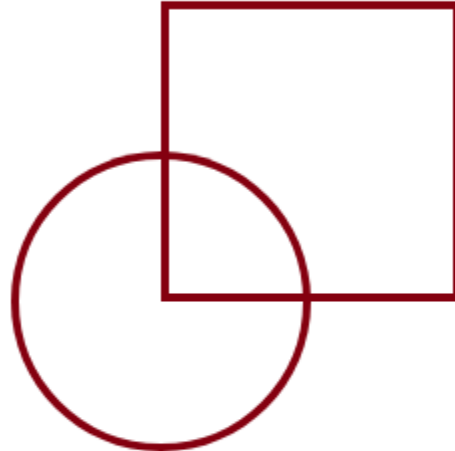


# NOTE STRATEGIQUE



LA LIGNE FINE

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## **Institutional Capacity and Governance Intensity in the EU–Mercosur Agreement**

Pôle thématique : **RIDS – Relations internationales, Défense et Sécurité**

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# Abstract

This memorandum examines the EU–Mercosur Association Agreement through the analytical lens of governance intensity and institutional executability. Moving beyond conventional economic or geopolitical readings, the analysis focuses on the structural conditions under which sustainability-oriented trade commitments can generate credible and durable implementation across asymmetric institutional environments.

The conceptual framework distinguishes between economic and institutional capacity and introduces governance intensity as a variable capturing the expansion of regulatory scope beyond tariff liberalisation. Sustainability provisions, environmental conditionality, regulatory cooperation mechanisms, and due diligence references generate continuous administrative and monitoring demands that differ structurally from classical trade obligations. Their credibility is conditioned not solely by formal legal reciprocity, but by the density and coherence of institutional infrastructures capable of sustaining oversight-intensive coordination.

Applied to the EU–Mercosur context, the analysis demonstrates that the agreement operates within a configuration of differentiated institutional density. The European Union’s supranational enforcement architecture contrasts with Mercosur’s intergovernmental structure, producing structural asymmetry in enforcement centralisation. When situated within multi-level governance environments characterised by ratification heterogeneity, domestic veto points, and administrative variability, this asymmetry acquires operational significance.

The memorandum argues that governance-intensive trade agreements are institutionally executable only to the extent that regulatory ambition aligns with consolidated administrative capacity across participating jurisdictions. Where such alignment remains partial, differentiated enforcement trajectories emerge as foreseeable structural outcomes rather than episodic deviations. The EU–Mercosur Agreement thus provides an empirical case for examining the institutional conditions under which sustainability-oriented trade governance can achieve durable compliance under asymmetric integration.

# Introduction

The debate surrounding the EU–Mercosur Association Agreement has largely unfolded within a geopolitical and socio-economic register, structured around concerns regarding environmental safeguards, democratic accountability, agricultural sensitivities, and asymmetries in market access. In several European Member States, public opposition has frequently been framed as a reaction to perceived environmental externalities and social risks, positioning the agreement primarily as a question of normative credibility and regulatory trust. Within this discursive landscape, the treaty has been interpreted either as a strategic geopolitical instrument or as a potential source of environmental and democratic dilution.

Yet this framing, while politically salient, tends to obscure a more structural inquiry. The central analytical question is not whether the agreement is normatively desirable, nor whether its sustainability clauses are symbolically ambitious, but whether the institutional architecture underpinning its implementation is capable of sustaining its commitments over time. As contemporary trade agreements increasingly embed sustainability and due diligence obligations, their durability depends less on the political act of signature and more on the institutional ecosystems responsible for operationalising complex regulatory provisions.

Politically agreed in 2019, following negotiations launched in 1999 and building upon the 1995 Interregional Framework Cooperation Agreement, the EU–Mercosur arrangement falls within the scope of the European Union’s exclusive competence in the Common Commercial Policy under Article 3 TFEU. Its formal legal basis therefore rests upon a consolidated supranational trade competence.

However, implementation capacity does not derive automatically from legal competence. The existence of supranational authority does not in itself guarantee administrative coherence, regulatory interoperability, or enforcement credibility across the multiple layers of governance implicated in sustainability and due diligence commitments.

The effectiveness of the agreement depends on the density of coordination mechanisms within the EU institutional order, the administrative cohesion of Mercosur structures, and the operational alignment of regulatory authorities across both blocs. The agreement thus provides a critical empirical terrain for examining the relationship between formal authority and effective enforcement under conditions of institutional asymmetry.

The period following political agreement has further underscored the relevance of this inquiry. Ratification delays, agricultural mobilisations, environmental conditionality debates, and parliamentary scrutiny have transformed the agreement into a contested site of democratic negotiation. These dynamics are not external to implementation capacity; they interact with it. Where enforcement mechanisms are perceived as weak or uneven, political resistance intensifies. Conversely, where institutional architecture demonstrates credible monitoring and sanctioning capacity, normative commitments acquire greater resilience against democratic contestation.

The gap between political conclusion and ratification therefore reveals a structural tension. Trade agreements embedding sustainability obligations are no longer evaluated solely through economic projections; they are assessed through expectations of institutional credibility. Public legitimacy and enforcement feasibility become interdependent. Implementation capacity is not a purely technical variable but a politically mediated condition shaped by institutional density, veto points, and administrative coherence.

Within this context, the EU–Mercosur Agreement emerges as a test case for examining the relationship between political ambition and institutional realism in interregional governance. The durability of the agreement cannot be assessed exclusively through textual analysis of its negotiated clauses or through geopolitical interpretation. Rather, it requires a structured evaluation of institutional capacity understood as the ability of governance systems to embed, coordinate, monitor, and enforce sustainability-oriented commitments.

This memorandum proceeds from the premise that sustainability and due diligence provisions transform trade agreements into governance-intensive instruments. Their feasibility depends on the alignment between normative scope and institutional strength across participating jurisdictions. The analytical focus therefore shifts from the symbolic ambition of commitments to the structural conditions that enable or constrain their operationalisation.

Only within this capacity-centred framework can the implementation prospects of the EU–Mercosur Agreement be evaluated in a manner that transcends both political polemics and purely economic assessment. The inquiry that follows seeks to determine whether the governance architecture underpinning

the agreement is structurally capable of absorbing democratic resistance while sustaining enforcement credibility under conditions of institutional asymmetry.

## **Research Hypotheses**

The analytical trajectory developed above indicates that the durability of the EU–Mercosur Association Agreement cannot be inferred from its negotiated text or from its geopolitical rationale alone. The decisive question concerns institutional executability: whether the governance architecture embedded in the agreement is structurally capable of translating sustainability and due diligence commitments into credible and sustained implementation across heterogeneous institutional environments.

To examine this question systematically, the present memorandum advances two interrelated hypotheses. The first hypothesis addresses the internal design of the agreement itself.

### **H1 (Structural Executability Hypothesis).**

The institutional executability of the EU–Mercosur Agreement is a function of the structural robustness of its governance architecture, defined by the density of coordination mechanisms, the clarity of delegated authority, and the credibility of monitoring and enforcement instruments embedded within the treaty framework.

This hypothesis rests on the premise that sustainability-oriented trade agreements operate as governance-intensive regimes. Their implementation depends not solely on the existence of legal competence or formal obligations, but on the institutional configuration through which commitments are operationalised. Joint committees, dispute settlement mechanisms, regulatory cooperation forums, and monitoring bodies must therefore be assessed in terms of their capacity to generate institutional density and procedural continuity across jurisdictions. The second hypothesis situates this architecture within the broader institutional ecosystems of the parties.

### **H2 (Institutional Asymmetry–Enforcement Gap Hypothesis).**

Institutional asymmetry between the European Union and Mercosur member states generates enforcement differentials that may produce implementation gaps, even where formal commitments are symmetrical.

This hypothesis builds upon the recognition that enforcement credibility is relational rather than intrinsic. It is shaped by variation in administrative cohesion, regulatory interoperability, judicial review capacity, and sanctioning effectiveness within domestic governance systems. The supranational legal order of the European Union contrasts with the intergovernmental configuration of Mercosur and the heterogeneous administrative capacities of its member states. Under such conditions, variation in institutional strength may translate into uneven enforcement dynamics, thereby affecting the sustainability of commitments.

Taken together, these hypotheses establish the conceptual direction of the memorandum. The first interrogates the structural adequacy of the agreement’s governance design; the second examines the extent to which cross-regional institutional asymmetries mediate its implementation.

**This memorandum advances the theoretical claim that the credibility of sustainability-oriented trade agreements is determined less by normative ambition than by the alignment between governance intensity and institutional capacity, and that where such alignment is incomplete, enforcement gaps become structurally predictable rather than politically accidental.**

The hypotheses advanced above require testing against the concrete institutional design of the agreement. The following section therefore shifts from conceptual abstraction to structural examination, analysing whether the governance architecture of the EU–Mercosur Agreement is institutionally configured to absorb the implementation pressures generated by its sustainability and due diligence commitments.

## **I. Conceptual Framework: Institutional Capacity, Governance Intensity, and Alignment**

This section develops the analytical lens through which the implementation feasibility of sustainability-oriented trade agreements is assessed. The framework rests on three interrelated components: institutional capacity, governance intensity, and structural alignment. Together, these concepts allow implementation credibility to be examined not as a binary outcome, but as a function of institutional congruence.

## **1. Institutional Capacity as Governance Capability**

Institutional capacity, as employed in this analysis, refers to the structured ability of governance systems to sustain policy commitments through coordinated administrative action and credible enforcement over time. It extends beyond the formal existence of legal authority and encompasses the depth and coherence of governance infrastructures that enable normative obligations to be translated into durable regulatory practice.

This understanding draws upon classical state capacity theory. Fukuyama (2004) distinguishes analytically between the scope of state functions and the strength of state institutions, arguing that governments may assume extensive policy responsibilities without possessing the administrative robustness necessary for effective execution. Where policy scope expands without parallel institutional consolidation, implementation strain emerges. Institutional weakness does not necessarily manifest as explicit non-compliance; rather, it becomes visible through coordination failures, monitoring gaps, and uneven enforcement trajectories.

Evans' (1995) concept of "embedded autonomy" further refines this perspective by emphasising the dual requirement of bureaucratic professionalism and structured engagement with societal actors. Institutional capacity therefore depends on administrative systems capable of maintaining operational coherence while remaining sufficiently insulated from short-term political volatility. Without such stabilising features, regulatory commitments become vulnerable to fragmentation and policy oscillation.

Within multilevel governance systems, institutional capacity acquires a relational dimension. Compliance outcomes are shaped not only by formal obligations but by the degree of compatibility between supranational requirements and domestic institutional structures (Börzel, 2002). As Zürn (2018) observes, the increasing density of internationalised authority generates escalating demands on domestic governance infrastructures. As regulatory commitments expand in scope and complexity, the institutional ecosystems required to sustain implementation credibility must expand proportionally.

Institutional capacity, in this sense, is not reducible to the existence of binding norms. It reflects the organisational depth, administrative coherence, and enforcement stabilisation that enable governance systems to internalise and sustain regulatory commitments under conditions of evolving policy demand.

## **2. Distinguishing Institutional Capacity from Economic Capacity**

Analyses of international trade agreements have traditionally relied on economic indicators to evaluate feasibility and distributive impact. Market size, export structure, fiscal space, and adjustment capacity are frequently treated as proxies for implementation potential. While indispensable for assessing economic outcomes, such metrics provide limited insight into the governance feasibility of sustainability-oriented obligations.

A conceptual distinction is therefore necessary. Economic capacity refers to the material and productive resources available to a polity—capital accumulation, infrastructure, technological integration, labour skills, and access to global value chains. Institutional capacity, by contrast, concerns the governance infrastructures through which authority is exercised and regulatory commitments are stabilised over time.

This distinction becomes analytically critical in governance-intensive domains. Sustainability and due diligence provisions differ structurally from tariff reductions. Whereas tariff liberalisation operates largely through market-mediated adjustment, sustainability commitments require sustained administrative coordination, inspection regimes, reporting infrastructures, regulatory oversight, and sanctioning mechanisms. Their credibility depends less on economic magnitude than on the organisational depth and coherence of enforcement systems.

As Fukuyama (2004) emphasises, state weakness often reflects insufficient institutional strength rather than inadequate material resources. Similarly, the effectiveness of regulatory commitments depends on bureaucratic consolidation and enforcement credibility rather than GDP size alone. Conflating economic and institutional capacity risks obscuring the structural determinants of implementation feasibility.

Analytical separation between material strength and governance capability is therefore indispensable. A state may possess significant economic weight while lacking administrative density sufficient to sustain

governance-intensive commitments. Conversely, comparatively smaller economies may demonstrate stronger implementation performance where institutional systems are professionalised and coordinated. The feasibility of sustainability-oriented trade governance must therefore be evaluated primarily through a capacity-centred rather than a purely economic lens.

### **3. Governance Intensity as an Interaction Variable**

To account for the increasing regulatory depth of contemporary trade agreements, this analysis introduces the concept of **governance intensity** as a structural interaction variable.

Governance intensity refers to the extent to which a trade agreement generates sustained regulatory and administrative demands beyond classical tariff liberalisation. Rather than treating trade agreements as homogeneous instruments of market opening, this concept captures variation in normative scope and implementation burden. Agreements characterised by low governance intensity primarily concern tariff reductions and market access provisions. Their operationalisation relies largely on customs administration and state-to-state dispute settlement procedures.

By contrast, high governance intensity agreements extend into domains requiring continuous regulatory intervention. Sustainability clauses, environmental conditionality, labour standards, regulatory cooperation mechanisms, and due diligence commitments generate ongoing obligations that depend upon monitoring infrastructures, cross-sector administrative coordination, inspection regimes, and enforcement mechanisms embedded within domestic governance systems.

Governance intensity does not independently determine implementation outcomes. Its analytical relevance emerges in interaction with institutional strength. As the normative scope of an agreement expands, the administrative and enforcement capacities required to sustain credible implementation increase correspondingly. The relationship is therefore relational rather than static: implementation feasibility depends on the proportional correspondence between governance demands and institutional capability.

Institutional alignment exists where the regulatory depth of an agreement is matched by the organisational density and enforcement credibility of participating jurisdictions. Misalignment arises where normative expansion outpaces administrative consolidation, generating structured implementation vulnerabilities. Under such conditions, formal commitments may remain legally intact while enforcement trajectories diverge in practice.

This interaction is conceptualised in Table 1, which presents the Governance Intensity × Institutional Strength alignment matrix. The matrix provides a macro-structural representation of the conditions under which governance-intensive trade commitments can be credibly sustained.

The Governance Intensity × Institutional Strength model thus establishes the analytical architecture underpinning this study. It identifies alignment as the structural condition for implementation credibility and misalignment as a predictable source of enforcement fragility. The following subsection specifies how institutional strength may be analytically disaggregated for structured empirical assessment.

Table 1. Governance Intensity and Institutional Strength: A Conceptual Alignment Matrix

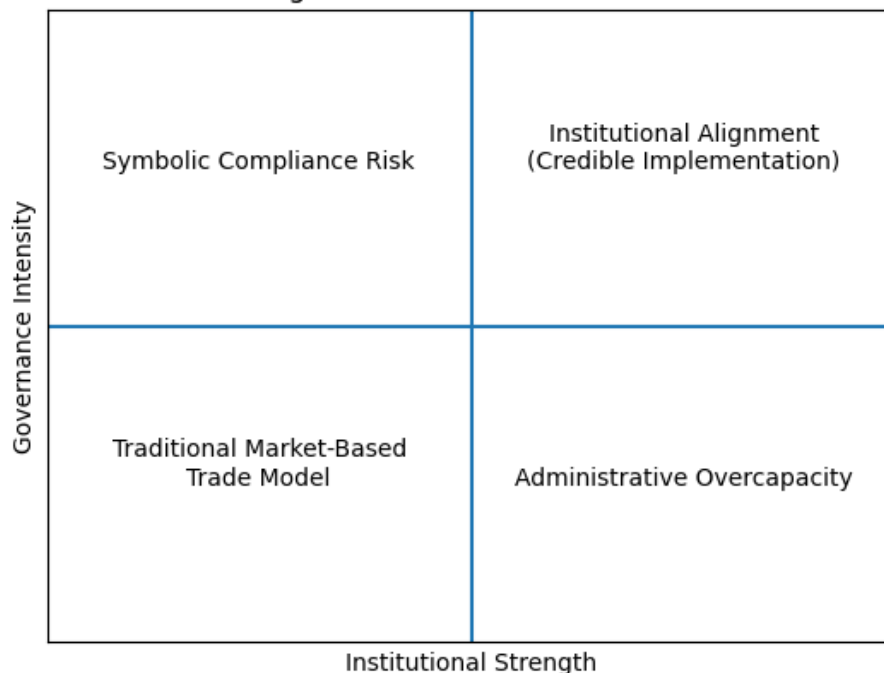
Dimension	Low Governance Intensity	High Governance Intensity
Normative Scope	Tariff reductions and market access provisions	Sustainability, environmental protection, labour standards, due diligence obligations
Regulatory Density Required	Minimal ongoing regulation	Continuous regulatory intervention across policy domains
Administrative Coordination	Limited cross-agency interaction	High inter-agency coordination (environment, labour, customs, judiciary, trade)
Monitoring & Data Requirements	Basic customs reporting	Traceability systems, inspection regimes, grievance mechanisms, impact assessment
Enforcement Mechanisms	Primarily trade dispute settlement	Administrative sanctions, judicial remedies, inspection systems, corrective action
Credibility Condition	Market-driven compliance	Institutional alignment between governance demands and state capacity
Risk under Asymmetry	Adjustment costs	Symbolic compliance, selective enforcement, uneven credibility

Source: Author's elaboration based on state capacity theory (Fukuyama, 2004; Evans, 1995), European governance scholarship (Börzel, 2002; Zürn, 2018), and sustainability trade governance literature.

**Interpretative note:**

As normative scope expands into governance-intensive domains, credible implementation becomes structurally dependent on institutional alignment. Under low governance intensity, compliance may remain largely market-driven. Under high governance intensity, enforcement credibility relies on coordinated administrative infrastructures. Where governance demands exceed institutional strength, structured risks emerge, including symbolic compliance, selective enforcement, and uneven credibility. The interaction between governance intensity and institutional strength can be further visualised in Figure 1.

Figure 1. Institutional Alignment under Conditions of Governance Intensity



Source: author's own interpretation.

Figure 1. Institutional Alignment under Conditions of Governance Intensity

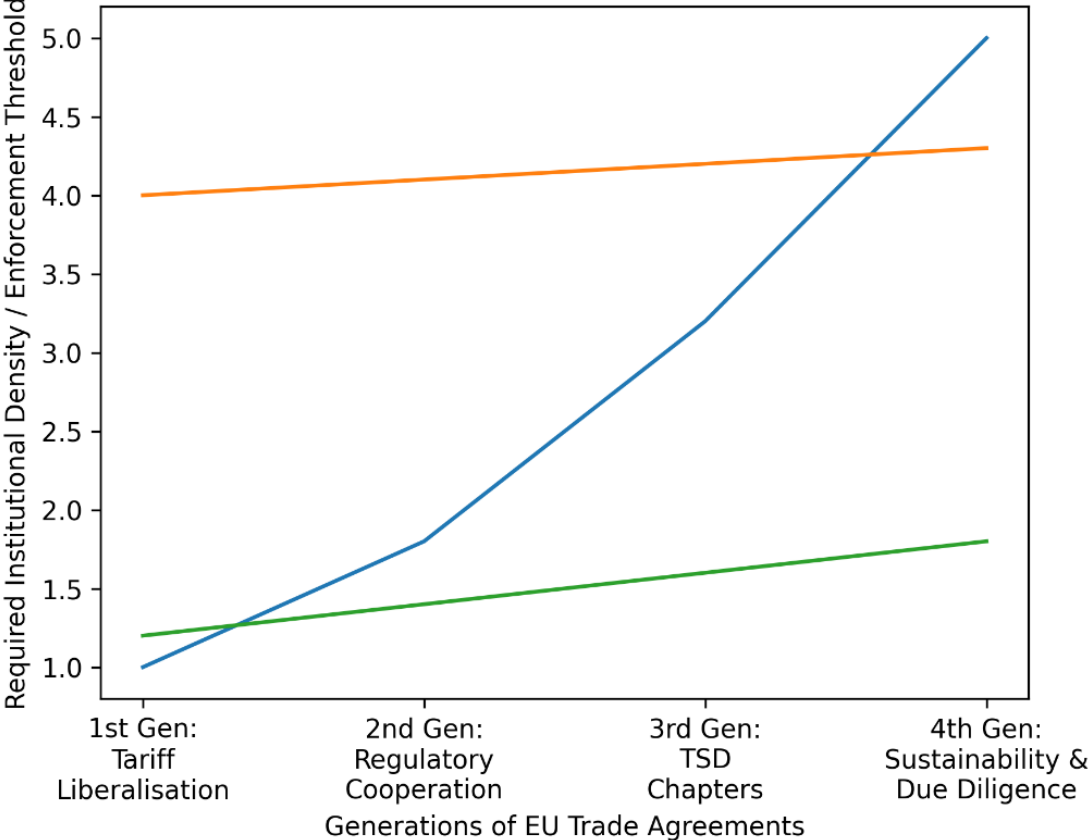
The four quadrants distinguish between traditional market-based trade governance, administrative overcapacity, symbolic compliance risk, and institutional alignment capable of generating credible implementation. The EU–Mercosur Agreement operates within the upper half of this matrix, where governance intensity is elevated. Its feasibility therefore depends on the degree of convergence between governance demands and institutional density across both blocs.

This conceptual framework establishes the analytical foundation for the empirical sections that follow. The subsequent analysis moves from abstraction to structural examination, assessing whether the governance architecture of the EU–Mercosur Agreement exhibits sufficient institutional robustness to sustain high-intensity sustainability commitments under conditions of cross-regional asymmetry.

Figure 1 conceptualises institutional alignment as a relational condition rather than a static attribute. Implementation credibility emerges where governance intensity and institutional strength expand proportionally. Where normative ambition outpaces administrative consolidation, structured misalignment becomes likely. The relevance of this interaction is magnified in contemporary trade governance, where sustainability provisions substantially increase regulatory density and monitoring demands. The central analytical implication is therefore dynamic: as governance intensity escalates, the threshold of institutional strength required for credible implementation rises accordingly.

The alignment challenge is not static. EU trade policy has progressively increased its governance intensity over successive generations of agreements. This temporal escalation alters the institutional threshold necessary for credible implementation. Figure 2 illustrates this structural evolution.

Figure 2 - Governance Intensity Escalation and Institutional Threshold Curve



Source: Author’s elaboration based on the evolution of EU trade policy frameworks.

Figure 2 conceptualises the escalating institutional threshold associated with successive generations of EU trade agreements. The horizontal axis represents the progressive expansion of

normative scope—from tariff-centred liberalisation to regulatory cooperation, Trade and Sustainable Development (TSD) frameworks, and sustainability-oriented due diligence commitments. The vertical axis indicates the minimum level of institutional density required to sustain credible implementation under each stage of governance intensity.

The upward-sloping threshold curve illustrates that as trade agreements incorporate increasingly governance-intensive provisions, the administrative and enforcement capacities necessary for implementation rise correspondingly. Institutional baselines are represented schematically to reflect structural differences in governance density across regional blocs. Where the required institutional threshold surpasses existing domestic capacity levels, a zone of structural misalignment emerges.

The figure does not depict empirical measurement but rather a theoretical relationship between normative expansion and institutional demand. It visualises the central analytical claim of this study: that the sustainability of governance-intensive trade agreements depends on the proportional alignment between regulatory depth and institutional strength.

This interaction is conceptualised in Table 1, which presents the Governance Intensity × Institutional Strength alignment matrix. The matrix summarises the structural conditions under which governance-intensive trade commitments may be credibly sustained.

Figure 1 provides a schematic visualisation of this interaction by mapping governance intensity and institutional strength across four quadrants, distinguishing between market-driven compliance, institutional alignment, administrative overcapacity, and symbolic compliance risk. It translates the alignment logic into a relational grid.

Figure 2 introduces a temporal dimension by illustrating the progressive escalation of governance intensity in successive generations of EU trade agreements. As normative scope expands over time, the institutional threshold required for credible implementation rises correspondingly.

Taken together, the table and figures establish the macro-analytical architecture of the study. They specify the structural relationship between normative scope and administrative capability, identifying alignment as the condition for implementation credibility and misalignment as a predictable source of enforcement divergence.

To move from structural abstraction to analytical application, the following subsection disaggregates institutional strength into its internal components. This operational step enables systematic assessment of whether governance-intensive commitments are proportionally supported by domestic institutional ecosystems.

## **4. The Capacity Alignment Framework (CAF)**

While Sections 1 and 2 conceptualised institutional capacity at a theoretical level and distinguished it from economic capacity, this subsection operationalises the concept for structured analytical application. The Capacity Alignment Framework (CAF) does not introduce additional theoretical constructs; rather, it specifies how institutional capacity—understood in the state capacity tradition (Evans, 1995; Fukuyama, 2004)—may be analytically disaggregated under conditions of high governance intensity.

Building upon classical state capacity theory and European governance scholarship (Börzel, 2002; Kelemen, 2011; Zürn, 2018), CAF conceptualises institutional strength as a composite configuration whose internal coherence determines implementation feasibility. For analytical clarity, institutional capacity may be disaggregated into four interdependent dimensions:

### **a. Legal–Regulatory Capacity**

This dimension concerns the embedding of international commitments within domestic legal systems. It includes the coherence of legislative transposition, clarity of enforcement mandates, and the availability of judicial review mechanisms. As delegation theory suggests, credible commitments depend on legally stabilised authority structures (Thatcher & Stone Sweet, 2002).

### **b. Administrative–Operational Capacity**

This dimension captures the organisational depth of implementing authorities, including bureaucratic professionalisation, inter-agency coordination, and institutional continuity. Evans (1995) highlights that

effective governance depends on administrative coherence combined with structured autonomy from short-term political interference.

**c. Monitoring and Enforcement Capacity**

This dimension concerns the practical ability to detect, evaluate, and sanction non-compliance. It includes inspection regimes, traceability infrastructures, reporting systems, and access to sanctions or judicial remedies. Without enforcement credibility, sustainability commitments risk remaining declaratory (Kelemen, 2011).

**d. Stakeholder and Societal Capacity**

Sustainability governance frequently relies on participatory and accountability mechanisms. Transparency frameworks, grievance accessibility, and civil society oversight contribute to stabilising compliance dynamics in governance-intensive domains (Schmidt, 2006; Zürn, 2018).

Institutional alignment occurs when these dimensions collectively correspond to the governance demands generated by sustainability and due diligence commitments. Misalignment in any single dimension may generate implementation strain even where formal treaty obligations are clearly articulated. CAF operationalises institutional strength by specifying its internal components. It enables structured comparison across jurisdictions and provides the analytical foundation for the applied examination of the EU–Mercosur governance architecture in the subsequent section.

The conceptual framework developed above establishes the structural relationship between governance intensity and institutional strength as the central determinant of implementation credibility. The analytical task now shifts from abstraction to institutional architecture. Rather than assessing normative ambition in isolation, the following section examines whether the governance design of the EU–Mercosur

Agreement provides an institutional configuration capable of sustaining high-intensity sustainability commitments under conditions of cross-regional asymmetry. The focus is therefore not on the formal existence of joint bodies or procedural mechanisms, but on whether their design generates sufficient institutional density to stabilise implementation across heterogeneous administrative environments.

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**Table 1** : Governance Intensity and Institutional Strength: A Conceptual Alignment Matrix

**Source line (de inserat sub tabel):**

Source: Author's own elaboration, based on Fukuyama (2004), Evans (1995), Kelemen (2011), Thatcher and Stone Sweet (2002), and Schmidt (2006).

**Figure 1** : Institutional Alignment under Conditions of Governance Intensity

**Source line:** Source: Author's own conceptual model.

**Figure 2** : Escalation of Governance Intensity in EU Trade Agreement

**Source line:** Source: Author's own elaboration, informed by OECD (2018) and European Commission trade policy developments.

## **II. Governance Architecture and Institutional Asymmetry in the EU–Mercosur Agreement**

The conceptual framework developed in the previous section identified the interaction between governance intensity and institutional strength as the decisive condition for implementation credibility. The present section applies this framework to the EU–Mercosur Association Agreement, examining whether its governance architecture exhibits sufficient institutional density to sustain high-intensity sustainability commitments under conditions of cross-regional asymmetry.

Rather than evaluating normative ambition in isolation, the analysis focuses on the structural configuration through which commitments are operationalised.

### **1. Institutional Density in the European Union**

The European Union operates within a multilayered governance system characterised by delegated authority, judicial review, and embedded enforcement mechanisms. The Court of Justice of the European Union, infringement procedures initiated by the European Commission, and relatively autonomous regulatory agencies contribute to stabilised compliance expectations across member states (Kelemen, 2011). Institutional density in the EU context reflects not bureaucratic scale alone, but legally structured enforcement pathways capable of generating predictable regulatory environments.

Responsibilities are distributed across supranational, national, and subnational levels, yet these operate within an integrated legal hierarchy. Binding adjudication and delegated enforcement authority mitigate coordination failure and reduce opportunistic deviation. Even where implementation challenges persist, the architecture itself provides procedural continuity and enforcement anchoring.

From the perspective of governance intensity, the EU thus presents a comparatively high institutional baseline. Sustainability commitments embedded in external trade agreements can rely on pre-existing inspection regimes, regulatory coordination mechanisms, data infrastructures, and judicial remedies. The EU's institutional configuration therefore supplies administrative depth proportionate to elevated normative scope.

### **2. Mercosur's Intergovernmental Configuration and Administrative Variability**

Mercosur reflects a fundamentally different integration model. Its institutional architecture remains predominantly intergovernmental, with limited supranational delegation and no autonomous judicial authority comparable to that of the European Union (Malamud, 2005). Regional bodies facilitate coordination but do not exercise independent sanctioning power. Enforcement authority remains largely embedded within domestic governance systems.

Implementation credibility within Mercosur is therefore mediated through national administrative structures and domestic political dynamics. Variations in bureaucratic consolidation, regulatory coherence, inspection capacity, and judicial autonomy across member states introduce structural heterogeneity into the enforcement landscape. Under such conditions, regulatory commitments depend heavily on the depth and professionalism of domestic institutions.

This configuration does not imply institutional absence. Rather, it reflects a different allocation of enforcement authority. Under low governance intensity, intergovernmental coordination may suffice. Under high governance intensity—particularly in sustainability and due diligence domains—reliance on domestically mediated enforcement increases exposure to uneven implementation trajectories.

#### **Operational Design of the EU–Mercosur Agreement**

The institutional feasibility of the EU–Mercosur Agreement must be assessed through the concrete configuration of its governance architecture. The agreement establishes a structured framework composed of joint bodies, specialised committees, regulatory cooperation mechanisms, and dispute settlement procedures (European Commission, 2019). The analytical question, however, is not whether such mechanisms exist, but whether their design generates sufficient institutional density to stabilise high-intensity commitments.

#### **Joint Committees and Regulatory Cooperation**

The agreement provides for joint institutional structures responsible for overseeing implementation and facilitating cooperation across policy areas. These bodies coordinate regulatory dialogue, supervise sectoral engagement, and monitor progress in trade and sustainable development commitments. Yet coordination platforms do not inherently generate enforcement authority. Their effectiveness depends on whether recommendations and deliberations are translated into domestically embedded regulatory action.

### **Trade and Sustainable Development (TSD) Architecture**

The Trade and Sustainable Development (TSD) chapter is particularly salient. Consistent with the European Union's contemporary trade policy model, the TSD framework relies primarily on consultation procedures and panels of experts rather than sanction-based dispute settlement (European Commission, 2020). Panels may issue recommendations, but they lack authority to impose financial penalties or authorise retaliatory measures comparable to those available in classical trade dispute settlement regimes.

This design increases reliance on domestic monitoring infrastructures, inspection regimes, and administrative coordination. Where such infrastructures are consolidated, cooperative governance may generate meaningful compliance. Where they are fragmented or politically volatile, sustainability commitments risk differentiated implementation.

### **Dispute Settlement Structure**

The broader dispute settlement mechanism of the agreement follows a state-to-state arbitration model structured through consultations and panels (European Commission, 2019). While this provides formal recourse for commercial disputes, its activation remains politically mediated. Moreover, the separation between the general dispute settlement mechanism and the TSD chapter creates a dual-track enforcement architecture: commercial obligations benefit from more formalised adjudicatory pathways, whereas sustainability commitments depend predominantly on dialogue and domestic execution.

From a governance-intensity perspective, this configuration embeds elevated regulatory demands within an enforcement architecture that remains largely intergovernmental on the Mercosur side. The resulting structure generates a potential tension between regulatory ambition and enforcement centralisation.

## **3. Institutional Durability under Asymmetric Governance Intensity**

The preceding analysis indicates that the institutional durability of the EU–Mercosur Agreement cannot be inferred solely from the formal symmetry of its legal provisions. While the treaty articulates reciprocal commitments, their operational resilience depends on the distribution of institutional density across participating jurisdictions. Under conditions of elevated governance intensity, sustainability and due diligence obligations require sustained administrative coordination, monitoring infrastructures, and enforcement capacity.

Institutional asymmetry does not preclude formal adherence to treaty commitments. However, it conditions the consistency and predictability of enforcement trajectories. Where regulatory ambition exceeds domestic administrative depth, implementation outcomes are likely to vary across jurisdictions. In governance-intensive domains, such variation becomes structurally consequential rather than incidental.

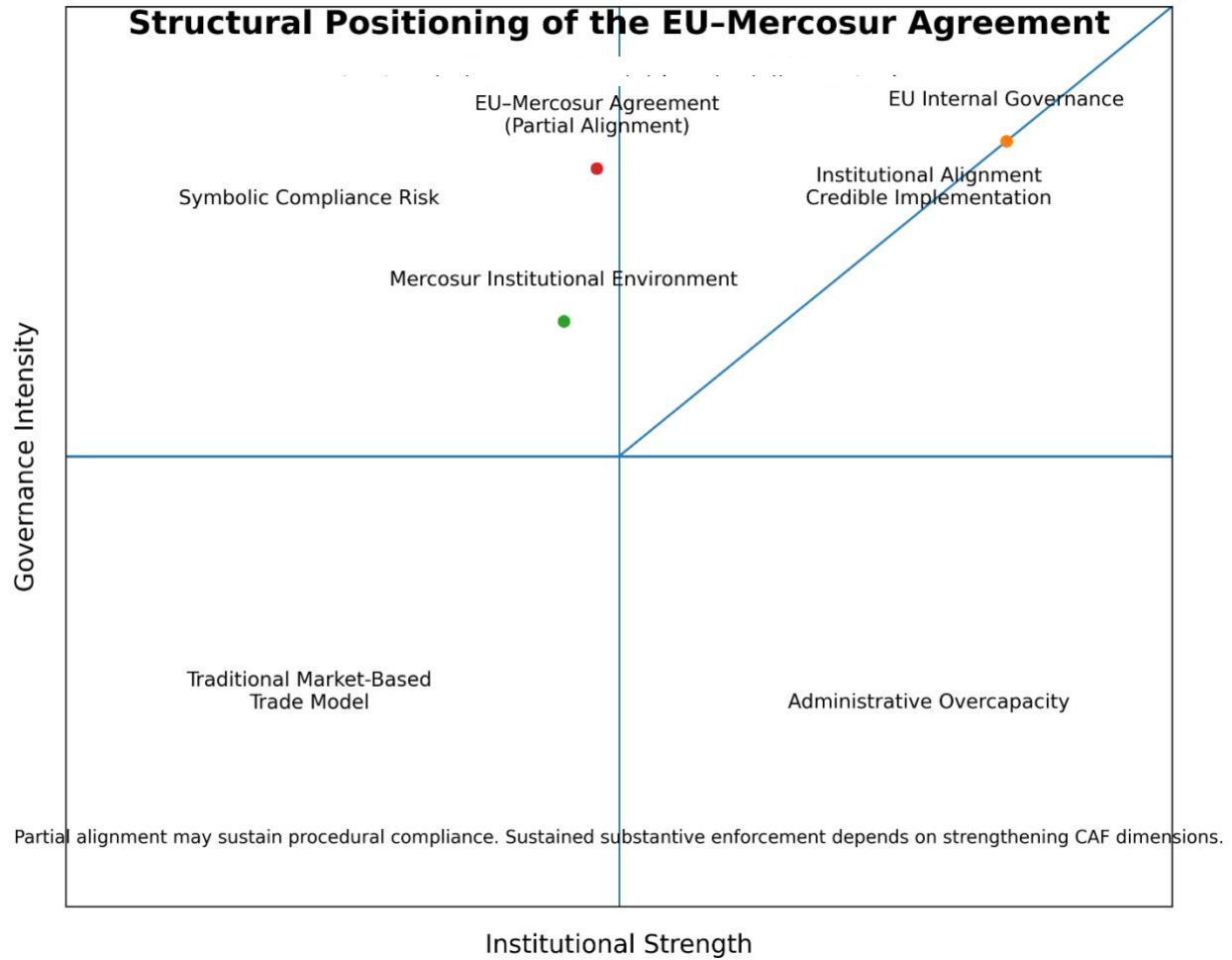
The EU–Mercosur Agreement thus operates at the intersection of high normative scope and heterogeneous institutional ecosystems. Its long-term durability depends less on the declaratory ambition of its sustainability provisions than on the capacity of domestic governance systems to internalise and operationalise ongoing regulatory demands.

The institutional configuration of the EU–Mercosur Agreement exposes a structural divergence in enforcement architecture. While formal commitments are reciprocal, the mechanisms sustaining them are embedded within governance systems of unequal density. Its sustainability depends less on the declaratory ambition of its sustainability provisions than on the structural compatibility between governance intensity and institutional capacity. Where this compatibility is incomplete, enforcement gaps are not anomalous outcomes but structurally foreseeable consequences.

The structural implications of this asymmetry can be visualised within the Governance Intensity × Institutional Strength framework.

*Figure 3. Structural Positioning of the EU–Mercosur Agreement under Conditions of Governance Intensity. Institutional Alignment Model (Applied Illustration)*

Figure 3



Source: Author's elaboration.

Figure 3 situates the European Union's governance framework, the Mercosur institutional environment, and the EU–Mercosur Agreement within the Governance Intensity × Institutional Strength matrix. The illustration positions the agreement within a quadrant characterised by elevated governance intensity combined with asymmetric institutional density. While the European Union operates from a comparatively high enforcement baseline, implementation within Mercosur remains mediated through domestically embedded administrative systems of variable consolidation.

This structural positioning highlights a central implication: sustainability-oriented trade agreements generate implementation pressures that are absorbed unevenly where institutional capacity diverges. The agreement's credibility therefore hinges not only on its formal architecture, but on the extent to which domestic governance systems converge in their ability to sustain regulatory oversight and enforcement continuity.

The EU–Mercosur case thus provides an analytically instructive example of how governance-intensive trade commitments function across heterogeneous institutional landscapes. The broader theoretical and policy implications of this structural configuration are addressed in the concluding section.

#### 4. Interpretative Implications of the Structural Positioning

Figure 3 provides a synthetic visualisation of the relationship identified in the preceding section. By locating the European Union, Mercosur, and the EU–Mercosur Agreement within the Governance Intensity × Institutional Strength matrix, the illustration clarifies how elevated regulatory scope interacts with heterogeneous enforcement baselines.

The agreement is positioned in a zone characterised by elevated regulatory demands combined with differentiated enforcement baselines across participating blocs. This positioning does not predetermine implementation failure; rather, it signals differential absorptive capacity. Where one party operates from a comparatively consolidated enforcement infrastructure and the other relies on domestically mediated administrative execution, implementation pressures are distributed asymmetrically.

The figure therefore translates the analytical diagnosis into a relational mapping: the credibility of governance-intensive commitments depends not only on treaty design but on the interaction between regulatory depth and domestic enforcement ecosystems. As sustainability provisions increase in technical and procedural complexity, the stability of implementation becomes progressively contingent upon institutional convergence rather than formal reciprocity.

The EU–Mercosur case thus illustrates a broader structural dynamic of contemporary trade governance, in which regulatory ambition and administrative capacity evolve at different speeds across regions. The implications of this dynamic for the future design and sequencing of sustainability-oriented trade agreements are addressed in the concluding section.

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## III. Multi-Level Vulnerabilities and Enforcement Fragility

The institutional configuration analysed in the previous section acquires additional complexity when situated within the multi-level governance environments in which implementation unfolds. Sustainability-oriented trade agreements do not operate within a single administrative hierarchy; rather, they are embedded simultaneously in supranational, national, and subnational political arenas. The feasibility of implementation is therefore mediated by ratification dynamics, domestic veto points, political cycles, and variations in administrative consolidation across governance levels.

Within the European Union, the ratification of mixed agreements introduces procedural differentiation. Although the Common Commercial Policy falls under exclusive EU competence pursuant to Article 3 TFEU, sustainability provisions and elements of regulatory cooperation may intersect with shared competences, thereby requiring the involvement of national parliaments (Cremona, 2017). This layered ratification structure enhances democratic oversight but simultaneously multiplies institutional veto points. Political contestation in individual Member States has demonstrated that perceptions of environmental safeguard credibility can shape ratification trajectories. Opposition framed around deforestation risks or concerns regarding regulatory dilution illustrates that enforcement expectations are politically salient (European Parliament, 2020).

In this context, implementation capacity intersects with legitimacy. Where monitoring mechanisms are perceived as insufficiently robust, democratic resistance intensifies, increasing procedural uncertainty and potentially delaying operationalisation. The durability of sustainability commitments is therefore filtered not only through legal design but through domestic political mediation.

On the Mercosur side, vulnerabilities arise from a different institutional configuration. As an intergovernmental organisation lacking supranational judicial oversight, enforcement authority remains embedded within domestic governance systems (Malamud, 2005). Ratification and implementation are closely linked to national political cycles and administrative capacities. Political volatility may affect continuity in environmental governance priorities, while coordination among environmental agencies, customs authorities, and labour inspectorates may vary significantly in effectiveness.

Comparative research on environmental governance in Latin America suggests that policy ambition frequently exceeds administrative consolidation due to fragmented bureaucratic structures and uneven resource allocation (Hochstetler, 2019). In such contexts, gaps in enforcement may reflect structural administrative constraints rather than deliberate non-compliance. Variability in institutional coherence thus becomes a central mediating factor in the operationalisation of sustainability provisions.

The interaction between EU-level scrutiny and Mercosur-level administrative variability generates a dispersed enforcement environment. While the EU internal framework provides comparatively dense monitoring and judicial mechanisms, it cannot replicate equivalent oversight structures within Mercosur. Sustainability commitments therefore depend on cooperative monitoring arrangements whose effectiveness is contingent upon domestic institutional coherence.

Where trade benefits are politically linked to environmental performance, the absence of centralised sanctioning authority within the sustainability domain may attenuate deterrence effects. The separation between classical dispute settlement procedures and Trade and Sustainable Development consultation mechanisms reinforces differentiated enforcement pathways (European Commission, 2020). Under expanded regulatory scope, the dispersion of enforcement authority across levels and jurisdictions becomes increasingly consequential.

Ratification heterogeneity within the European Union, combined with administrative variability within Mercosur, produces a governance environment in which legal symmetry coexists with differentiated oversight capacity. Multi-level vulnerability thus emerges not from treaty design alone, but from the interaction between institutional architecture and political-administrative ecosystems in which implementation is embedded.

Enforcement fragility, in this sense, does not denote structural failure. It reflects exposure to differentiated absorptive capacities across governance layers operating under distinct political and administrative logics. As sustainability commitments become increasingly procedural and oversight-intensive, their implementation is filtered through ratification dynamics, institutional veto points, bureaucratic coordination limits, and variable enforcement infrastructures.

The EU–Mercosur Agreement therefore illustrates how governance-intensive trade regimes operate within complex multi-level ecosystems in which formal reciprocity coexists with uneven institutional density. Implementation outcomes are shaped not solely by treaty design, but by the interaction between regulatory ambition and the layered governance environments in which it is embedded. The implications of these

dynamics for the institutional executability of sustainability-oriented trade governance are addressed in the concluding section.

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## **IV. Conclusion: Institutional Executability under Governance Intensity**

The preceding analysis has examined the EU–Mercosur Association Agreement through the analytical lens of governance intensity and institutional capacity. Rather than approaching the agreement primarily as an instrument of tariff liberalisation or geopolitical alignment, this memorandum has assessed its institutional executability under conditions of cross-regional asymmetry.

The conceptual framework developed in Section 1 introduced governance intensity as a variable capturing the expansion of regulatory scope beyond market access. Sustainability provisions, environmental conditionality, regulatory cooperation mechanisms, and due diligence references generate continuous administrative demands that differ structurally from classical trade obligations. Their implementation depends not only on formal legal commitments, but on the depth and coherence of institutional infrastructures capable of sustaining oversight-intensive coordination.

Section 2 demonstrated that the governance architecture of the EU–Mercosur Agreement embeds coordination mechanisms and dispute settlement procedures within structurally distinct regional systems. While the European Union operates within a supranational legal order characterised by delegated authority and judicial oversight, Mercosur retains an intergovernmental configuration in which enforcement authority remains predominantly domestic. Formal reciprocity in treaty obligations thus intersects with differentiated institutional density.

Section 3 further showed that this asymmetry acquires operational significance within multi-level governance environments. Ratification heterogeneity within the European Union and administrative variability within Mercosur generate differentiated implementation pathways. Under expanded regulatory scope, the dispersion of enforcement authority across political and administrative layers conditions the stability and predictability of compliance.

The analysis therefore suggests that the durability of sustainability-oriented trade agreements cannot be inferred from negotiated ambition alone. Governance-intensive commitments are structurally conditioned by the alignment between regulatory scope and institutional consolidation. Where such alignment is partial, differentiated enforcement trajectories may emerge as foreseeable outcomes of institutional heterogeneity rather than as episodic deviations.

The distinction between economic and institutional capacity is central in this regard. Economic magnitude does not constitute a reliable proxy for regulatory effectiveness. High levels of trade integration or GDP do not automatically generate coherent enforcement infrastructures, just as relatively smaller economies may exhibit strong administrative coordination. The credibility of governance-intensive commitments is mediated by institutional architecture rather than by aggregate economic power.

The EU–Mercosur Agreement thus illustrates a broader structural dynamic in contemporary trade governance: as regulatory depth expands, trade agreements evolve into coordination regimes whose stability depends on sustained administrative compatibility across jurisdictions. Institutional executability emerges as a decisive analytical variable in assessing the resilience of sustainability-oriented commitments under asymmetric integration.

This memorandum does not evaluate the political desirability of the agreement. It identifies the institutional conditions under which governance-intensive trade commitments may generate predictable and durable compliance. In doing so, it situates the EU–Mercosur Agreement as a case through which the evolving relationship between regulatory ambition and institutional capacity can be examined within contemporary interregional trade governance.

The EU–Mercosur case illustrates that the future trajectory of sustainability-oriented trade policy will depend not only on normative expansion, but on the synchronisation of governance systems capable of sustaining regulatory depth over time. Where economic and institutional capacities evolve at different speeds, governance-intensive commitments may remain formally reciprocal yet operationally uneven.