification budgets, accredited verification schemes, and industrial-scale traceability systems, are structurally excluded. The sustainable food systems chapter does not level a playing field. It raises the bar to a height that only agribusiness can clear.

Sustainability criteria linked to market access and procurement can become non-tariff barriers that favour export-oriented agribusiness and displace local biodiversity-based agriculture.

Sustainability criteria linked to market access and procurement can become non-tariff barriers that favour export-oriented agribusiness and displace local biodiversity-based agriculture.[88] This transfers governance from public policy to private standards, expanding the power of certifiers and commercial buyers while marginalising traditional farming practices. The broader structural contradiction is that the EU is simultaneously demanding that Indonesian producers meet EU sustainability standards while refusing to comply with a WTO ruling against its own discriminatory treatment of Indonesian palm oil. The asymmetry could not be clearer: sustainability requirements are tools that apply to Indonesia, not to the EU.

The palm oil case is instructive here. More than eight million smallholder farmers in Indonesia depend on palm oil cultivation for their livelihoods. The EUDR requires that palm oil and other commodities be demonstrably free from deforestation after 31 December 2020. The compliance costs for smallholders, who need to build traceability systems and obtain certification, are substantial. The CEPA's sustainable food systems chapter offers cooperation and technical assistance, but no binding guarantee that these costs will be met or that smallholders will not be structurally priced out of the EU market. The EU's failure to comply with the WTO ruling on palm oil biofuels by the February 2026 deadline compounds the problem: Indonesian producers are asked to comply with EU standards while the EU itself does not comply with its own WTO obligations toward Indonesia.[89]

8 million+

More than eight million smallholder farmers in Indonesia depend on palm oil cultivation for their livelihoods.

87 IPES-Food & ECDPM. (2020). EU trade policy for sustainable food systems: briefing note; ecdpm.org

88 SOMO. (2018). The EU – Indonesia CEPA negotiations; somo.nl

89 Palm Oil Magazine. (9 March 2026). Indonesia Seeks WTO Approval to Suspend EU Concessions Over Palm Oil Dispute; palmoilmagazine.com

IV. Public procurement: policy space at risk

Chapter 11 of the CEPA covers public procurement and follows the same non-discrimination and equal treatment logic that runs through EU FTAs more broadly. It requires both parties to grant equal access to public tenders for suppliers from the other party, thereby limiting the ability of the Indonesian government to give preference to local, sustainable, or agroecological producers in public purchasing decisions.

Indonesia has long used public procurement as a tool to support domestic food production, rural livelihoods, and food security.

Indonesia has long used public procurement as a tool to support domestic food production, rural livelihoods, and food security. School feeding programmes, social protection food distribution, and institutional purchasing by hospitals and government bodies represent significant and stable demand that can sustain local food systems if directed appropriately. The CEPA's procurement disciplines risk opening these markets to EU agribusiness suppliers who can undercut local producers on price, backed by subsidies, mechanisation, and economies of scale that agroecological producers cannot match. Indonesia enters these procurement obligations without the protections that Brazil's civil society organisations fought to secure, and without the institutional experience of defending agroecological procurement programmes against trade disciplines.

The combination of tariff liberalisation opening agricultural markets to EU imports; UPOV 1991 increasing smallholder input costs and dependency; and procurement disciplines removing policy tools for supporting local food systems creates a mutually reinforcing set of pressures that collectively make agroecological transitions harder to sustain and harder to scale. Both ENDS' analysis of the CEPA concludes that it deprives Indonesia of the policy space to build its own economy and traps the country in the role of raw material supplier.[90]

90 Both ENDS. (2025). The EU-Indonesia Free Trade Agreement: a critical analysis and an alternative; bothends.org

Comparative discussion

Across EU agreements with Brazil, Kenya, and Indonesia, three structural mechanisms recur. Each mechanism operates differently in each country context, but together they produce a consistent outcome: EU trade agreements make agroecological transitions harder to pursue, harder to sustain, and harder to defend politically.

1 **The first mechanism** is the restriction of seed sovereignty through UPOV 1991-aligned intellectual property rules. In Kenya, accession to UPOV 1991 in 2016 and its transposition into domestic law through the Seeds and Plant Varieties Act 2019 have made it a criminal offence to save, exchange, or sell uncertified seeds, with penalties including fines of up to KSh 1 million and two years' imprisonment. In Indonesia, CEPA pushes an equivalent set of obligations onto a country whose sui generis seed governance framework had explicitly sought to preserve policy space for seed sovereignty and farmer-managed systems. In Brazil, the UPOV-aligned provisions of the EU-Mercosur IP chapter risk consolidating a trajectory of seed commercialisation and corporate concentration that is already eroding the diversity and autonomy of family farming systems. In all three countries, the pattern is the same: breeders' rights are enforceable and judicially actionable while farmers' rights remain aspirational.

2 **The second mechanism** is the erosion of public procurement as a tool for supporting agroecological food systems. Brazil's case is the most developed. The PNAE programme, which requires 30 percent of school feeding budgets to be sourced from family farms, represents one of the most significant public policy instruments for connecting agroecological producers to stable institutional demand. The hard-won family farming carve-out in the EU-Mercosur procurement annex preserves some of that space, for now, but its scope is limited and its durability is not guaranteed as the agreement moves toward ratification. Kenya's AGPO and Buy in Kenya frameworks are not yet formally constrained by the EU-Kenya EPA, but the Article 3 negotiating window on procurement, investment, and IP closes by 2029, and the absence of explicit protections means the need for advocacy is urgent. Indonesia enters CEPA procurement disciplines without any equivalent carve-out and with its local food purchasing programmes fully exposed to non-discrimination obligations from the moment the agreement enters into force.

3 **The third mechanism** is the systematic weakness of sustainability provisions relative to trade and investment disciplines. In the EU-Mercosur agreement, Chapter 21 explicitly excludes the TSD chapter from the agreement's dispute settlement procedures. In the EU-Kenya EPA, the TESSD chapter establishes conduct norms but not enforceable obligations. The EU-Indonesia CEPA marks a partial departure: its TSD chapter is formally subject to the agreement's dispute settlement mechanism, with trade sanctions available as a last resort for breaches of core ILO conventions and the Paris Agreement. This is a step beyond the Mercosur and Kenya models, but the scope of enforceable commitments remains narrow, the mechanism is untested, and Chapter 16 on sustainable food systems, despite its novelty, relies primarily on cooperation frameworks rather than binding obligations with equivalent consequences for non-compliance. The result across all three agreements is that sustainability commitments carry far less legal weight than the trade and IP disciplines that sit alongside them. Agribusiness expansion, deforestation, biodiversity loss, and the displacement of smallholder producers are not regulated by these agreements in any meaningful sense. They are acknowledged.

The three mechanisms at a glance

Mechanism	Structural effect	Country illustration
1 **Restriction of seed sovereignty**	Criminalises farmer seed saving and exchange Consolidates corporate control over seed markets	**Kenya:** Fines of up to KSh 1 million and imprisonment for sharing uncertified seeds
2 **Erosion of public procurement**	Constrains governments' ability to direct public purchasing toward family farming and agroecological producers	**Brazil:** PNAE family farming carve-out hard-won and fragile; **Kenya and Indonesia** have no equivalent protection
3 **Weakness of sustainability provisions**	Sustainability commitments carry no legal equivalence to trade and IP disciplines; agribusiness expansion goes unregulated	**Brazil:** TSD excluded from dispute settlement. **Kenya:** Conduct norms without enforcement. **Indonesia:** Dispute settlement for TSD limited to core ILO and Paris Agreement commitments

Key asymmetry: IP and trade disciplines are fully enforceable across all three agreements, while sustainability and agroecology commitments carry far less legal weight.

Why this matters now

This report is being presented in a moment of acute structural instability in global trade. The tariff war triggered by the United States in April 2025 disrupted established trade flows, accelerated geopolitical realignments, and intensified pressure on countries in the Global South to conclude trade agreements rapidly and on unfavourable terms. The EU-Indonesia CEPA is a direct product of that pressure: negotiations that had stalled for nearly a decade were compressed into months as both parties responded to the changed geopolitical environment. The result is an agreement whose terms were shaped more by the urgency of concluding something than by the adequacy of what was concluded.

This context matters for how the three agreements in this report should be read. EU FTAs are not static technical instruments. They are concluded in political moments, and those moments shape what gets conceded, what gets protected, and what gets left out. The Global South countries that are most exposed to the consequences of these agreements, including Brazil, Kenya, and Indonesia, are also the countries with the least negotiating leverage in moments of geopolitical turbulence. When trade routes are disrupted, when fertiliser prices spike, when food import costs rise, the countries that absorb those shocks are not the ones that wrote the rules. They are the ones that signed them.

> **Diverse, locally adapted, ecologically managed food systems reduce dependence on imported inputs, sustain agrobiodiversity, support rural livelihoods, and build the kind of food system resilience that no trade corridor can provide.**

Agroecology is precisely the approach that reduces exposure to these shocks. Diverse, locally adapted, ecologically managed food systems reduce dependence on imported inputs, sustain agrobiodiversity, support rural livelihoods, and build the kind of food system resilience that no trade corridor can provide. The evidence from Brazil, Kenya, and Indonesia confirms that the communities and organisations already building agroecological systems are doing so despite the trade and investment rules in place, not because of them.

The policy question is therefore not whether agroecology works. It does. The question is whether the EU is willing to stop exporting rules that make it structurally harder to practice and scale.

Two interrelated processes

The analysis points to two interrelated processes through which EU trade policy undermines agroecology. The first is the reduction of national policy space for public interest measures, including seed governance choices that protect farmer-managed systems, procurement tools that connect family farming to institutional demand, and regulatory frameworks that prioritise biodiversity and food security over commercial standardisation. The second is the intensification of competition and consolidation pressures in local value chains that reinforce corporate advantages in seed markets, processing capacity, and supply chain infrastructure. Agroecological producers cannot compete on the same terms as corporate agro-industrial actors.

Together, these processes do not simply disadvantage agroecological farmers at the margins. They reshape the regulatory and market environments in which those farmers operate in ways that are cumulative, lock-in prone, and increasingly difficult to reverse once agreements enter into force. The recommendations that follow address both processes. They are directed at EU institutions and member states as the primary rule-setters in these agreements, and at the governments of Brazil, Kenya, and Indonesia as the parties with the most direct stake in defending and extending the policy space that agroecological transitions require.

Recommendations

As geopolitical tensions rise and trade conflicts rapidly reshape global supply chains, now is the time to rethink the resilience of food systems worldwide. Investing in the localisation and regionalisation of food systems, rather than further expanding agro-industrial globalisation, can strengthen food security while reducing vulnerability to external shocks. At the same time, deeper and reciprocal partnerships amongst countries are essential to support the development of resilient food systems, creating sustainable prospects for local farmers, many of whom are small-scale producers whose production is vital to national and global food security.

I. On the wider policy environment: systemic recommendations

Recognise agroecology explicitly as a legitimate development, climate, and food security response in international trade and investment frameworks. Agroecology is recognised by the FAO, the IPCC, and the IPBES as a central approach to climate adaptation, biodiversity conservation, and sustainable food systems. It is embedded in national strategies in Brazil, Kenya, Indonesia, and dozens of other countries. It is supported by an extensive and growing evidence base. Yet current trade and investment rules treat it as a niche preference rather than a systemic solution, and create no obligation on parties to protect the policy space needed to pursue it. International trade frameworks, including WTO agreements and bilateral FTAs, should explicitly recognise governments' right to pursue agroecological transitions and should treat measures taken in support of agroecology as legitimate public interest regulation that cannot be challenged as trade-distorting.

The findings of this report point to a clear distribution of responsibility. The EU is the rule-setter in these agreements. It determines what is demanded, what is offered, and what is excluded. The governments of Brazil, Kenya, and Indonesia negotiate within the constraints the EU sets, but they also retain agency over how they use existing policy space and what they defend in ongoing and future negotiations. The recommendations below address both.

II. To the European Union and its member states

Reform EU trade negotiating mandates to exclude provisions that demonstrably obstruct agroecology, seed sovereignty, and just food systems. The European Commission's negotiating mandates are agreed by the Council and largely shielded from public scrutiny and parliamentary oversight until agreements are concluded. This opacity allows the Commission to continue pushing UPOV 1991, procurement liberalisation, and regulatory convergence provisions that EU member states with strong agroecological constituencies would not publicly endorse if presented with their full consequences. The European Parliament and member state parliaments would do well to demand full transparency over negotiating mandates, including prior parliamentary approval of mandates that include IP, procurement, and regulatory cooperation provisions with direct consequences for food systems and farmers' rights.

Align EU trade policy with the UN Declaration on the Rights of Peasants. UNDROP, adopted by the UN General Assembly in 2018, recognises the rights of peasants and other people working in rural areas to seeds, to land, to food sovereignty, and to a clean environment. The EU abstained on the UNDROP vote. Its trade agreements systematically export rules that contradict UNDROP's core provisions, particularly on seed saving, exchange, and the protection of traditional knowledge. The recommendation is for the EU to formally recognise UNDROP as a reference framework for its trade policy, conduct a comprehensive review of existing agreements against UNDROP standards, and commit to ensuring that future agreements do not require partner countries to adopt measures incompatible with their UNDROP obligations.

Exclude UPOV 1991 from EU trade agreements

The recommendation is for the EU to stop demanding UPOV 1991 accession or equivalent plant variety protection standards as part of its FTA negotiations. UPOV 1991 criminalises farmer seed saving and exchange practices, restricts agrobiodiversity, and is incompatible with the rights of peasants and small-scale farmers as recognised under UNDROP and the ITPGRFA. Where existing agreements contain UPOV 1991 obligations, the EU is advised to open review processes with partner governments to replace them with sui generis frameworks that explicitly protect farmer-managed seed systems and farmers' rights. A bold EU-wide action plan is needed to support farmer-managed seed systems and reinforce food security and sovereignty.

Make Trade and Sustainable Development chapters legally equivalent to trade chapters

Sustainability commitments in EU FTAs must carry the same legal weight as the trade and investment disciplines that sit alongside them. This means subjecting TSD chapters to the same dispute settlement mechanisms as trade chapters, including binding arbitration and the possibility of trade sanctions for non-compliance. Dialogue-only enforcement renders sustainability provisions meaningless in practice and allows agribusiness expansion, deforestation, and biodiversity loss to proceed without consequence.

Conduct mandatory agroecological impact assessments before concluding trade agreements

The EU is called upon to mandate ex ante assessments of how proposed trade agreements will affect farmer-managed seed systems, public procurement tools for family farming, agrobiodiversity, the rights of women in food systems, and governments' policy space to pursue agroecological transitions. These assessments should be conducted transparently, with meaningful participation from farmers' organisations, women's groups, civil society, and the communities most directly affected, and include recommendations on how to protect the agroecological transition in trade agreements. In order to be effective, these recommendations are to be translated into binding negotiating mandates.

Protect public procurement space for food sovereignty programmes

The recommendation is for the EU to exclude from procurement disciplines any public purchasing schemes that demonstrably support family farming, agroecological production, school feeding, or food security objectives, and actively develop a strategy on how to protect public procurement space for food sovereignty in future trade agreements. Where carve-outs have already been negotiated, as in the EU-Mercosur agreement, it is of crucial importance that the EU defends and expands them.

Where they are absent, as in the EU-Indonesia CEPA and the ongoing EU-Kenya EPA annex negotiations, the EU would be advised to pro-actively introduce them.

Resolve outstanding trade disputes before concluding new agreements

The EU-Indonesia CEPA was concluded while the EU remained in non-compliance with a WTO panel ruling on palm oil discrimination. This sets a damaging precedent: it signals that the EU can demand compliance from trading partners while ignoring its own obligations under multilateral rules. The recommendation is for the EU to not conclude or bring into force trade agreements with countries against which it has active unresolved WTO obligations. Compliance with international trade law is a minimum condition of credibility in any negotiation.

III. To the governments of Brazil, Kenya, and Indonesia

Each of the three discussed countries has in their own way achieved remarkable success when it comes to developing localised sustainable food production through building resilient and effective agroecological food systems and family farming structures. From the official recognition and support of agroecological methods in Brazil to the intricate localised seed systems in Indonesia, the advances of the last years and decades are impressive and important for national food sovereignty as well as global climatic health. It is now important to ensure these systems and the gains are not lost in political brinkmanship on the global stage and hold powers such as the EU to account in uphold their commitments to just food systems as well as climate resilience.

Defend and expand sui generis seed governance frameworks

Each of the three countries has constitutional or policy commitments that advance and protect farmers' rights, agrobiodiversity, and food sovereignty. Governments are recommend to use every available legal and political space to develop sui generis plant variety protection systems that prioritise farmer rights and traditional seed exchange practices, and resist EU pressure to harmonise upward toward UPOV 1991 standards in ongoing and future negotiations.

Protect public procurement tools for agroecological food systems in all trade negotiations

It is crucially important for governments to treat public procurement for family farming and food security as a non-negotiable red line in FTA negotiations. The recommendation is to maintain, promote and expand the public procurement tools for seed sovereignty and agroecological food systems This means explicitly carving out programmes such as PNAE in Brazil, AGPO and Buy in Kenya, and equivalent instruments in Indonesia from non-discrimination obligations, and ensuring that any negotiated annexes or review processes preserve and extend rather than constrain these tools.

Coordinate across the three countries and within regional bodies

The three countries examined in this report face structurally similar pressures from EU trade agreements. Coordinated positions in multilateral and bilateral negotiations, shared legal analysis, and joint advocacy on seed sovereignty, procurement, and TSD enforceability would significantly strengthen each country's individual negotiating position and increase the political cost for the EU of continuing to export these rules.

Use WTO flexibilities and TRIPS flexibilities actively

The majority of low-income countries in the Global South retain flexibilities under the WTO TRIPS Agreement that allow for sui generis approaches to plant variety protection. Governments are urged to use these flexibilities explicitly and publicly, document their legal basis, and build coalitions with other countries facing equivalent pressures to defend them in WTO review processes and in bilateral negotiations.

Ensure participatory processes in all ongoing negotiations

The Kenya-EU EPA annex negotiations on IP, investment, and procurement remain open until 2029. The EU-Indonesia CEPA has not yet entered into force. These are live advocacy windows. Governments are recommended to commit to open, participatory negotiation processes that include farmers' organisations, women's groups, Indigenous peoples, and civil society as genuine participants, not as consultees after positions have been fixed.

Both ENDS
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