Ex post evaluation of the implementation of the Trade Agreement between the EU and its Member States and Colombia, Peru and Ecuador

Interim Report

Draft, March 2021

Prepared by BKP Economic Advisors

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Any pending contributions and information obtained from stakeholders – both governments and public sector bodies, and non-state actors – but not yet processed will be incorporated and reflected in the (draft) final report.

Directorate-General for Trade

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ABSTRACT

Since 2013, the European Union (EU) has a Trade Agreement with Colombia and Peru in place, which Ecuador joined in 2017. The European Commission has commissioned a consortium led by BKP Economic Advisors to undertake an evaluation of the Agreement's implementation and impact. The evaluation is undertaken over the period April 2020 to May 2021 and analyses the economic, social and environmental, and human rights (including labour rights) effects which the Agreement has had since its application in the various Parties. In terms of evaluation criteria, it will review the effectiveness, impact, efficiency, coherence and impact of the Agreement and its implementation. It will also comprise a number of case studies to illustrate or add detail to broader findings.

This interim report presents preliminary findings of the analysis undertaken to date.

TABLE OF CONTENTS

LIST OF BOXES, TABLES AND FIGURES

ACRONYMS

AAA	Autoridades Administrativas del Agua (Administrative Authorities for Water, Peru
ACP	African, Caribbean, Pacific
AEO	Authorised Economic Operator
AILAC	Asociación Independiente de América Latina y el Caribe (Association of Latin America and the Caribbean)
ALA	Autoridades Locales del Agua (Local Water Administrations, Peru)
AMR	Antimicrobial Resistance
ANA	Autoridad Nacional del Agua (National Water Authority, Peru)
ASTAC	Asociación Sindical de Trabajadores Agricolas Bananeros y Campesinos (Association of Agricultural, Banana and Rural Workers, Ecuador)
BATIS	Balanced Trade in Services
BAU	Business as usual
BIT	Bilateral Investment Treaty
BTSF	Better Training for Safer Food
CAGR	Compound Annual Growth Rate
CAN	Comunidad Andina de Naciones (Andean Community)
CAR	Corporación Autónoma Regional (Regional environmental authority)
CAT	Convention against Torture
CBD	Convention on Biological Diversity
CE	Circular Economy
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEPAL	Comisión Económica para América Latina y el Caribe (UN Economic Commission for Latin America and the Caribbean)
CEPF	Critical Ecosystem Partnership Fund
CESCR	Committee on Economic, Social and Cultural Rights
CGE	Computable General Equilibrium
CICC	Comisión Intersectorial de Cambio Climático (Intersectoral Commission on Climate Change, Colombia)
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CNCC	Comisión Nacional sobre el Cambio Climático (National Commission on Climate Change, Peru)
CO, COL	Colombia
COA	Código Orgánico del Ambiente (Organic Code of the Environment)
CPI	Consumer Price Index
CPTPP	Comprehensive and Progressive Agreement for Trans-Pacific Partnership
CRC	Convention on the Rights of the Child
CRHC	Consejos de Recursos Hídricos de Cuenca (Cuenca Water Resources Councils)
CRI	Climate Risk Index
CRPD	Convention on the Rights of Persons with Disabilities
CSD	Civil Society Dialogue
CSR	Corporate Social Responsibility
DAG	Domestic Advisory Group
DANE	Departamento Administrativo Nacional de Estadística (National Administrative Department of Statistics, Colombia)
DCC	Domestic Consultative Council
DG	Directorate-General
DIAN	Dirección de Impuestos y Aduanas Nacionales (Colombian tax and customs authority)
DIGESA	Dirección General de Salud Ambiental (General Directorate of Environmental Health)
DNP	Departamento Nacional de Planeación (National Planning Department)
EC, ECU	Ecuador
ECLAC	Economic Commission for Latin America and the Caribbean
EESC	European Economic and Social Committee

EFIC	Estrategia Nacional de Financiamiento Climático (National Strategy for Climate Finance, Ecuador)
EMA	European Medicines Agency
ENB	Política y Estrategia Nacional de Biodiversidad del Ecuador (National Biodiversity Strategy)
ENCA	Estrategia Nacional de la Calidad del Agua (National Strategy for Water Quality)
ENCC	Estrategia Nacional de Cambio Climático del Ecuador (Climate Change National Strategy of Ecuador 2012-2025)
ENDB	Estrategia Nacional de Diversidad Biológica al 2021 y su Plan de Acción (National Biodiversity Strategy and its Action Plan)
EP	European Parliament
EPA	United States Environmental Protection Agency.
EPI	Environmental Performance Index
EQ	Evaluation Question
EQS	Estándares de Calidad Ambiental (Environmental Quality Standards)
EU	European Union
EUIPO	European Union Intellectual Property Office
EUR	Euro
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GESTA	Grupos de Estudio Técnico Ambiental (Environmental Technical Study Groups)
GHG	Greenhouse gases
GIs	Geographical Indications
GMOs	Genetically Modified Organisms
GPA	Government Procurement Agreement
GSIM	Global Simulation
GSP	Generalised Scheme of Preferences
GTAP	Global Trade Analysis Project
GWP	Global Warming Potential
HHI	Herfindahl-Hirschman Index
HRIA	Human Rights Impact Assessment
HS	Harmonised System
ICCPR	International Covenant on Civil and Political Rights
ICE	Internal combustion engine
ICERD	Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICT	Information and Communication Technologies
IDEAM	Instituto de Hidrología, Meteorología y Estudios Ambientales (Institute of Hydrology, Meteorology and Environmental Studies, Colombia)
ILO	International Labour Organisation
INDECOPI	Instituto Nacional de Defensa de la Competencia y de la Protección de la Propiedad Intelectual (National Institute of the Defense of Competition and Intellectual Property Protection, Peru)
INEC	Instituto Nacional de Estadística y Censos (National Institute of Statistics and Census, Ecuador)
INEI	Instituto Nacional de Estadísticañ e Informática (National Institute of Statistics and Informatics, Peru)
IPR	Intellectual Property Rights
IUU	Illegal, Unreported and Unregulated
LAC	Latin America and Caribean
LAIA	Latin American Integration Association
LDC	Least Developed Country
LGBTI	Lesbian, Gay, Bisexual, Transgender, and Intersex
LORHUyA	Ley Orgánica de Recursos Hídricos, Usos y Aprovechamiento del Agua (Law on Water Resources and the Use of Water)
LULUCF	Land use, land-use change and forestry
MAE	Ministerio del Ambiente y Agua (Ministry of Environment and Water, Ecuador)
MENA	Middle East and North Africa
MERCOSUR	Mercado Común del Sur
MFN	Most-Favoured Nation
MINAGRI	Ministerio de Desarrollo Agrario y Riego (Ministry of Agriculture and Irrigation, Peru)
MINAM	Ministerio del Ambiente del Perú (Ministry of the Environment of Peru)
Min-ambiente	Ministerio de Ambiente y Desarrollo Sostenible (Ministry of Environment and Sustainable Development of Colombia)
MINCETUR	Ministerio de Comercio Exterior y Turismo (Ministry of Foreign Trade and Tourism, Peru)
MINCIT	Ministerio de Comercio, Industria y Turismo (Ministry of Commerce, Industry and Tourism, Colombia)
MPCEIP	Ministerio de Producción Comercio Exterior Inversiones y Pesca (Ministry of Production, Foreign Trade, Investments and Fisheries, Ecuador)
MRL	Maximum Residue Limit
MSME	Micro, Small, or Medium-sized Enterprise
NDC	National Determined Contributions
NGO	Non-Governmental Organisation
NTB	Non-Tariff Barrier
OECD	Organisation for Economic Cooperation and Development
OEFA	Organismo de Evaluación y Fiscalización Ambiental (Environmental Assessment and Enforcement Agency)
OHCHR	Office of the United Nations High Commissioner for Human Rights
OR	Outermost Region
OSCE	Organismo Supervisor de las Contrataciones del Estado (Supervisory Body for State Contracting, Peru)
PA	Paris Agreement
PAB	Plan de Acción de Biodiversidad (Biodiversity Action Plan)
PCDA	Political Cooperation and Dialogue Agreement
PE, PER	Peru
PEN	Peruvian Sol
PGA	Plan de Gestión Ambiental (Environmental Management Plan)
PIGCCT	Planes Integrales de Gestión del Cambio Climático Territoriales (Comprehensive Territorial Climate Change Management Plans)
PM	Particulate Matter
PNCA	Plan Nacional de la Calidad del Aire (National Plan of Air Quality)
PNCC	Politica Nacional de Cambio climático (National Policy on Climate Change of Colombia)
PNGIBSE	Política Nacional para la Gestión Integral de la Biodiversidad y sus Servicios Ecosistémicos (National Policy for the Comprehensive Management of Biodiversity and its Ecosystem Services)

PNN	Parques Nacionales Naturales (System of National Natural Parks)
POT	Plan de Ordenamiento Territorial (Territorial Ordering Plans)
PRODUCE	Ministerio de la Producción (Ministry of Production)
PSB	Program SocioBosque
RAPEX	Rapid Alert System for dangerous non-food products
RASFF	Rapid Alert System for Food and Feed
RBC	Responsible Business Conduct
REACH	Registration, Evaluation, Authorisation and Restriction of Chemicals
REDD	Reducing Emissions from Deforestation and Forest Degradation
RFZ	Forest Reserves Zones
RoO	Rules of Origin
SCC	Subsecretaría de Cambio Climático (Secretary of Climate Change, Ecuador)
SDGs	Sustainable Development Goals
SDT	Special and Differential Treatment
SENAGUA	Secretaría Nacional del Agua (Executive Authority of Water Resources, Ecuador)
SENAMHI	Servicio Nacional de Meteorología e Hidrología del Perú (National Service of Meteorology and Hydrology, Peru)
SENASA	Servicio Nacional de Sanidad Agraria (National Service of Agrarian Health, Peru)
SERCOP	Servicio Nacional de Contratación Pública (National Procurement Service, Ecuador)
SIA	Sustainability Impact Assessment
SIC	Superintendency of Industry and Commerce, Colombia
SIECA	Secretaría de Integración Económica Centroamericana (Secretariat for Central American Economic Integration)
SIMAP	Information System for Public Procurement, EU
SINA	Sistema Nacional Ambiental (National Environmental System)
SINANPE	Sistema Nacional de Áreas Naturales Protegidas por el Estado (Natural Protected Areas System)
SINAP	Sistema Nacional de Areas Protegidas (National System of Protected Areas)
SISCLIMA	Sistema Nacional de Cambio Climático (National Information System on Climate Change)
SME	Small or Medium-sized Enterprise
SNGRH	Sistema Nacional de Gestión de Recursos Hídrico (National Water Resources Management System)
SNI	Sociedad Nacional de Industrias (National Industry Society)
SPS	Sanitary and Phyto-Sanitary
SUNAFIL	Superintendencia Nacional de Fiscalización Laboral (National Labour Inspection Authority, Peru)
SVCA	Sistema de Vigilancia y Control Ambiental (Air Quality Surveillance System)
TBT	Technical Barriers to Trade
TED	Tenders Electronic Daily
ToR	Terms of Reference
TRACES	Trade Control & Expert System
TRIPS	Trade-Related Aspects of Intellectual Property Rights
TRQ	Tariff Rate Quota
TSD	Trade and Sustainable Development
TULAS	Texto Unificado de Legislación Secundaria, Medio Ambiente (Secondary Environmental Legislation of the Ministry of Environment)
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNFCCC	United Nations Framework Convention on Climate Change
US	United States
USD	United States Dollar
VFN	Vegetables, Fruits and Nuts
WHO	World Health Organization
WTO	World Trade Organisation

EXECUTIVE SUMMARY

1. Since 2013, the European Union (EU) has a Trade Agreement with Colombia and Peru, which Ecuador joined in 2017. The Agreement gradually opens up markets on both sides and increases the stability and predictability of the trade and investment environment. It is also one of the first "new generation" trade agreements of the EU, characterised by its comprehensive scope that covers, in addition to liberalisation of trade in goods and services, investment, public procurement, competition, intellectual property rights, as well as trade and sustainable development issues.

2. After several years of implementation, this evaluation is undertaken with the objective of analysing the economic, social and environmental, and human rights (including labour rights) impacts of the implementation of the Agreement and, ultimately, of determining whether there is a need to improve its implementation. To support the European Commission's own evaluation of the Agreement, an evaluation study has been commissioned to a consortium led by BKP Economic Advisors. This interim report provides the preliminary findings of the evaluation after (much of) the data- and document-driven research has been completed, and initial consultations have been held. The methodology has been described in the evaluation inception report.

Preliminary evaluation findings

3. The analysis of **economic impacts** considers the Agreement's effects on the Parties' trade, wider economic impacts, evolution of trade in services and foreign direct investment, effects of the implementation of various non-tariff related issues addressed in the Agreement, as well as the effects on small and medium sized enterprises (SMEs), the EU's outermost regions (OR) and least developed countries (LDCs).

4. The economic model simulations show a *positive impact of the Agreement for all Parties' exports, both bilateral and overall*. The impact is small partly due to the fact that prior to the application of the Agreement, these countries were beneficiaries of the Generalised Scheme of Preferences (GSP). Although trade diversion takes place, trade creation is stronger. Sectorally, impacts are more varied; generally, sectors where a Party has a comparative advantage (such as machinery, equipment and vehicles in the EU; fruit and vegetables as well as food products in the Andean partner countries) benefit more from the Agreement through increased exports. At the same time, more dynamic economic development in other parts of the world (especially China) and the conclusion of trade agreements by the Parties have diluted the positive effects brought about by the Agreement.

5. We also note that *tariff rate quotas (TRQs) have been partly effective both in opening up the Parties' markets for the products covered and in limiting the increase in imports*: not for all product categories covered by TRQs have exports started or increased. In the case of Andean exporters, some stakeholders have pointed out that the preferences offered under TRQs have not been sufficient to kick-start exports and that more assistance to domestic producers is required to make them export-ready. At the same time, the administration of TRQs in the Andean countries has also been criticised in some instances.

6. The *EU's tariff concessions for banana imports* from the Andean partner countries have led to an increase in bilateral trade in bananas in 2019/2020 (compared to the situation that would have prevailed without the concessions) ranging from 9% (banana exports from Peru) to almost 16% (Colombia). Under the banana stabilisation mechanism, tariffs preferences would have been suspended if exports reached a certain trigger level and caused disruptions in the market. This was not needed in the case of Colombia and Ecuador, whose exports remained below the established triggers for suspensions. For Peru, although triggers were exceeded, given the low absolute value and market share of EU banana imports from Peru, there was no significant impact on the EU banana industry, and therefore the Commission's decision not to apply the suspension of tariff preferences is considered appropriate.

7. *Trade between the Parties today is clearly more diversified than at the time the Agreement started to be applied*. The Agreement's impact on this overall positive evolution seems to be limited however, also partly due to the fact that the three Andean partners had benefitted from GSP+ preferences prior the Agreement. To foster the Agreement's role in the regard, more complementary measures, such as export marketing training for businesses, (even) more information about the respective partner market, and more specific support in market entry might be conceived.

8. We *do not find that non-tariff market access barriers have been used systematically as a substitute for tariffs*. For example:

- *Customs issues pose few problems*. Both the level of compliance by traders and the administration of customs rules by the customs authorities are mostly in line with the Agreement's provisions, and where issues have been raised at the Sub-committee on Customs and Trade Facilitation (such as on TRQ administration in Ecuador) progress has mostly been made. Agricultural safeguards have not been applied, and based on the research undertaken, there would have been no justification for them. Some areas for improvement could be, first, a (still) stronger focus on raising awareness of businesses for the Agreement, e.g. by strengthening the Eurocámaras; and, second, the promotion of the approved exporter scheme or other means of trade facilitation (possibly use of digital documents) to encourage more new exporters, especially SMEs. Such measures may require changes in the Agreement, and discussions could be combined with a review of the provisions on direct transport.
- Similarly, *sanitary and phytosanitary (SPS) measures (as well as technical barriers to trade) do not appear to have created an undue barrier to bilateral exports* of products concerned by such measures: the observed strong increase in exports of some such products by all Parties. At the same time, some disagreements between the Parties on certain issues as well as concerns over the trade impacts of regulatory changes on SPS measures prevail. Regarding technical assistance related to SPS issues, we note that continued support is needed to ensure that exporters of products covered by SPS requirements can keep benefitting from the preferences offered by the Agreement.
- Progress in the registration and enforcement of *geographical indications* (GIs) has been made, although this has been sometimes slow, and room for improvement remains regarding enforcement. Stakeholders have noted that the Andean partners have started to see the benefits of the GI approach, as also witnessed by the increasing requests for protection of their GIs in the EU, and thus have stepped up their efforts to protect EU GIs in turn.

Overall, although a number of trade irritants have been raised by the Parties of the years, these typically concern very specific products with a limited potential impact on bilateral trade, and business stakeholders have confirmed that the implementation of the Agreement, and the flow of goods between the Parties, are not affected by major problems. In addition, a number of issues were solved through the discussions in the relevant Sub-committees and follow-up, as well as follow-up discussions have been reasonably effective in addressing a number of the issues raised. In addition, the very presence of the Trade Committee and its sub-committees allows the Parties to directly discuss irritants and issues, including regulatory changes being planned, thereby creating trust and mutual understanding. This platform for discussion and engagement in itself constitutes a benefit of the Agreement.

9. The *overall economic effects of the Agreement are positive, albeit limited*. All four Parties to the Agreement benefit from a modest increase in GDP. The global impact is also welfare enhancing, stemming from stronger trade creation than trade diversion caused by the Agreement. At a sector level, the impacts of the Agreement on output mirror those on exports and imports: sectors where a Party has a comparative advantage benefit, and vice versa, in the EU, most manufacturing sectors benefit while agricultural sectors contract – although the magnitude of the impact is limited, not exceeding 0.1% of output (comparing the situation in 2020 with the Agreement with the hypothetical situation of no Agreement

in place). In the partner countries, fruit and vegetables and other food products benefit while machinery, equipment and some other manufacturing sectors contract. Chemicals in Colombia and Peru, and vegetable oils and fats in Peru also benefit from the Agreement. The magnitude of the effects in the Andean partner countries is somewhat higher than in the EU, given the smaller size of the economies and also the comparatively higher degree of liberalisation. Some stakeholders in Andean countries have commented that the increased trade in machinery from the EU to the partner countries also contributes to an increase in competitiveness of the sectors using the imported machinery.

10. The *impact of the Agreement on services sectors is found to be limited*. As the Agreement did not provide for an actual opening up of services sectors but rather improved the level of "binding", no major impact of the Agreement on services trade between the Parties was to be expected. In this context, we do note that e.g. the growth rate of Peruvian services exports to the EU increased since the Agreement started to be applied. Services trade so far also seems to have played a limited role in the implementation of the Agreement. No Subcommittee on services trade is foreseen in the Agreement, and the discussion of issues related to trade in services in the Sub-committee on Market Access has been limited.

11. *Investment* trends before and after the start of application of the Agreement are not markedly different. The EU is the largest investor in the three partner countries, and EU foreign direct investment (FDI) has become relatively more important for Colombia since the Agreement started to be applied. Major changes in the sectoral composition of EU investment in line with the identified changes in trade patterns have not been observed, with the possible exception of EU investment in Ecuador. Stakeholders recognise that the Agreement increases the legal certainty for investors against future policy reversal. While this has benefits, according to stakeholders other economic and political factors are more important for engaging in new or expanding existing FDI.

12. The Agreement's effectiveness in terms of increasing bilateral participation of firms in the partners' *public procurement markets* has so far been impossible to assess systematically due to the lack of corresponding data. Nevertheless, based on the data and information available so far, the Agreement appears to have had a limited effect on the participation of businesses in the EU in the Andean public procurement markets, and it has had no effect vice versa. The implementation of the Agreement's Government Procurement Title has been one of the more difficult areas, with the most important and longstanding issue being the disagreement between the EU and Colombia on the Agreement's coverage of sub-central procurement entities. There has been progress in this regard albeit limited thanks to the technical discussions in Sub-committees that have helped to clarify the scope of application of concessions in the Agreement.

13. The Agreement appears to have *encouraged MSMEs to engage in bilateral trade between the Parties*. This primarily seems to be a consequence of the tariff preferences in combination with the (relatively) efficient operation of customs, and including the use of invoice declarations on origin. Stakeholder views mostly support the finding that the impact of the Agreement on SMEs has been positive. The Agreement contains explicit provisions aimed at facilitating the involvement of MSMEs in trade between the Parties, which is a recognition of its importance and are geared to increased transparency. The greatest impact on MSMEs integration comes from the technical assistance to businesses provided.

14. *Impacts on government revenues are very limited in all Parties except Colombia*, for which the value of foregone revenues in 2020 is estimated at about 1.2% of total government revenues (comparing the situation in 2020 with the Agreement with a counterfactual situation where the Agreement would not be in place).

15. *Impacts on the EU outermost regions* are estimated to be limited with the exception of sugar production in La Réunion and Guadeloupe. Considering the high dependence of the two ORs on the sugar sector, a close monitoring of further trade trends is recommended. *Impacts on LDCs* are negligible.

16. The analysis of **social impacts** considers effects on employment, welfare and poverty, informal sector activity, women, consumers, working conditions and labour standards; the analysis of effects on corporate social responsibility/responsible business conduct is still at an early stage.

17. The estimated effects of the Agreement on *employment* mirror those for output: They are very limited in the EU, and also overall limited in the partner countries but with slightly stronger and mixed sectoral effects: sectors with comparative advantages experience job growth supported by trade with the EU, while others may face a slightly limited job growth than without the Agreement or job reduction.

18. Although impacts on *poverty and inequality* levels are difficult to estimate, given the estimated limited and rather positive effects for employment in agriculture and food processing. Effects for groups that are disadvantaged on the labour market and are considered as vulnerable also as consumers (women, youth, persons with disabilities, indigenous people, and migrant workers) are likely to have been limited given the high percentage of people employed in services sectors (which are hardly impacted by the Agreement). Therefore, the impacts on poverty levels in these groups and their unequal situation on the labour market, are also expected to be limited and concentrated on those employed in agriculture and industry, with both, positive and negative impacts, depending on the sub-sector.

19. *Impacts on consumers* in general are estimated as slightly positive. While the overall price level is hardly affected by the Agreement, lower prices for certain products (such as cars in Andean countries), as well as an increase in the availability of a wider range of products are positive effects. No issues related to increased trade in sub-standard or hazardous goods could be identified.

20. Regarding *informality*, regions in the Andean countries trading with the EU had lower levels of informality prior to the Agreement's start of application and reduced them further (green shape, upper map). They have more diversified economy, are more competitive, better connected and more exposed to trade.

21. In terms of *working conditions and labour standards*, changes are attributable to actions taken by the Government (e.g. law, inspection). Similarly, the number and activity of trade unions is influenced by macroeconomic events and legislation. No direct link has been identified between the Agreement and child labour, although it cannot be excluded that products involving child labour may be integrated into value chains of some agricultural goods exported e.g. to the EU. No impacts or very limited ones for migrants and most of working youth and disabled persons (employed in services sectors).

22. In the analysis of **environmental impacts**, based on two rounds of impact screening and scoping, a number of priority areas for further analysis have been identified. These are, in general: the potential impacts on biodiversity and on sustainable agricultural products, through land conversion resulting from production changes of various horticulture sectors; the potential impact on climate change; and the potential impact on the improvement and effective implementation of environmental standards in the Parties. In addition, country specific issues relate to the potential impact of increased output in (and imports of) transport equipment on air pollution in Colombia, the potential impact of industrial waste on pollution in Peru, and the potential impact through increased production in the fishing (e.g., shrimps) sector in Ecuador.

23. Initial results of the *biodiversity effects* through land use change and deforestation indicate no impact of the Agreement on permanent deforestation in Ecuador and Peru. For Colombia, it is estimated that the Agreement resulted in 3,500 to 4,000 hectares of land being permanently deforested, corresponding to roughly 0.5% of total deforestation driven by commercial agriculture observed over the period of the Agreement. It is unlikely that this deforestation occurred in the most (biodiverse) intact areas in Colombia.

24. Regarding *climate change* impacts, we estimate that the Agreement caused global gross greenhouse gas (GHG) emissions to be by roughly 0.75 Mton CO_2 eq. lower in 2020

than they would have been in the absence of the Agreement. Although gross GHG emissions increased in Colombia, Peru and the EU, it is estimated that emissions in other parts of the world decreased. Emissions from land use change are not yet included in this analysis.

25. The screening and scoping of potential impacts of the Agreement on the **human rights** situation in the Parties so far has shown minor results of the Agreement. A more detailed analysis remains to be done. The following human rights have been selected for further in-depth analysis in the remainder of the evaluation: right to freedom of assembly and association, incl. the right to join and form trade unions; children's rights (child labour); and the right to water. These rights were identified for further analysis because screening indicates a potential regionally or sectorally major impact of the Agreement on the enjoyment of these rights in the Parties.

26. With regard to the **performance of institutions under the Agreement**, we find that, overall, the *Trade Committee and sub-committees* performed their role in providing a forum for an overview of trade relations between the Parties and exercised their formal decision-making power to ensure operation of the Agreement and its institutional structures. As indicated above under the economic impact analysis, there have been some problems solved but for certain issues the Parties continue to work to find solutions.

27. In terms of the *bodies under the Agreement's Trade and Sustainable Development (TSD) Title*, the Contact Points established in DG TRADE and the partner countries' trade ministries represent an effective element of the institutional structure. They facilitate preparation for TSD Sub-committee meetings, ensure follow-up, provide a channel for bilateral engagement, and discussion on cooperation, and a link for escalation, when needed, to the Trade Committee. In the annual TSD Sub-committee meetings, the Parties discussed steps taken to implement provisions of the Title, as well as cooperation activities. When needed, issues were raised, e.g. about establishment of civil society advisory groups/ consultative mechanisms or civil society complaints submitted to the Parties. At this preliminary stage, the evaluation team concludes that some progress has been achieved in addressing problems and increasing transparency, but more needs to be done, such as increasing trust.

28. In terms of the *domestic mechanisms* of each Party, Domestic Advisory Groups (DAG)/ civil society mechanisms hold their meetings (1-4 a year) to discuss implementation and prepare for the annual meeting. The conditions of their operations vary significantly between the Parties. Also, discussions focus often on process and a limited number of well-known, serious problems, not using the whole scope of the TSD Title. Annual meetings (currently, DAG-to-DAG, technical workshops and open sessions) have been held each year since 2014 and provide a forum to discuss implementation. Their conditions for participation have improved with EU funding being made available, as well as the possibility to attend remotely. However, DAG-to-DAG meetings and work on joint recommendations have been affected by the lack of agreement between members from different sub-groups (business, trade unions, and NGOs). Civil society stakeholders stated that they aim at providing recommendations to the Parties at the annual meetings and asking them to ensure follow-up.

Status of evaluation and way forward

29. Whereas some parts of the consultations took place as planned (notably electronic communication and consultation activities), physical interviews and meetings could not take place due to the Covid-19 pandemic; these have been replaced with virtual interviews. The online public consultation is currently open with a closing date of 08 April 2021, and accordingly its results will be incorporated into the (draft) final report. National stakeholder workshops in the three Andean partner countries took place in the first three weeks of March 2021, with additional interviews also planned to be held to enrich the preliminary analysis presented in this interim report. The draft final report is planned to be submitted in June 2021.

1 INTRODUCTION

Since 2013, the European Union (EU) has a Trade Agreement with Colombia and Peru in place, which Ecuador joined in 2017. The Agreement gradually opens up markets on both sides and increases the stability and predictability of the trade and investment environment. It is also one of the first "new generation" trade agreements of the EU, characterised by its comprehensive scope that covers, in addition to liberalisation of trade in goods and services, investment, public procurement, competition, intellectual property rights, as well as trade and sustainable development issues.

After several years of implementation, this evaluation is undertaken with the objective of analysing the economic, social and environmental, and human rights (including labour rights)[1] impacts of the implementation of the Agreement and, ultimately, of determining whether there is a need to improve its implementation. To support the European Commission's own evaluation of the Agreement, the Directorate-General (DG) for Trade has awarded a contract for the "Ex post evaluation of the implementation of the Trade Agreement between the EU and its Member States and Colombia, Peru and Ecuador" to a consortium led by BKP Economic Advisors (BKP). The evaluation is carried out by a team involving experts from BKP, Trade Impact BV, Global Sustainable Solutions, Trinomics, the Universidad del Rosario in Bogota, the Universidad San Francisco in Quito, and the Institute of Peruvian Studies in Lima. Work started in late April 2020 and is expected to be completed in May 2021.

This interim report provides the preliminary findings of the evaluation after (much of) the data- and document-driven research has been completed, and initial consultations have been held. After a short re-cap of the evaluation context (in Part A), Part B is dedicated to the presentation of the findings, with one chapter each dedicated to the various dimensions of impact and analysis, i.e. economic (chapter 5), social (chapter 6), environmental (chapter 7), human rights (chapter 8), and institutional/procedural (chapter 9). Part C provides a brief updated on the evaluation progress and in particular the planning for the remainder of the evaluation. The annexes provide further details on certain elements of the report.

An update of the findings based on additional information and data, where available, a systematic summary of stakeholder consultations, as well as some elements of the overall analysis and case studies, along with the responses to the evaluation questions and a comparison of evaluation findings with the findings of the 2009 sustainability impact assess of the Agreement will be provided in the (draft) final report.

[1] Whenever this report refers to human rights, this includes labour rights.

PART A: CONTEXT

2 EVALUATION BACKGROUND AND OBJECTIVES

The purpose of the evaluation study is to support the European Commission in preparing a Staff Working Document which will analyse the impact of the implementation of the Agreement on sustainable development in its economic, social and environmental dimensions, as well as on human rights including labour rights. As such, the Study fits into the increased focus of the EU on the implementation and enforcement of free trade agreements (FTAs) considering European interests, as well as the role of trade in promoting values of democracy, the rule of law, the defence of human rights, social and gender equity, and environmental protection and climate change action.

The scope of the evaluation can be delineated as follows: in terms of the *period covered*, it covers the whole implementation period of the Agreement since the start of provisional application (2013 for the EU, Colombia and Peru, 2017 for Ecuador) up to now, also comparing, where appropriate with a pre-Agreement period of five years (i.e. starting in 2008). *Geographically*, it primarily covers the Parties to the Agreement,[2] although some effects of the Agreement on selected third countries, such as developing countries and particularly least developed countries (LDCs), as well as some global effects (e.g. climate change) will also be covered. With regard to the *evaluation criteria*, effectiveness, impact, efficiency, coherence and relevance will be considered. Finally, as already mentioned, in terms of *types of effects* considered, the evaluation will cover economic, social, environmental and human rights (including labour rights) effects which the Agreement may have had either as a result of the changes in trade it has brought about, or through the implementation of the provisions of the Agreement text itself, notably the provisions in the Trade and Sustainable Development (TSD) Title.[3]

Although most data to be considered for the evaluation refers to the world pre-Covid-19, the pandemic has ad an impact on the study. First, in terms of the evaluation implementation, it has affected the consultation activities that can be undertaken physically. Second, in substantive terms the pandemic has shaped priorities for stakeholders, which is to be taken into consideration in the interpretation of views and findings.

3 DESCRIPTION OF THE EU-COLOMBIA/PERU/ECUADOR TRADE AGREEMENT

In this chapter, we provide a brief overview of the Agreement; for a more detailed description, see Annex A.

3.1 Agreement Negotiations

Negotiations between the EU and the Andean Community for a region-to-region Association Agreement, including political dialogue, cooperation and trade were launched in June 2007. The negotiations were however suspended in June 2008 after disagreements among Andean countries on approaches to a number of key trade issues. A new negotiating format was put in place offering a thematic and geographical split of these negotiations: (i) continued regional negotiations between the EU and the Andean Community as a whole on political dialogue and cooperation (an update of the Political Cooperation and Dialogue

[2] The Agreement's impact is relatively more limited in the EU (simply due to the difference in size), and the implementation period in Ecuador has been relatively short so far.

[3] Throughout the report, we referr to the "TSD Title" where we refer to Title IX of the Agreement, and to "TSD chapter" where we refer to TSD chapters generically/in other agreements.

Agreement, PCDA, which at the time was awaiting final ratification) and (ii) "multi-party" trade negotiations between the EU and any member of the Andean Community willing to reach an ambitious, comprehensive and balanced trade agreement compatible with the WTO. The latter started with three of the Andean Community countries – Colombia, Ecuador and Peru – in February 2009.

At the time of these negotiations, Colombia, Ecuador and Peru (as well as Bolivia) were benefitting from unilateral preferential access to the EU market under the EU's Generalised Scheme of Preferences (GSP), specifically the GSP+ arrangement. However, the three countries faced (unlike Bolivia) the prospect of losing GSP status as a result of the upcoming reform of the GSP: one of the objectives of the proposed reform was to focus the GSP preferences on the countries most in need and specifically, it was anticipated that countries "classified by the World Bank as a high-income or an upper-middle income country during three consecutive years immediately preceding the update of the list of beneficiary countries" would no longer be eligible to benefit from the scheme[4]. Based on this criterion – which was indeed included in the final version of the new GSP Regulation adopted in 2012[5] – Colombia, Ecuador and Peru were expected to no longer be eligible for GSP references as of 2014. This meant that in the absence of a trade agreement with the EU, the three Andean countries were running the risk of losing preferential access to EU markets and facing Most Favoured Nation (MFN) tariffs instead.

The EU, Colombia and Peru reached an agreement on the key elements of a trade deal in March 2010 after nine negotiation rounds. The Agreement was then signed in June 2012 and has been provisionally applied with Peru since March 2013 and with Colombia since August 2013.[6]

Also in 2013, negotiations resumed with Ecuador for its accession to the Agreement and the negotiations were concluded in July 2014. The Protocol of Accession for Ecuador was signed in November 2016 and has been provisionally applied since 1 January 2017.

Full entry into force of the Agreement is pending ratification by all EU Member States, which is still ongoing.[7]

Pursuant to article 329 of the Agreement, Bolivia, as a member of the Andean Community, can also seek accession to the Agreement in the future; meanwhile, Bolivia benefits from unilateral preferential access to the EU market under the current GSP+ arrangement which is in place until the end of 2023.

3.2 Structure of the Agreement

The EU's Trade Agreement with Colombia, Peru and Ecuador is together with the EU-Korea FTA one of the first of a new generation of FTAs, characterised by their comprehensive nature and high level of ambition. The Agreement aims at opening markets for goods, services, investment and government procurement. The Agreement is not only about market access and tariff preferences: it also establishes a set of trade rules (e.g. on non-

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4 COM(2011)241, Proposal for a Regulation of the European Parliament and of the Council applying a scheme of generalised tariff preferences, 10.5.2011.

5 Regulation (EU) No. 978/2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008.

6 By virtue of Article 3(1) of the Council Decision of 31 May 2012 on the signing and provisional application of the Agreement, the EU does not apply provisionally Articles 2 (Disarmament and non-proliferation of weapons of mass destruction), 202(1) (provisions on Intellectual Property Rights), 291 (administrative proceedings) and 292 (review and appeal) of the Agreement, pending the completion of the procedures for its conclusion.

7 Belgium has not yet ratified the Agreement; for details on the ratification status, see https://www.consilium.europa.eu/en/documents-publications/treaties-agreements/agreement/?id=2011057

tariff barriers, competition, and intellectual property rights), which aim to go further than the commitments taken within the framework of the World Trade Organisation (WTO).

The Agreement contains 14 titles, 14 annexes, and joint declarations by the Parties (Box 3-1; for summaries of the Titles, see Annex A).

Box 3-1: Structure of the EU-Colombia/Peru/Ecuador Trade Agreement

- **Title I:** Initial provisions
- **Title II:** Institutional provisions
- **Title III:** Trade in goods
- **Title IV:** Trade in services, establishment and electronic commerce
- **Title V:** Current payments and movement of capital
- **Title VI:** Government procurement
- **Title VII:** Intellectual property
- **Title VIII:** Competition
- **Title IX:** Trade and sustainable development
- **Title X:** Transparency and administrative proceedings
- **Title XI:** General exceptions
- **Title XII:** Dispute settlement
- **Title XIII:** Technical assistance and trade-capacity building
- **Title XIV:** Final provisions
- **Annexes:**
  - Annex I: Tariff elimination schedules
  - Annex II: Concerning the definition of the concept of originating products and methods of administrative cooperation
  - Annex III: Special provisions on administrative cooperation
  - Annex IV: Agricultural safeguard measures
  - Annex V: Mutual assistance in customs matters
  - Annex VI: Sanitary and phytosanitary (SPS) measures
  - Annex VII: List of commitments on establishment
  - Annex VIII: List of commitments on cross-border supply of services
  - Annex IX: Reservations regarding temporary presence of natural persons for business purposes
  - Annex X: Enquiry points regarding trade in services, establishment and electronic commerce
  - Annex XI: Understanding concerning subparagraph (B) of the definition of 'services supplied in the exercise of governmental authority' as referred to in Article 152 of the Agreement.
  - Annex XII: Government procurement
  - Annex XIII List of geographical indications
  - Annex XIV: Mediation mechanism for non-tariff measures
- Joint Declarations by the Parties

The Agreement initially signed in June 2012 by EU, Colombia and Peru was complemented in 2016 by a **Protocol of Accession of Ecuador to the EU-Colombia/Peru Trade Agreement**, which provided for the addition of specific provisions to take account of the accession of Ecuador[8], but without modifying the overall structure of the Agreement, and for specific market access commitments between the EU and Ecuador.

Furthermore, the Agreement was amended through the "Additional Protocol to the Trade Agreement between the EU and its Member States, of the one part, and Colombia and Peru, of the other part, to take account of the accession of the Republic of Croatia to the EU," which was adopted in June 2016. This additional Protocol allowed Croatia to formally become part of the Agreement and provided for the amendment of several parts of the

[8] E.g.: 1. Annotations to the Text of the Agreement; 2. Provisions related to Market Access for Goods (Tariff elimination schedule of the EU party for goods originating in Ecuador; Tariff elimination schedule of Ecuador for goods originating in the EU Party); Annotations to the Annex concerning the definition of the concept of "originating products" and methods for administrative cooperation; Provisions related to Market Access for Trade in Services (a. List of Commitments on Establishment (Commitments of the EU Party and of Ecuador); b. List of Commitments on Cross-Border Supply of Services (Commitments of the EU Party and of Ecuador); c. Reservations regarding Temporary Presence of Natural Persons for Business Purposes: Reservations on Key Personnel and Graduate Trainees (Commitments of the EU Party and of Ecuador); d. Reservations regarding Temporary Presence of Natural Persons for Business Purposes: Reservations on Contractual Services Suppliers and Independent Professionals (Commitments of the EU Party and of Ecuador); 5. Provisions related to Government Procurement (Commitments of the EU Party and of Ecuador).

Agreement to account for the accession of Croatia (e.g. the Annexes related to trade in services such as the lists of commitments on establishment and cross-border supply of services, of the reservations regarding the temporary presence of natural persons for business purposes, etc.). It has been applied with Peru since 1st May 2017.[9]

3.3 Institutional set-up of the Agreement

Together, the Trade Committee and a number of specialised Sub-committees oversee the implementation of the Agreement.

The supervision and facilitation of the operation and further development of the Agreement – including the evaluation of results obtained from the application of the Agreement – is under the direct responsibility of the **Trade Committee**, which comprises representatives of the EU and representatives of each signatory Andean Country. The Committee also supervises the work of all specialised bodies (e.g. the Sub-committees) established under the Agreement. The decisions adopted by the Committee are binding upon the Parties, which are to take all necessary measures to implement them. The Trade Committee is scheduled to meet at least once a year.

The Agreement also established eight specialised Sub-committees: on Market Access; Agriculture; Customs, Trade Facilitation and Rules of Origin; Technical Obstacles to Trade; Sanitary and Phytosanitary Measures; Government Procurement; Intellectual Property; and Trade and Sustainable Development. More information on each of the Sub-committees is presented in Annex A.

3.4 Operational context of the implementation of the Agreement

Since the application of the Agreement, a number of changes in the trade context have taken place, globally and for the Parties. These are important for the evaluation to keep in mind when assessing the impact (to the extent possible), coherence and relevance of the Agreement. Major changes directly relevant for the Agreement are summarised in this section.

EU trade context

The EU's Trade Agreement with Colombia, Peru and Ecuador forms part of the EU's political and economic engagement with Latin America and is one of a number of trade deals concluded with countries in this region. The Agreement – together with the Association Agreement between the EU and Central America,[10] which was also signed in 2012 and is provisionally applied since 2013 – marked the beginning of negotiations of further 'new generation' FTAs with Latin American partners, such as:

- The relaunch in 2016 of the negotiations of an FTA between the EU and MERCOSUR States (Argentina, Brazil Paraguay and Uruguay), for which an agreement in principle was reached on the trade part on 28 June 2019.
- The negotiations on the modernisation of the EU-Mexico Global Agreement, which began in 2016 and for which an agreement in principle was reached on the trade part on 21 April 2018 and supplemented with the agreement on coverage of public procurement (sub-central) reached on 28 April 2020.

[9] OJ L 113, 29.4.2017, page 1

[10] The Association Agreement includes a trade pillar, which not only covers tariff elimination but also areas such as government procurement, services, investment and sustainable development. The Central American countries are: Panama, Guatemala, Costa Rica, El Salvador, Honduras, and Nicaragua.

- The ongoing negotiations on the modernisation of the EU-Chile Association Agreement, which started in 2017.

At the overall policy level, the European Commission presented in October 2015 the new EU trade and investment strategy "Trade for All: Towards a more responsible trade and investment policy",[11] which *inter alia* aimed at updating trade policy to take account of the new economic realities such as global value chains, the digital economy and the importance of services; touched upon the issues of competition, e-commerce, protecting innovation and regulatory cooperation; and announced a commitment to greater transparency in regards to trade negotiations as well as a commitment to using EU trade policy to promote sustainable development and human rights.

Most recently, following a review of the EU trade policy in 2020, on 18 February 2021 the European Commission launched its "Open, Sustainable and Assertive Trade Policy."[12] This builds on the EU's openness to contribute to economic recovery through support for the green and digital transformations, as well as a renewed focus on strengthening multilateralism and reforming global trade rules to ensure that they are fair and sustainable. It also provides for reinforced rules to tackle competitive distortions.

Colombia, Peru and Ecuador trade context

Besides being founding members of the Andean Community, Colombia, Peru and Ecuador are members of the Latin American Integration Association (LAIA), under which framework they have signed several partial scope agreements with members[13] and non-member partners.

In addition, Colombia and Peru, together with Mexico and Chile, have signed in June 2012 a Framework Agreement establishing a common area for political and trade integration and cooperation, known as the Pacific Alliance. The Trade Protocol of the Pacific Alliance,[14] which constitutes an FTA, was signed in 2014 and entered into force in May 2016. As far as trade is concerned, the Pacific Alliance seeks a higher degree of integration in comparison with the bilateral agreements that already exists among its member countries. Under this framework, negotiations began in 2017 on a free trade agreement with Australia, Canada, New Zealand and Singapore, which are candidates for associate membership of the Pacific Alliance. In July 2018, the Republic of Korea was admitted as a new candidate Associate State, and Ecuador expressed its interest in becoming an Associate State. Ecuador is progressing towards becoming an Associated country and subsequently full member. The negotiation of a trade agreement with Mexico – a prerequisite for association – is underway and the negotiations of a trade agreement with Chile have been concluded. On 25 September 2019, a Joint Declaration on a partnership between the States Parties to the Framework Agreement of the Pacific Alliance and the European Union was adopted, and its implementation is ongoing.

Table 3-1 lists all the FTAs involving Colombia, Peru and Ecuador that were signed or entered into force since 2012. With respect to ongoing FTA negotiations and in addition to the negotiations under the Pacific Alliance mentioned above: Peru is currently negotiating an agreement with India, the "optimisation" of its agreement with China and the deepening

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[11] COM(2015)497 of 14 October 2015.

[12] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Trade Policy Review – An Open, Sustainable and Assertive Trade Policy, COM(2021) 66 final, 18 February 2021.

[13] The LAIA member countries are Argentina, Bolivia, Brazil, Chile, Colombia, Cuba, Ecuador, Mexico, Panama, Paraguay, Peru, Venezuela and Uruguay.

[14] *Protocolo Adicional al Acuerdo Marco de la Alianza del Pacífico*.

of its agreement with Argentina; and Colombia has started negotiations with Japan and Turkey.

Political dialogue between the Parties

In June 2016, a Joint Proposal for the conclusion of a new PDCA between the EU and the Andean Community was adopted.[15] It replaced the 2003 Proposal for a PDCA[16] (see section 3.1) which was withdrawn.[17] The new PDCA – which has not been ratified so far – aims at institutionalising and strengthening the political dialogue between the Parties and broadens cooperation to include new areas such as human rights, conflict prevention, migration as well as the fight against drugs and terrorism. Special emphasis is placed on cooperation in support of the process of regional integration in the Andean Community.

At the bilateral level, the EU holds with each of the three Andean countries a High-Level Political Dialogue (HLPD) on an annual basis, which allows high-level officials to exchange ideas to strengthen and deepen bilateral relations and develop a political and cooperation agenda. In the case of Colombia, a specific Dialogue on Human Rights between the EU and the Government of Colombia was also established in 2009 (new Terms of Reference for the dialogue were adopted in September 2012). With Peru a specific dialogue on human rights was established in 2014 within the framework of the memorandum of Understanding of 29 October 2009 on the Establishment of a Mechanism of Bilateral Consultations. And with Ecuador, the first EU-Ecuador Human Rights Dialogue took place in July 2020.

Table 3-1: Overview of Colombia's, Peru's and Ecuador's trade agreement signed or entered into force since 2012

Colombia	Peru	Ecuador
Trade agreements in force: • Pacific Alliance (signed: 2014; entry into force: 2016) • Costa Rica (signed: 2013; entry into force: 2016) • Rep. of Korea (signed: 2013; entry into force: 2016) • United States (signed: 2006; entry into force: 2012) • European Free Trade Association, EFTA (signed: 2008; entry into force: 2011/2014[18]) • MERCOSUR (signed: 2017; entry into force: 2017/2018) • Venezuela (signed: 2011; entry into force: 2012) • Israel (signed: 2013; entry into force: 11 Aug 2020) *Trade agreements signed but not yet in force:* • United Kingdom (signed: 2019) • Panama (signed: 2013)	*Trade agreements in force:* • Australia (signed: 2018; entry into force: 2020) • Honduras (signed: 2015; entry into force: 2017) • Pacific Alliance (signed: 2014; entry into force: 2016) • Japan (signed: 2011; entry into force: 2012) • Costa Rica (signed: 2011; entry into force: 2013) • Panama (signed: 2011; entry into force: 2012) • Mexico (signed: 2011; entry into force: 2012) • Venezuela (signed: 2012; entry into force: 2013) *Trade agreements signed but not yet in force:* • United Kingdom (signed: 2019) • Comprehensive and Progressive Agreement for Trans-Pacific Partnership, CPTPP[19] (signed: 2018) • Brazil (signed: 2016)	*Trade agreements in force:* • Guatemala (signed: 2011; entry into force: 2013) • Nicaragua (signed: 2016; entry into force: 2018) • El Salvador (signed: 2017; entry into force: 2018) • United Kingdom (signed: 2019; entry into force: Jan 2021) • EFTA (signed: 2018; entry into force: Nov 2020) *Trade agreements signed but not yet in force:* • None

[15] JOIN(2016) 4 final. Joint proposal for a Council decision on the conclusion of a Political Dialogue and Cooperation Agreement between the European Community and its Member States, of the one part, and the Andean Community and its Member Countries (Bolivia, Colombia, Ecuador, Peru and Venezuela), of the other part.
[16] COM(2003) 695.
[17] https://ec.europa.eu/info/sites/info/files/cwp_2018_annex_iv_en.pdf.
[18] The FTA came into effect for Switzerland and Liechtenstein in 2011, and for Iceland and Norway in 2014.
[19] The signatory countries are Australia, Brunei Darussalam, Canada, Chile, Malaysia, Mexico, Japan, New Zealand, Peru, Singapore and Viet Nam

4 EVALUATION METHODOLOGY

Ultimately (i.e. in the final report), the evaluation will provide responses to a number of evaluation questions identified in the ToR (Box 4-1). To answer these questions, the analysis covers four impact dimensions of the Agreement and its implementation, i.e. economic, social, environmental and human rights impacts. In addition, the evaluation covers a fifth dimension, i.e. a review of the implementation of the Agreement itself and the institutions and procedures established under it. The preliminary evaluation findings are presented in line with these five dimensions of impact and analysis in the following chapters.

Box 4-1: Evaluation questions to be answered

Effectiveness/Impact

- EQ 1A: To what extent have the operational objectives as laid down in Article 4 of the Agreement been achieved?
- EQ 1B: What has been the impact of the Agreement?
- EQ 2: What are the factors influencing (either positively or negatively) the achievement of the Agreement's objectives?
- EQ 3: Has the Agreement had unintended (positive or negative) consequences, and if so, which ones?

Efficiency

- EQ 4: To what extent has the Agreement been efficient with respect to achieving its objectives?
- EQ 5: To what extent are the costs associated with the Agreement proportionate to the benefits it has generated? Is the distribution of both costs and benefits proportionate among different stakeholder groups and interests?
- EQ 6: Are there unnecessary regulatory costs (including administrative burden)?

Coherence

- EQ 7: To what extent has the Agreement been coherent with the EU's trade and development policies – and in particular, with the EU's commitment to sustainable development in trade policies as a contribution attainment of the SDGs?

Relevance

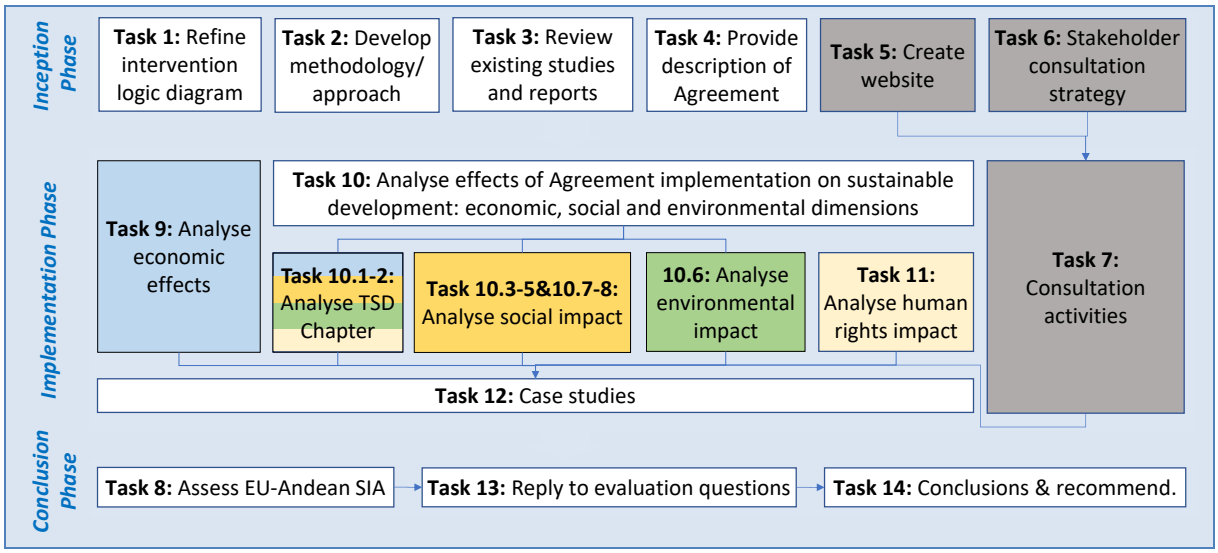
- EQ 8: To what extent do the provisions of the Agreement continue to be relevant in order to address the current trade needs and issues of the EU, Colombia, Peru and Ecuador?

For each of the impact dimensions, the evaluation's principal methodological approach is to determine the Agreement's effect by comparing the actual situation with the Agreement in place with a hypothetical counterfactual situation of the world where the Agreement would not be in place. However, the degree to which this methodological approach can be applied varies: for some economic effects (and non-economic effects directly derived therefrom, such as employment effects), the use of an economic model guarantees such a comparison of two states of the world with the only different between them being the presence of the Agreement – i.e. the effects of the Agreement are isolated from any other factor that in reality also comes into play. For other impacts, the evaluation resorts to descriptive statistical analyses and qualitative assessments based on data and information obtained from a variety of sources, among them consultations of stakeholders being highly important.

The methodology has been explained in detail in the evaluation inception report;[20] Figure 4-1 recalls the overall approach, while the remainder of this report is devoted to the presentation of the current stage of findings and conclusions drawn by the evaluation team.

[20] Available at http://www.fta-evaluation.eu/en/resources-2/study-outputs.

Figure 4-1: Overall evaluation approach



PART B: EVALUATION FINDINGS

5 PRELIMINARY RESULTS OF THE ECONOMIC ANALYSIS

5.1 Performance of trade in goods

5.1.1 Total merchandise trade

We first provide a description of trade statistics and then the results of the economic modelling. It is important to note that trade statistics as such do not permit to analyse the impact of the Agreement, as they do not provide any evidence of causality, nor do they consider other factors impacting on trade performance. Drawing conclusions on the basis of trade developments over time is therefore premature if not erroneous. Unfortunately, many analyses of the Agreement's impact fall into this methodological trap, often presenting an increase in exports as a "success" of the Agreement, respectively the absence of an increase in exports as a "failure".[21]

5.1.1.1 Context: descriptive statistics

Figure 5-1 shows the development of bilateral trade between the EU28 and the three partner countries over the period 2007 to 2019. For the interpretation of the trade data, it is important to keep in mind that the Andean partners were EU GSP+ beneficiaries prior to the Agreement's entry into force, and that therefore a considerable share of their exports already benefitted from duty-free access to the EU market.

EU28 imports from partner countries

As can be seen, EU28 imports from Colombia performed unevenly over time (Figure 5-1a). Total EU28 imports from Colombia roughly doubled from EUR 4 billion in 2007 to about EUR 8 billion in 2012 to 2014, and since have dropped to EUR 4.8 billion in 2019. EU imports from Peru also initially increased strongly, from EUR 4.2 billion in 2007 to more than EUR 6 billion in 2011 and 2012, and since have fluctuated between EUR 5 billion and EUR 6 billion. Imports from Ecuador increased almost steadily from 2007 to 2017 (with the exception of the global financial crisis year 2008), from EUR 1.8 billion to EUR 3 billion, and since then have remained constant at that level until 2019.

However, values of total bilateral trade are affected by the large share of mineral fuels (primarily coal) in Colombia's exports to the EU28, ranging from about 40% to 70% in total bilateral exports, and the extreme fluctuations in the world coal price. Similarly, a significant share of Peru's exports to the EU consists of copper ores (ranging from 23% to 39% in total bilateral export value), also affected by the world market price. Therefore, Figure 5-1b presents the trade performance excluding mineral fuels (HS chapter 27) and ores (HS chapter 26). This shows much more stable exports from Colombia to the EU over the period 2007 to 2013, shifting between EUR 2.0 billion and EUR 2.7 billion, and an almost steady increase of Colombia's exports to the EU since 2013, from EUR 2.1 billion to EUR 3.9 billion in 2019. Similarly, non-ore imports from Peru steadily increased from EUR 3.2 billion in 2013 to 4.2 billion in 2019.

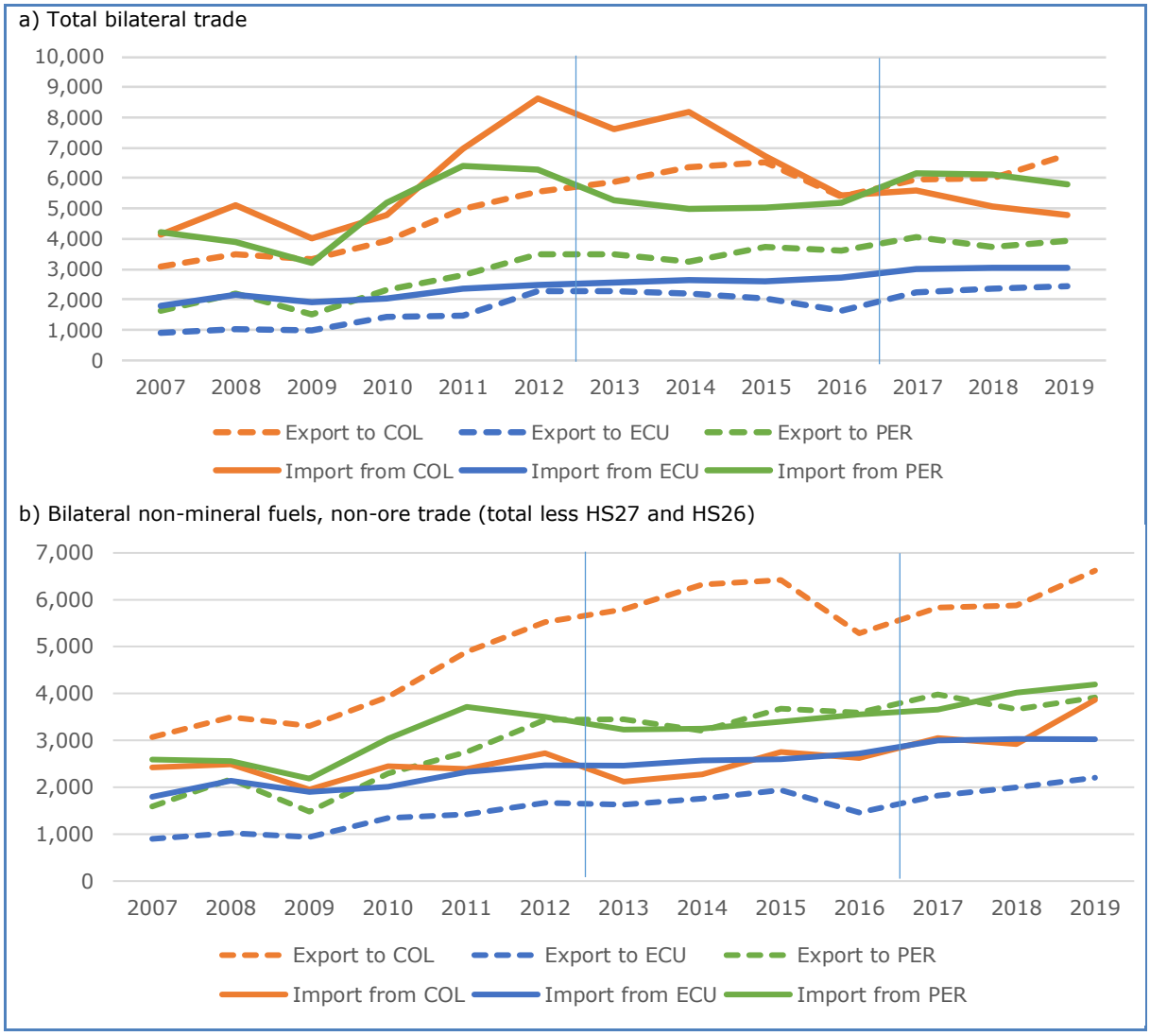
[21] For example, Zegarra and Torres (2020) conclude that the Agreement has had a negative impact on Peruvian exports of Coffee and Cocoa (due to declines in prices). However, with the EU MFN tariffs on these two products being zero, i.e. identical to the tariffs under the Agreement, the Agreement does not change market access conditions and hence cannot be the the cause of observed negative (or positive) impacts related to these to products.

EU28 exports to partner countries

The EU's (non-mineral fuels) exports to Colombia steadily increased from 2007 to 2015, before dropping sharply in 2016 and then resuming the previous growth trend (Figure 5-1b). Exports to Peru during the Agreement period continued the generally positive trend of the pre-Agreement period, albeit at a slower rate.

Exports to Ecuador increased steadily until 2015 before dropping sharply in 2016, during Ecuador's recession year, and then resumed a growth path from 2017 onwards – this is similar to the timing of the Agreement's entry into force and exports to Colombia. However, the post-Agreement growth rate for exports to Ecuador is much higher than pre-Agreement growth.

Figure 5-1: EU28 bilateral trade with partner countries, 2007-2019 (EUR million)



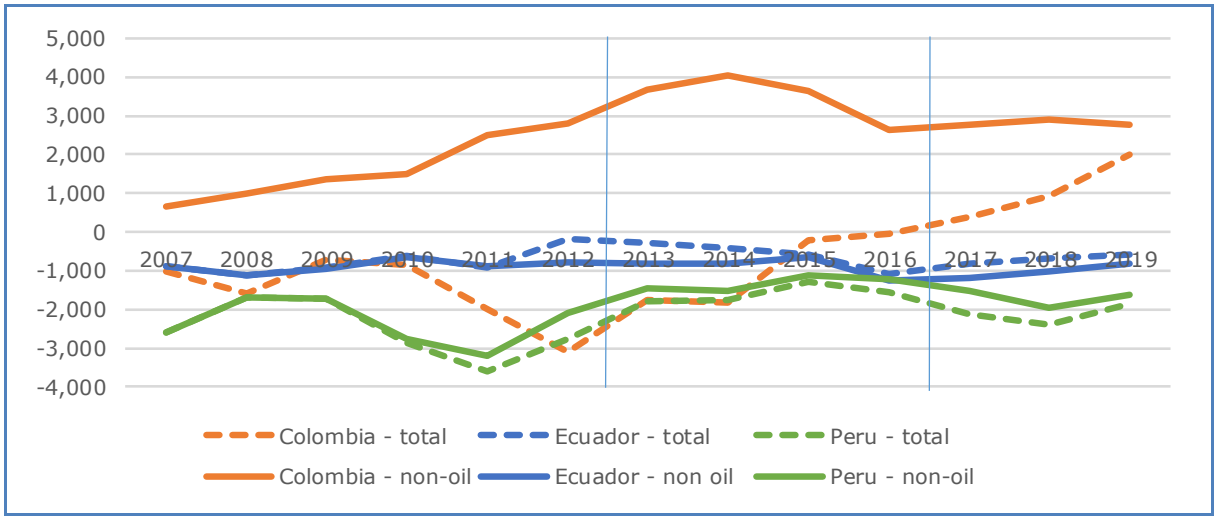
Source: Authors' calculations based on COMEXT database.

Bilateral trade balances

In terms of bilateral trade balances (Figure 5-2), the EU28 has had consistent although fluctuating trade deficits with Ecuador and Peru since 2007 (with limited differences between total and non-mineral fuels trade, due to the relatively limited share of mineral fuels trade with these two countries). Regarding trade with Colombia, the EU had a trade deficit until 2016 with respect to total trade, and a rapidly increasing surplus since – in

effect, the EU28 moved from a trade deficit of EUR -3.0 billion in 2012 to a trade surplus of EUR 2.0 billion in 2019. However, the bilateral trade balance between the EU and Colombia is significantly impacted by the high share of coal in Colombia's exports to the EU and, because of this, coal price developments. Looking at non-mineral fuels trade only, the EU28 has had a consistent trade surplus with Colombia, which steadily increased from EUR 0.6 billion in 2007 to EUR 4.0 billion in 2014, before dropping again and stabilising at EUR 2.8 billion to EUR 2.9 billion since 2016.

Figure 5-2: EU28 bilateral trade balances with Agreement partners, 2007-2019 (EUR million)



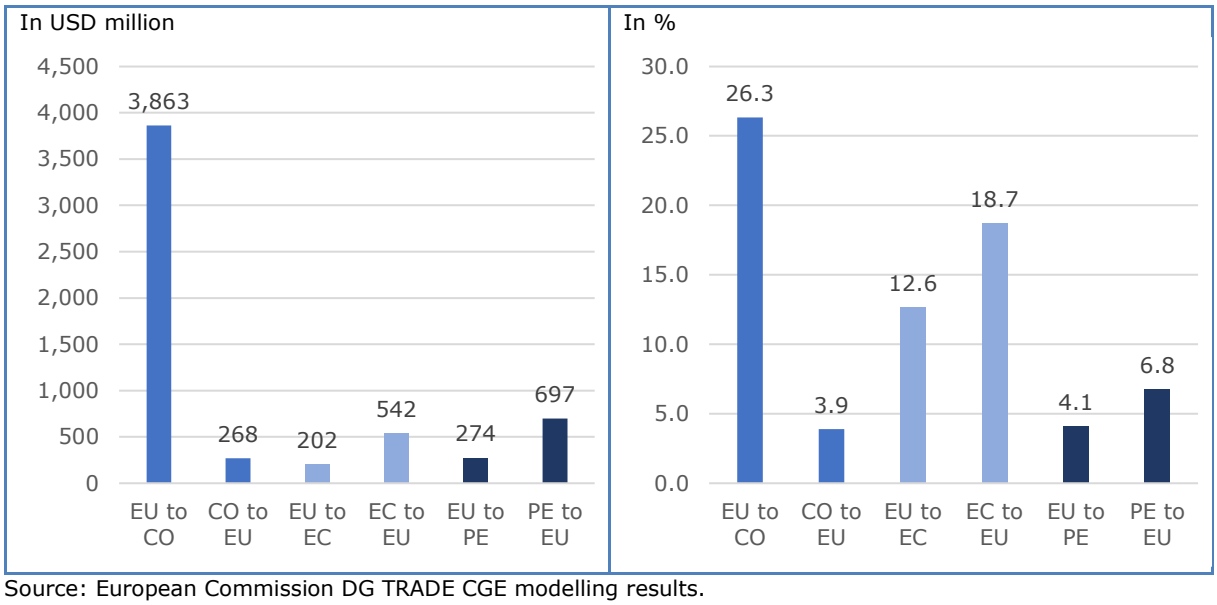
Source: Authors' calculations based on COMEXT database.

5.1.1.2 Impact of the Agreement: CGE modelling results

Unlike the descriptive statistical analysis, simulations done using a CGE model allow to isolate the effects of the Agreement from other factors impacting on the parties' trade and economic performance. This is done, in principle, by comparing the observed situation in 2020 (i.e. the world with the Agreement in place) with a hypothetical situation that would have arisen by 2020 with all things equal, except for the absence of the Agreement. For more details on the CGE modelling approach and the specific methodology applied, we refer to the inception report. Here, we present the results only.

The simulation results show that the Agreement has led to increases in all bilateral trade between the Parties, in both directions (Figure 5-3). For Peru and Ecuador, exports to the EU28 increased more, both in absolute (USD) and relative (percentage) terms, than imports from the EU. For Colombia, the opposite is true: the EU's exports to the country increased by close to USD 3.9 billion (26.3%) – the largest change by far among any of the bilateral trade relations covered by the Agreement –, while its exports increased by USD 268 million (3.9%). In relative terms, apart from EU exports to Colombia, the Agreement had the largest impact on EU-Ecuador trade, with Ecuador's exports to the EU being 18.7% higher than they would have been without the Agreement, and the EU's exports to Ecuador being 12.6% higher.

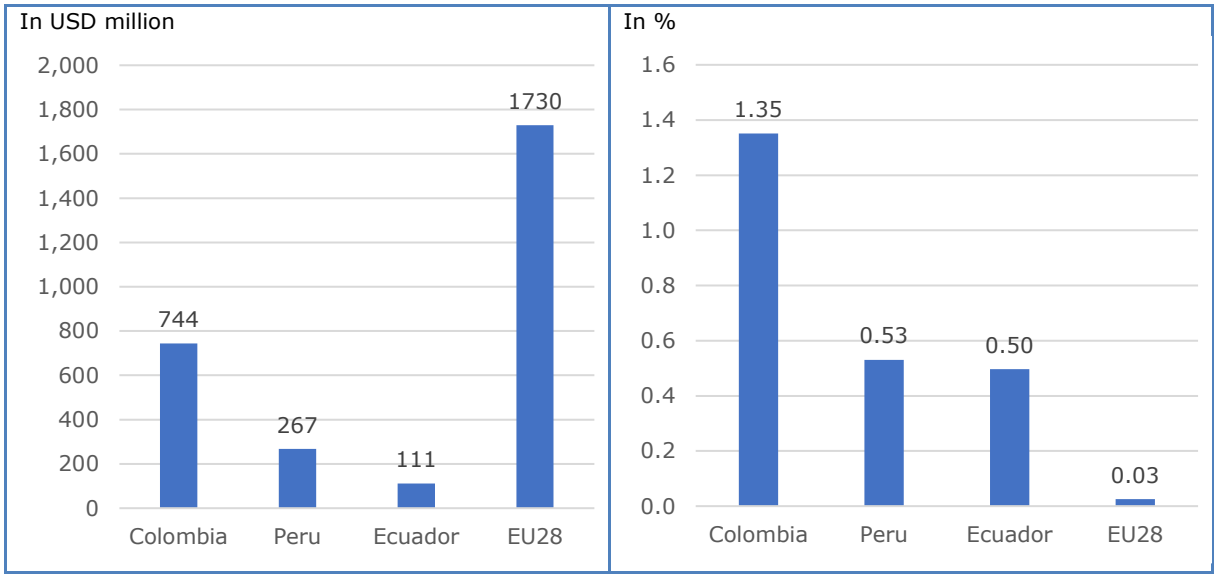
Figure 5-3: Changes in volume of bilateral exports between the EU and Partner countries caused by the Agreement, compared to no Agreement (year 2020)



Source: European Commission DG TRADE CGE modelling results.

The Agreement's positive impact on bilateral exports also has led to positive follow-on impacts, i.e. increases, on each of the Parties' total exports (Figure 5-4): In absolute terms, EU exports increased most as a result of the Agreement, by EUD 1.7 billion, followed by Colombia's exports, and more moderate increases in exports by Peru and Ecuador. In terms of percentage changes, Colombia's exports increased most, by 1.35% compared to the situation without the Agreement, and Peru's and Ecuador's total exports increased by 0.5% each. For the EU, given the small share of exports directed to the three Andean partner countries, the impact on the total export increase in relative terms is quite limited, at 0.03%.

Figure 5-4: Changes in value of total exports in EU and Partner countries caused by the Agreement (year 2020)



Source: European Commission DG TRADE CGE modelling results.

5.1.2 Trade creation and trade diversion

Any FTA makes trade between the FTA parties relatively more profitable for traders than trade with third countries. A part of the additional trade between the parties is therefore

diverted from trade with non-parties (trade diversion), while another part is genuine creation of trade which would have not taken place in the absence of the FTA (trade creation).

At an aggregated level, the Agreement mostly shows a common pattern: for the three Andean partners together, exports to the EU in 2020 are higher by USD 1.5 billion than they would have been without the Agreement, but their total exports to the world are only USD 947 million higher; i.e. exports worth USD 560 million (or 37% of intra-Agreement exports created) were diverted from third country markets to the EU. Similarly, the Agreement created USD 4.3 billion worth of EU exports to the three partners in 2020, but USD 1.6 billion of these (37%) were exports diverted from EU third country markets, so that the net export creation effect for the EU was USD 2.7 billion.

From an import perspective,[22] the simulation results appear less straightforward: For example, EU imports from countries not participating in the Agreement *increased*, contrary to intuition, by USD 1 billion. Similarly, imports by Ecuador and Peru from third country also increased (by USD 19 million and 127 million, respectively). For the EU, increases in imports from third countries are mostly concentrated in sectors where the three Andean partners have limited competitiveness, i.e. machinery, equipment, and vehicles, and where the simulations therefore predict only limited increases in exports in absolute terms. With EU exports in these sectors increasing, this creates a demand push in the EU for these sectors, which are satisfied with imports from third country sources. The same applies, mutatis mutandis, to Ecuador and Peru.

Imports by Colombia from third countries decrease, as expected, but the magnitude – USD 3.6 billion, only slightly below the increase of USD 3.9 billion in imports from the EU caused by the Agreement – is high. In other words, for Colombia the Agreement has mainly led to import diversion. With an increase in total imports of about USD 300 million and an increase in Colombia's total exports by close to USD 600 million, this also means that Colombia's trade balance improved as a result of the Agreement.

5.1.3 Trade by sector and product

5.1.3.1 Context: descriptive statistics

EU28 imports from partner countries

At an aggregated, i.e. HS chapter (2-digit) level, the most important import by the EU28 in 2019 from each of the three partners was chapter 08, fruits (Table 1 in Annex B). While this has traditionally been the most important export from Ecuador to the EU, for Colombia and Peru, 2019 was the first time for fruits to become the most valuable export, overtaking coal and other mineral fuels (chapter 27) in the case of Colombia, and ores (chapter 26) in the case of Peru.

Imports from Colombia

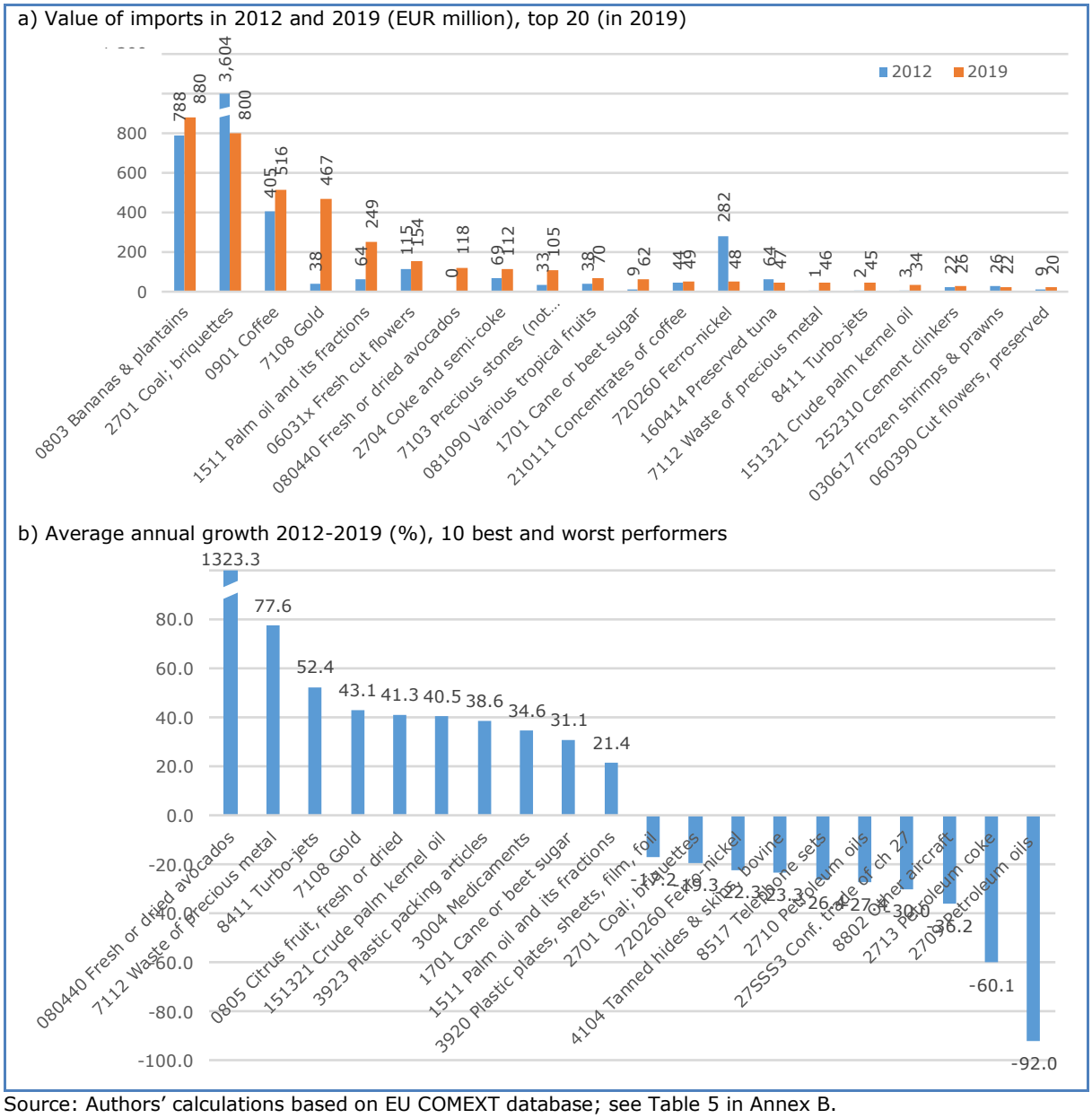
For Colombia, the sectoral composition of exports to the EU in value terms to a large extent has been influenced by changes in the price of coal. Thus, in 2013 coal accounted for 73% of Colombian exports to the EU, followed by fruits (11%) and coffee (5%). In 2019, fruits accounted for 26% of the country's total exports to the EU, followed by mineral fuels (22%), precious minerals (15%) and coffee (12%). In absolute terms, exports of coal and related products declined sharply from EUR 5.5 billion to EUR 922 million (an average annual decrease by 23% over the period since the entry into force of the Agreement), while fruit and coffee exports increased at relatively modest rate of 4.0% and 3.5%,

[22] Impacts of the Agreement on the exports of third countries, notably developing countries and LDCs, also an expression of trade diversion, are analysed in section 5.14.

respectively (and not at all since 2017 and 2014, respectively). The fastest growing sectors during the Agreement period were precious minerals (35.2% on average per year, especially in 2018 and 2019), animal and plant oils (23.3% growth, although stagnation since 2017), and sugars and sugar confectionaries (19.9%). Declining exports, in addition to coal, included iron and steel (average of -21.5% per year), raw hides and skins (-12.8%), preparations of meat and fish (-4.3%) as well as fish and crustaceans (-1.4%) (see Table 3 in Annex B for the full list).

At a more disaggregated level, the most important imports from Colombia are bananas and plantains (EUR 880 million in 2019), coal (EUR 800 million), coffee (EUR 516 million) and gold (EUR 467 million) (Figure 5-5a). Compared to 2012, the largest increases are in gold (from EUR 38 million in 2012), palm oil (from EUR 64 million to EUR 249 million), and avocados (from 0 to EUR 118 million); and the largest declines in coal (EUR 3.6 billion in 2012) and ferro-nickel (from EUR 282 million to EUR 48 million).

Figure 5-5: EU imports from Colombia, selected products



Source: Authors' calculations based on EU COMEXT database; see Table 5 in Annex B.

These developments are also reflected in the growth rates (Figure 5-5b), the best performers since the Agreement entered into force are avocados (1,323% average annual

growth over the period 2012 to 2019), precious metal waste (78%, although with notable imports only in 2018 and 2019) and turbo jets (52%), but a number of other products have also shown high growth rates, including some other agricultural products (e.g. citrus fruits, palm kernel and palm oil, and sugar) as well as some industrial goods (such as plastic packaging or medicaments), although the latter are exported at very modest levels.

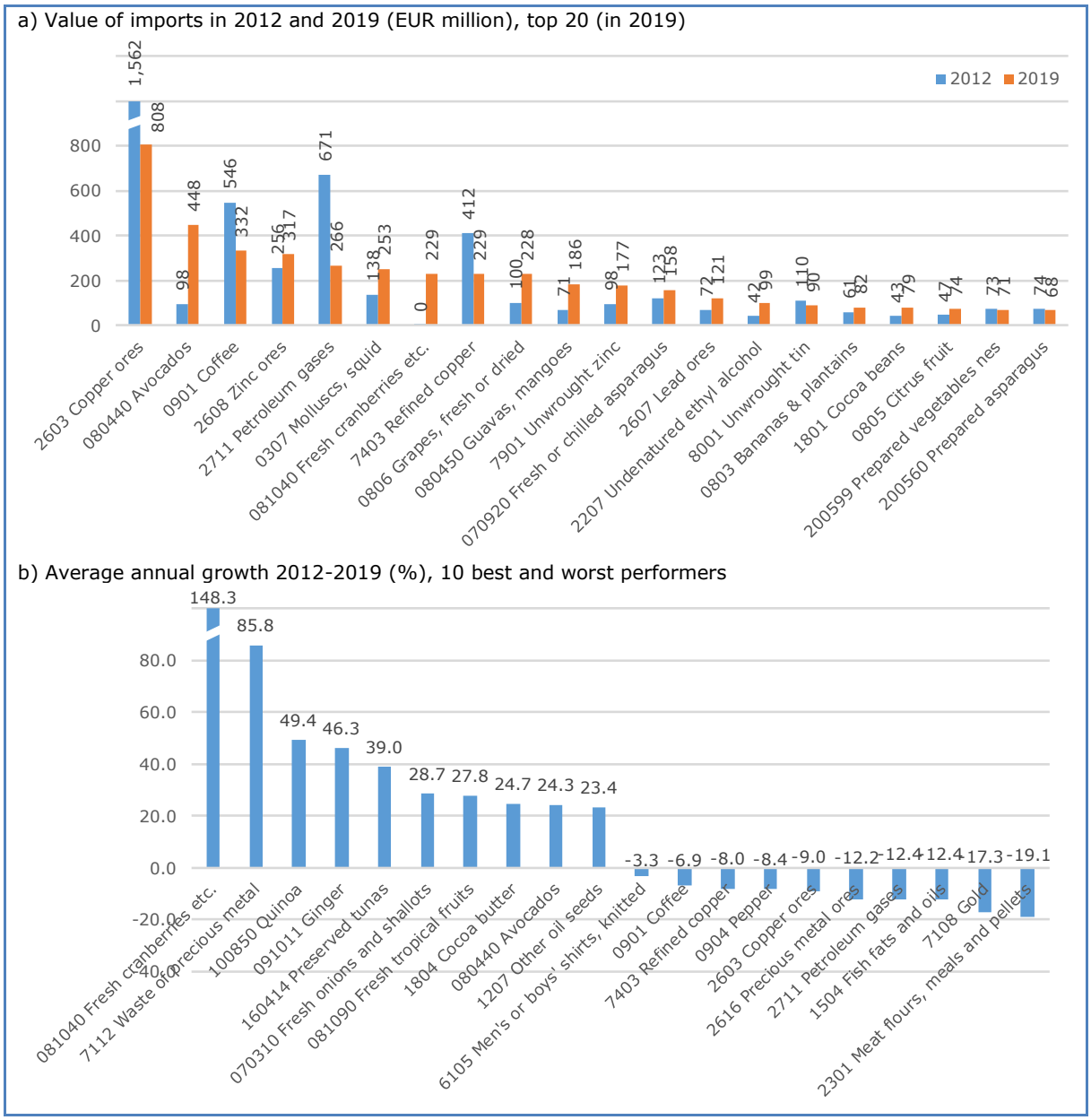
At the other end of the spectrum, exports of products in HS chapter 27 (mineral fuels) are among the ones showing the largest declines in exports. Other products whose imports from Colombia decreased since the Agreement entered into force are telephone sets (-26% per year on average, from a low base), ferro nickel (-22%), and tanned hides and skins (-23%; these increased until 2014 and since dropped sharply). Sugar confectionary (-11%), preserved tuna (-4%) and frozen shrimps and prawns (-2%) are among the larger export commodities that witnessed declines in exports to the EU since the Agreement entered into force (see Table 4 in Annex B).

Imports from Peru

The sectoral composition of EU imports from Peru has changed considerably over the period 2007 to 2019 (Table 1 in Annex B). In the pre-Agreement period, they were dominated by ores (ch. 26; accounting for EUR 2 billion in 2012, or a third of total EU imports from Peru in 2012 and 2013) and rapidly increasing imports of mineral fuels (ch. 27, reaching EUR 0.7 billion in 2012, 12% of total imports from Peru). Since 2013, imports of fruit (ch. 08) have grown fastest, at an average of almost 19% per year, and became, for the first time, the largest import commodity from Peru in 2019 (EUR 1.4 billion, 24% of total imports from Peru), surpassing ores (EUR 1.3 billion, 23%). Other chapters showing consistent import growth are cocoa (ch. 18), fish and crustaceans (ch. 03), zinc (ch. 79), vegetables (ch. 07) and prepared fruit and vegetables (ch. 20). Conversely, exports of ores (ch. 26), copper (ch. 74), mineral fuels (ch. 27), and coffee (ch. 09) performed unevenly since the entry into force of the Agreement, with a decreasing tendency. Overall, there has been a clear trend away from extractives towards more agricultural and processed agricultural products.

At a more disaggregated (i.e. HS 4- and 6-digit) level, the most important EU import from Peru is, still by a wide margin, copper ore (Figure 5-6). However, its value, as well as that of most other extractives, as mentioned above, has declined considerably since 2012. On the other hand, various agricultural and fishery products have become important commodities, led by avocados (from EUR 98 million in 2012 to EUR 448 million in 2019), molluscs and squid (from EUR 138 million to EUR 253 million), berries (from zero to EUR 229 million), grapes, and miscellaneous tropical fruit). In terms of growth rates (Figure 5-6b), these products have shown higher-than-average growth, but a number of smaller agricultural products have still outperformed them (except for berries): EU imports from Peru of quinoa and ginger have shown average annual growth of almost 50% over the period 2012 to 2019, although they remain still relatively limited in absolute terms (imports of quinoa reached EUR 42 million in 2019 – and have mostly stagnated since 2015 after three years of exponential growth – and ginger EUR 18 million – stagnating since 2017 after fast growth in the preceding years; see Table 6 in Annex B). Among the worst performing imports since 2012 are mostly extractives such as gold, metal ores, or petroleum gases, as well as meat and fish flours and fats.

Figure 5-6: EU imports from Peru, selected products



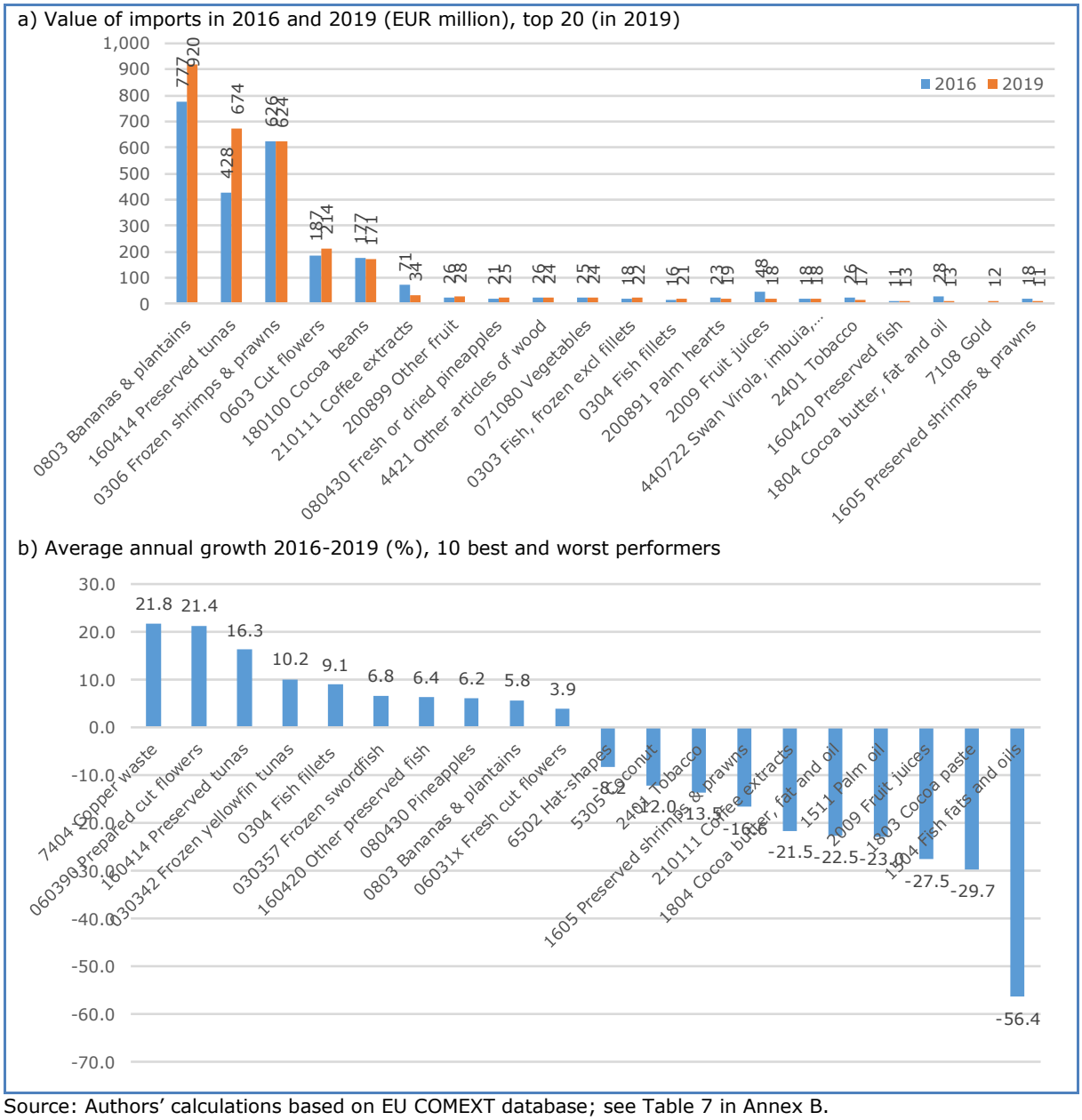
Source: Authors' calculations based on EU COMEXT database; see Table 6 in Annex B.

Imports from Ecuador

The most important EU imports from Ecuador are agricultural and fishery products: All of the ten largest imports at HS chapter level are from the agriculture, fisheries and forestry sector (Table 1 in Annex B). The most important commodities are fruit (ch. 08, accounting for about 30% of all imports from Ecuador), preparations of fish (ch. 16; 23%), and fish and crustaceans (ch. 03; 22%), followed by cut flowers (ch. 06; 7%) and cocoa (ch. 18; 6%). Changes in the sectoral composition of EU imports from Ecuador since the entry into force of the Agreement have been limited, but it has to be kept in mind that the Agreement's implementation started only recently, in 2017. However, in terms of growth rates, it is noteworthy that preparations of fish expanded rapidly, whereas imports of unprocessed fish and crustaceans from Ecuador stagnated. As a result, the value of fish preparation imports from Ecuador exceeds the value of non-processed fishery products in 2019 for the first time (EUR 702 million vs. EUR 670 million). The other HS chapters to show (continued) growth are fruit and cut flowers. Conversely, imports of food preparations (ch. 20 and 21) declined most.

Looking at a more detailed product composition of EU imports from Ecuador shows a high, and increasing concentration (Figure 5-7): three products, bananas and plantains, preserved tuna, and frozen shrimps and prawns each accounted for an import value of more than EUR 600 million in 2019; and for two of those, bananas and tuna, these values were substantially higher than in 2016. Combined, the three products accounted for 73% of the EU's total imports from Ecuador, up from 67% in 2016. Two other products account for another 7% each of imports (each with a value of around EUR 200 million), cut flowers and cocoa beans. Other commodities only account for relatively small values. In addition, the two largest commodities, bananas and tuna, as well as processed cut flowers, are the only major imports from Ecuador that registered notable increases in import value. Other growth products, such as waste copper, frozen tuna or fish fillets, are relatively small in absolute terms.

Figure 5-7: EU imports from Ecuador, selected products



Source: Authors' calculations based on EU COMEXT database; see Table 7 in Annex B.

EU28 exports to partner countries

The most important export by the EU28 to each of the three partner countries, both before and since the Agreement enter into force, was machinery (chapter 84). The importance of other EU exports varies across the partners, although in general EU exports tend to be more varied than EU imports from the partners.[23]

Exports to Colombia

Although EU machinery exports to Colombia remain the most important sector in value terms, their growth during the Agreement period has been slow and uneven (Table 2 in Annex B): exports in 2012, just before the entry into force, they stood at EUR 1,163 million, almost the same as in 2019. Accordingly, the average growth per year during the post Agreement period was 0.4%, lower than the average 2.8%, and leading to a decrease in the sector's share in overall EU exports to Colombia from 19% in 2013 (22% over the period 2007 to 2012) to 18% in 2019. Similar declines in relative importance were registered by exports of electrical machinery (ch. 85) and aircraft (ch. 88). The latter were particularly high from 2009 to 2014, reaching almost EUR 0.9 billion, but since decreased to less than EUR 0.3 billion. Accordingly, their share in EU exports to Colombia dropped from 12% in 2013 to 4% in 2019. Exports of electrical machinery also reached their peak in 2014, at EUR 463 million, and since declined to about EUR 350 million per year (5% of total exports to Colombia in 2019). A more dynamic export performance was shown by pharmaceuticals (ch. 30), which continued their positive pre-Agreement trend consistently over time, reaching EUR 918 million in 2019, or 14% of the total (up from 12% in 2013, and 9% during 2007-2012). Other sectors among the top 10 exports with an above-average growth since the Agreement entered into force are vehicles (ch. 87), plastics (ch. 39), paper and paper articles (ch. 48), and optical and miscellaneous equipment (ch. 90). Among the smaller export sectors, mineral fuels (ch. 27), beverages (ch. 22), essential oils (ch. 33), various processed food products (ch. 19, 20 and 21), animal feed (ch. 23) and dairy products (ch. 04) were among the ones showing particularly high growth rates (see Table 4 in Annex B for the full list).

Exports to Peru

The EU's top five exports to Peru are the same as those to Colombia, although in a slightly different order. Machinery (ch. 84) leads, and has a higher share than in Colombia (or Ecuador), accounting for about 30% of total EU exports to the country – although the share has decreased somewhat, from 33% in 2007-2012 to 28% in the post-Agreement period. The other four leading sectors are electrical machinery (ch. 85), vehicles (ch. 87), pharmaceutical products (ch. 30), and optical and other equipment (ch. 90), each accounting for 5% to 10% of EU exports to Peru. The best performing sectors since the Agreement entered into force (in terms of export growth) were, among the top ten sectors, rail transport equipment (ch. 86; average annual growth of 22%), pharmaceutical products (12%), and miscellaneous chemical products (10%). Among the smaller export sectors, various types of processed food (ch. 20, with 20% average annual growth over the period 2012-2019; ch. 21, 15%; ch. 19, 13%) were among the fastest growing exports (see Table 4 in Annex B). Conversely, exports of the top three sectors – machinery, electrical machinery and vehicles – all decreased from 2012 to 2019.

Exports to Ecuador

The sector composition of EU exports to Ecuador is similar to Colombia and Peru: machinery exports (ch. 84) have consistently been most important, accounting for about

[23] As a result of this larger diversity and more even spread of EU exports across product, here we present the performance at HS chapter level. Tables 8 to 10 and figures 3 to 5 in Annex B provide additional information about EU exports at the HS heading (4-digit) level.

20% of total exports, but have been mostly flat since 2012 (Table 2 in Annex B). Other important exports, like to the other two Andean partner countries, are pharmaceuticals (ch. 30), vehicles (ch. 87) and electrical machinery (ch. 85). An important difference compared to Colombia and Peru are the notable exports of mineral fuels (ch. 27) to Ecuador, in fact the second most important sector after machinery – but highly volatile in line with the world market price fluctuations. High growth rates since the Agreement entered into force were registered, among the large export sectors, by rail transport equipment (ch. 86; 190% per year over 2016-2019), vehicles (53%), fish and crustaceans (ch. 03; 35%), and paper (ch. 48; 30%) – although it must be kept in mind that these rates are inflated by the fact that 2016 was a recession year in Ecuador during which imports across most sectors had dropped. Conversely, electrical machinery, pharmaceuticals, machinery and mineral fuels underperformed during the post-Agreement period. Some smaller export sectors to Ecuador also showed high growth rates since the Agreement entered into force in 2017 (see Table 4 in Annex B), including beverages (ch. 22; 104% average annual growth 2016-2019), ships and boats (ch. 89; 109%, but highly volatile given the large value of individual transactions), ceramic products (ch. 69; 39%), fruit and vegetable preparations (ch. 20; 35%), apparel (ch. 62; 27%), and animal feed (ch. 23; 25%).

5.1.3.2 Impact of the Agreement: CGE modelling results

In addition to aggregate impacts, the CGE model also simulates the Agreement's impacts at a sector level for each of the Parties. To do this, it distinguishes 59 different sectors, of which 43 are goods sectors and 16 services sectors. Because of the model assumptions, which only consider the effect of tariff liberalisation, the calculated impact on services sectors stems only from macroeconomic readjustment processes. As a result, the impact on services sectors is generally small in the model simulations, and similar across services sectors.

As mentioned, the direct impact of the Agreement's tariff liberalisation is on bilateral trade between the three partner countries and the EU. This is reflected in the relatively strong responses, in some sectors, of bilateral trade flows (Table 5-1). In relative terms, these can reach, according to the simulations hundreds of percent (e.g. rice or dairy exports from Colombia and Peru to the EU), albeit only in very small export sectors; these exceptional percentage increases are thus rather modelling artefacts. Among the more sizeable export sectors, the following changes caused by the Agreement are estimated:

- **EU sectors** benefitting most in the form of increased exports to Colombia are various types of manufactures products, such as vehicles (an increase of USD 974 million or 122% compared to no Agreement), machinery (USD 801 million/39%), electronics (USD 334 million/49%), and others. Garments and leather, as well as processed food (notably meat products and vegetable oils and fats) are also expected to have benefitted substantially. EU export increases to Peru and Ecuador are much more limited. For Peru, the highest effects are in basic pharmaceutical products (USD 57 million/33%), paper products (USD 38 million/18%), textiles and garments, and machinery. For Ecuador, the sectors increasing exports most are other food products (USD 46 million/41%), followed by vehicles, transport equipment and machinery, and chemical and basic pharmaceutical products. Virtually all EU goods sectors benefit from the Agreement through increased exports to the Andean partner countries. Conversely, most services sectors are expected to have seen a negative impact of the Agreement in the form of small declines in bilateral exports (to the tune of about 1%, compared the absence of the Agreement). This effect on services can be explained with the model assumption which only considers the tariff liberalisation. As a result, all goods sectors benefitting from lower tariffs become more competitive, in relative terms, than services sectors, for which the model assumes no change resulting from the Agreement. Accordingly, activities and exports shift towards the relatively more competitive goods sectors.

Table 5-1: Changes in bilateral exports by sector (at initial market prices) caused by the Agreement in EU and partner countries (year 2020)

	EU to CO		CO to EU		EU to EC		EC to EU		EU to PE		PE to EU	
Sector	USD M	%	USD M	%	USD M	%	USD M	%	USD M	%	USD M	%
1 Paddy rice	0	1.3	0	4271.0	0	11.2	0	-19.1	0	4.2	0	7504.6
2 Wheat	0	52.1	0	383.8	0	5.2	0	-7.5	0	2.0	0	364.4
3 Cereal grains nec	3	34.3	0	-0.2	0	20.1	0	-0.5	0	0.7	0	1.4
4 Vegetables, fruit, nuts	8	19.0	64	49.5	2	47.9	126	25.7	0	3.4	74	32.2
5 Oil seeds	0	2.2	0	-0.9	0	25.6	0	-5.6	0	8.4	0	-3.7
6 Sugar cane, sugar beet	0	0.6	0	96.3	0	4.3	0	-8.8	0	2.3	0	77.6
7 Plant-based fibers	0	20.9	0	-0.7	0	32.8	0	-5.0	0	8.9	0	-0.6
8 Crops nec	12	39.2	18	11.9	1	5.4	19	27.5	1	6.0	-12	-2.0
9 Bovine cattle, sheep and goats	1	23.8	0	-0.7	0	18.3	0	-5.3	0	6.7	0	-2.5
10 Animal products nec	0	6.2	0	-0.1	0	32.8	0	-1.2	0	0.7	0	1.0
11 Wool, silk-worm cocoons	1	116.9	0	149.6	1	383.5	0	-13.4	2	111.6	3	29.5
12 Forestry	2	11.0	0	1.5	0	1.7	0	-2.5	0	3.6	0	-1.2
13 Fishing	0	9.9	0	1.5	0	25.2	0	7.7	0	2.3	2	3.1
14 Coal	0	1.1	2	0.1	0	-0.1	0	-0.4	0	0.1	0	0.0
15 Oil	0	0.0	0	0.1	0	21.2	0	0.0	0	0.2	0	-0.3
16 Minerals nec	5	8.2	0	0.5	0	1.3	0	-1.0	1	3.0	2	0.1
17 Bovine meat products	0	-0.1	0	0.0	0	3.7	0	-7.0	0	1.2	0	-3.6
18 Meat products nec	29	120.4	0	510.0	0	12.8	1	186.6	1	20.6	2	211.7
19 Vegetable oils and fats	59	112.8	4	27.2	7	70.4	10	15.8	2	24.5	39	41.2
20 Dairy products	0	-0.8	0	276.9	0	1.5	2	262.5	0	1.3	2	1281.0
21 Processed rice	0	1.7	0	32.4	0	-4.1	0	136.5	0	1.1	0	40.3
22 Sugar	0	2.3	1	42.1	0	5.0	-1	-81.8	0	1.1	3	581.2
23 Other food products	37	33.6	50	86.6	46	41.4	384	67.7	6	6.5	234	48.5
24 Beverages and tobacco products	17	19.9	3	11.6	5	21.7	0	1.1	5	11.9	1	6.9
25 Textiles	36	53.3	7	104.4	4	34.7	1	59.6	15	48.8	5	42.6
26 Wearing apparel	80	153.0	15	130.4	1	94.6	11	30.6	14	122.5	75	124.5
27 Leather products	28	146.2	4	22.3	3	744.1	3	11.6	5	88.3	3	25.9
28 Wood products	9	12.3	0	8.2	2	29.0	0	-0.5	3	10.6	0	-0.9
29 Paper products, publishing	79	32.8	0	6.4	9	18.0	0	-2.4	38	18.2	0	-0.5
30 Petroleum, coal products	2	20.9	1	0.3	1	4.9	0	3.4	0	0.1	2	21.0
31 Chemical products	251	29.1	33	36.1	11	5.2	3	25.9	31	7.6	218	103.1
32 Basic pharmaceutical products	185	29.1	1	4.6	10	7.1	0	-1.7	57	32.9	0	8.2
33 Rubber and plastic products	54	28.4	11	45.1	8	41.1	1	45.7	6	4.5	1	38.8
34 Mineral products nec	41	33.7	1	18.2	5	54.6	0	30.7	2	4.7	2	16.5
35 Ferrous metals	91	26.5	1	2.1	5	8.8	0	-0.1	2	1.1	0	0.9
36 Metals nec	23	44.0	2	6.5	2	21.0	0	-1.7	0	0.6	55	3.4
37 Metal products	210	45.5	0	11.6	7	14.9	0	17.0	6	2.9	0	8.6
38 Computer, electronic and optic	334	49.3	1	15.2	3	3.7	0	9.8	2	1.2	1	6.3
39 Electrical equipment	212	46.8	1	26.1	8	17.2	0	16.9	9	2.3	0	20.9
40 Machinery and equipment nec	801	38.9	1	14.7	17	8.2	1	10.2	28	2.3	1	11.9
41 Motor vehicles and parts	974	122.1	2	32.1	18	32.9	0	38.8	6	1.2	1	22.4
42 Transport equipment nec	139	6.3	2	16.6	13	58.5	0	11.6	1	1.4	1	17.2
43 Manufactures nec	166	49.9	1	5.3	8	36.2	11	13.1	21	18.3	2	15.9
44 Electricity	0	-0.9	1	2.0	0	-0.9	0	-0.4	0	0.3	0	-0.5
45 Gas manufacture, distribution	0	-0.9	3	1.1	0	0.6	0	-0.8	0	0.3	-6	-0.4
46 Water	0	-1.1	0	2.2	0	2.0	0	-3.5	0	0.7	0	-1.3
47 Construction	0	-0.8	0	1.6	0	1.6	0	-1.9	1	0.5	0	-0.9
48 Wholesale & retail trade	-4	-0.7	4	1.8	0	1.6	-2	-2.3	1	0.5	0	-0.7
49 Accommodation, Food and serv.	0	-0.2	0	1.1	0	1.9	-2	-3.5	0	0.5	0	-1.1
50 Transport nec	-1	-0.4	5	1.1	0	0.9	-3	-1.1	1	0.3	-2	-0.5
51 Water transport	0	0.0	1	0.7	0	0.4	0	-0.5	0	0.3	-1	-0.6
52 Air transport	-1	-0.3	7	0.8	0	0.5	0	-0.6	0	0.2	-2	-0.5
53 Warehousing and support act.	1	0.1	3	1.7	0	0.7	-4	-2.2	0	0.3	-1	-0.7
54 Communication	-3	-0.8	7	1.7	0	1.3	-6	-2.2	2	0.4	-1	-0.8
55 Financial services nec	-2	-0.7	1	1.6	0	1.4	-1	-2.5	0	0.5	0	-0.9
56 Insurance	-2	-0.6	0	1.6	1	1.2	0	-2.3	1	0.4	-1	-1.0
57 Real estate activities	0	-0.7	3	1.8	0	1.1	-1	-2.3	0	0.2	0	-0.8
58 Business services nec	-8	-0.7	5	1.7	0	1.2	-1	-2.3	3	0.4	-2	-0.8
59 Public Services	-3	-0.5	2	1.7	1	1.5	-9	-2.6	1	0.4	-2	-0.9
Total	**3863**	**26.3**	**268**	**3.9**	**202**	**12.6**	**542**	**18.7**	**274**	**4.1**	**697**	**6.8**

Source: European Commission DG TRADE CGE modelling results.

- Among **Colombian** sectors, the Agreement leads to the highest increases in exports to the EU for fruit and vegetables (an increase in USD 64 million or 50% compared to the situation without the Agreement in place, in 2020), other food products (USD 50 million/87%) and chemicals (USD 33 million/36%), as well as garments, and rubber and plastic products. Virtually all good and services sectors benefit, except some very small declines in some agricultural sectors (which, however, are hardly exported to the EU anyway).
- In **Peru**, the largest increases in exports to the EU are calculated for other food products (an increase in USD 234 million or 49% compared to the situation without the Agreement in place, in 2020) and chemical products (USD 218 million/103%), followed by garments, and fruit and vegetables. Taken together, these four sectors account for USD 600 million of the close to USD 700 million increase in Peru's bilateral exports. Accordingly, most other sectors increase exports to the EU only in relatively limited

amounts as a result of the Agreement. Unlike in Colombia, some are calculated to have seen moderate decreases in exports to the EU of up to 4% (comparing 2020 exports with the Agreement in place and 2020 exports that would have resulted without the Agreement): these are mostly some agricultural sectors which hardly export to the EU. As in the EU, the calculated effect on Peruvian services sector exports to the EU is slightly negative; the explanation provided above applies.

- For **Ecuador**, bilateral trade effects of the Agreement are even more concentrated: virtually all gains, in absolute terms, are concentrated on two sectors, other food products (which includes preserved fish; an increase in exports to the EU of USD 384 million or 68% compared to the situation without the Agreement in place, in 2020) and fruits and vegetables (USD 126 million/26%). Other sectors may benefit stronger in percentage terms but are very small exporters to the EU. For services sectors, the same as for Peru and the EU applies.

The Agreement's effects on the parties' total exports by sectors generally show the same patterns as bilateral exports but at a smaller magnitude (Table 5-2). This results from the fact that some of the bilateral export increases are the result of export diversion: because the Agreement makes trade between the parties relatively more profitable than trade with third countries, some of the exports to third markets are diverted to exports to the Agreement partners (see section 5.1.2 above). In **Colombia**, total exports increase for all sectors, roughly proportional to the bilateral export increases, i.e. the trade creation effect of the Agreement is larger than its trade diversion effect for all sectors.

For the EU and Peru, the overall impact of the Agreement is still a net increase in total exports for most sectors. In the **EU**, most manufacturing sectors benefit also in terms of total export increases, whereas the vegetables and fruit as well as the other food products sectors are calculated to register declines in total sector exports – although in percentage terms these declines are limited (-0.3% in the case of fruit and vegetables). In **Peru**, among the larger export sectors only other crops (USD -32 million/-2.6%) and miscellaneous metals (USD -130 million/-0.8%) see decreases in total exports as a result of the Agreement (again compared to the situation in 2020 without the Agreement in place), whereas total exports of the larger benefitting sectors register total export increases of up to USD 200 million (other food and chemical products).

For **Ecuador**, the pattern is more mixed. The Agreement's positive effect on the two main leading benefactors, vegetables and fruits, and other food products is so strong that it leads to a concentration of exports in these two sectors to the detriment of many other, smaller export sectors which, accordingly, register small declines in total exports (also see section 5.2.2 on sector output effects).

Table 5-2: Changes in total exports by sector (at initial market prices) caused by the Agreement in the EU and partner countries (year 2020)

	EU		CO		EC		PE	
Sector	USD M	%	USD M	%	USD M	%	USD M	%
1 Paddy rice	0	0.02	0	-1.28	0	-17.97	0	3.46
2 Wheat	11	0.05	0	0.15	0	-6.76	0	20.74
3 Cereal grains nec	3	0.02	0	0.60	0	-4.51	0	-0.08
4 Vegetables, fruit, nuts	-161	-0.30	62	32.30	30	1.37	52	4.99
5 Oil seeds	3	0.03	0	-0.50	0	-4.96	0	-3.57
6 Sugar cane, sugar beet	0	0.00	0	10.61	0	-8.76	0	-3.15
7 Plant-based fibers	0	0.03	0	0.25	0	-4.98	0	-2.03
8 Crops nec	10	0.04	12	1.52	-7	-1.33	-32	-2.59
9 Bovine cattle, sheep and goats	2	0.03	0	-0.44	0	-5.36	0	-2.46
10 Animal products nec	4	0.02	0	-0.29	0	-2.94	0	-0.65
11 Wool, silk-worm cocoons	3	0.12	0	4.47	0	-17.48	1	1.92
12 Forestry	0	0.00	0	1.37	0	-2.61	0	-1.28
13 Fishing	-1	-0.01	0	1.19	-2	-14.76	1	1.37
14 Coal	-1	-0.04	3	0.06	0	-0.40	0	-0.07
15 Oil	-3	-0.01	4	0.04	-2	-0.03	-1	-0.36
16 Minerals nec	-9	-0.02	0	0.51	0	-1.34	5	0.03
17 Bovine meat products	1	0.01	0	0.17	0	-6.99	0	-2.55
18 Meat products nec	33	0.06	0	24.48	1	18.06	1	1.77
19 Vegetable oils and fats	38	0.10	4	9.76	-10	-2.18	31	7.86
20 Dairy products	1	0.00	0	19.40	-1	-2.11	-1	-0.50
21 Processed rice	-1	-0.04	0	7.11	-1	-10.77	0	4.76
22 Sugar	-3	-0.03	1	0.85	-1	-24.00	1	1.46
23 Other food products	-228	-0.13	57	8.16	220	10.90	202	6.74
24 Beverages and tobacco products	27	0.03	3	3.07	0	-0.33	1	1.10
25 Textiles	48	0.09	13	5.14	-8	-3.23	1	0.34
26 Wearing apparel	62	0.09	23	7.60	7	4.89	57	5.76
27 Leather products	24	0.05	6	7.40	-6	-3.12	2	5.63
28 Wood products	5	0.01	0	2.69	-13	-2.95	-3	-1.58
29 Paper products, publishing	109	0.07	15	2.08	-5	-4.82	-4	-2.22
30 Petroleum, coal products	7	0.00	5	0.19	-6	-0.31	0	0.00
31 Chemical products	125	0.02	128	3.24	-13	-1.52	196	11.31
32 Basic pharmaceutical products	223	0.07	17	2.84	-2	-3.93	-1	-1.46
33 Rubber and plastic products	56	0.03	26	4.27	-3	-1.93	-7	-1.55
34 Mineral products nec	42	0.06	10	2.23	-3	-2.63	-3	-1.10
35 Ferrous metals	135	0.06	6	1.89	0	-1.04	0	-0.58
36 Metals nec	13	0.01	18	3.11	-2	-2.27	-130	-0.79
37 Metal products	207	0.13	1	2.88	0	-1.34	-2	-1.76
38 Computer, electronic and optic	226	0.06	2	4.83	-2	-2.67	-1	-0.89
39 Electrical equipment	170	0.06	14	3.72	-2	-1.74	-2	-2.16
40 Machinery and equipment nec	661	0.12	7	3.89	0	-0.55	-4	-1.63
41 Motor vehicles and parts	1033	0.15	23	3.68	-38	-5.13	-1	-1.52
42 Transport equipment nec	58	0.03	3	9.08	0	4.81	1	3.18
43 Manufactures nec	131	0.07	8	3.05	2	0.47	0	-0.17
44 Electricity	-4	-0.01	7	1.35	0	-0.41	0	-0.52
45 Gas manufacture, distribution	-15	-0.04	8	1.08	-1	-0.85	-13	-0.39
46 Water	-1	-0.04	0	2.21	0	-3.58	-1	-1.28
47 Construction	-14	-0.02	0	1.59	-1	-1.90	0	-0.91
48 Wholesale & retail trade	-22	-0.02	9	1.75	-6	-2.37	-1	-0.76
49 Accommodation, Food and serv.	-5	-0.01	1	1.08	-6	-3.54	-1	-1.08
50 Transport nec	-11	-0.01	12	1.06	-7	-1.12	-5	-0.49
51 Water transport	1	0.00	2	0.69	0	-0.54	-3	-0.59
52 Air transport	-2	0.00	20	0.79	0	-0.60	-5	-0.48
53 Warehousing and support act.	-1	0.00	8	1.71	-11	-2.18	-3	-0.77
54 Communication	-23	-0.01	15	1.68	-13	-2.22	-3	-0.86
55 Financial services nec	-39	-0.03	4	1.63	-2	-2.47	-1	-0.91
56 Insurance	-31	-0.03	1	1.61	-2	-2.36	-5	-0.98
57 Real estate activities	-6	-0.02	7	1.74	-3	-2.31	0	-0.79
58 Business services nec	-107	-0.02	13	1.65	-4	-2.31	-6	-0.81
59 Public Services	-57	-0.03	6	1.64	-23	-2.58	-7	-0.94
Total	**2730**	**0.04**	**587**	**1.58**	**52**	**0.26**	**308**	**0.56**

Source: European Commission DG TRADE CGE modelling results.

5.1.4 Preference utilisation

An analysis of preference utilisation will be added in the draft final report, drawing on the findings of a separate study being undertaken concurrently with the evaluation.

5.1.5 Use of tariff rate quotas

For some sensitive agricultural products, the Agreement provides for tariff rate quotas (TRQs) which reduces or eliminates tariffs for a certain volume of imports (Article 33). Table 5-3 provides a summary of the number of TRQs foreseen under the Agreement. Products covered are different types of dairy products, some vegetables (mushrooms, garlic), certain meat products, some cereals, and sugar and sugar products. The aim of the TRQs is to foster trade by reducing tariff barriers while avoiding too much pressure from import competition for domestic producers. The evaluation therefore aims at assessing to what extent TRQs have been utilised by traders without disrupting domestic production. We first look at imports by the EU from the three Andean partner countries, and then EU exports to the partners. For more analysis of the administrative implementation of TRQs, see section 5.5.3.

Table 5-3: TRQs foreseen in the Agreement, number of product categories

	Colombia	Peru	Ecuador
EU imports from	8	18	10
EU exports to	14 (of which 5 time-bound)	17 (of which 5 time-bound)	12 (of which 1 time-bound)

Source: Prepared by authors based on Agreement text, Annex I.

5.1.5.1 Use of EU TRQs by partner country exporters

Few TRQs have been used by partner country exporters. The only two product categories where quotas have been reasonably filled consistently over time are cane sugar from Colombia and sweetcorn from Peru (Table 5-4). For some other exports, TRQs were used sizeably (i.e. by 20% or more) but only in selected years: rum from Colombia (only in 2018), garlic and sugar from Peru, and frozen sweetcorn from Ecuador (in 2020). For a third category, TRQs have been filled at low rates, e.g. "other sugar confectionary and food preparations" from Colombia, maize from Peru, and garlic, rice, preserved sweetcorn, sugar and sugar products from Ecuador. Finally, for a number of product categories, notably meat, dairy products, and mushrooms, TRQs have not been used at all.[24]

This generally low utilisation indicates that TRQs for most product categories – except sugar from Colombia and sweetcorn from Peru – have not been effective instruments for fostering trade. What is more, some product categories that used to be exported to the EU by partner countries prior to the Agreement (albeit in small quantities) have all but ceased since its entry into force – such as maize, cane sugar, and sugar and sugar products from Ecuador, or sweetcorn from Colombia (Table 12, Annex B). This calls for an explanation.

Although further consultations are required, a preliminary explanation starts from the observed small size of partner country exports in product categories covered by TRQs. As (Table 13 in Annex B) shows, with the exception of sugar from Colombia and maize from Peru, imports of no single category reached EUR 3 million from any of the partner countries in any year during the period 2007 to 2019. The fact that some of these small-scale exports declined or ceased since the entry into force of the Agreement points to the fact that exporters are mostly small businesses for which administrative requirements associated with exporting in general, but further complicated by the TRQ administration, outweigh the benefits of the preferential (or zero) in-quota tariffs. Meanwhile, prohibitive out-of-quota tariffs also prevent exports under MFN tariffs. In contrast, exports of maize from Peru have continued at about the same levels as before the Agreement entered into force, indicating that exports are significantly sizeable to justify the administrative work associated with the TRQs; the fact that exports have not increased, despite low TRQ utilisation rates of about 10% (Table 5-4) indicates either supply side constraints for expanding production and export or the presence of other, more attractive markets. Some stakeholders have also

[24] For Ecuador, in 2020, first time exports under TRQs were made of garlic and manioc.

noted that the stagnation or decline of fill rates in 2020 for some products are the consequence of disruptions caused by Covid-19.

Table 5-4: Utilisation of EU TRQs by partner countries, 2013-2020 (% of quota)

	2013	2014	2015	2016	2017	2018	2019	2020
CO								
AV0-MM Mushrooms of the genus Agaricus	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
AV0-SC Sweetcorn	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
AV0-SP Other sugar confectionary & food pr	0.0	1.3	1.2	1.5	1.5	1.2	1.7	1.1
BF Boneless bovine meat	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
CM Concentrated milk, sweetened	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RM Rum	0.0	0.0	0.0	0.0	0.0	58.8	0.0	0.0
SR Cane sugar	67.8	79.4	89.6	96.2	91.8	61.4	89.8	100.0
YT Yoghurt	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
PE								
BF Bovine meat	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
BK Buttermilk etc.	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
BR Butter, dairy spreads etc.	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
CE Cheese and curd	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
GC Garlic	0.0	0.0	0.0	53.8	54.2	0.0	3.8	9.0
IE Ice cream	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
ME Maize	0.7	2.9	1.1	6.1	11.1	14.9	8.6	10.0
MM Mushrooms of the genus Agaricus	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
MP1 Milk powder	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
MP2 Milk concentrate-not powder	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
PK Pork meat	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
PY Poultry meat	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RE Rice	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
RM Rum	0.0	0.0	0.0	7.0	0.0	5.7	0.0	0.0
SC Sweetcorn	18.0	69.1	79.9	87.3	90.0	92.6	87.0	100.0
SP Other sugar confectionary & food prepar	0.0	0.0	0.0	0.1	0.3	0.0	0.4	0.7
SR Sugar	100.0	100.0	3.1	99.8	100.0	8.9	16.6	17.8
YT Yoghurt	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
EC								
GC Garlic					0.0	0.0	0.0	1.5
MC Manioc starch					0.0	0.0	0.0	0.3
MM Mushrooms of the genus Agaricus					0.0	0.0	0.0	0.0
MZ Maize					0.0	0.0	0.0	0.0
RI Rice					0.0	0.3	0.1	0.1
RM Rum					0.0	0.0	0.0	0.0
SC1 Sweetcorn preserved					0.0	0.7	1.0	0.0
SC2 Sweetcorn frozen					3.3	9.5	6.7	21.0
SP Sugar and sugar products					1.3	0.6	0.1	0.1
SR Cane sugar					3.8	7.8	9.0	8.7

Source: Authors' calculations based on EU CIRCABC database.

Regarding those TRQ product categories where no exports were registered in the pre-Agreement period, these could be considered as "bets" on export competitiveness in the presence of the preferential market access offered under the Agreement's TRQs. However, in no single case exports in such product categories started to flow, and the bets have therefore been unfulfilled as of yet. This points to the need of more efforts needed to build the competitiveness of producers to enable them to start exporting and making use of the preferential access to the EU market offered under the TRQs. Such assistance would also need to address SPS issues; some stakeholders in the Andean countries noted that e.g. the EU's requirements for beef and dairy exports were difficult to meet.

Finally, regarding cane sugar from Colombia and sweetcorn from Peru, where TRQs have been consistently filled, the analysis shows:

- Exports of cane sugar from Colombia substantially increased (Table 12, Annex B), up to the quota, upon the entry into force of the Agreement, and quotas have been mostly filled each year since (Table 5-4). This indicates, first, that the TRQ has led to more exports for sugar from Colombia, i.e. it has been effective for increasing trade; and

second, it has also been binding, i.e. it has helped avoid an "uncontrolled" increase in EU sugar imports from Colombia: out of quota tariffs appear to be prohibitively high. A closer look at the impact of the Agreement on sugar imports and the implications for producers specifically the EU outermost regions is provided in section 5.13.

- The same is true for EU imports of sweetcorn from Peru, which significantly increased in 2013 and have shown an upward trend since in volume terms (Table 12 in Annex B), with increasing TRQ utilisation rates reaching 100% in 2020.

5.1.5.2 Use of partner country TRQs by EU exporters

The utilisation by EU exporters of TRQs offered by the Andean partner countries varies considerably across partner and product categories (Figure 5-8). TRQs offered by **Colombia** have been used most intensively, especially for sweet corn, mushrooms, infant formula, milk powder (LP1) and, increasingly, ice cream. For some other dairy products – yoghurt, condensed milk and cheese[25] – quota fill rates were much lower or volatile, and for meat, sugar and products with high sugar content quotas were also not or hardly used. For those product categories that use TRQs, the latter have indeed led to increasing EU exports: for example, mushrooms, sweet corn, milk powder or ice cream were not (or hardly) exported to Colombia prior to the Agreement but have significantly increased since (see Tables 15 and 16, Annex B). This indicates a high effectiveness of TRQ for these products. For other product categories (e.g. sugar or beef), they have however not led to exports. Finally, for some product categories more research is still needed. For example, when comparing actual reported EU exports with quotas granted, exports of mushrooms and sweetcorn appear to exceed quotas by a factor of up to almost 15 (see Table 14, Annex B). It remains to be determined if this is a statistical issue (e.g. differences in tariff codes) or indicates a limited effectiveness of quotas in capping imports by Colombia.

Regarding TRQs in **Peru**, these are used less by EU exporters. Out of the 17 product categories, only four (butter and dairy spread, ice cream, milk powder, and rum) were used at high rates, and among these rum only recently, while butter and dairy spread as well as milk powder quota used significantly dropped in 2019. Although exports of these products were higher in the post-Agreement period than before, they were volatile and did not show a clearly upward trend, unlike comparable exports to Colombia (see Tables 15 and 16, Annex B). Conversely, exports of products showing low TRQ use, such as infant formula or cheese increased more strongly. Unless this is a statistical artefact (see previous paragraph), this would seem to indicate a limited effectiveness of TRQs granted by Peru – this remains to be analysed in more detail.

For **Ecuador**, the use or TRQs by EU exporters is most limited – no single quota has been fully used since the start of application of the Agreement in 2017. On the other hand, utilisation rates have been increasing for most product categories;[26] although there are some categories where quotas have not been used at all or hardly (such as bovine guts, fresh sweet corn, frozen potatoes or products with high sugar content). For most of those categories that have used quotas, EU exports to Ecuador have increased considerably since the start of application of the Agreement (see Tables 15 and 16, Annex B), notably for processed sweet corn, milk powder, yoghurt and cheese, animal feed and pork. Thus, although quota fill rates are still limited, also due to a complex TRQ management set out by the Ecuadorian authorities (in this regard, see the discussion of TRQ administration in section 5.5.3), TRQs demonstrated a certain level of effectiveness.

For all three countries, despite some progress in use of TRQs by the EU, a slow and burdensome process of homologation of sanitary and phytosanitary conditions of Member States and EU establishments prevents EU exports from further growth.

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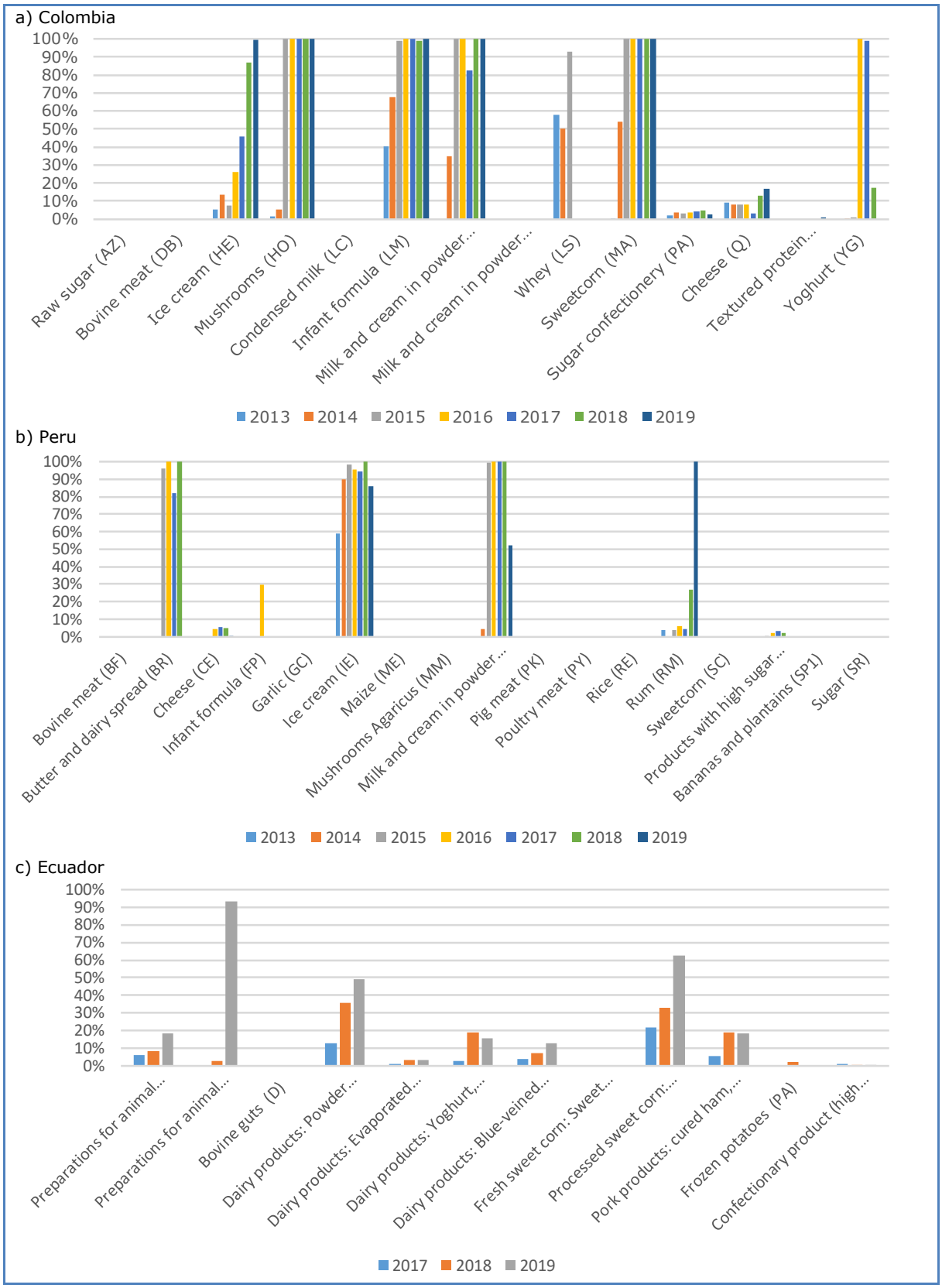
[25] EU whey exports to Colombia have been duty-free quota-free since 2016.
[26] See Table 17 in Annex B for data up to including 2020.

Figure 5-8: Utilisation rates by EU exporters of TRQs granted by partner countries, 2013-2019



Source: European Commission annual FTA implementation reports (2019, 46ff; 2020, 90, 93, 95).

5.1.6 Market access issues

Over the years, a number of concerns regarding market access issues have been raised in the meetings of the Trade Committee and Sub-committees (in particular the Sub-committee on Market Access). Examples of such issues are listed in Box 5-1. Other potentially trade-depressing measures are also discussed in other sections of this report (e.g. customs issues in section 5.5, SPS issues in section 5.6, or miscellaneous trade related measures in section 5.8).

Box 5-1: Examples of market access issues raised by the Parties in the Trade Committee and Sub-committees

Issues raised by the EU

- The EU raised concerns that excise taxes on Pisco in Peru are more favourable than on other spirits, thereby effectively discriminating against imported spirits.
- The EU raised concerns about the requirement in Colombia, at the level of departments, for tax stamps applied to imported alcoholic beverages but not national ones. This concern was raised, regarding various types of alcoholic beverages, both in meetings of the Committees established under the Agreement and at the WTO (case DS 502 on spirits, in 2016).[27] Colombia changed the legislation in 2017 to address the concerns (see European Commission 2020a); nevertheless the EU concerns are not fully addressed. Progress was also made regarding other alcoholic beverages (beer).

Issues raised by the Andean partner countries

- The Andean partner countries expressed their concern about the EU's review of autonomous tariff quotas for certain fishery products, noting that this would cause an erosion of negotiated preferences and a significant loss of competitiveness for the Andean producers, particularly in view of the fact that some competitors would not be bound by the labour, environmental and traceability standards that the Andean countries had agreed to under the Agreement.

Sources: Compiled by the authors from minutes of meetings of the Trade Committee and Sub-committees on Market Access, and Agriculture, various years; for a more complete list, see Table 24 in Annex B.

Most stakeholders interviewed by the evaluation team so far, representing both EU and Andean partner business interests, confirmed that the implementation of the Agreement, and the flow of goods between the Parties, work generally very well, and market access barriers are limited. This is confirmed, by and large, by a cursory comparison of the products and sectors addressed by concerns raised (mostly fruit and vegetable exports by the Andean countries, and alcoholic beverages, as well as motor vehicles by the EU) and the evolution bilateral trade: despite the issues, trade for most of the products has expanded significantly since the Agreement started to be applied. This is the case e.g. for fruits and vegetables exports by the Andean countries and motor vehicles exports by the EU, as analysed in the preceding sections; it also applies to EU exports of alcoholic beverages, with the potential exception of exports of spirits to Peru (Table 5-5). Overall, therefore, any potential (non-tariff) market access barriers for these goods have not be so severe as to depress bilateral trade.

Table 5-5: EU28 exports of beer and spirits to Andean partner countries, 2007-2019 (EUR million)

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	
CO Colombia														
2203 Beer	3.1	2.6	1.6	2.2	4.3	5.0	5.8	8.5	9.6	18.5	27.5	17.6	20.9	
2208 Spirits	29.2	23.9	21.7	18.8	30.8	35.1	34.4	41.3	42.2	43.7	35.3	46.0	69.1	
EC Ecuador														
2203 Beer	0.1	0.2	0.1	0.3	0.4	0.6	0.8	0.7	0.5	0.7	2.2	3.7	6.5	
2208 Spirits	14.9	17.3	6.5	9.3	12.5	7.7	2.5	2.9	2.6	1.7	10.5	23.2	24.3	
PE Peru														
2203 Beer	0.3	0.5	0.3	0.5	0.8	1.2	1.2	1.0	1.7	1.4	1.3	2.3	4.1	
2208 Spirits	14.7	12.8	9.6	14.1	25.0	29.5	35.0	34.5	52.1	47.1	45.4	39.7	32.9	

Source: Authors' calculations based on EU COMEXT.

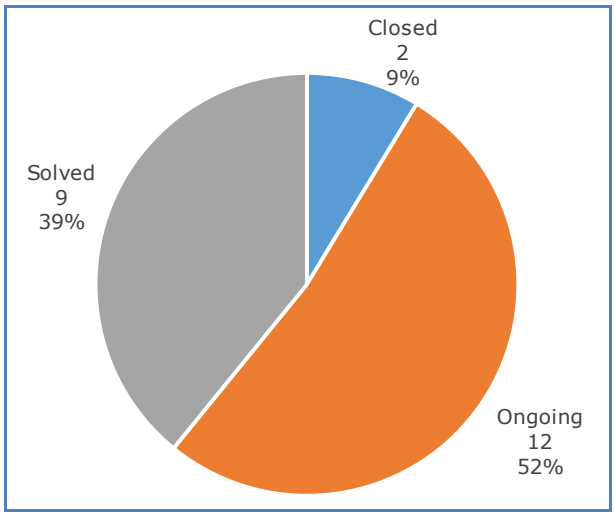
[27] See https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds502_e.htm.

Nevertheless, it appears that the effectiveness with which some concerns raised by the Parties in the Trade Committee and respective Sub-committees are resolved could be improved. Some issues have been discussed over several years; one example is the disagreement between the EU and Peru over taxation of Pisco, which so far has been on the agenda in each annual meeting since 2014. This also shows the willingness of the Parties to maintain the discussions open dispite sometimes limited progress, rather than to resolve the issues in a dispute. As a result, of 23 different issues addressed in the Sub-committees on Market Access and Agriculture since 2014, about half remain ongoing, while about 40% were solved and 9% (two issues) closed, respectively referred without solution (Figure 5-9). On the positive side, the issues addressed often do refer to domestic policies which can only be solved through consensus, and therefore the long duration of some discussions is not necessarily a sign of ineffectiveness. In this context, except for the initiation by the EU of WTO disputes against Colombia regarding the latter's treatment of imported spirits (DS502) and anti-dumping measures on frozen potatoes (DS591), no formal disputes have been initiated (despite occasional indications that this might be done[28]) – indicating that all Parties value the technical discussion that take place with the objective of improving market access conditions.

5.1.7 Summary

The CGE model simulations show positive impact of the Agreement for all Parties' overall exports, both bilateral and overall. The impact is small due partly to the fact that the Andean countries enjoyed GSP+ preferences prior to the application of the Agreement. Although trade diversion takes place, trade creation is stronger. Sectorally, impacts are more varied; generally, sectors where a Party has a comparative advantage (such as machinery, equipment and vehicles in the EU; fruit and vegetables as well as food products in the Andean partner countries) benefit from the Agreement through increased exports, and vice versa.

Figure 5-9: Outcome of market access issues discussed at the Sub-committees on Agriculture and Market Access, 2014-2020



Source: Authors' assessment based on meeting minutes; see Table 24 in Annex B.

Some of the CGE simulation results might seem surprising when compared to the observed trade data in the descriptive statistical analysis. For example, in terms of overall trade performance, the EU's role as a market for Ecuador's exports as shown in statistics has declined since 2017 although the model estimates a strong increase in Ecuador's exports to the EU. Examples at sector level include the mediocre observed export performance of Peruvian chemical and garments sectors when compared with the model-estimated gains from the Agreement, or the EU's exports of machinery, equipment and materials to the partners. Conversely, some sectors appear to have performed better than estimated by the model, e.g. dairy exports from the EU to Colombia or Colombian sugar exports to the EU. These apparent contradictions require an explanation.

First, the economic model isolates the impact of the Agreement from all other factors influencing the actually observed trade performance, which helps explain e.g. the less impressive (when compared to the model estimations) exports of Ecuador, but to a certain extent also the other partners) to the EU. Here, the massive demand from China – excluded

[28] E.g. in the context of tax treatment of Pisco in Peru, at the 2016 meeting of the Sub-committee on Agriculture.

from the model – led to a strong growth in exports to that market. This explains why the share in the partners' exports to the EU has, for the most part, not increased as expected. A vast number of other factors (such as the Peace Agreement in Colombia, the conclusion of FTAs, by the Andean partner countries with third parties, such as the USA, or the 2016 recession in Ecuador) also have influenced actual trade performance – but have nothing to do with the Agreement.

Second, the model estimates only incorporate part of the changes brought about by the Agreement, i.e. the tariff reductions. The effects of the reduction of non-tariff barriers, the effects caused by more intensive cooperation between the Parties, or the increased awareness among the business community for the respective other Parties' markets, among others, are not reflected in the model results. This helps explain why the model underestimates positive effects seen in a number of sectors.[29]

Despite this latter limitation, the CGE model results provide a better estimate of the Agreement's effects than observed developments and patterns of goods trade as evidenced in trade statistics. But as noted above, the descriptive trade data do not allow to draw any conclusions regarding the impact of the Agreement on the Parties' trade: they only establish a correlation (or rather, in most cases, no clear correlation) between the Agreement and trade patterns, but not causality.

In sum, we conclude, on a preliminary basis, that the Agreement has had a positive but limited impact on all Parties' bilateral and overall exports, with the main benefits accruing to sectors where the respective Party has a comparative advantage (fruit and vegetables and processed food products in the Andean partner countries; pharmaceuticals, machinery, equipment and vehicles in the EU). At the same time, more dynamic economic development in other parts of the world (especially China) and the conclusion of trade agreements by the Parties (in the case of the Andean partners, the USA or the CPTPP; in the case of the EU, a range of FTAs concluded since 2013) have diluted the positive effects brought about by the Agreement.

We also note that TRQs have been partly effective both in opening up the Parties' markets for the products covered and in limiting the increase in imports: not for all product categories covered by TRQs have exports started or increased. In the case of Andean exporters, some stakeholders have pointed out that the preferences offered under TRQs have not been sufficient to kick-start exports and that more assistance to domestic producers is required to make them export-ready. At the same time, the administration of TRQs has also been criticised in some instances; this is discussed further in section 5.5.3.

Finally, we do not find that market access barriers have been used systematically to invalidate the tariff preferences provided by the Agreement. Although a number of issues have been raised by the Parties of the years, these typically concern very specific products with a limited potential impact on bilateral trade, and business stakeholders have confirmed that the implementation of the Agreement, and the flow of goods between the Parties, are not affected by major problems. In addition, a number of issues were solved through the discussions in the relevant Sub-committees and follow-up, as well as follow-up discussions have been reasonably effective in addressing a number of the issues raised.

5.2 Wider economic impacts

Changes in trade flows caused by the Agreement also lead to changes in other economic domains. The CGE model allows quantifying effects in particular on sectoral output (which in turn has implications on employment) as well as overall economic growth (GDP). The

[29] Added to this, for methodological reasons economic models generally tend to underestimate the effects of trade policies on sectors that export little or nothing in the baseline

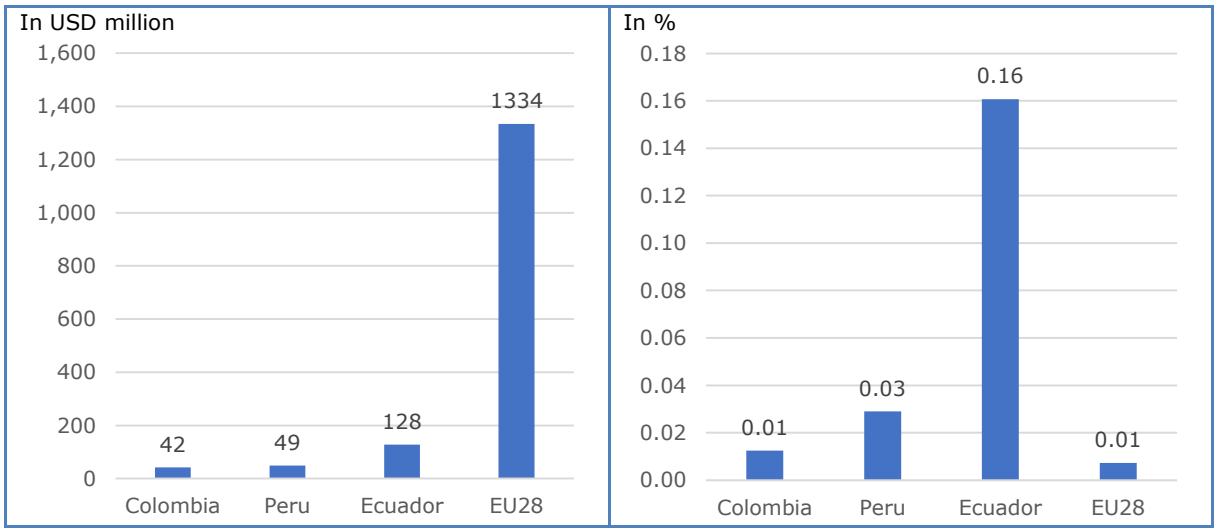
following sections analyse these impacts.

5.2.1 Overall impacts

The reduction in barriers to trade between the Parties caused by the Agreement is equal to a reduction in market distortions and therefore allows for resources to be allocated more efficiently. As a result, the global economic effect of the Agreement is positive, estimated at USD 728 million (comparing world GDP in 2020 with the Agreement with world GDP in 2020 without the Agreement), but very small when compared to world GDP, less than 0.001% (Table 18 in Annex B).

All of the four Parties to the Agreement benefit from an increase in their GDP (Figure 5-10), although the impact is modest. In absolute terms, the EU gains most – in 2020, EU GDP (measured at initial market prices) is higher by USD 1.3 billion than it would have been without the Agreement. Gains for Colombia and Peru are small, at USD 42 million and USD 49 million respectively; lower than Ecuador's gains, at USD 128 million. In percentage terms, the impact is strongest for Ecuador, with GDP being 0.16% in 2020 as a result of the Agreement, whereas Colombia, Peru and the EU register marginal GDP gains (at 0.01% and 0.03%).

Figure 5-10: Changes in GDP (at initial market prices) in EU and Partner countries caused by the Agreement (year 2020)



Source: European Commission DG TRADE CGE modelling results.

5.2.2 Impacts at sector level: output

The Agreement's impact on sectoral production/output and, accordingly, employment (as addressed in section 6.1) are the result of the combined effects on total exports and total imports (as well as domestic demand), as already discussed in section 5.1.3 above. Table 5-6 shows the calculated effects for the four economies. The main effects are as follows:

- In the **EU**, the output effects are mostly driven by exports. Most manufacturing sectors benefit from Agreement – output increases by up to USD 1.2 billion in the vehicles sector (driven by stronger exports to the partners and overall), although in relative terms the increases are modest, not exceeding 0.1% compared to the absence of the Agreement. In contrast, two sectors are estimated to register sizable declines in output, vegetables and fruit (USD –279 million), and other food products (USD –422 million); again, in percentage terms these declines are limited (-0.22% in the case of fruit and vegetables, and -0.06% for other food products). The impact on other good sectors is modest. Most services sectors are calculated to register marginal gains resulting from higher domestic demand in response to the small increase in GSP.

Table 5-6: Changes in output by sector caused by the Agreement in EU and partner countries (year 2020)

Sector	Output							
	EU		CO		EC		PE	
	USD M	%	USD M	%	USD M	%	USD M	%
1 Paddy rice	0	0.00	0	0.00	1	0.24	2	0.23
2 Wheat	14	0.02	0	-0.18	0	-1.39	-3	-0.22
3 Cereal grains nec	1	0.00	0	-0.10	5	2.14	2	0.10
4 Vegetables, fruit, nuts	-279	-0.22	46	0.87	27	0.82	55	1.06
5 Oil seeds	7	0.03	-1	-0.22	-2	-1.42	2	0.39
6 Sugar cane, sugar beet	0	0.00	-2	-0.17	-3	-0.49	2	0.24
7 Plant-based fibers	1	0.03	0	0.08	-3	-1.19	2	0.41
8 Crops nec	-2	0.00	8	0.54	-7	-1.29	-26	-0.34
9 Bovine cattle, sheep and goats	5	0.01	-6	-0.25	0	-0.14	0	-0.04
10 Animal products nec	18	0.02	-10	-0.29	-1	-0.22	-2	-0.05
11 Wool, silk-worm cocoons	3	0.11	0	-1.15	0	-4.72	1	0.26
12 Forestry	3	0.01	0	0.01	0	-0.01	0	0.02
13 Fishing	-1	0.00	0	0.00	3	0.30	2	0.06
14 Coal	-1	0.00	3	0.05	0	-0.13	0	-0.07
15 Oil	-1	0.00	6	0.03	-3	-0.03	-1	-0.02
16 Minerals nec	0	0.00	0	0.01	0	0.03	-24	-0.10
17 Bovine meat products	7	0.01	-5	-0.16	1	0.09	6	0.21
18 Meat products nec	40	0.02	-12	-0.30	-1	-0.07	3	0.06
19 Vegetable oils and fats	22	0.03	-3	-0.15	-17	-1.56	29	0.86
20 Dairy products	6	0.00	-4	-0.06	0	0.01	11	0.16
21 Processed rice	-1	-0.03	-1	-0.04	0	-0.05	-1	-0.06
22 Sugar	-5	-0.02	-2	-0.12	-2	-0.48	5	0.14
23 Other food products	-422	-0.06	48	0.38	179	4.09	226	1.86
24 Beverages and tobacco products	40	0.01	-8	-0.11	-2	-0.13	-1	-0.01
25 Textiles	66	0.04	21	0.64	-15	-1.67	27	0.29
26 Wearing apparel	54	0.05	-2	-0.04	6	0.60	47	0.45
27 Leather products	25	0.04	6	0.32	-10	-1.47	-3	-0.10
28 Wood products	25	0.01	5	0.17	-11	-0.62	-5	-0.07
29 Paper products, publishing	153	0.03	0	0.00	-10	-1.08	-21	-0.41
30 Petroleum, coal products	62	0.01	4	0.03	-2	-0.04	13	0.09
31 Chemical products	143	0.02	136	0.90	-16	-1.35	558	1.56
32 Basic pharmaceutical products	221	0.06	-40	-1.19	-8	-0.66	-16	-0.94
33 Rubber and plastic products	120	0.03	39	0.39	-6	-1.43	2	0.02
34 Mineral products nec	90	0.03	11	0.06	2	0.10	-3	-0.03
35 Ferrous metals	274	0.06	8	0.15	0	-0.42	-5	-0.26
36 Metals nec	42	0.01	21	1.72	-2	-2.09	-147	-0.72
37 Metal products	416	0.06	-24	-0.45	3	0.54	-4	-0.08
38 Computer, electronic and optic	260	0.04	3	0.38	-2	-0.76	-14	-0.40
39 Electrical equipment	225	0.04	9	0.34	-2	-1.12	-13	-0.40
40 Machinery and equipment nec	752	0.07	-30	-0.62	0	-0.06	-31	-0.35
41 Motor vehicles and parts	1184	0.11	-13	-0.21	-40	-4.15	-16	-0.23
42 Transport equipment nec	67	0.02	23	1.30	0	0.16	-6	-0.23
43 Manufactures nec	160	0.03	-20	-0.20	3	0.10	-10	-0.25
44 Electricity	75	0.01	10	0.14	-2	-0.18	2	0.04
45 Gas manufacture, distribution	-14	-0.02	9	0.48	-1	-0.55	-10	-0.20
46 Water	22	0.01	-1	-0.01	0	-0.01	1	0.01
47 Construction	641	0.02	47	0.03	113	0.68	44	0.09
48 Wholesale & retail trade	334	0.01	42	0.05	46	0.34	12	0.06
49 Accommodation, Food and serv.	91	0.01	-27	-0.11	-4	-0.12	-1	-0.01
50 Transport nec	83	0.01	8	0.03	9	0.16	6	0.04
51 Water transport	20	0.01	2	0.23	-1	-0.14	-3	-0.16
52 Air transport	14	0.01	22	0.37	1	0.09	-5	-0.14
53 Warehousing and support act.	32	0.01	17	0.21	-9	-0.44	-2	-0.04
54 Communication	218	0.01	24	0.07	-7	-0.15	0	0.00
55 Financial services nec	6	0.00	9	0.05	4	0.11	2	0.03
56 Insurance	-17	0.00	6	0.08	-1	-0.12	-5	-0.16
57 Real estate activities	83	0.01	3	0.01	1	0.03	1	0.01
58 Business services nec	226	0.01	55	0.12	2	0.02	-2	-0.01
59 Public Services	120	0.00	-17	-0.02	23	0.10	-9	-0.02

Source: European Commission DG TRADE CGE modelling results.

- In **Colombia**, the pattern across sectors is more mixed. Some sectors that have experienced in increase in exports also have seen total imports increase, so that the net effect on outputs depends on the balance (see Table 20 in Annex B). Thus, output of the basic pharmaceuticals, machinery and equipment, metal products, and miscellaneous manufactures sectors are estimated to decrease (by up to USD 40 million or 1.2%, in the case of basic pharmaceuticals) despite increases in total exports: total imports are expected to increase even more. For other sectors, the net effect on output is positive, because the export increase overcompensates the import increase, or imports decline. This is the case most strongly for chemicals (+USD 136 million or 0.9%), other food products (+USD 48 million or 0.4%) and fruit and vegetables (USD +46 million or 0.9%). Most services sectors are estimated to benefit as a result of the overall positive economic impact of the Agreement.
- In **Peru**, output increases resulting from the Agreement are relatively widely dispersed across sectors. The leading benefactors in terms of total export increases, other food products and chemical products, are also the two sectors seeing the largest positive output change: USD +226 million or 1.9% for other food products, and USD +558 million or 1.6% for chemical products. Fruit and vegetables, and vegetable oils and fats also register output increases of around 1% as a result of the Agreement. At the other end of the spectrum, miscellaneous metals (USD -147 or -0.7%) and basic pharmaceuticals (USD -16 or -0.9%) are the sectors with the largest estimated contractions. Other manufacturing sectors are also estimated to contract somewhat, at between 0.2% and 0.4% due to the Agreement, mostly as a result of increasing total imports which are not mirrored by corresponding export increases (see Table 21 in Annex B).
- For **Ecuador**, the positive impacts of the Agreement are most concentrated on a limited number of sectors, whereas a higher number of sectors experiences modest contractions in output. Among the benefactors, the most important ones are other food products (USD +179 million or 4.1%), construction services (USD +113 million/0.7%) and fruit and vegetables (USD +27 million/0.8%). Conversely, the sector registering the largest decline in output is motor vehicles (USD -40 million or -4.2%). Other sectors estimated to register output declines of 1% to 2% include various manufacturing and some agricultural sectors; the declines are primarily explained by import increases which outweigh export increases (see Table 22 in Annex B).

5.2.3 Summary

The overall economic effects of the Agreement are limited but positive. All four Parties to the Agreement benefit from a modest increase in GDP. The global impact is also welfare enhancing, stemming from stronger trade creation than trade diversion caused by the Agreement.

At a sector level, the impacts of the Agreement on output mirror those on exports and imports: sectors where a Party has a comparative advantage benefit, and vice versa, in the EU, most manufacturing sectors benefit while agricultural sectors contract – although the magnitude of the impact is limited, not exceeding 0.1% of output (comparing the situation in 2020 with the Agreement with the hypothetical situation of no Agreement in place). In the partner countries, fruit and vegetables and other food products benefit while machinery, equipment and some other manufacturing sectors contract. Chemicals in Colombia and Peru, and vegetable oils and fats in Peru also benefit from the Agreement. The magnitude of the (positive and negative) effects in the Andean partner countries is somewhat higher than in the EU, given the smaller size of the economies and also the comparatively higher degree of liberalisation.

Some stakeholders in Andean countries have commented that the increased trade in machinery from the EU to the partner countries also contributes to an increase in competitiveness of the sectors, in particular the agri-food sector, using the imported machinery.

Regional economic impacts of the Agreement remain to be analysed as the evaluation work progresses.

5.3 Evolution of trade in services

The Agreement provides rules for trade in services in its Title IV, and the Parties have also made market access commitments in the respective schedules (Annexes VII and VIII of the Agreement). Although these commitments do not constitute any actual liberalisation of services sectors for the partners, they increase the level of "binding" above the GATS levels and therefore reduce the legal uncertainty for services traders and investors regarding potential policy reversal (i.e. adding future restrictions to market access). As such, the Agreement is expected to have a positive impact on services trade between the Parties.

As the CGE model does not incorporate any provisions in the Agreement directly relating to services sectors, it only captures the Agreement's impact on services sectors stemming from macroeconomic adjustment processes (as explained above). Therefore, in this section we review the performance of services trade between the Parties over the period 2007 to 2019 (i.e. before and after the start of application of the Agreement), as well as make comparisons between service trade and goods trade developments, and compare services trade among the Parties with their overall services trade – and ultimately draw inferences from these observations for the impact of the Agreement. The statistical analysis that follows is based on a new version of the WTO-OECD Balanced Trade in Services (BaTIS) database released in January 2021, which provides bilateral services trade data by sector until 2019 (Liberatore and Wettstein 2021). It should be noted that the values reported in BaTIS not always coincide with data published by the European Commission or the partner countries.[30] These differences in data are an indication of the general paucity of services trade statistics. We use BaTIS throughout the study as it is the only database providing bilateral services trade data by sector that covers all countries of interest.

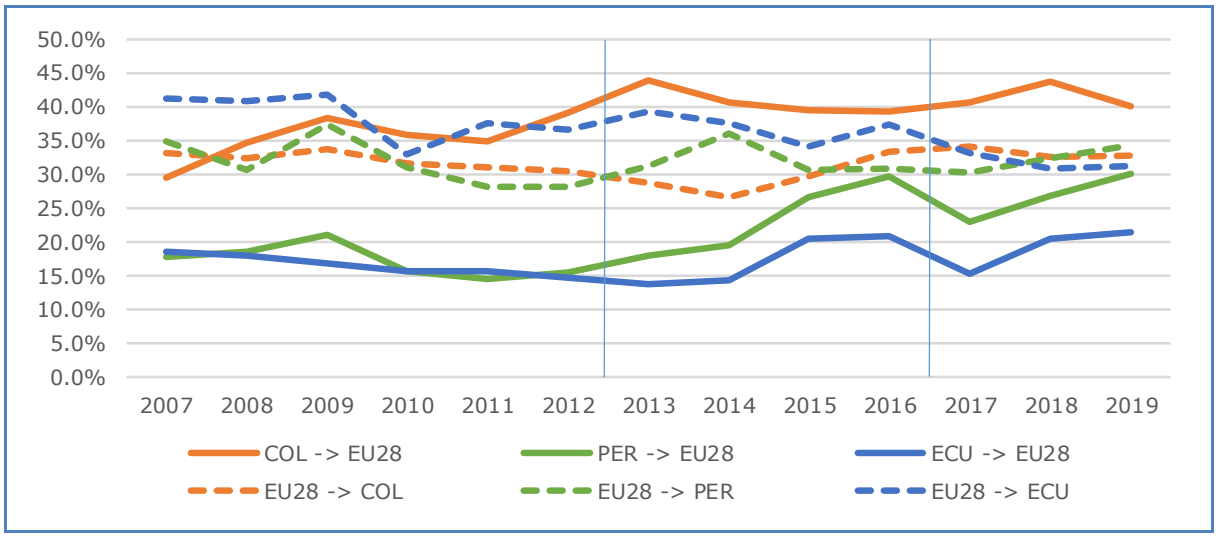
5.3.1 Total trade in services

Trade in services accounts for a substantial share of the commercial relations between the EU and the three partner countries, accounting for between 20% and 40% of combined goods and services trade (Figure 5-11). The importance varies across the three bilateral relationships, and by direction of trade: Colombia's services exports to the EU have the highest share, at between 40% and 45% in Colombia's overall exports to the EU since 2013. Conversely, Ecuador's services exports to the EU are comparatively least important in the overall commercial relationship, at about 20% since 2015. Generally, shares have remained constant over time, with the exception of Peruvian services exports to the EU, whose share has increased from 15% in 2011 to 30% in 2019. The stability of service export shares in total export shares also indicates that the Agreement has not disproportionately liberalised goods trade at the expense of services trade or vice versa.

Figure 5-12 shows the evolution of the value of bilateral services trade between the EU28 and the three partner countries over the period 2007 to 2019, thereby allowing to compare trade before the Agreement (in 2013 for Colombia and Peru, and 2017 for Ecuador) with the period since the start of application.

[30] See e.g. the annual FTA implementation reports by the European Commission (2019; 2020).

Figure 5-11: Share of bilateral commercial services exports in total bilateral exports, 2007-2019 (%)

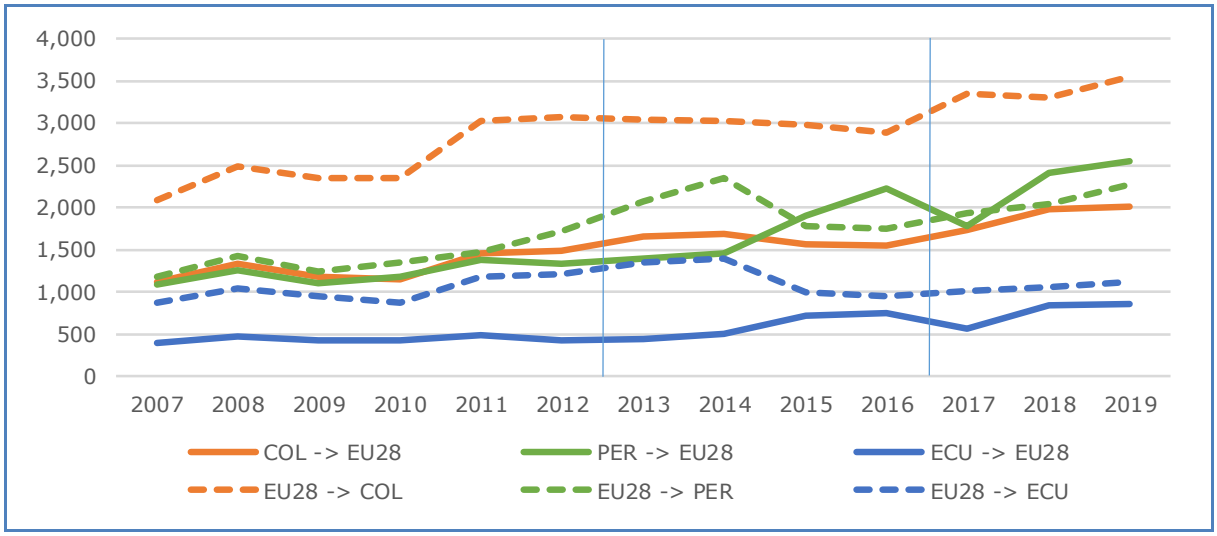


Note: Among goods trade, HS chapter 27 is excluded.
Source: Authors' calculations based on BaTIS database (services) and UN COMTRADE (goods).

Partner countries' exports to the EU

Services exports to the EU28 from Colombia and Peru (solid lines in Figure 5-12) show an upward trend over the whole period, both reaching an all-time high in 2019 (USD 2.5 billion for Peru, USD 2.0 billion for Colombia), compared to USD 1.1 billion for both countries in 2007. Colombian exports to the EU stagnated between 2013 and 2016 but then increased substantially until 2018/2019. For Peru, services exports to the EU increased at a slow pace until 2014 (to USD 1.5 billion) but then increased more steeply until 2019.

Figure 5-12: EU28 bilateral services trade with partner countries, 2007-2019 (USD million)



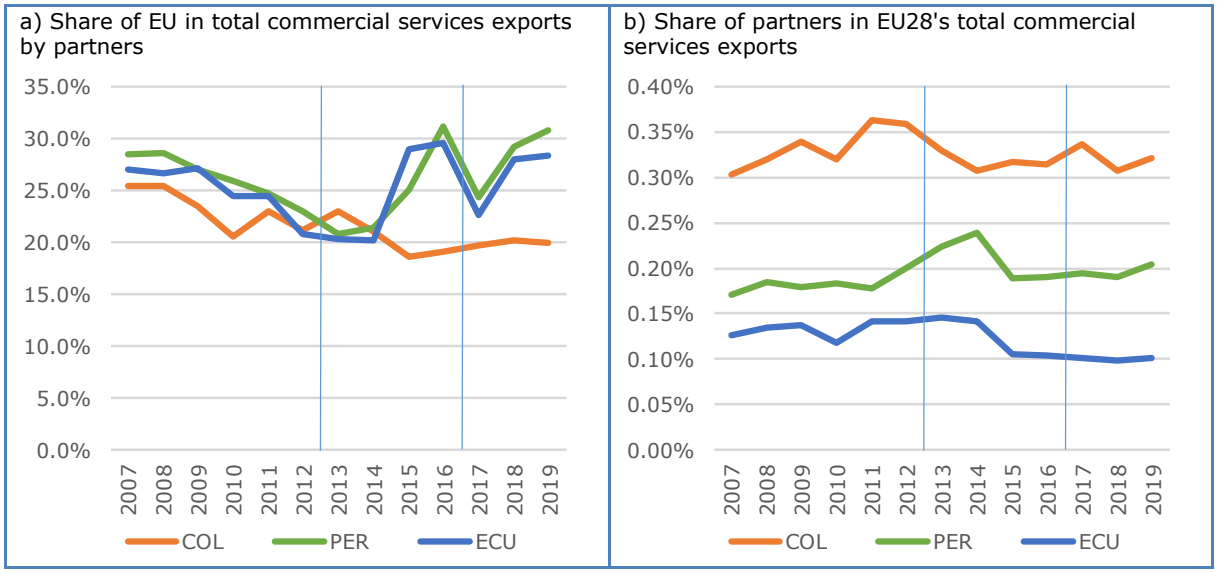
Source: Authors' calculations based on BaTIS database, see Tables 25 and 26 in Annex B.

Ecuador's services exports to the EU remained flat at USD 500 million from 2007 to 2014, then increased to above USD 700 million in 2015 and 2016, and further to about USD 850 million in 2018 and 2019 (after a drop in 2017). The post-Agreement period thus started with a decline in services exports – which may have been, however, the result of factors unrelated to the Agreement, such as the recession in 2016. Thereafter, exports returned to the growth path already initiated in 2015, two years prior to the Agreement's start of application.

The EU constitutes an important market for Andean partner countries' services exports: in 2019, between 20% (Colombia) and 30% (Ecuador and Peru) of total services exports were to the EU (Figure 5-13a) – these shares are higher than for goods trade (see above). Over time, export shares for Ecuador and Peru evolved almost uniformly: they declined from 2008 to 2014, then sharply increased until 2016, dropped in 2017 and recovered in 2018 and 2019, to about 30%. For Colombia, they declined until 2015 and then stabilised at about 20%.

As in the case of goods exports, the expectation of an effective Agreement (in terms of liberalising and/or facilitating trade in services trade) would be that bilateral services exports between the Parties increase faster than overall services exports, and accordingly the share of services exports to the Agreement partners in total services exports increases. Among the three Andean partners, this is only the case for Peru. For Colombia, the services export share to the EU stabilised from 2015 onwards after a slow decline, but has not picked up since the Agreement's start of application; and for Ecuador, the high volatility of the observe shares does not allow drawing any reliable conclusions. The developments of the shares therefore provide limited support to the hypothesis that the Agreement has led to more services trade – however, as before the big caveat is that the observed evolution over time is not conclusive proof, but rather shows a correlation and is thus indicative only.

Figure 5-13: Share of bilateral services exports among the Parties to the Agreement in the Parties' total services exports, 2007-2019 (%)



Source: Authors' calculations based on BaTIS database, see Tables 25 and 26 in Annex B.

EU28 exports to partner countries

EU services exports (dotted lines in Figure 5-12 above) show a long-term upward trend for exports to Colombia (from USD 2 billion in 2007 to USD 3.5 billion in 2019) and Peru (from USD 1.4 billion in 2007 to USD 2.3 billion in 2019, and constant exports to Ecuador (at around USD 1 billion).

The shares of EU services exports to the partner countries (Figure 5-13b above) range from 0.1% (exports to Ecuador) to 0.3%-0.35% (Colombia), with export to Peru being in the middle (0.2%); these shares are very close to the respective goods shares (see Figure 2 in Annex B). But more interesting, as explained above, is whether the share of exports to the Partners in total exports increased since the Agreement started to be applied. This is not the case: the share of exports to Colombia dropped in the first two years of the Agreement and then stabilised, being at the same levels in 2018 and 2019 as a decade earlier. The share of exports to Peru initially increased and then dropped again to levels similar to the time before the Agreement. And export shares to Ecuador showed no change

in the two years before and after the Agreement. Overall, thus, either the Agreement has not led to more services exports from the EU to the partners, or other factors favouring EU exports to other markets have been stronger than the Agreement.

5.3.2 Services trade by sector

Partner country services exports to the EU28

The largest three services export sectors to the EU by any of the Andean partner countries are travel, transport, and other business services (Figure 5-14); together, these account for more than 80% of services exports (both before and after the Agreement started to be applied). For **Colombia** and **Peru**, travel services are most important: they account for almost half of total services exports, but while their value has increased over time, the share has slightly decreased, from 48% to 46% in the case of Colombia, and from 50% to 47% in Peru. Shares of transport services have also slightly decreased, from 32% prior to the Agreement to 30% since in Colombia, and from 20% to 17% in Peru. Conversely, business services have grown faster than average and accordingly increased their shares from 9% to 12% in Colombian services exports, and from 16% to 19% in Peru, overtaking transport services. Other services sectors account for small export shares, which have hardly changed over time, with the exception of personal, cultural and recreational services, whose shares have grown from 1.5% to 2.4% in Colombia, and from 2.7% to 5.5% in Peru.

The export structure in **Ecuador** is slightly different, with the three leading sectors being more similar in size, and transport services exports being larger than travel services. Changes in the sectoral composition of services exports after the Agreement started to be applied compared to before are quite limited in Ecuador, with the exception of an increase in travel services exports (from 28.6% to 31.3%), at the expense of relative decreases in some of the smaller export sectors, such as telecommunications, and personal, cultural and recreational services.

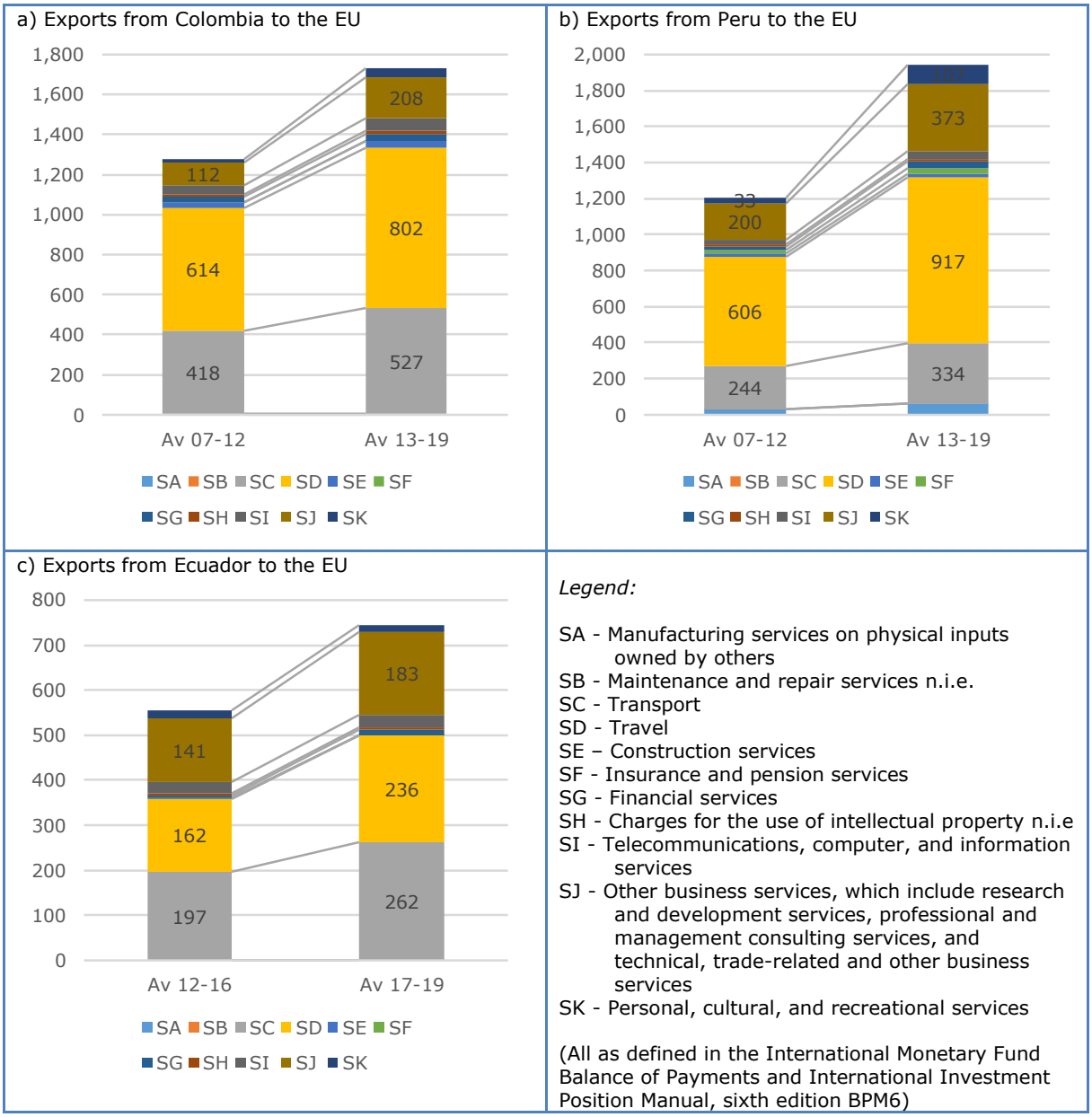
Overall, Partner country services exports across most sectors have grown over time in similar ways, and thus the sectoral composition of services exports has hardly changed since the start of application of the Agreement.

EU28 services exports to partner countries

The EU's services exports to the Andean partner countries are more diversified across sectors, but also here, transport and travel services are the most important exports in all cases, and over time, accounting for about half of the services exports (Figure 5-15). Comparing the changes in sectoral exports before and after the Agreement started to be applied shows the following:

- Exports to **Colombia**: although transport services remain the largest export sector, they have hardly increased, and their share has dropped from 35.4% to 29.5%. Conversely, travel services have almost doubled, and their share increased from 18.4% to 25.4%. Business services have also lost importance in relative terms (from 16.4% to 13.4) although grown in value. Telecommunication, construction, and maintenance services have grown above average.

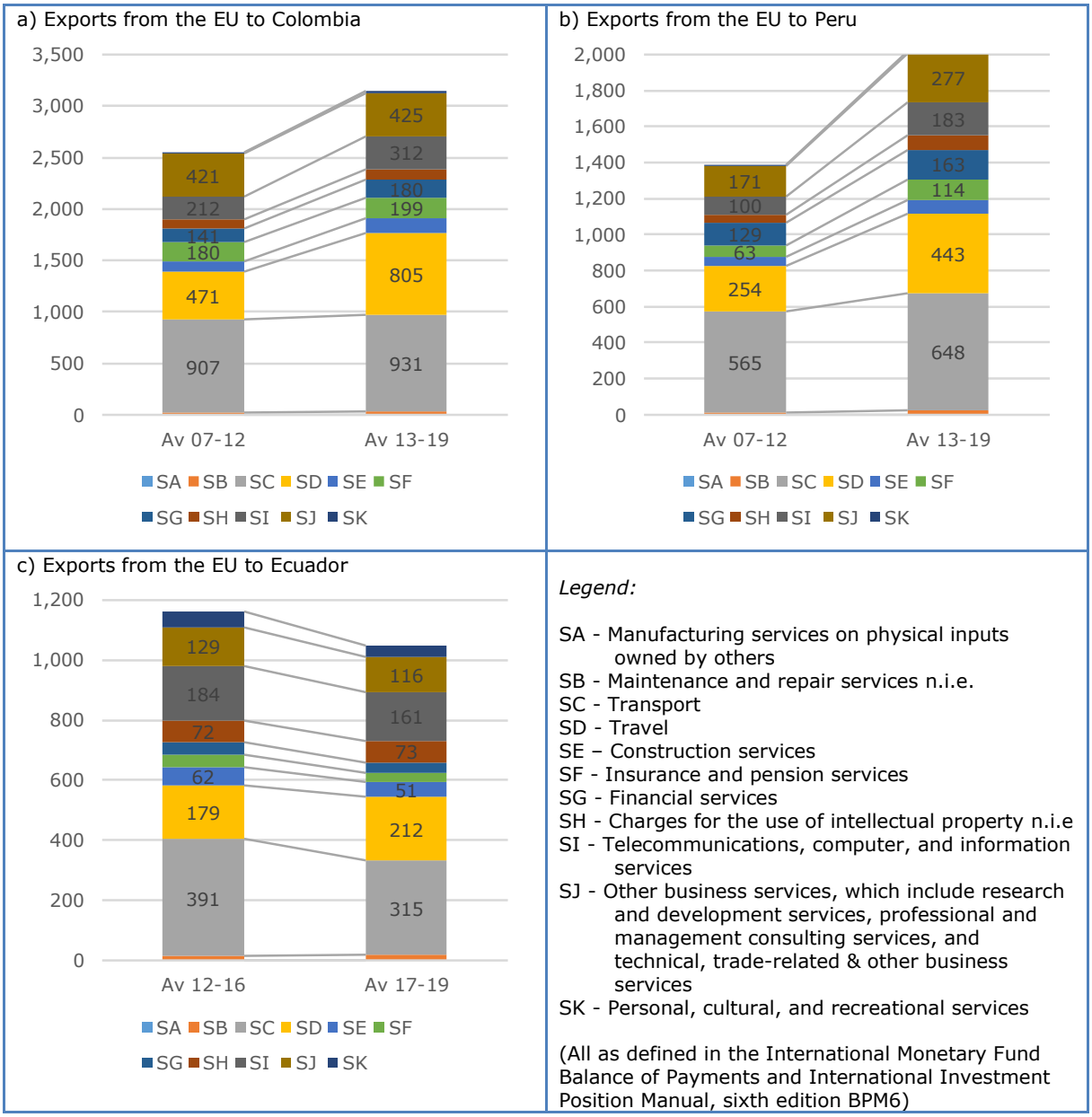
Figure 5-14: Commercial services exports from partner countries to the EU, by services sector, before and after the start of application of the Agreement (USD million)



Source: Authors' calculations based on BaTIS database, see Table 26 in Annex B.

- Exports to **Peru**: In absolute terms, exports of all sectors have increased. However, in relative terms, there has been a deconcentration of exports. The share of the leading sector, transport, declined from 40.4% to 32.0%, while the shares of all other sectors except financial services (down from 9.2% to 8.0%) increased.
- Exports to **Ecuador**: Overall, as described above, services exports in the post-Agreement period were lower than before. Most sectors saw decreases in exports; only travel services, intellectual property charges and (at very low levels) maintenance services export to Ecuador increased. The strongest decrease was for transport services, whose share in total commercial services exports accordingly declined from 33.2% to 29.8%. Conversely, the share of travel services increased from 15% to 20%; other sectoral shifts are limited.

Figure 5-15: Commercial services exports from the EU28 to partner countries, by services sector, before and after the start of application of the Agreement (USD million)



Source: Authors' calculations based on BaTIS database, see Table 25 in Annex B.

As in the case of EU services imports from the partners, based on the information and data analysed so far, there is no clear causal link between the Agreement and the observed shifts in the composition of services exports from the EU to the partners.

5.3.3 Summary

The Agreement does not provide for an actual opening up of services sectors but rather improved the level of "binding". Hence, no major impact of the Agreement on services trade between the Parties was to be expected.

Services trade so far seems to have played a limited role also in the implementation of the Agreement. For example, no Subcommittee on services trade is foreseen in the Agreement (Article 15.1), nor has one been established by the Trade Committee (under Article 15.4). The discussion of issues related to trade in services in the Sub-committee on Market Access has been limited. Similarly, no mutual recognition agreements for services suppliers (under

Article 129) could so far be identified by the evaluation team: a corresponding request made by Colombia in 2015 does not seem to have been successful.[31] On the positive side, no complaints by stakeholders on the implementation of commitments made by the Parties regarding trade in services could be identified either.

5.4 Evolution of foreign direct investment

Like services trade, provisions on investment are also covered in the Agreement's Title IV (particularly Chapter 2, "Establishment"), with market access and national treatment commitments in the Parties' respective schedules in Annex VII of the Agreement, which cover both goods and services sectors. These commitments, like those for trade in services, are expected to have a positive impact on bilateral FDI between the Parties.

As for trade in services, the analysis of the Agreement's impact on FDI between the Parties cannot use the CGE model results (see section 5.3 above). We therefore review the evolution of bilateral FDI before and after the Agreement's start of application, and compare FDI between the Parties with the FDI performance of all foreign investors in the respective country. The analysis is further complicate by the fact that statistics on foreign investment have serious shortcomings, even more than those for services trade, including conceptual differences across sources (which leads to widely differing data on investment provided by different sources) and lack of disaggregation.

5.4.1 Performance of overall bilateral FDI

EU investment in the Andean partner countries

EU foreign investment in the three partner countries has shown (as is quite usual for FDI) a high degree of volatility (Figure 5-16). In line with the difference in size of the partner countries, Colombia used to be the most important destination (stocks of EUR 15 billion and above), although it has been competing for that position with Peru in the most recent years for which Eurostat data are available, 2017 and 2018, after a rapid increase in EU investment in Peru from EUR 10 billion in 2014 to almost EUR 17 billion in 2016. Ecuador ranks third, with EU FDI stocks increasing sharply from EUR 4.0 billion in 2013 to EUR 8.6 billion in 2015, but then decreasing again to EUR 5-6 billion in 2016 to 2018. In terms of the relative importance of EU FDI in the partner countries in total EU outward FDI, it is roughly proportional to the trade shares, i.e. between 0.1% and 0.35%.

A comparison of investment before and after the Agreement's start of application based on Eurostat data is possible only for Colombia and Ecuador, as no pre-Agreement data for Peru are available. For **Colombia**, EU FDI stocks rose fast in the initial three years after the Agreement but then declined as quickly (i.e. there was an outflow of EU investment in 2016). In relative terms, however, the share of EU investment in Colombia as a share of total EU FDI abroad has more or less consistently declined over time. Anecdotal information provided by some stakeholders indicates, however, increasing investment activities of EU companies in Colombia. For example, the number of Dutch investors increased from about 35 in 2013 to about 300 today, employing 20,000 persons. At the same time, to what extent this growth is attributable to the Agreement or other factors remains open to debate.[32]

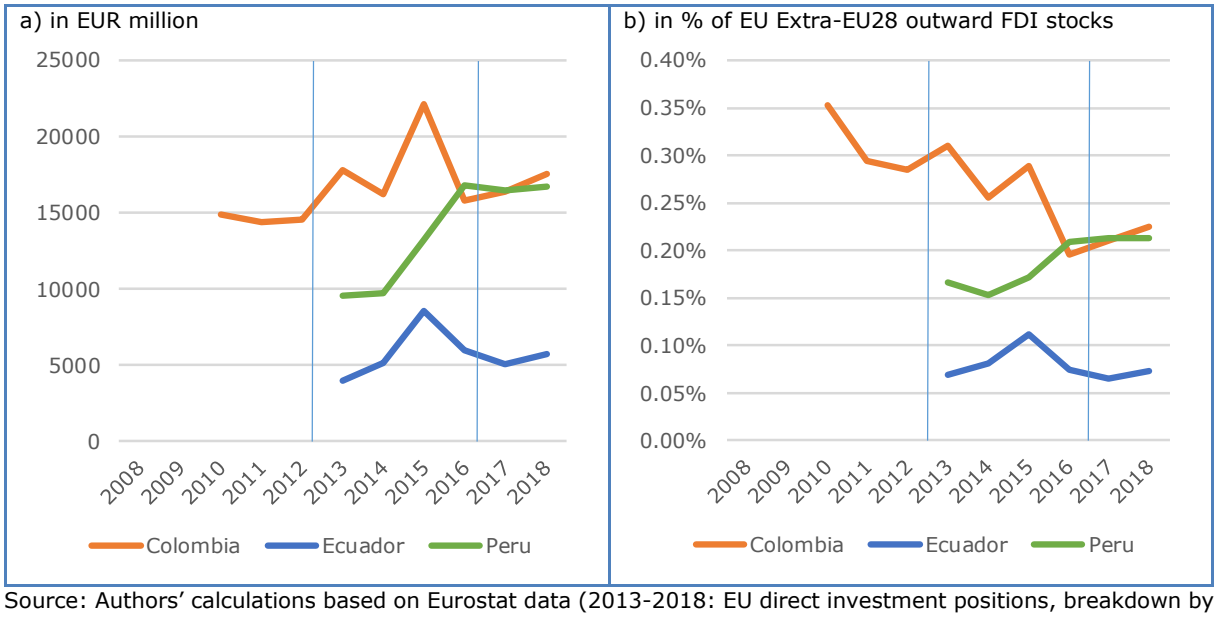
Regarding **Ecuador**, data are available only for two post-Agreement years, 2017 and 2018. These show no notable EU investment activity: stocks have remained even (i.e. investment

[31] See minutes of the 2015 meeting of the Sub-committee on Market Access.

[32] Regarding the increase of Dutch investment in Colombia, it could be argued that this has more to do with the fact that Colombia's status in 2013 changed to that of a "transition country" under Dutch criteria, unlocking support for Dutch investors, as well as the establishment of a Dutch chamber (Holland House) in Bogotá.

flows from the EU were limited in these two years), and the share of Ecuador in the EU's total outbound FDI also remained at low levels. This low investment activity should be considered against the background that Ecuador terminated its bilateral investment treaties, including those with a number of EU member states, in May 2017.[33]

Figure 5-16: FDI stocks by the EU28 in the Andean partner countries, 2008-2018



Source: Authors' calculations based on Eurostat data (2013-2018: EU direct investment positions, breakdown by country and economic activity (BPM6) [bop_fdi6_pos]; 2008-2012: EU direct investment positions, breakdown by country and economic activity (NACE Rev. 2) [bop_fdi_pos_r2])

Seen from the Andean partner country perspective, EU investment is sizable, with the EU accounting for up to half of total foreign investment (Table 5-7), and being the largest investor in all three partners. At the same time, again comparing the EU's FDI share in total inward FDI into the partners before and after the Agreement shows a decline in Peru (from 50.3% prior to the Agreement to 47.2% since its start of application) and Ecuador (from 33.4% to 31.8%). Conversely, EU FDI has become relatively more important for Colombia since the Agreement started to be applied (from 23.2% to 30.6%).

Table 5-7: EU FDI in partner countries, 2007-2019 (national statistics)

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	*Av pre*	*Av post*
Colombia															
Inflows from EU	1,869	3,101	2,770	1,286	3,819	1,708	3,983	4,350	3,606	3,839	5,390	4,361	4,394	*2,537*	*4,275*
Total inflows	8,886	10,564	8,035	6,430	14,647	15,039	16,209	16,169	11,724	13,848	13,837	11,535	14,493	*10,943*	*13,974*
Share EU in total (%)	21.0	29.4	34.5	20.0	26.1	11.4	24.6	26.9	30.8	27.7	39.0	37.8	30.3	*23.2*	*30.6*
Peru															
Inward stocks from EU	8,430	9,219	9,831	10,532	10,957	11,324	11,510	11,858	11,979	12,126	12,197	12,552	12,595	*10,373*	*12,117*
Total inward stocks	15,637	17,598	19,396	21,313	22,023	22,723	23,921	24,421	25,552	26,060	26,140	26,734	26,806	*20,611*	*25,662*
Share EU in total (%)	53.9	52.4	50.7	49.4	49.8	49.8	48.1	48.6	46.9	46.5	46.7	47.0	47.0	*50.3*	*47.2*
Ecuador															
Inflows from EU	231	320	79	-14	99	101	179	144	450	515	141	466	361	*278*	*323*
Total inflows	194	1,057	309	166	646	567	727	777	1,331	755	625	1,456	966	*831*	*1,015*
Share EU in total (%)	119.0	30.3	25.5	-8.4	15.4	17.8	24.6	18.6	33.8	68.3	22.6	32.0	37.3	*33.4*	*31.8*

Source: Authors' calculations based on Banco de la República, Subgerencia de Política Monetaria e Información Económica (Colombia); Dirección de Servicios al Inversionista – PROINVERSIÓN (Peru), and Banco Central de Ecuador (Ecuador).

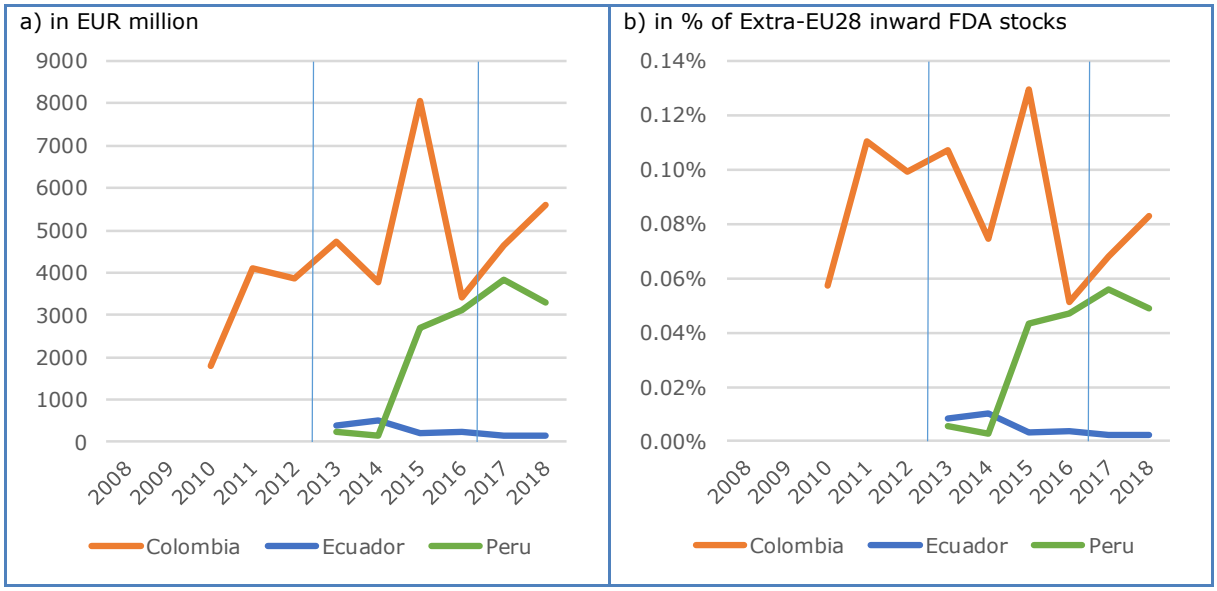
Investment by Andean partner countries in the EU

Investment by the partner countries into the EU28 is more limited, each accounting for less than 0.1% of total inbound FDI in the EU (Figure 5-17). Colombia is the largest investor

[33] "Ecuador terminates 12 BITs - a growing trend of reconsideration of traditional investment treaties?", Kate Cervantes-Knox/Elinor Thomas/DLA Piper, 15 May 2017, https://www.dlapiper.com/en/mexico/insights/publications/2017/05/ecuador-terminates-12-bits-a-growing-trend/ [accessed 08 March 2021].

among the three, reaching a peak of EUR 8 billion in 2015, followed by a significant de-investment in the following year, and then increasing again to EUR 5.6 billion in 2018. Peruvian investment in the EU increased sharply between 2014 and 2017, reaching a peak of EUR 3.8 billion in that year. Investment from Ecuador in the EU is negligible, and has decreased from a high of EUR 513 million in 2014 to EUR 151 million in 2018.

Figure 5-17: FDI stocks by Andean partner countries in the EU28, 2008-2018



Source: Authors' calculations based on Eurostat data (2013-2018: EU direct investment positions, breakdown by country and economic activity (BPM6) [bop_fdi6_pos]; 2008-2012: EU direct investment positions, breakdown by country and economic activity (NACE Rev. 2) [bop_fdi_pos_r2])

Anecdotal evidence provided by stakeholders interviewed for the evaluation points to a negligible impact of the Agreement on FDI. Generally, stakeholders in Andean countries noted that their offensive interests, i.e. outward investment to the EU, was rather limited, and that they were not seeing much impact in this regard from the Agreement.

5.4.2 Performance of bilateral FDI at sector level

Data allowing a more disaggregated analysis of the Agreement's impact on sectoral investment (i.e. time series of bilateral sector-disaggregated FDI) is only available for Ecuador; for Peru, such data are available only for 2019,[34] and for Colombia not at all.

The data for **Peru** show that EU investment in the country is particularly important in the housing, transport, communication, mining, petroleum, and services sectors, whereas it is under-represented in forestry, manufacturing, fishery, agriculture, construction and commerce (Figure 5-18). Although it is noteworthy that EU investment is way below the average in the sectors that have benefitted most from the Agreement (which are in agriculture; see sections 5.1.3 and 5.2.2 above), the lack of data showing the evolution over time does not permit any proper analysis of the Agreement's impact.[35]

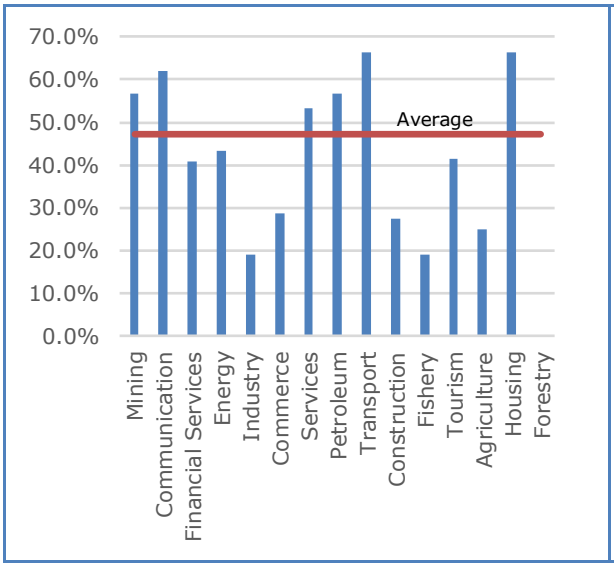
For **Ecuador**, EU FDI inflows since the start of application of the Agreement have altered substantially across sectors (Figure 5-19). Investment in mining, dominant at 75% of total EU investment in Ecuador prior to the Agreement, declined to just above 30%. Conversely,

[34] Peru maintains two main official sources of foreign investment statistics: the statistics provided by the Central bank and those provided by the Investment Promotion Agency – Proinversion. The information published by Proinversion corresponds to the investments reported on a voluntary basis by investors to the Foreign Investment Registry system.

[35] For a detailed analysis of EU investment in Peru, see de la Puente (2020).

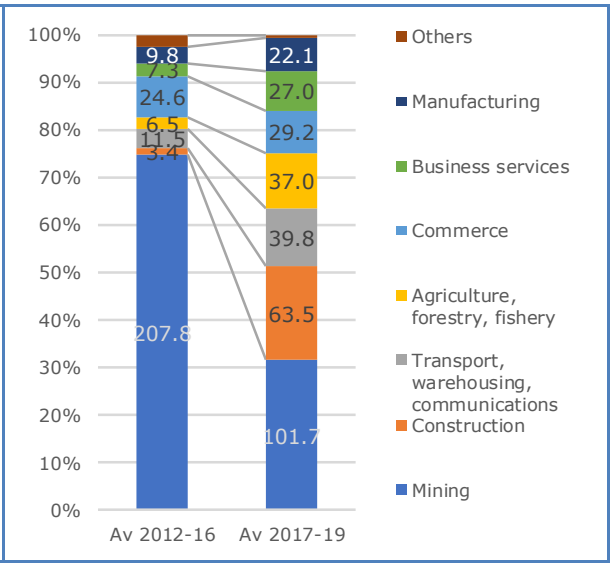
the shares of construction, transport/warehousing/communications, agriculture/forestry/fishery, business services and manufacturing increased – some of these changes, notably the increase in agriculture, being in line with the estimated impacts of the Agreement on trade and output by sector. These changes, and the overall deconcentration of the EU investment pattern in Ecuador could at least in part be a consequence of the Agreement; this will have to be further addressed in stakeholder interviews. However, one caveat regarding the reliability of the data needs to be raised already now: the absolute investment values per year are fairly low, and percentage values can therefore be heavily affected by a single or few big investments in any year.

Figure 5-18: EU FDI in Peru by sector, 2019 (% of total FDI stocks in a sector)



Source: Authors' calculations based on Dirección de Servicios al Inversionista – PROINVERSIÓN.

Figure 5-19: Sectoral composition of EU FDI flows into Ecuador, 2017-19 vs. 2012-16 (% and USD million per year)



Source: Authors' calculations based on Banco Central de Ecuador.

5.4.3 Impact of the Agreement on the Investment Climate

In addition to the increased predictability and security for investors brought about by the Agreement in the different chapters regulating trade, the Agreement also includes specific provisions on investment. These provisions (in Chapter 2 of Title IV) are mainly restricted to the establishment and clarification of market access and national treatment schedules as contained in Annex VII, respectively reservations on the temporary presence of natural persons for business purposes (in Chapter 4 of Title IV and Annex IX). With the commitments made not constituting actual liberalisation of investment, the Agreement does not commit the Parties to any changes in the applied regulatory framework for investment.

The Agreement's provisions on investment are furthermore complemented by bilateral investment treaties (BITs) and double taxation treaties between selected EU Members States and the three Andean partner countries; these treaties are explicitly recognised in the Agreement (Article 115). Table 27 in Annex B provides a list of the BITs currently in force that could be identified. At least one of them was concluded after the start of application of the Agreement; this would seem to be an indication for the limited coverage of the Agreement with regard to investment issues.

By international comparison, Peru and Colombia (Ecuador is not covered) have relatively open investment frameworks. For example, according to the OECD FDI Restrictiveness Index, which measures the open of a country's legal framework for foreign investment

based on the extent of foreign equity restrictions, discriminatory screening or approval mechanisms, restrictions on key foreign personnel, and operational restrictions on a scale of 0 (no restrictions; completely open) to 1 (no FDI allowed; completely closed), Colombia scores 0.026, and Peru 0.077; the simple average for EU Member States covered by the Index is 0.032.[36] These scores have not changed since the Index was first calculated in 2010 until 2019, which would indicate that the Agreement has not altered the conditions for FDI in these two countries, at least the regulatory environment (the Index does not capture implementation issues).

With regard to such implementation issues, stakeholders generally did not see any impact brought about by the Agreement.

5.4.4 Summary

Based on the analysis completed to date, no major impact of the Agreement on bilateral investments between the Parties could be identified. Investment trends before and after the start of application of the Agreement are not markedly different, and the share of bilateral investments in total FDI has not changed (in either direction). Major changes in the sectoral composition of EU investment in line with the identified changes in trade patterns also have not been observed, with the possible exception of EU investment in Ecuador.

Interviewed stakeholders could not point at the impact that the Agreement could have on EU investment in the Andean partner countries. First, it was mentioned that the Agreement did not liberalise investment in the sense of actually opening up sectors for EU investment. Rather, much like in services, the Agreement increases the legal certainty for investors against future policy reversal. While this has some benefits, according to stakeholders it does not provide a sufficient incentive for engaging in new or expanding existing FDI. Second, by reducing or removing barriers to trade between the Parties, the incentive for FDI aimed at the host country's domestic market is reduced: rather than setting up local production facilities the Agreement makes it comparatively more profitable to export. Third, the economic structure in at least some of the Andean partner countries – characterised by a large concentration on extractives – reduces the potential for FDI particularly for smaller companies, simply because the size of the non-extractives economy is small.

Additional stakeholder consultations will still be undertaken in order to corroborate or qualify these preliminary findings.

5.5 Effect of the implementation of the customs and trade facilitation-related provisions of the Agreement

In addition to preferential tariffs, effective rules on customs and trade facilitation are also needed to ensure that the benefits from tariff preferences are not nullified by other customs or trade facilitation and non-tariff measures. In this section we therefore review the implementation of the customs and trade related measures addressed in the Agreement to assess which customs-related issues have facilitated – or complicated – bilateral trade between the Parties. Specifically, we review the awareness among traders of the Agreement and its provisions, rules of origin, the management of TRQs, agricultural safeguard measures, transit rules, and the operation of approved exporter schemes.

[36] https://data.oecd.org/fdi/fdi-restrictiveness.htm.

As much of the analysis in this section is based on stakeholder contributions, which to a certain extent have been delayed (e.g. the public consultations), the findings presented in this section are still very preliminary.

5.5.1 Business awareness of the functioning of the Agreement, including functioning of administrative cooperation

Most private sector stakeholders interviewed so far stated that awareness of businesses for the respective partner market has increased substantially. At the same time, this observation may also reflect selection bias: most interviews that could be held to date were with entities that are involved in bilateral trade and investment.

A more reliable indicator might therefore be the presence of EU bilateral chambers in the Andean partner countries. This leads to a less optimistic finding: in each of the partners, only a minority of EU Members have bilateral chambers (in Colombia: France, Germany, Italy, the Netherlands, Portugal and Spain, with a Nordic chamber apparently not being functional; in Peru: Belgium, France, Germany, Ireland, Italy, Romania, Spain, as well as the Baltics and the Nordics; and in Ecuador: Croatia, France, Germany, Italy, Spain, and the Nordic Chamber covering Denmark, Finland and Sweden). Commercial attachés in EU Member State embassies (such as the Austrian embassy in Colombia) perform similar roles or course, but again not all EU Member States have embassies in Colombia, Ecuador and Peru. The Eurocámaras in Colombia, Ecuador and Peru, which aim to assist and represent EU business interests in general, have no permanent structure and staff but rather a rotating presidency among the existing bilateral chambers, and therefore have limited added value over and above the work being undertaken by the bilateral chambers and commercial attachés. Nevertheless, a number of awareness raising activities for the Agreement have been undertaken, such as, in Peru, a seminar in 2018 on the EU medical devices legislation, and a roadshow in 2019 on INDECOPI activities on bureaucratic barriers, both organised by Eurocámaras.

More analysis will be added on the basis of further consultations.

5.5.2 Rules of origin

Rules of origin are necessary to ensure that only products produced in the Parties (or more generally products complying with the conditions) benefit from the preferential market access granted under the Agreement; they are provided in Annex II of the Agreement. Assessing the effectiveness of the rules of origin requires an analysis of two issues:

- the extent to which exporters have complied with rules of origin, respectively customs authorities identified potential issues of fraud or non-compliance with the rules. We address this issue through a review of verifications of origin and reported abuse or non-compliance with rules of origin; and
- the extent to which rules of origin or their implementation have facilitated trade and not functioned as a barrier to trade. This is addressed through a review of the "strictness" of rules and the ease with which they are administered as seen by stakeholders.

Verifications of, and compliance with, rules of origin

Based on information obtained from stakeholders so far, the level of non-compliance with rules of origin in trade between the Parties has been low.

Requests for verifications of origin by customs authorities were related to the clarification of the authenticity of the proof of origin, the origin of the product and the description of the production process, as well as random checks. Information about the eventual treatment of imports for which verification was sought is not available.

At the 2016 meeting of the Customs Sub-committee on Customs and Trade Facilitation, the high number of origin verification requests made by Spain were raised by Colombia and Peru; these referred to a strict treatment by the customs authority in the completion of the EUR.1 form. The issue was settled, and no major other issues related to verification of origin could be identified.

We thus conclude that rules of origin incompliance plays a limited role in the implementation of the Agreement, and likewise customs authorities by all Parties do not use origin verification as a non-tariff barrier.

Approved exporters

Article 21 of the Agreement's annex on rules of origin (Annex II) provide for the possibility of the Parties to "authorise any exporter (hereinafter referred to as "approved exporter") who makes frequent shipments of products under this Agreement, to make out invoice declarations irrespective of the value of the products concerned", which facilitates trade for such approved exporters.

Unfortunately, statistical data on the level of bilateral exports by approved exporters are not available, as these are not reported on separately by the Andean countries' customs authorities. Based on consultations conducted so far, awareness for the approved exporter status among business stakeholders in the Andean partner countries appears to be low. Colombia has noted that self-certifications by Colombian authorised exporters were not accepted by some EU importers, reducing the attractiveness of obtaining the status.

"Strictness" of rules of origin and their implementation

In general terms, according to stakeholders interviewed, the **implementation of rules of origin** (or other customs issues) both in the EU and the Andean partner countries gives few reasons for complaints. While occasionally issues arise in relation to certificates or delays, these are normally addressed at a technical level and are not understood to be applied with a protectionist purpose.

The same is true, overall, regarding the **rules of origin themselves**, i.e. the conditions established for conferring origin. Three aspects meriting a closer review are the rules on direct transport between the Parties, cumulation rules, and the potential for digitisation of trade documentation.

Direct transport: Article 13 of the Agreement's Annex II states that market access preferences only apply to products "which are transported directly between the European Union and the signatory Andean Countries", although trans-shipment or temporary warehousing of goods in other countries is acceptable, "provided that they remain under the surveillance of the customs authorities in the country of transit or temporary warehousing and do not undergo operations other than unloading, reloading or any operation designed to preserve them in good condition."

To facilitate exports by companies with regional distribution centres (e.g. in Panama), the EU suggested that deconsolidation of shipments be considered acceptable under a change to the Agreement. From the point of view of Colombia, Peru and Ecuador, it is indeed not provided for in the Agreement, and its acceptance would require a modification of the Agreement. The Andean countries are also concerned that there could be difficulties for the proper control and verification of eligibility of deconsolidated goods for preferential access, and that they could be shipped from ports other than the territory of the EU.

Cumulation of origin: Under the Agreement, origin is conferred also if exported products are made with inputs from the EU, Central American countries or the Andean Community (CAN) (Article 3 of Annex II); this cumulation of origin can also be extended to other

countries in South and Central America and the Caribbean upon request (Article 4 of Annex II).

According to the Government of **Ecuador**, the cumulation of origin between the member countries of the EU, Central American countries or CAN is of utmost importance for Ecuador's exporters as it helps diversify the inputs used for export-oriented production, making the final product more competitive and of better quality. Ecuador applies cumulation of origin for the benefit of exported products. No requests for cumulation from other Latin American or Caribbean countries have however been received. For **Colombia** and **Peru**, no information on the use or importance of origin cumulation could be obtained.

Digital movement certificates: To simplify the paperwork, the Andean countries have suggested at the latest (2020) meeting of the Sub-committee to contemplate using digital certificates of origin. This is already being done on a temporary basis in response to the Covid-19 pandemic, provided that after the crisis period is over an authentic EUR.1 certificate is presented upon request. The EU considers that this is not possible under the Agreement and favours the use of self-certification under the approved exporter schemes foreseen in the Agreement. While the evaluation team makes no judgement on the feasibility of permanent use of digital certificates, we do consider that more efforts regarding the facilitation of bilateral trade are called for. Section 5.5.5 provides more considerations.

5.5.3 Management of TRQs

According to Article 33 of the Agreement, the administration of TRQs by the Parties shall be in accordance with GATT Article XIII and the Import Licensing Agreement. Importantly, TRQs shall be administered on a first-come first-serve basis.

Stakeholders consulted for the evaluation had no complaints about the administration of TRQs in **Colombia**, **Peru** and the **EU** and its Member States. For **Ecuador**, the management of TRQs especially in the dairy sector in combination with non-automatic import licensing and the criteria applied for the granting of licenses has been a recurrent issue in the meetings of the Sub-committee on Agriculture (most recently in 2020). EU stakeholders claim that the current practice does not comply with the Agreement's first-come first-served principle, violates WTO rules, lacks transparency and creates uncertainty as to whether and when the importers will be able to use the applicable preference and may entail possible discrimination between different importers. Delays in issuing licenses pose particular problems for perishable products. Although Ecuador's Ministry of Agriculture has made some changes to the management of quotas in response to demands made by the EU, the EU states that the system still remains cumbersome and makes especially exports of perishable goods difficult. The low (albeit slowly increasing) quota fill rates for dairy products as reported in section 5.1.5 above support this argument.

At the same time, the increasing TRQ utilisation rates (see section 5.1.5 above) indicate that improvements are being made. According to the Government of Ecuador, in general the public sector bodies involved in the management of trade are still in a learning curve regarding the implementation of the Agreement.

5.5.4 Agricultural safeguard measures

According to Article 29 of the Agreement, the Parties can apply agricultural safeguard measures (tariffs or quantitative) for selected agricultural products, covered by TRQs, and provided the conditions for application are met; the products and conditions are set in Annex IV of the Agreement. For Colombia, goods covered are certain dairy products (milk powder, whey, cheese, infant formula). For Peru, pork and sausages, milk powder, condensed milk, and cheese are covered. For Ecuador, onions, beans, and certain cheeses are covered. In all three countries, safeguard measures may be imposed upon import

volumes exceeding set quantities per calendar year, as listed in Annex IV. The EU does not apply agricultural safeguard measures under the Agreement, except for the banana stabilisation mechanism, which however is formally separate from the agricultural safeguard measures, and is addressed in section 5.9.

In practice, these agricultural safeguards have not been applied as the conditions for their use as established in Agreement have not been met.

Some interviewed stakeholders as well as literature and media reports have raised concerns about the negative impacts of increased trade in some agricultural commodities – such as EU dairy exports to Colombia and Peru, Andean partners' banana exports to the EU or Colombian sugar exports to the EU – implying that the scope of products covered by agricultural safeguards is too limited, respectively that thresholds for the application of agricultural safeguards is set too high in the Agreement. However, as analysed elsewhere in this report (section 5.9 for bananas; section 5.13 for sugar; for dairy, a case study will be prepared), we have so far found no reason to believe that agricultural safeguards should have been triggered.

5.5.5 Operation of authorised economic operator (AEO) schemes

Article 62 of the Agreement establishes that the "Parties shall promote the implementation of the Authorised Economic Operator […] concept" to facilitate trade between the Parties for trusted traders.

So far, the Andean partner countries have used AEO schemes in a limited way. For example, Ecuador has no such system in place. Colombia's system, which has been developed with EU support based on a request made at the 2015 meeting of the Sub-committee on Customs and Trade Facilitation, has approved 35 AEOs since 2017, according to DIAN. In the various meetings of the Sub-committee on Customs and Trade Facilitation, the EU has provided information about how the scheme works in the EU, but apart from this, and the support to Colombia, AEO schemes have not played a major role in the implementation of the Agreement so far.

The effective use of AEO schemes could be an important element in simplifying trade between the Parties. Considering the seemingly limited impact of the Agreement on encouraging exports by new entrants (see section 5.10 below), more efforts on trade facilitation could be contemplated – whether this would be a stronger promotion of AEO schemes or other measures should be discussed between the Parties.

5.5.6 Summary

Overall, based on the analysis undertaken to date, customs issues pose few problems in the implementation of the Agreement. Both the level of compliance by traders and the administration of customs rules by the customs authorities are mostly in line with the Agreement's provisions, and where issues have been raised at the Sub-committee on Customs and Trade Facilitation (such as on TRQ administration in Ecuador) progress has mostly been made. Agricultural safeguards have not been applied, and based on the research undertaken, there would have been no justification for them.

Some areas for improvement could be:

- A (still) stronger focus on raising awareness of businesses for the Agreement, e.g. by strengthening the Eurocámaras – although at the end of the day it will have to be decided whether the size of the Andean countries' markets would justify such investment;
- Promotion of the approved exporter scheme or other means of trade facilitation (possibly use of digital documents) to encourage more new exporters, especially SMEs.

Such measures may require changes in the Agreement, and discussions could be combined with a review of the provisions on direct transport.

5.6 Effect of the implementation of the SPS Measures chapter of the Agreement

Chapter 5 of the Agreement's Title III addresses SPS measures. The Chapter establishes six objectives for SPS measures (Article 85), i.e. to:

a) "protect human, animal or plant life and health in the territory of the Parties, while facilitating trade between the Parties in the field of sanitary and phytosanitary measures (hereinafter referred to as 'SPS measures');
b) collaborate for the further implementation of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (hereinafter referred to as the 'SPS Agreement');
c) ensure that SPS measures do not constitute unjustified barriers to trade between the Parties;
d) develop mechanisms and procedures aimed at efficiently resolving the problems arising between the Parties as a consequence of the development and implementation of SPS measures;
e) reinforce communication and collaboration between the competent authorities of the Parties on sanitary and phytosanitary matters;
f) facilitate the implementation of the special and differential treatment, taking into account the asymmetries between the Parties."

For the evaluation, these objectives have been aggregated into the following issues, which are addressed in the following sections:

- To what extent have SPS measures as provided for in the Agreement facilitated trade between the Parties or, conversely, to what extent have SPS measures constituted barriers to trade between the Parties (objectives a and c)?
- To what extent has collaboration between the Parties with respect to SPS measures been effective (objectives b, d, and e)?
- To what extent have special and differential treatment as well as technical assistance been effective (objective f)?

5.6.1 Effect of SPS measures on trade between the Parties

As analysed in section 5.1 above, both-ways trade between the Parties in products covered by SPS measures has increased since the Agreement started to be applied. This is a clear indication that SPS measures on either side have, overall, not nullified the preferences provided by the Agreement.

At the same time, a number of concerns regarding SPS measures and their potential depressing effect on trade have been raised over the years both in the Sub-Committee on Sanitary and Phyto-Sanitary Measures, and also by stakeholders interviewed for the evaluation.

Stakeholders in the **Andean partner countries** – both from the private sector and government – raised that EU standards on pesticides and maximum residue limits (MRLs) limited export opportunities under the Agreement.[37] They were particularly concerned that recent EU policies, such as the Green Deal[38] or especially the Farm to Fork Strategy,[39]

[37] Also see the minutes of the various annual SPS Sub-Committee meetings.
[38] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The European Green Deal, COM/2019/640 final, 11 December 2019; for more information, see https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal_en.
[39] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. A Farm to Fork Strategy for a fair, healthy and

could become barriers for exports especially of agricultural products to the EU, e.g. through the reduction of pesticide use. Although these rules apply uniformly to all producers in the EU and producers in the world intending to export to the EU, their effects on producers in the partner countries can be detrimental to their interests, depending on the prevailing conditions for production as well as the capacities of producers to adapt to more stringent requirements. One example provided was that it is difficult for smaller producers to incur the necessary costs to search for an apply alternative substances when use of current ones is limited or prohibited. Andean stakeholders therefore highlighted the importance of EU technical assistance to producers in the Andean countries to enable them to meet any stricter requirements that would result for them as a result of the EU policies and strategies (see below). Furthermore, stakeholders from Andean countries stated that EU operators and importers used SPS (and other legal) requirements for exports to put pressure on the prices of goods exported, thereby diminishing the benefits of the Agreement for producers/exporters; this issue is further addressed in section 5.8.3 below.

From the **EU** perspective – again as seen both by exporters and the public sector – administrative requirements and procedures in the Andean partner countries are considered as the main issues. This includes the slow approval of new products for imports e.g. in Peru, the pre-listing of establishments in Ecuador, or the Andean Community legislation affecting EU meat exports. The EU has also repeatedly expressed concerns over lack of respect for the provisions on regionalisation for animal diseases (in particular for African Swine Fever). This has translated at times in bans to EU Member States and in other occasions on lack of progress for export applications from certain Member States. At least in certain instances, EU stakeholders felt that these issues were driven by interests to protect domestic producers against EU import competition.

5.6.2 Effectiveness of collaboration between Parties regarding SPS measures

SPS measures applied by the Parties as well as upcoming changes as discussed in the annual meetings of the SPS Committee as well as followed up through action plans established by the Parties and progress meetings throughout the year. This collaboration has helped solve some issues, whereas others continue to be raised year after year. Examples of the latter are concerns by the Andean countries over maximum cadmium levels for cocoa or requests to negotiate mutual recognition of rules on organic production[40]; on the EU side, slow and complex administrative procedures for the importation of meat and dairy products. However, it is natural that some disagreements are addressed more easily or faster than others. The continued presence of some unresolved SPS topics is therefore not a proof for ineffectiveness of the collaboration between the Parties. On the positive side, examples of issues that were solved in meetings and through follow-up include the agreement on a harmonised certificate for exports of dairy products to Peru, which facilitated EU exports, as well as the implementation of prelisting of EU exporters in Colombia (although this sometimes takes long), under which numerous EU establishments were approved to export dairy, meat, fishery and other agricultural and food products to Colombia.[41]

One indicator for the effectiveness of the Agreement in enhancing the Andean partners' compliance with EU SPS rules and measures is the incidence of notifications in the EU's

environmentally-friendly food system, COM(2020) 381 final, 20 May 2020; for more information and documents, see https://ec.europa.eu/food/farm2fork_en.

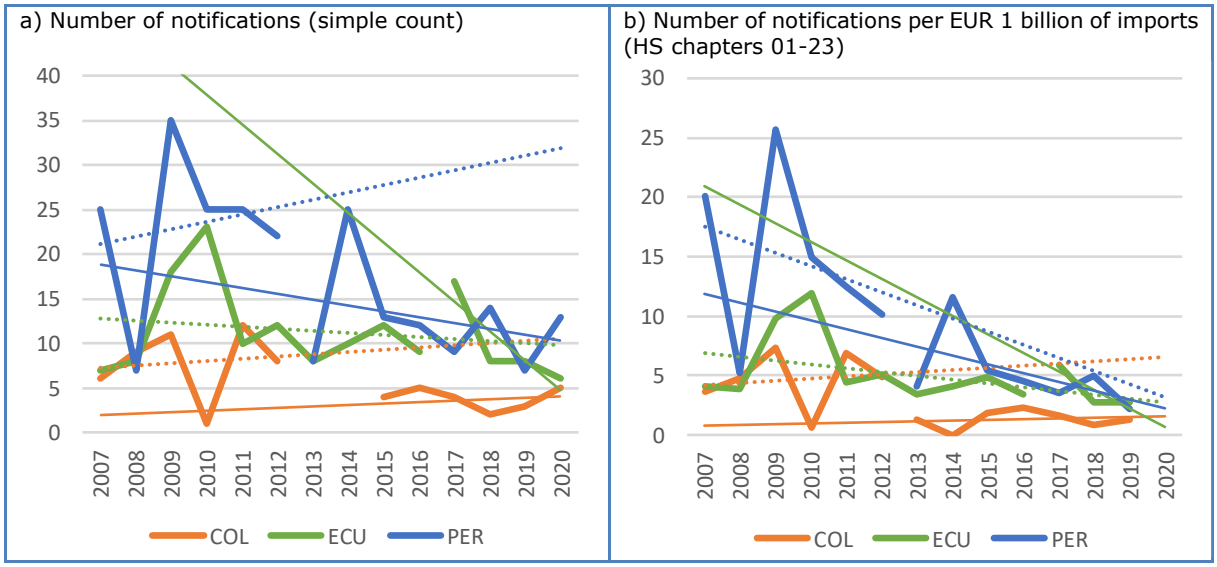
[40] This is a topic outside of the scope of the Agreement.

[41] See the databases on registered businesses maintained by INVIMA (http://181.48.254.168:8080/RegisterApp-war/faces/index.xhtml) and ICA (https://afrodita.ica.gov.co/VW_CONSULTAS_PROD_PAIS/ShowVW_CONSULTAS_PROD_PAISTable.aspx).

Rapid Alert System for Food and Feed (RASFF) over time. If the Agreement is effective, one would expect that the number of notifications drops following its start of application.[42]

This is indeed the case. Both the absolute number of notifications (Figure 5-20a) and the incidence of notification in relation to import value (Figure 5-20b) have been lower for all three partners since the application of the Agreement than before. At the same time, trends towards fewer notifications (in relation to trade values) already existed prior to the Agreement for Ecuador and Peru, and changed only slightly. It is therefore difficult to attribute the positive development to the Agreement, although it certainly contributed.

Figure 5-20: RASFF notifications regarding products originating in Colombia, Ecuador or Peru, 2007-2020



Note: Dotted trend lines show trends pre-Agreement, solid trend lines the post-Agreement trends.
Source: Author calculations based on RASFF Portal, https://webgate.ec.europa.eu/rasff-window/portal/ [accessed 22 December 2020], and EU COMEXT.

Stakeholders in Ecuador also confirmed that the EU TRACES system as a multilingual tool has simplified and facilitated the management of online health certifications. More generally, stakeholders noted that the ongoing exchange of views on SPS issues helps create a networking effect that makes it easier to address technical issues as they arise. Some stakeholders participating in the annual meetings cautioned, however, that in recent meetings the tone of discussions became more adversarial, possibly being overshadowed by changes in overall political strategies and directions towards less open trade policies, at least in some of the Parties. Although the evaluation team registers these views, it seems too early to conclude that the effectiveness of collaboration is at stake; to date, the evidence rather points to a satisfactory performance of collaboration between the Parties on SPS issues. One weakness in the effectiveness in collaboration, according to stakeholders in partner countries, stems from the fact that a number of SPS rules in the Andean countries are set at the CAN level, but dialogue between the EU and CAN is not possible because the Agreement is between the EU and some individual members of CAN.

Seen from the EU side, an added benefit provided by the Agreement and the collaboration on SPS issues under it is that it helps to stimulate the use of EU standards internationally.

[42] Note that similar information regarding compliance of EU exports to the Andean partner countries could not be obtained.

5.6.3 Special and differential treatment and technical assistance related to SPS measures

Article 100 of the Agreement provides, in addition to the provisions in Article 99 on alternative measures, that an Andean partner country can request special and differential treatment (SDT) if it faces difficulties with a proposed measure notified by the EU. Such SDT could take the form of alternative import conditions to be applied by the EU, technical assistance and/or transition periods of up to one year.

SDT has been requested by the Andean countries in relation to changes in the EU's rules on MRLs in the Sub-Committee meeting in 2019 and again in 2020. However, consultations on SDT have so far not led to any agreement, and accordingly the matter has been referred to the Trade Committee. The EU notes that SDT with respect to cadmium in cocoa are applied de facto, but also stresses that requests for alternative measures, on matters of public health protection, must be accompanied with specific data and information of an equivalent protection of the alternative measures. As the discussions on the use of SDT in this specific area are currently still ongoing, it would be premature for the evaluation to draw a conclusion on whether the SDT mechanism is effective.

A number of technical assistance projects have been implemented to facilitate compliance of the Andean partner countries' exporters with EU SPS requirements. For example, the Better Training for Safer Food (BTSF) programme, managed by the Commission's DG SANTE provides regional technical assistance to health authorities in the Andean partner countries. A new regional programme, "Working together to Fight Antimicrobial Resistance (AMR)" is implemented over the period 2020-2022 and includes activities in Colombia and Peru. Additionally, seminars and workshops have been held to familiarise the Andean partner countries with principles, instruments and procedures in the EU. An example is a 2019 seminar on animal welfare organised for SENASA in Peru, based on a request from Peru during the 2018 SPS Sub-committee meeting. In general, specific training sessions are provided based on such requests voiced by the partner countries, in particular at the annual Sub-committee meetings. Considering that the three partners are middle income countries, this approach is viewed as appropriate by the evaluators.

Stakeholders noted that both market access commitments, collaboration on SPS measures and technical assistance in this area are complementary, with each of these three elements being crucial for the success of the Agreement. Views on the necessary extent of technical assistance as well as on SDT vary; for example, stakeholders in the Andean countries point to the need for further assistance in the management and use of the various systems established in the EU, such as TRACES or RASFF. Conversely, EU stakeholders stated that ample assistance was already available (see the list above).

Going forward, especially in response to the adjustments expected to be required for producers/exports in the Andean countries as a result of the Green Deal and the Farm to Fork Strategy, stakeholders in these countries urged for the need to receive technical and financial assistance for adaptation. In this context, it was also mentioned that the transparency or user friendliness of information about the applicable EU rules could be improved. Operators stated on several occasions that it is difficult to access EU regulations online: presumed links to regulations would lead an iteration of other pages with more links, tending to confuse users of which regulations to apply.

5.6.4 Summary

Overall, SPS measures do not appear to have created an undue barrier to bilateral exports of products concerned by such measures: the observed strong increase in exports of some such products by all Parties (section 5.1.3.1), as well as the estimated positive impact of the Agreement on trade in agricultural and food products (section 5.1.3.2).

At the same time, it is clear that disagreements between the Parties on certain issues as well as concerns over the trade impacts of regulatory changes on SPS measures prevail. These issues are discussed yearly in the SPS Sub-Committee meetings with continuous follow-up between the Parties. Although views about the effectiveness of these discussions vary across stakeholders, we note that a number of issues were solved under the mechanism. Other issues have remained on the agenda for extensive periods of time without much progress being evident; the application of SDT regarding MRLs is one such issue. Nevertheless, we consider that collaboration on SPS measures on the whole has been effective so far. Furthermore, the very presence of the SPS Sub-Committee allows the Parties to directly discuss issues related to SPS measures, including regulatory changes being planned, in a more detailed way than would be the case in a WTO context, which would be the alternative in the absence of the Agreement. This in itself constitutes a benefit of the Agreement.

Technical assistance plays a particularly important role in the area of SPS issues due to the highly technical nature not only of substantive SPS aspects but also the monitoring, tracing and reporting systems to be used. Although a significant amount of technical assistance has been provided to the Andean partner countries, the evaluation notes that continued technical assistance is needed to ensure that exporters of products covered by SPS requirements can keep benefitting from the preferences offered by the Agreement.

5.7 Effects of the implementation of the government procurement chapter

The Agreement's Title VI (Articles 172-194) covers government procurement and is complemented by Annex XII, which details the commitments of Parties in this area, specifying the procuring entities covered, threshold for the value of contracts above which the provisions apply, any procurement that is excluded, as well as key features of the process for awarding procurement contracts. The evaluation aims at assessing, first, to what extent the Agreement's provisions have been effective in the sense of increasing participation of EU and partner country firms in the respective other Party's government procurement market (section 5.7.1) and, second, the extent to which the provisions on government procurement in the Agreement have been implemented (section 5.7.2).

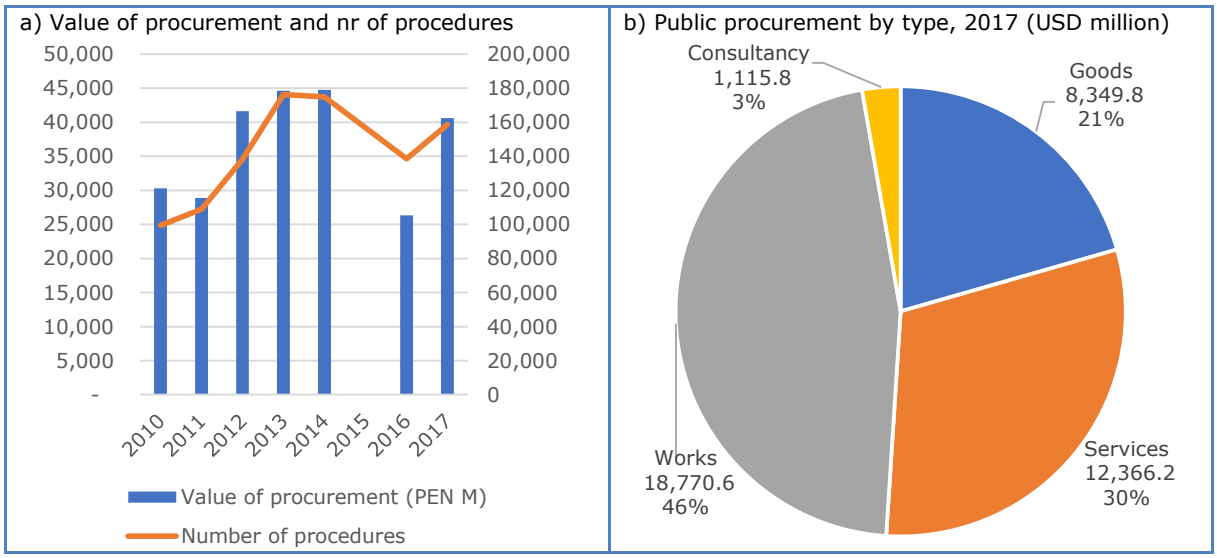
5.7.1 Participation by economic actors of the Parties in public procurement markets

Data on the public procurement market in **Colombia** could not yet be obtained; therefore, this section only provides information and observations on the markets in the three other Parties.

Peru

Data on Peru's government procurement market could be obtained (so far) only until 2017, and shows a volatile performance, with the trend generally declining since 2013, the year in which the Agreement started to be applied (Figure 5-21): the number of procedures dropped from close to 180,000 in 2013 and 2014 to about 160,000 in 2017, and the contracted value also declined from PEN 44.8 billion (USD 15.8 B) in 2014 to PEN 40.6 billion (USD 12.4 B) in 2017. Works constituted the largest segment in 2017, accounting for 46% of total public procurement, followed by services (30%) and goods (21%).

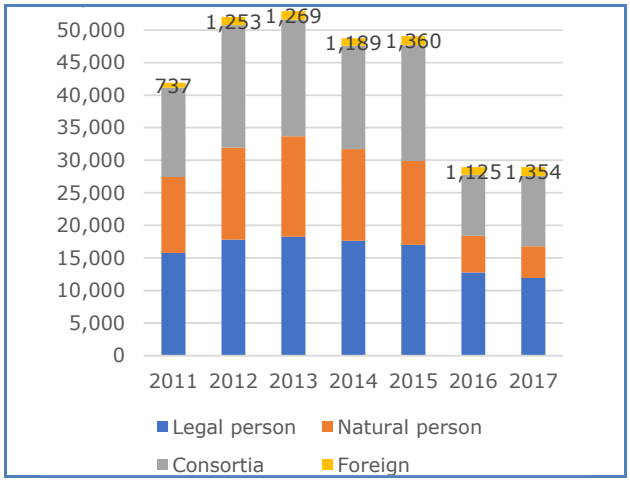
Figure 5-21: Public procurement market in Peru, 2010-2017



Source: OSCE, Informe Anual de Contrataciones Públicas, various editions 2010-2017.

Information by nationality of service providers/suppliers in not available, but the number of foreign/non-domiciled contractors is available (Figure 5-22). This indicates an increasing (though uneven) trend over time: the number increased from 1,269 in 2013 to 1,354 in 2014. Considering the decrease in the overall number of contractors over time, the share of foreign contractors increased consistently over time, from 1.8% in 2011 to 2.4% in 2013 and 4.7% in 2017. Assuming that the share of contractors from the EU in foreign contractors is constant, this would also mean an increased participation of EU firms. At the same time, as the increase in foreign participation in the market was already ongoing at the time the Agreement started to be applied, **there is no strong indication that the Agreement caused it – but it certainly did not deter EU businesses' participation in the Peruvian public procurement market** either.

Figure 5-22: Number of contractors in Peru's public procurement by type, 2011-17

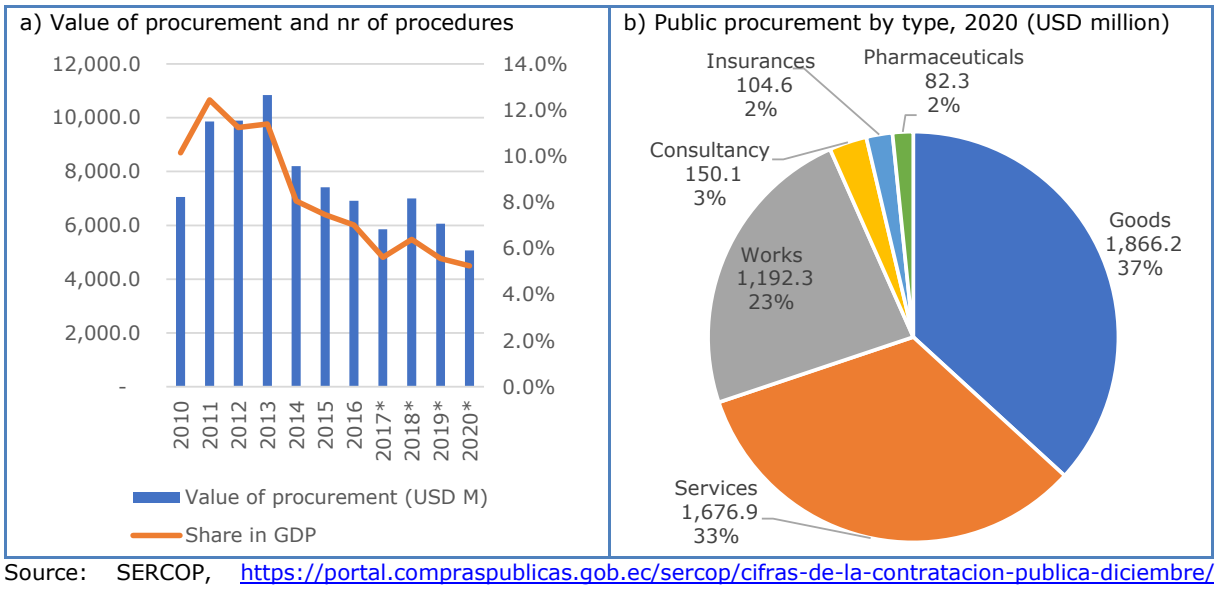


Source: OSCE, Informe Anual de Contrataciones Públicas, various editions 2010-2017.

Ecuador

The size of Ecuador's public procurement market has substantially decreased in recent year, primarily as a result of the fiscal debt levels and the corresponding expenditure cuts Figure 5-23. The value of the market declined by half from USD 10.8 billion in 2011 (11.4% of GDP) to USD 5.1 billion in 2019 (5.2% of GDP). Goods constitute the largest market segment (in 2020, 37%), followed by services (33%) and works (23%).

Figure 5-23: Public procurement market in Ecuador, 2010-2020



Source: SERCOP, https://portal.compraspublicas.gob.ec/sercop/cifras-de-la-contratacion-publica-diciembre/ [accessed 30 January 2021].

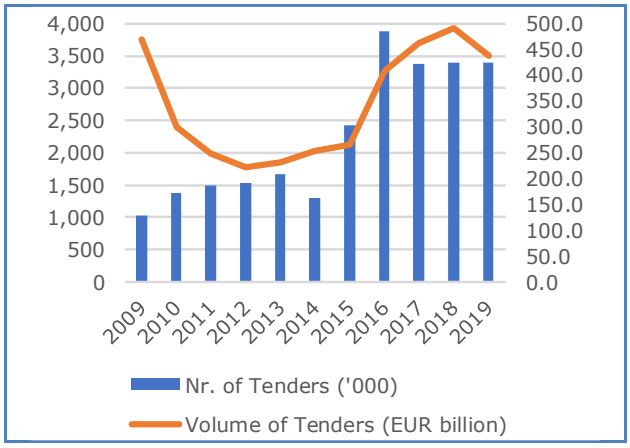
Ecuador's statistics on public procurement do not record the nationality of service providers. Accordingly, no **systematic analysis of the participation of EU firms in public procurement markets is possible**.

According to government representatives in Ecuador, at the time of the negotiations of the Agreement the potential displacement of domestic suppliers to government by stronger EU firms had been a major concern. However, the actual interest by EU companies in the EU's public procurement market was more limited than expected, also in part because the size of that market declined due to the budgetary constraints which the government has been facing. The relatively limited interest by EU companies was also confirmed in interviews held with representatives of EU business interests in Ecuador.

EU

Public procurement in the EU amounts to more than 14% of GDP.[43] The estimated value of tenders published in European Tenders Electronic Daily (TED) amounted to EUR 437 billion in 2019, and the number of tenders published to about 3.4 million (Figure 5-24), both substantially higher than in the first half of the

Figure 5-24: Number and volume of tenders in the EU published in TED, 2009-2019



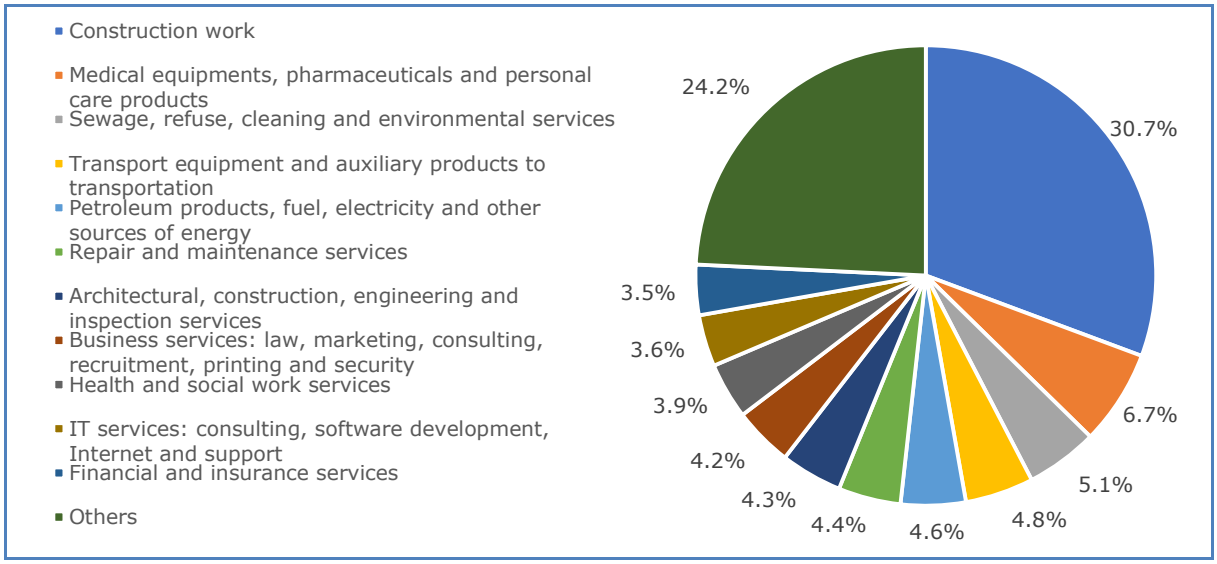
Source: DIGIWHIST, https://opentender.eu/all/dashboards/market-analysis [accessed 13 Jan 2021].

[43] European Commission 2019: Single Market Scoreboard. Public Procurement, https://ec.europa.eu/internal_market/scoreboard/_docs/2019/performance_per_policy_area/public_procurement_en.pdf.

decade.[44] The leading sectors in EU government procurement in the past ten years were construction work, medical equipment, sewage and other environmental services, transport equipment, etc. (Figure 5-25).

Despite this significant size of the EU public procurement market, according to the EU's TED database on contract awards,[45] over the period 2009 to 2019 no contract was awarded to a company from Colombia, Ecuador or Peru. At the next stage of the analysis, participation requests from partner country companies in EU procedures will be analysed.

Figure 5-25: Top sectors by volume of tenders in the EU published in TED in 2009-2019



Source: DIGIWHIST, https://opentender.eu/all/dashboards/market-analysis [accessed 13 January 2021].

5.7.2 Implementation issues of the Agreement in relation to public procurement

The implementation of the government procurement provisions in the Agreement is one of the more difficult issues. In the 2020 Trade Committee meeting, the EU considered that "this chapter is a source of concern as it considers that it is not being properly implemented."[46]

This refers specifically, but not only, to the interpretation and implementation of commitments made by **Colombia** regarding sub-central procurement entities, first discussed at the 2015 meeting of the Sub-committee on Government Procurement. In 2017, the EU and Colombia signed a Decision of the Trade Committee on Government Procurement, whereby Colombia specified for its sub-central level coverage, that "procuring entities" cover all sub-central public procuring entities, not having an industrial or commercial character.[47] Nevertheless, at subsequent meetings of the Sub-committee

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[44] TED is the online version of the Supplement to the Official Journal of the EU, dedicated to European public procurement. All public tenders above specific contract values must be published in the Supplement, which is available exclusively in electronic format and is accessible on TED website. The thresholds for tenders published in TED apply as follows: public works (5,350,000 EUR); service contracts (139,000 EUR); supplies contracts (139,000 EUR); supplies and services in the sectors of water, energy and transport (428,000 EUR). For more detailed information see http://ec.europa.eu/growth/single-market/public-procurement/rules-implementation/#t1.

[45] https://data.europa.eu/euodp/data/dataset/ted-csv [accessed 02 February 2021].

[46] "La UE señaló que este capítulo es fuente de preocupación ya que considera que no se está implementando adecuadamente." Acta. 7ª reunión Comité de Comercio Colombia-Ecuador-Perú/UE, miércoles 18 y jueves 19 de noviembre 2020, p. 1.

[47] Decision No 1/2017 of the EU-Colombia-Peru Trade Committee of 24 November 2017 amending Appendix 1 of Annex XII ('Government Procurement') to the Trade Agreement between the European Union and its

and Trade Committee, the EU raised that despite the Decision "companies of the EU Member States are not receiving national treatment in important projects due to an excessively strict interpretation of the exception regarding industrial companies. Given that projects such as metro, municipal buses and hospitals are being developed through industrial companies, the Decision is being ignored."[48] Meanwhile, the Government of Colombia considers that entities that has an industrial and commercial character (including, e.g. metros) would not be covered by the Agreement, and that the inclusion of such entities would need to be negotiated in accordance with Article 191(5) of the Agreement.

EU stakeholders in Colombia consulted for the evaluation have also noted various issues with the public procurement system, which is considered as one of the areas where the implementation of the Agreement poses the biggest problems. Interviewed stakeholders considered that procedures lack transparency and that the costs of participation, including due to excessive information and documentation requirements were too high. These concerns were made across sectors and types of procurement. In response to these challenges, it was also noted that many EU firms would only access public procurement markets in consortia led by, or as sub-contractors of, domestic companies.

In view of the concerns over the implementation of the Agreement's public procurement provisions in Colombia, in 2020 a specific analysis and position paper was produced regarding the issues that EU suppliers and service providers face (Development Solutions 2020). Among the issues listed in the position paper that would seem to be noncompliant with the Agreement are the following ones:[49]

- The application of a requirement that bidders have previous experience in Colombia, in violation of Article 178 of the Agreement;
- Existence of national preferences which may be against the national treatment provision in Article 175(1)(b);
- The use of tender specifications based on design and descriptive characteristics, rather than performance or functional requirements, despite the opposite provision in Article 181(2)(a);
- Generally, the lack of a "timely, effective, transparent, and non-discriminatory" public procurement system in Colombia.

In **Peru** and **Ecuador**, public procurement has so far not been a priority issue for the EU side, and few problems have been encountered. For Peru, some issues regarding limited transparency were mentioned by stakeholders, as well as the reference in tender documents to American standards rather than international ones (contrary to Article 181(2)(b)). In Ecuador, according to some EU stakeholders the level of awareness for the Agreement's provisions on public procurement appears limited. To change this, activities (such as seminars in March 2021) are currently being planned by the EU Delegations in Peru and Ecuador.

Regarding *transparency* issues, in **Ecuador**, the National Procurement Service (Servicio Nacional de Contratación Pública, SERCOP) maintains a website with announcements of

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Member States, of the one part, and Colombia and Peru, of the other part. OJ L1, 4.1.2018, p.1 (https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22018D0001&from=EN).

[48] "[L]as empresas de los Estados miembros de la UE no están recibiendo el trato nacional en proyectos importantes debido a una interpretación excesivamente estricta de la excepción respecto a empresas de carácter industrial. Dado que proyectos como metro, buses municipales y hospitales se están desarrollando a través de empresas industriales, se está obviando la Decisión", Acta. V Comité de Comercio Acuerdo Comercial Colombia – Ecuador – Perú – Unión Europea, Quito, 13 y 14 de diciembre de 2018, p. 3.

[49] The paper also lists other issues of the public procurement practice in Colombia as seen by EU companies – such as the requirement to have documents notarised in Colombia – but which would not seem to be directly related to Agreement provisions; these are not summarised here.

intended and planned public procurement procedures (in line with Article 177)[50] and has also prepared a manual for procurement entities on how to apply the provisions of the Agreement.[51] In **Colombia**, Colombia Compra Eficiente also maintains a website with information about the Agreement including a manual for procuring entities,[52] but announcements of forthcoming procurements for which EU companies are eligible do not seem to be available. In **Peru**, the website of the Organismo Supervisor de las Contrataciones del Estado (OSCE) provides ample information about government procurement, but no specific information about the Agreement or procurement opportunities covered by it.[53] The same applies to the **EU**'s information system for public procurement (SIMAP).[54]

In terms of *technical assistance* being provided, as foreseen under Article 193(3), the Andean partner countries requested assistance in the Sub-committee meetings in 2018, 2019 and 2019 regarding the EU's SIMAP, also specifying that assistance for economic operators in using the EU system was requested. No such assistance has yet been provided, although activities are now planned to take place in 2021.

Apart from the requests for technical assistance on using SIMAP, the complexity of which Andean partner countries consider to constitute challenge for their companies to access EU public procurement markets, the partners have not raised specific issues about access to EU public procurement markets. At the same time, the level of offensive interest appears to have been limited. One indication for this is that the Peruvian Government's website on its FTAs provides a study on government procurement opportunities in the EU that, although being undated, obviously predates the Agreement.[55]

5.7.3 Summary

The Agreement's effectiveness in terms of increasing bilateral participation of firms in the partners' public procurement markets has so far been impossible to assess systematically due to the lack of corresponding data (i.e. suppliers/service providers by nationality); the evaluation team continues its efforts to obtain more data and provide a more robust assessment in the final report.

In terms of the implementation, of the Agreement's Government Procurement Title, this has been one of the more difficult areas, with the most important and longstanding issue being the disagreement on reciprocity between the EU and Colombia on the Agreement's coverage of sub-central procurement entities.

More can still be done in the area of transparency and facilitation of access of the respective other Party's companies to public procurement markets. Only Ecuador currently provides easily accessible information about upcoming tenders covered by the Agreement, and the complexity of e-procurement systems in itself constitutes a barrier to access government procurement opportunities.

Although EU companies have, to a certain extent, found a way around the remaining barriers, by accessing these markets only indirectly, in consortia with domestic firms or as their subcontractors, access to opportunities could be facilitated. For Andean companies to

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50 https://portal.compraspublicas.gob.ec/sercop/aviso-de-contratacion-publica-prevista-2021/.
51 https://portal.compraspublicas.gob.ec/sercop/manual-de-aplicacion-del-acuerdo-comercial-con-ue/.
52 https://www.colombiacompra.gov.co/compradores/acuerdos-comerciales-y-trato-nacional-por-reciprocidad.
53 https://www.gob.pe/osce.
54 https://simap.ted.europa.eu/
55 Estudio sobre la Identificación de Oportunidades de Negocio en los mercados de Contratación Pública de la Unión Europea, available at http://www.acuerdoscomerciales.gob.pe/index.php?option=com_content&view=category&layout=blog&id=53&Itemid=76.

benefit from the opportunities provided by the Agreement, more support needs to be made available. Measures could include:

- Procurement websites to provide specific information and guidance for companies of the Parties to the Agreement on which opportunities are covered by the Agreement; and
- Training to economic operators on how to use the online systems; this would include technical assistance by the EU to operators in the Andean partner countries.

5.8 Effects of the implementation of other areas of the Agreement

The Agreement also addresses a number of other policy areas impacting on trade between the Parties (see section 3.2 above). Among these the evaluation considers the implementation of provisions on technical barriers to trade (TBT), intellectual property rights (IPRs), competition, and e-commerce, addressed in the following sub-sections.

5.8.1 Technical barriers to trade

Provisions on TBTs are addressed in the Agreement in Chapter 4 of Title III (Articles 71-84). Over the years, concerns over a number of potential TBTs have been raised both by the EU and the partner countries in the meetings of the Sub-committees on TBT and Market Access. Some examples, which were also mentioned by stakeholders interviewed by the evaluation team, are provided in Box 5-2.

For the purposes of the evaluation, the key issues are, first, to determine to what extent the issues raised could invalidate the preferences accorded by the Agreement, and second, to what extent issues raised could be solved by the Parties.

Box 5-2: Examples of concerns raised by the Parties over TBTs in the respective Sub-committees

Issues raised by the EU

- In Peru, the EU raised concern over labelling requirements, specifically the requirement that labels must be printed directly on the packaging and adhesive labels cannot be used (Peru allows the use of adhesive labels on a temporary basis); the cost implications of this (due to the need of having to produce packaging specifically for Peru) effectively prevent small scale exports and affect particularly EU SMEs interested in exporting to Peru.
- Also in Peru, imports of pharmaceuticals are facilitated from countries that have been accorded by the Ministry of Health the status of "high sanitary surveillance" ("alta vigilancia sanitaria"). Not all EU Member States have obtained this status,[56] and some have so far unsuccessfully tried to obtain it. The EU considers that, with the European Medicines Agency (EMA) having been granted the status of high sanitary surveillance, this should be applicable to all EU Member States.

Issues raised by the Andean partner countries

- Regarding palm oil, Andean countries raised concerns in repeated Sub-committee meeting over the criteria established in Directive 2009/28/EC which would favour vegetable oils produced in the EU over imports of palm oil from the Andean countries. Interestingly, it was argued that this is in contradiction with the principle of national treatment in line with Article 2.1 of the WTO TBT Agreement – no reference was made to the Agreement between the Parties. This might be explained by the fact that a case on the issue in ongoing at the WTO, introduced by Indonesia against the EU (DS593).[57]
- The Andean partners also raised concern over labelling practices in the EU. Specifically, the label "without palm oil" would negatively affect exports of palm oil to the EU market. From the EU's point of view, this is a voluntary practice of economic operators which is not addressed by regulations.

Sources: Compiled by the authors from minutes of meetings of the Trade Committee, Sub-committee on TBTs, and Sub-committee on Market Access, various years.

[56] At present, 12 EU Member States are recognised to have high sanitary surveillance status; see https://bvcenadim.digemid.minsa.gob.pe/enlaces/agencias-reguladoras-de-paises-de-alta-vigilancia-sanitaria [accessed 13 January 2021].

[57] For more information, see https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds593_e.htm. Malaysia has also recently (in January 2021) complained against the EU on this issue (DS600), see https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds600_e.htm.

Interviewed EU stakeholders mentioned that TBTs in the Andean countries sometimes seemed to be driven by sensitivities against import increases and added that such concerns should be reflected in the quotas and not through administrative measures. At the same time, most stakeholders confirmed that TBT issues do not constitute a major concern for them or affect trade with the respective Partner.

As indicated previously, although some of the identified concerns and issues might be motivated by intentions to protect domestic production against imports, the evaluation team considers the following:

First, a number of issues discussed relate to planned changes in technical regulations, rather than ex-post reviews of existing regulations or their implementation. This is an indication that cooperation between the Parties on TBT matters is functioning. In this context, we also note that discussions in the relevant Sub-committees, as well as follow-up discussions have been reasonably effective in addressing a number of the issues raised; although some other issues have been on the agenda for several years without any apparent progress.

Second, no formal disputes on any of the issues have been initiated. This indicates that, even where different views on certain issues cannot be reconciled, the Parties do not consider them to be sufficiently trade disruptive as to initiate a formal dispute. On the other hand, we also note that some of the more difficult issues (notably related to palm oil) have been raised at the WTO – although initiated by third countries against the EU, with Andean partner countries (Colombia and Ecuador) registered as Third Parties in the dispute.

Finally, with regard to the actual impact on bilateral trade of the issues debated at the Sub-committees, this is difficult to establish both because many issues discuss planned regulatory initiatives or very specific products. Nevertheless, the observed export performance of palm oil from Colombia, one of the exports with the largest increase since the start of application of the Agreement (see section 5.1 above) would seem to indicate that the EU's measures do not constitute a TBT.

5.8.2 Intellectual property rights, including geographical indications

Title VII of the Agreement addresses intellectual property rights (IPR) in detail, both regarding substantive aspects and enforcement by the Parties. Two elements in this area are of particular importance for the evaluation. First, during the negotiations concerns were raised about the potential negative impact of extended patent protection periods on the availability of affordable medicines in the Andean partner countries. Second, of particular importance for the EU are the provisions on GIs. Other issues contained in the Agreement and discussed in the annual meetings of the Sub-committee on Intellectual Property, such as trademark protection, counterfeiting and other IPR infringements, do not appear to be substantively affecting trade between the Parties.

Patent protection

The SIA had noted that the Agreement's impact on public health could be negative if expanded patent protection under the Agreement were extended: "'Over'protection of intellectual property in the pharmaceutical sector would result in a reduction in public health standards, particularly for the poor" (Development Solutions, CEPR, and University of Manchester 2009, 94 & 121). However, the evaluation team could so far not find any indication that this has happened; more research into this area will be undertaken in the remainder of the evaluation.

In **Ecuador**, government stakeholders noted that the Agreement's potential impacts in the country resulting from provisions on IPR – particularly patent protection – had been met

with much fear among the civil society during the negotiations. However, the actual impact of the IPR provisions in Ecuador were quite limited, as the final Agreement only provided for limited patent extension, and the majority of essential medicines are off-patent.[58] No issues have been raised by stakeholders from other countries interviewed so far. The human rights analysis (section 8.3) addresses the potential impacts of strengthened patent protection on the access to medicines in the Andean partner countries in more detail.

Geographical indications

Chapter 3, Section 2 of the Agreement's IPR Title addresses GIs, with Annex XIII providing a list of GIs of the Parties.

The number GIs protected under the Agreement varies considerably across the Parties (Table 5-8). Whereas 117 EU GIs listed in the Agreement are fully protected in Colombia, ten did not receive protection in Peru for various reasons (such as alleged genericness or conflict with existing trademarks), and in Ecuador there is still one GI to be protected for the initial list to be completed. Conversely, the Andean partners sought protection of their GIs in the EU also to a varying extent: At the time of the Agreement negotiation, between one and three GIs were included in Annex XIII. Subsequently, Colombia achieved protection of nine additional GIs in 2019 and two more in February 2021, and has additional requests in process; Peru has six requests in process (since October 2017), and Ecuador four (since 2018 and 2019), which are at various stages of approval in the EU. Stakeholders in the partner countries noted that the GI approval process in the EU was extremely slow – the approval of the Colombian GIs approved in 2019 took six years, with another four still in the process. Conversely, Colombia decided on the more 100 applications for EU GIs in Annex XIII within 12 months. In this context, the Superintendency of Industry and Commerce (SIC) in Colombia notes that Sub-committee on Intellectual Property should be the formal mechanism to update each other on progress, see additional requests and discuss outstanding issues.

Table 5-8: Number of GIs for agricultural products and foodstuffs, wines and spirits protected under the Agreement

	Number of protected GIs prior to Agreement	Number of GIs listed in Agreement	Current number of protected GIs
EU	0	117	117 (in COL) 106 (in PER) 116 (in ECU)
Colombia	1	1	13 (+4 in process)
Peru	1	3	3* (+6 in process)
Ecuador	0	1	1 (+4 in process)

Note: Pisco has double protection, as a registered GI prior to the Agreement, and under the Agreement.
Sources: Annex XIII of the Agreement; https://www.tmdn.org/giview (prior to Agreement; current); meeting minutes of Sub-committee on Intellectual Property.

EU stakeholders stated that an explanation for the different approaches to embracing GIs across the partner countries stems from the international competition between the GI approach (favoured by the EU) and the trademark approach (promoted by the USA). With both the EU and the USA being important partners for the three countries, it is not easy for them to decide which approach to favour. It was noted by the stakeholders, however, that Colombia and Peru have started to see the benefits of the GI approach, as also witnessed by the increasing requests for protection of their GIs in the EU, and thus stepped up their efforts to protect EU GIs in turn.

The Government of Colombia highlighted in the consultations undertaken for the evaluation the high importance of the protection of Colombian GIs in the EU under the Agreement, as

[58] It should also be noted that other factors, such as domestic health and pricing policies, distribution channels, etc. play important roles in the availability of affordable medicines.

this provided a legal guarantee against their misuse and ensured stability of market access for protected products. Similarly, stakeholders in Ecuador consider the main advantage of GI registration the simplified process compared to trademarks; at the same time, there was no clarity of whether the GI would provide a premium to producers, and it was noted that GIs provide a lesser degree of protection than trademarks. Likewise, some Andean stakeholders noted that partner country GIs registered in the EU under the Agreement did not provide the right to use the label for protected GIs, which was considered to constitute a discriminatory treatment, as was the exclusion of GIs protected under the Agreement from the European Commission's official, publicly available, *eAmbrosia* GI register.[59] Finally, regarding the scope of GI protection, the Colombian Government is interested in advancing protection in the EU of non-agricultural GIs (as foreseen in Article 207(d) of the Agreement), as it considers that Colombia's "greatest wealth in GI comes from non-agricultural handicrafts and products." Colombia considers that the lack of EU legislation and protection for such products detracts from the advantages for IP offered by the Agreement. Nevertheless, a proposal for a regulation for EU-wide protection of geographical indications for non-agricultural products was published in 2020, and a public consultation is going to be launched in 2021.

In terms of enforcement, the Andean partner countries do not actively monitor ex officio the respect of protected GIs in the market, unlike the EU. The EU Delegations engage in some monitoring, and important GIs are also monitored by the rightsholders. Several infringements (such as "feta" cheese in all three partner countries) were detected, and stakeholders noted that the national administrations are slow to address these issues, particularly in Colombia. At the same time, some issues also appear to exist in the EU, e.g. with respect to to requests from third parties for registration of trademarks using the denomination "Café de Colombia," as raised in the 2020 Sub-committee meeting.

Information about the value of trade in products covered by GIs is not available, nor are any statistics available about the frequency or scale of infringements. In any case, the EU considers GIs in the context of consumer protection – also recognising that many of the products protected by them are niche products – rather than export promotion.

Technical assistance and awareness raising in the Andean partner countries in relation to IPR has taken place both at a regional and country-specific level, but has been limited mostly to seminars. For example, awareness raising for GIs (and IPR in general) in the partner countries has been done under the IPKey Latin America programme managed by EUIPO,[60] which has implemented a number of seminars specifically aimed at stakeholders, both companies and relevant public sector bodies, in the three countries in addition to Latin American-wide activities. In addition, a number of seminars were held in the Andean partner countries on the EU GI system.[61]

5.8.3 Competition

The Agreement's provisions on competition (Title VIII, Articles 258-266) cover the establishment of general principles, cooperation and transparency through exchange of information and consultations, and technical assistance, as well as establishing the obligation on the Parties to have competition laws and authorities in place, and of applying "competition laws in a transparent, timely and non- discriminatory manner, respecting the principle of due process and the rights of defence" (Article 260(3)). Competition matters

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[59] See https://ec.europa.eu/info/food-farming-fisheries/food-safety-and-quality/certification/quality-labels/geographical-indications-register/#; the database only list GIs registerd in the EU (in the case of the three partner countries, Pisco and Café de Colombia), but not those protected under the Agreement. Only the GI database maintained by the EU Intellectual Property Network, coordinated by EUIPO, also includes GIs protected under trade agreements; see https://www.tmdn.org/giview/.

[60] See https://ipkey.eu/en/latin-america/activities for a list of activities since 2018.

[61] For example, in Peru a Seminar on European Regulatory Boards of GIs: Training and Management Experiences (2019).

are excluded from the Agreement's dispute settlement provisions, and no Sub-committee is established to discuss competition matters.

In terms of the **obligations** established in Article 260, each of the Parties fulfils (since before the start of application of the Agreement) the requirements of having competition laws and authorities, and laws being in line with the implementation principles established in Article 260(3). The European Commission noted that occasionally EU industry representatives reached out to the Commission with regard to the application of competition law in the partner countries in the context of specific cases, and that these were then discussed with the respective competition authorities, for which the Agreement provides the legal basis; but these cases were rare indeed.

With regard to **notifications, cooperation and consultations** (Articles 261, 262, 265), the European Commission considers that these work well between the respective competition authorities.

Some **technical assistance** related to competition has been provided in recent years, mostly consisting of the organisation of training seminars and workshops.[62]

Stakeholders were asked if any anti-competitive practices had been observed that would have affected trade between the Parties. In this regard, some stakeholders representing EU business interests stated that some markets in Colombia were characterised by cartelised market structure where incumbents feared for their rents as a result of increasing import competition (including from the EU resulting from the Agreement). Conversely, some Andean partner country stakeholder were of the view that buyer power of EU importers (specifically large retail chains) put an undue pressure on prices of export goods, in particular agricultural products. Pressure exercised by one of the leading European supermarket chains to reduce the prices for Colombian bananas were mentioned as one example. An in-depth assessment of such claims is beyond the scope of this evaluation.

Overall, we preliminarily conclude that the competition title in the Agreement constitutes a sound legal basis for cooperation and consultations between the European Commission and the Andean partner countries' competition authorities. Although cooperation would likely take place also in the absence of the Agreement (or the competition title in the Agreement), the provisions facilitate consultations and exchange of information, and have in at least some cases also been formally quoted to request information from and dialogue with another Party's competition authority.

5.8.4 E-commerce

The Agreement includes provisions on e-commerce in Chapter 6 of Title IV (Arts. 162ff). However, the Chapter seems to have played a very limited role in the Agreement's implementation. Minutes of the Trade Committee and Sub-committee meetings[63] do not refer to e-commerce, and stakeholders interviewed so far have also not provided any views on this chapter. Statistics on bilateral trade between the Parties using e-commerce are not available.

5.8.5 Summary

Stakeholders interviewed stated that the Agreement, despite the sometimes vague or best endeavour nature of non-tariff and indirectly trade related provisions in the Agreement text, has led through a greater degree of predictability of these issues for traders and

[62] For example, in 2020, two TAIEX PI workshops were held for Peruvian stakeholders on "criteria for the judgment of cartels" and "analysis of prior control of business concentration operations in Peru."

[63] There is no dedicated Sub-committee on E-commerce (nor one for the whole of Title IV, Services, Establishment and E-commerce).

public sector in all Parties. The technical discussions structured through the annual Sub-committee meetings with follow-up activities throughout the year were mentioned as crucial in this context.

Discussions in the Trade Committee and Sub-committees have been partially effective in addressing a number of the issues raised; although some other issues have been on the agenda for several years without any apparent progress, but no formal disputes on any of the issues have been initiated. This indicates that, even where different views on certain issues cannot be reconciled, the Parties do not consider them to be sufficiently trade disruptive as to initiate a formal dispute. At the same time, some issues were referred to the WTO dispute settlement mechanism, which indicates that the institutions under the Agreement are not fully effective.

With regard to the substantive issues addressed in this section:

- With regard to **TBTs**, although a number of concerns have been raised by the various Parties over the years – and seem to be increasing in the Andean countries, in particular concerning the EU's Green Deal and the Farm to Fork strategy –, TBTs have not so far functioned as a substitute for tariffs liberalised under the Agreement;
- The extent to which the implementation of provisions on **geographical indications** has facilitated trade between the Parties cannot be determined due to the lack of corresponding statistics. Progress in the registration and enforcement of GIs has however been made, although this has been sometimes slow, and room for improvement remains regarding enforcement.
- The Agreement's provisions on **competition** constitute a sound legal basis for cooperation and consultations between the European Commission and the Andean partner countries' competition authorities.
- Provisions on **electronic commerce** have played a minor in implementation, and no effects on trade between the Parties or domestically is visible.

5.9 Economic impact of EU tariff concessions for imports of bananas

Bananas are a sensitive sector for the EU, and accordingly the Agreement provides only partial tariff liberalisation, with a gradual reduction of tariffs from initially 145 EUR/t to 75 EUR/t in 2020; in addition, the Agreement foresees that the Parties would in 2019 "examine the improvement of tariff liberalisation" for bananas.[64]

The preferential market access was furthermore coupled to a specific "stabilisation clause" which was applicable during the transition period until the end of 2019. According to the mechanism, upon banana imports in any calendar year reaching a trigger volume (gradually increasing yearly during the transition period), the EU could decide to suspend the tariff preference for a period of up to three months, and not longer than the end of the calendar year in case the increased import was found to cause disturbance on the Union banana market.[65]

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[64] See Section B of Appendix 1 to Annex I of the Agreement. Subsection 1.A.1(n) addresses imports from Colombia, Subsection 2.A.(i) from Peru, and Subsection 3.A.(m) from Ecuador. Bananas are represented by category "BA" for Colombia and Peru, and "SP1" for Ecuador.

[65] See the Agreement's sections referred to in footnote 64. Operational details on the stabilisation mechanism are set out in Regulation (EU) No 19/2013 of the European Parliament and of the Council of 15 January 2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, OJ L 17/1 of 19 January 2013.

Considering that the banana stabilisation mechanism was criticised, e.g. in the European Parliament, to be "inefficient" and lacking "flexibility, hampering its effectiveness,"[66] the purpose of the analysis undertaken in this section is threefold: to assess (1) the impact of tariff concessions for bananas on trade in bananas between the parties, (2) the impact on the exporting Andean countries as well as on other banana producing regions, including the EU, and (3) to assess the effectiveness of the mechanism as an instrument to protect EU producers. We first review trade in bananas, then estimate the impact of tariff concessions on banana trade using a partial equilibrium model. Going forward, this analysis will be complemented in the remainder of the evaluation with a more qualitative analysis of impacts, also based on further stakeholder consultations, as well as a case study on trade in organic bananas.

5.9.1 Evolution of trade in bananas between the Parties

Figure 5-26 shows EU28 banana imports from the Andean partner countries and selected aggregated regions, i.e. LDCs,[67] non-LDC ACP countries,[68] and the rest of the world (ROW), in which six Central American countries (Costa Rica, Guatemala, Honduras, Mexico, Nicaragua, and Panama) account for more than 98% of the import.[69]

In value terms (Figure 5-26a), Colombian banana exports to the EU increased from EUR 633 million in 2007 to EUR 840 million in 2019. Exports were mostly flat before the Agreement, hovering between EUR 750 million and EUR 800 million, and then initially increased after the start of application of the Agreement to a peak of EUR 920 million in 2017, before dropping again. Imports from Peru are low relative the other partner countries, with a steady increase in the pre-Agreement period, from EUR 24 million in 2007 to EUR 61 million in 2012, but little dynamics since the start of application of the Agreement: imports in 2019 are almost identical to those in 2013, at just above EUR 80 million. For Ecuador, the value of banana exports to the EU in the three years after the Agreement was higher than for the years before its accession, reaching EUR 887 million in 2019. Comparing these trends with imports from other sources shows that the Andean partner countries did not perform differently; in fact, the most rapid and substantial growth over the period was featured by the RoW countries (mostly driven by Central American economies, with which the EU also has an FTA). LDC countries are insignificant banana suppliers to the EU, but featured rapid growth from EUR 0.5 million in 2017 to EUR 3 million in 2019.

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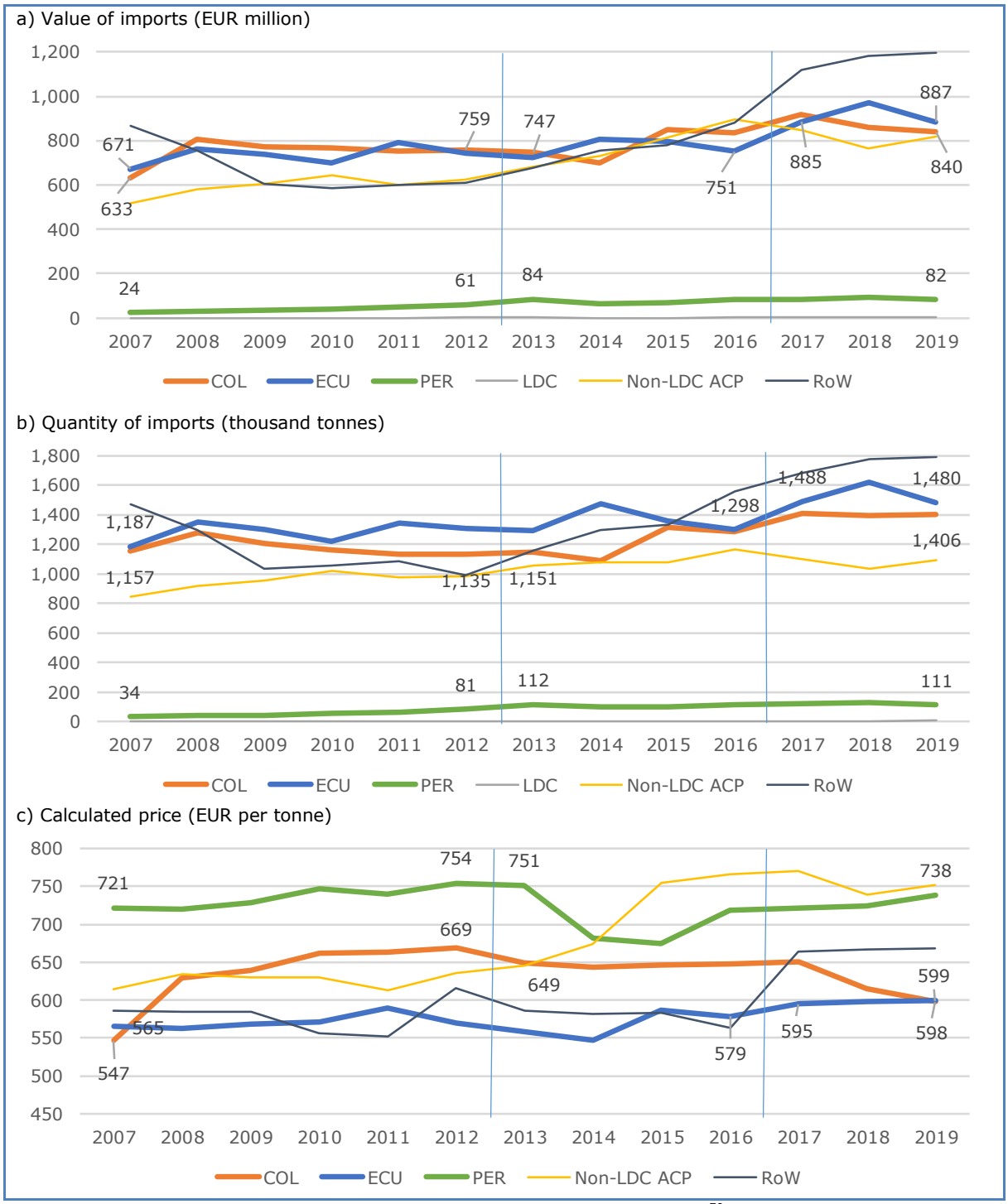
[66] European Parliament Committee on International Trade (rapporteur: Marielle de Sarnez), "Report on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 19/2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, and amending Regulation (EU) No 20/2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other (COM(2015)0220 – C8-0131/2015 – 2015/0112(COD))", A8-0277/2016, 29 September 2016, p. 6.

[67] LDC countries from which the EU imported fresh bananas in at least one year during the period 2007 to 2019 are: Angola, Bangladesh, Burkina Faso, Burundi, Benin, Congo DRC, Djibouti, Ethiopia, Guinea, Equatorial Guinea, Guinea-Bissau, Haiti, Cambodia, Lao PDR, Madagascar, Mali, Myanmar, Mauritania, Malawi, Mozambique, Nepal, Rwanda, Sudan, Sierra Leone, Senegal, Somalia, Sao Tome and Principe, Togo, Tanzania, Uganda, Zambia.

[68] Non-LDC ACP countries exporting bananas to the EU in the period considered are: Antigua and Barbuda, Barbados, Bahamas, Botswana, Belize, Congo, Côte d'Ivoire, Cameroon, Dominica, Dominican Republic, Fiji, Gabon, Grenada, Ghana, Guyana, Jamaica, Kenya, St. Kitts and Nevis, St. Lucia, Mauritius, Namibia, Nigeria, Papua New Guinea, Palau, Seychelles, Suriname, Trinidad and Tobago, St. Vincent and the Grenadines, South Africa, Zimbabwe.

[69] The remaining banana exporting countries in this group are: Albania, Bermuda, Bolivia, Brazil, Chile, Egypt, India, Sri Lanka, Morocco, Philippines, Thailand, Turkey, USA, Viet Nam.

Figure 5-26: EU28 imports of fresh bananas, 2007-2019



Note: Data refer to tariff line CN08039010 "Bananas, fresh (excl. plantains)".[70] Prices for LDCs are not shown due to low imports.
Source: Authors' calculations based on COMEXT database.

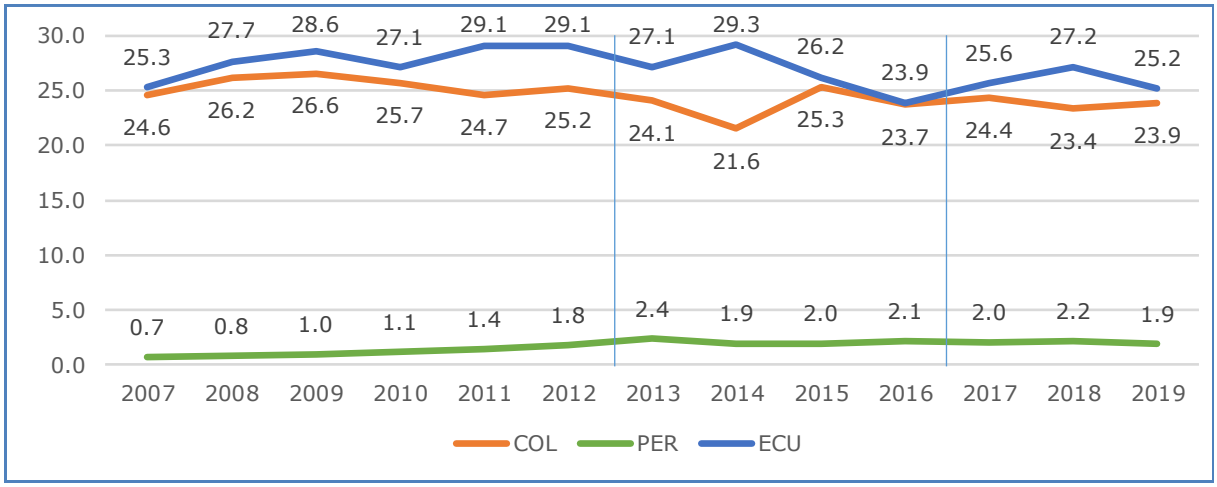
The evolution of import quantities (Figure 5-26b) does not markedly differ from value developments, but price dynamics (Figure 5-26c) are more interesting: average import prices of bananas from Peru and Colombia both decreased after the Agreement's start of application. For Peru, the price decreased from EUR 754 per tonne in 2012 to EUR 675 per tonne in 2015, before starting to recover again to EUR 738 in 2019. The price for Colombian

[70] Note that the code changed to CN 08039010 from CN 08030019 from 1st January 2012.

bananas experienced a steady reduction from EUR 669 per tonne in 2012 to EUR 599 per tonne in 2019. Only for Ecuador did prices remain stable (and at high levels compared to previous years, although still lower when compared to prices of other suppliers), at close to EUR 600. At the same time, longer term price for bananas from non-LDC ACP countries and RoW increased.

The shares of EU banana imports from the partner countries in the total extra-EU banana imports remained stable for all three partner countries (Figure 5-27), averaging 25% for Colombia, 27% for Ecuador, and 2% for Peru; no impact of the Agreement is evident.

Figure 5-27: Share of EU imports of fresh bananas from partners in total extra-EU imports (in tonnes), 2007-2019 (%)



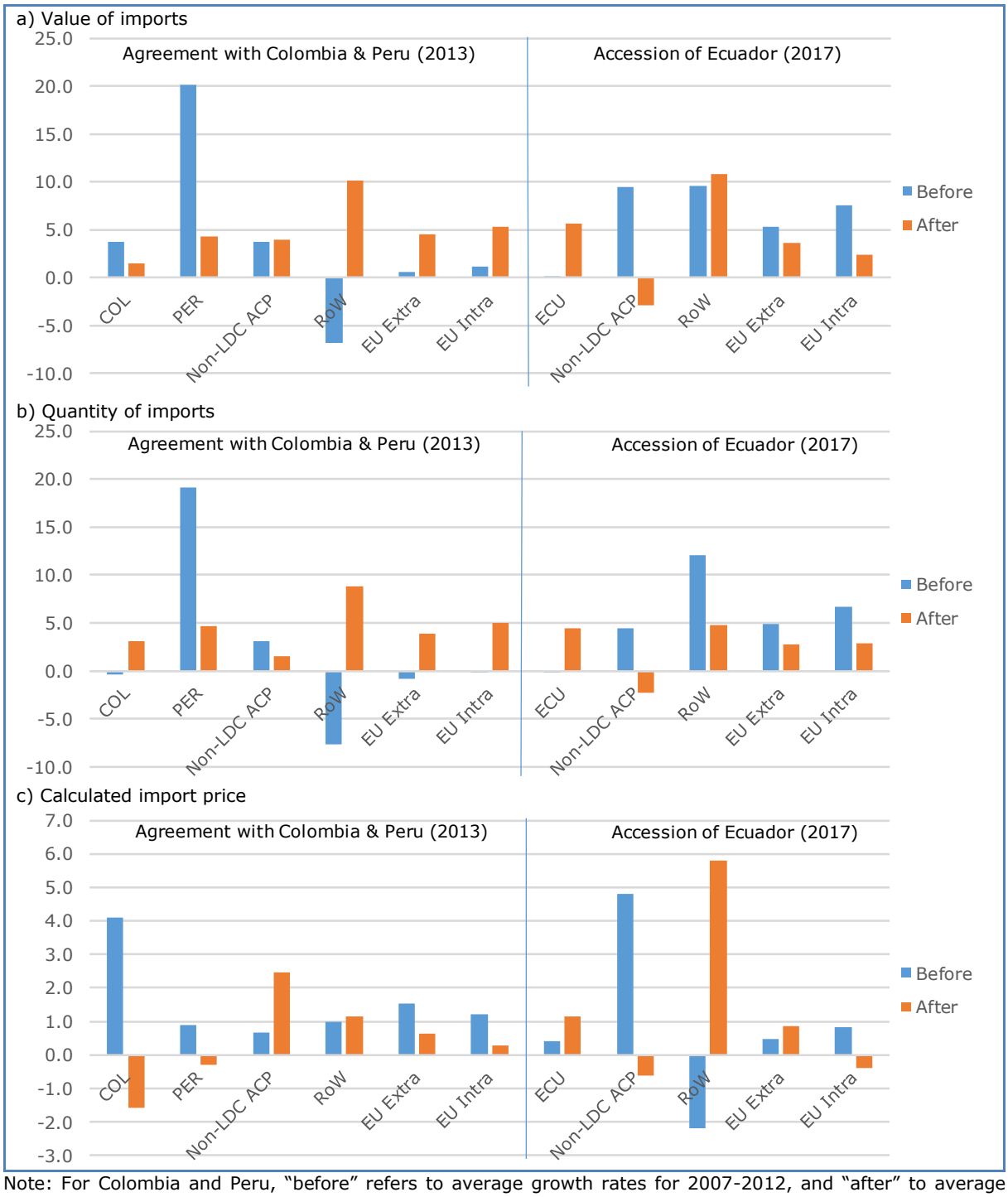
Source: Authors' calculations based on COMEXT database.

Figure 5-28 compares the average growth rates before and after the Agreement. For both Colombia and Peru, growth rates of the banana export value were lower after the Agreement (contrary to expectations), in a context where growth rates of other exporters picked up. This slower growth in value clearly happened due to the price decrease, as the lower panel of Figure 5-28 shows. Positive price developments prior to the Agreement were reversed for Colombia and Peru after the Agreement, with the total gap in growth rates amounting to almost 6 percentage points for Colombia, and slightly above 1 percentage point for Peru. Developments were more positive for Ecuador, which experienced enhanced growth in all indicators after the Agreement.[71]

Interpreting these results, and in particular identifying whether and to what extent the Agreement has contributed to these different outcomes is not straightforward; more analysis will be added as the evaluation progresses, in addition to the impact analysis presented in the next section. However, we reiterate that the descriptive statistics presented here do not establish any causal link between the Agreement and observed developments.

[71] Note, however, that the growth rate averages for Ecuador after the Agreement are only based on three years of data, while for Colombia and Peru those are based on the data available for seven years.

Figure 5-28: Comparison of average annual growth rates of EU28 imports of fresh bananas from partners before and after the Agreement's start of application (%)

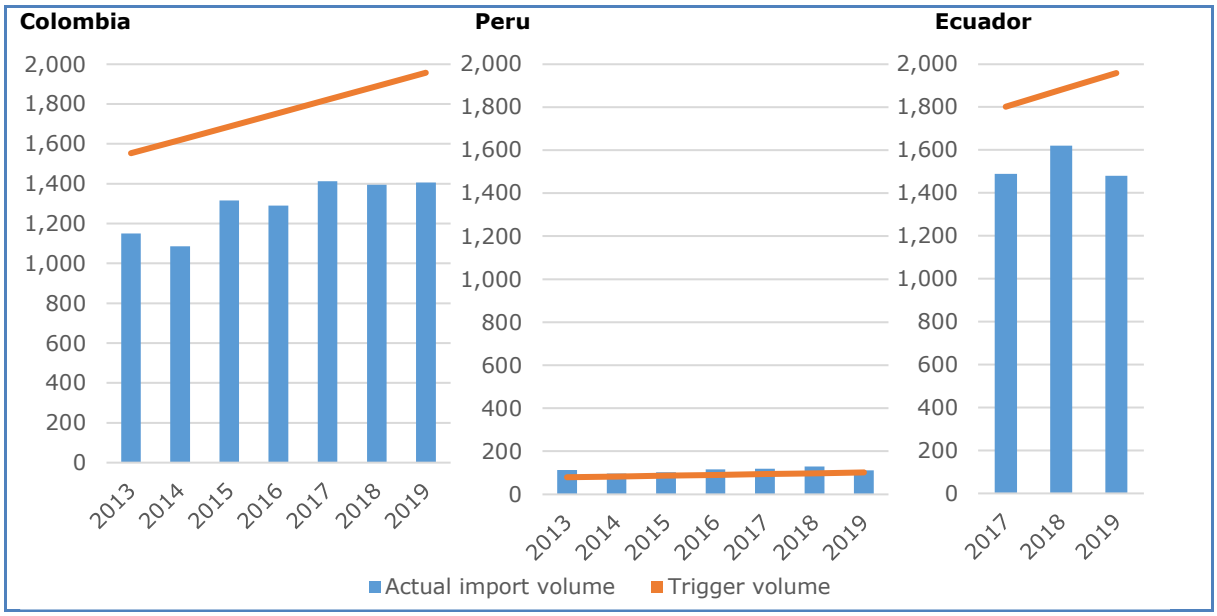


Note: For Colombia and Peru, "before" refers to average growth rates for 2007-2012, and "after" to average growth rates for 2012-2019. For Ecuador, "before" refers to average growth rates for 2012-2016, and "after" to average growth rates for 2016-2019.
Source: Authors' calculations based on COMEXT database.

An important issue to address is the extent to which imports were in line with the stabilisation mechanism. Figure 5-29 shows that imports from Ecuador and Colombia in each year were below the trigger volumes established in the Agreement, while imports from Peru exceeded those consistently since 2013 (the difference between the allowed trigger volume and the actual imports is negative), by 19 thousand extra tonnes per year on average. Further to the analysis conducted by the Commission it was, however, concluded that since the volumes of imports from Peru were small relative to the other

countries, there was no indication of the instability in the EU market caused by the exceeded volumes, and thus the preferential duties would not be withdrawn.[72] Indeed, considering that the share of banana imports from Peru remained stable at about 2% of total EU28 banana imports (Figure 5-27 above) the evaluation team agrees with the Commission's assessment.

Figure 5-29: Triggers and actual import volumes (tonnes) for Ecuador, 2017-2019, Colombia and Peru, 2013-2019



Source: Authors' calculations based on COMEXT database and the trigger values defined by the Agreement.

5.9.2 Economic impacts of EU tariff concessions for bananas

For the quantitative estimation of the effects of the Agreement on trade and production of bananas we employ a partial equilibrium analysis using the Global Simulation (GSIM) model (Francois and Hall 2009). In a similar fashion as the CGE modelling undertaken by the Commission, the PE modelling compares the observed trade with the Agreement in place against a counterfactual situation in which the Agreement does not exist.

We distinguish two counterfactual situations: the absence of the Agreement with Colombia and Peru; and the absence of the Agreement with Ecuador. In terms of regions, the model distinguishes the EU, the Andean partner countries, and large banana exporters to the EU, as well as the rest of the world. We report changes of EU imports of bananas from main suppliers of bananas, changes in banana production, changes in consumer and producer surpluses and tax revenue, as well as net welfare changes.[73]

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[72] Commission Implementing Decision 2018/1888 of 3 December 2018 determining that a temporary suspension of the preferential customs duty pursuant to Article 15 of Regulation (EU) No 19/2013 of the European Parliament and of the Council is not appropriate for imports of bananas originating in Guatemala and Peru.

[73] The shocks are calculated as the change in ad valorem equivalents of the tariffs stipulated by the Agreement in Section B of Appendix 1 to Annex I. The ad valorem equivalents were calculated as the share of the specific tariffs for fresh bananas (specified in EUR per ton) in the price of fresh bananas (calculated using the trade value divided by the trade quantity of imports for a given country). The counterfactual tariffs are the EU's MFN tariffs, i.e. EUR 114 per tonne (as opposed to EUR 75 per ton applied since 2020), which translates into an ad valorem counterfactual tariff of 19.6% (as opposed to 11.2%) for Colombia, 17.4% (as opposed to 9.9%) for Peru, and 17.9% (compared to 12.9%) for Ecuador.
Due to data constraints, the simulations are performed at the HS six-digit level, HS080390, which includes both fresh and dried bananas. However, simple back-of-the-envelope calculations using data at a tariff line level confirm that the share of dried bananas in the overall trade at the HS six-digit level does not exceed 7-

Table 5-9 shows the impact of the EU preferences for Colombia and Peru not being in place. Naturally, those two countries would be the most affected in such a scenario: Colombia would experience a 15.7% lower value of banana exports to the EU, which would translate into Colombia's exporting EUR 714 million of bananas (instead of the actual EUR 840 million in 2019); and a 3.9% lower output of bananas. For Peru the losses in exports to the EU would amount to 8.9%, i.e. in 2019 Peru would have exported bananas worth EUR 75 million (instead of EUR 82 million in reality), and output would have been lower by 4.5%. Since Colombia is a large exporter of bananas to the EU, its net welfare would be USD 43 million lower in the counterfactual scenario. For Peru the net losses in welfare are much smaller, at USD 4.3 million. The other economies considered in the exercise would benefit from the absence of the Agreement, with RoW experiencing a large positive shock and increasing its exports to the EU by 4.9%. EU banana producers would have slightly benefited from the absence of the improved market access in the EU under the Agreement: output would have been 0.8% higher, and producer surplus would have been less than USD 0.2 million higher.

Table 5-9: Impact on selected economies of the absence of the Agreement's preferences for bananas between the EU and Colombia and Peru

	Change in EU imports (%)	Change in output(%)	Change in producer surplus (USD M)	Change in tax revenue (USD M)	Change in consumer surplus (USD M)	Net welfare effects (USD M)
Belize	1.5	0.6	0.6	0.0	-0.2	0.4
Cameroon	2.7	0.4	2.8	0.1	-1.9	1.0
Colombia	**-15.7**	**-3.9**	**-84.8**	**-0.1**	**42.0**	**-43.0**
Costa Rica	2.0	0.5	8.5	0.0	-4.1	4.4
Cote d'Ivoire	1.6	0.6	1.8	-0.1	-0.6	1.1
Dominican Republic	2.0	0.5	3.4	0.0	-1.7	1.7
Ecuador	**2.7**	**0.4**	**14.1**	**-0.6**	**-9.1**	**4.3**
EU	**0.8**	**0.8**	**0.2**	**71.9**	**-68.0**	**4.1**
Ghana	4.5	0.1	0.8	0.0	-0.7	0.0
Guatemala	3.9	0.2	0.0	0.0	0.0	0.0
Nicaragua	0.0	0.0	0.0	0.0	0.0	0.0
Panama	1.4	0.6	1.5	0.0	-0.4	1.1
Peru	**-8.9**	**-4.5**	**-5.4**	**-0.2**	**1.3**	**-4.3**
Suriname	2.6	0.4	0.8	0.1	-0.5	0.3
RoW	4.9	0.0	1.1	0.0	-1.1	0.0
Total						**-28.8**

Note: Bilateral trade data source is WITS; production data source is FAOSTAT; tariff data source is WTO; the shocks are calculated based on COMEXT data and the tariff stipulated by the Agreement.
Source: Authors' calculations using GSIM model.

In a similar fashion, Table 5-10 presents the counterfactual outcomes in the case of no Agreement between the EU and Ecuador. Ecuador's exports of bananas to the EU would be lower by 12%, i.e. Ecuador would have exported EUR 780 million of bananas instead of EUR 887 million in reality. Ecuador's banana output would have been 1.7% lower in the absence of the Agreement, whereas producers in other countries would have benefitted to a small extent.

Under both scenarios, the world as a whole would be worse off in the absence of the Agreement's liberalisation of trade in bananas between the Parties.

10%. Since the model is scale-invariant, and the share of trade in dried bananas is stable across years and low across countries, using HS six-digit data does not pose a problem for the simulation results.

Table 5-10: Impact on selected economies of the absence of the Agreement's preferences for bananas between the EU and Ecuador

	Change in EU imports (%)	Change in output(%)	Change in producer surplus (USD M)	Change in tax revenue (USD M)	Change in consumer surplus (USD M)	Net welfare effects (USD M)
Belize	0.9	0.5	0.4	0.0	-0.1	0.3
Cameroon	1.6	0.3	2.3	0.1	-1.3	1.1
Colombia	**1.4**	**0.4**	**8.5**	**0.0**	**-4.3**	**4.2**
Costa Rica	1.4	0.4	5.8	0.0	-2.9	2.9
Cote d'Ivoire	1.0	0.4	1.8	-0.1	-0.5	1.2
Dominican Republic	1.4	0.4	2.7	0.0	-1.4	1.4
Ecuador	**-12.0**	**-1.7**	**-55.9**	**2.2**	**36.2**	**-17.5**
EU	**0.5**	**0.5**	**0.8**	**34.7**	**-49.1**	**-13.7**
Ghana	1.1	0.4	0.3	0.0	-0.1	0.2
Guatemala	3.2	0.0	0.6	0.0	-0.6	0.0
Nicaragua	2.8	0.1	0.0	0.0	0.0	0.0
Panama	1.3	0.4	0.9	0.0	-0.4	0.5
Peru	**1.3**	**0.4**	**0.7**	**0.0**	**-0.3**	**0.4**
Suriname	3.4	0.0	0.8	0.1	-0.8	0.0
RoW	1.0	0.4	0.3	0.0	-0.1	0.2
Total						**-18.7**

Note: Bilateral trade data source is WITS; production data source is FAOSTAT; tariff data source is WTO; the shocks are calculated based on COMEXT data and the tariff stipulated by the Agreement.
Source: Authors' calculations using GSIM model.

5.9.3 Summary

The analysis undertaken to date focuses on the quantitative economic effects of the EU's tariff concessions for banana imports from the Andean partner countries. It shows that these concessions led to an increase in bilateral trade in bananas in 2019/2020 (compared to the situation that would have prevailed without the concessions), ranging from a 9% export increase for bananas from Peru to almost 16% for Colombia. Banana production in the three countries also increased as a result of the Agreement's provisions, by 1.7% in Ecuador, 3.9% in Colombia, and 4.5% in Peru. Globally, the reduction in EU protection levels led to an increase in welfare. On the other hand, EU banana producers were impacted negatively, with an output decrease between 0.5% and 0.8%, and a loss in producer surplus of about USD 1 million.

Tariffs were not suspended under the banana stabilisation mechanism. This was not needed in the case of Colombia and Ecuador, whose exports remained below the established triggers for suspensions. For Peru, although triggers were exceeded, given the low absolute value and market share of EU banana imports from Peru, any damage to the EU banana industry and/or disruption of the EU banana market was limited, and therefore the Commission's decision not to apply the suspension of tariff preferences is considered appropriate.

5.10 Impact of the Agreement on diversification of bilateral trade

Although the Agreement does not explicitly include the diversification of trade between the Parties among its objectives, such diversification is important considering the prevailing trade patterns, which are characterised by high concentration of exports at least of the three Andean partner countries, both in terms of products exported and companies exporting. And indeed, during the consultations Andean country governments confirmed the importance of export diversification as an objective of the Agreement. The evaluation therefore assesses if and to what extent the Agreement may have contributed to diversification of exports along these two dimensions.

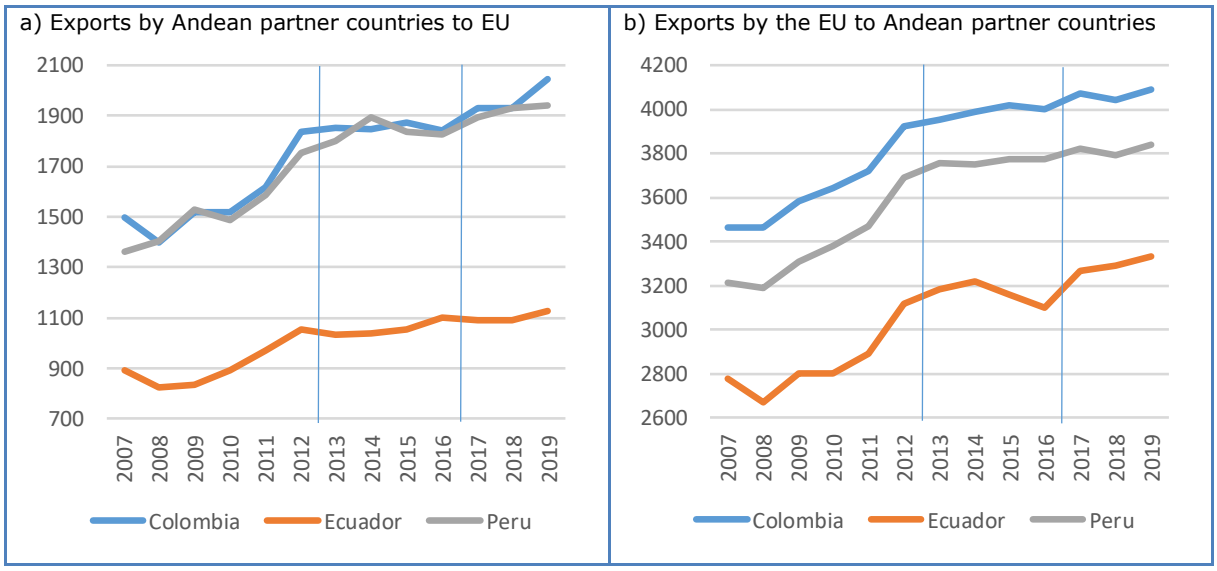
5.10.1 Diversification of products traded

Since the start of application of the Agreement, all Parties have started to export numerous new products to the respective partner. For example, the **Colombia**n Government noted in the consultations that more than 580 new products started to be exported since 2013.

Peru's annual reports on the Agreement also report on the number of new exports. The latest one (Ministerio de Comercio Exterior y Turismo 2020) indicates that over the period 2013 to 2019, 1,013 new products – of which 98% from non-traditional export sectors – with a total export value of USD 1.2 billion were exported to the EU. In **Ecuador**, based on information provided by the Government, over the period 2017 to 2020 at the subheading level 123 new agricultural products with average annual exports worth USD 2 million, and 689 non-agricultural products with an average annual export value of USD 4.6 million were exported to the EU. Examples include, in the agricultural sector, first-time exports in 2020 to the EU of Gerbera flowers (export value USD 0.6 million) and cocoa butter (USD 0.2 million). Among non-industrial goods, examples include copper alloys, rubber conveyor belts, and printing machines.

While these numbers are impressive, they provide an incomplete picture because they do not include information about the number of products that ceased to be exported. This is addressed when counting the total number of products exported to the partner over the years: if exports diversify, the number of different products exported should increase over time. Seen from this angle, the performance of Andean exports to the EU since the start of application of the Agreement is less impressive (Figure 5-30a): although the number of products exported from any of the three Andean partner countries in 2019 is higher than in the respective year of start of application, the diversification growth rate slowed down for all of them during the post-Agreement period. A similar trend can be observed for EU exports to the partners, with the possible exception of EU exports to Ecuador (Figure 5-30b). These data indicate a rather low effect of the Agreement on the composition of bilateral exports.

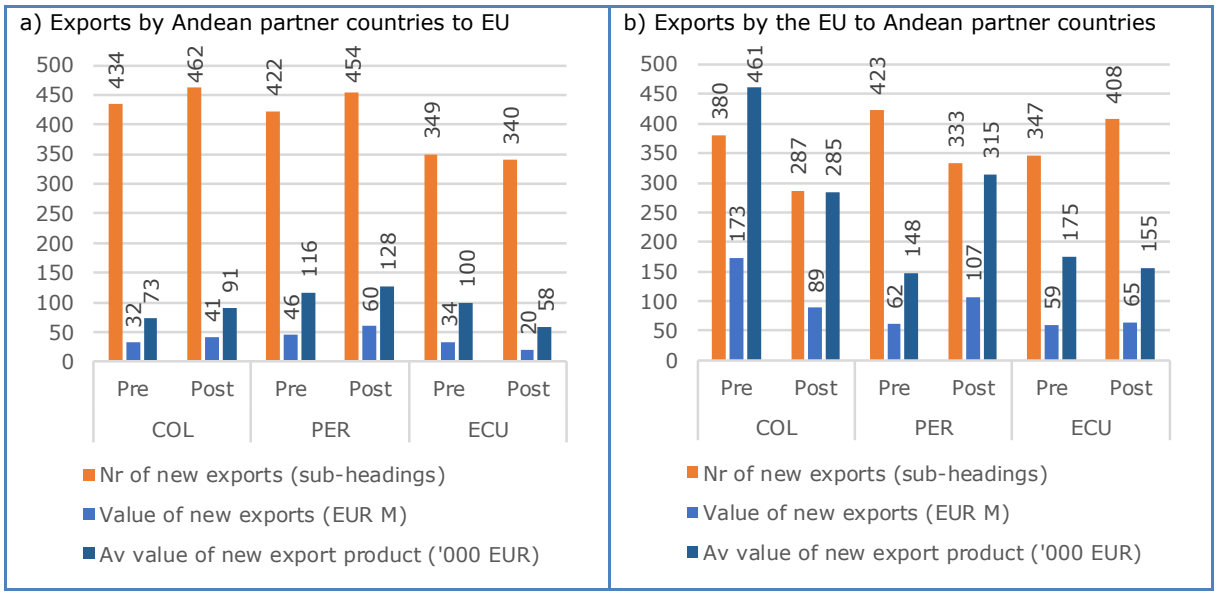
Figure 5-30: Number of products exported to Agreement partners, 2007-2019



Note: Products are counted at the HS sub-heading (6-digit) level. Exports by Andean partners are based on mirror statistics (i.e. imports reported by the EU)
Source: Authors' calculations based on EU COMEXT database.

Figure 5-31 complements the information by comparing the per- and post-Agreement averages for the number of new products exported to the respective partner per year, their value, and the average value of individual new export products. These indicators present limited differences between the two periods.

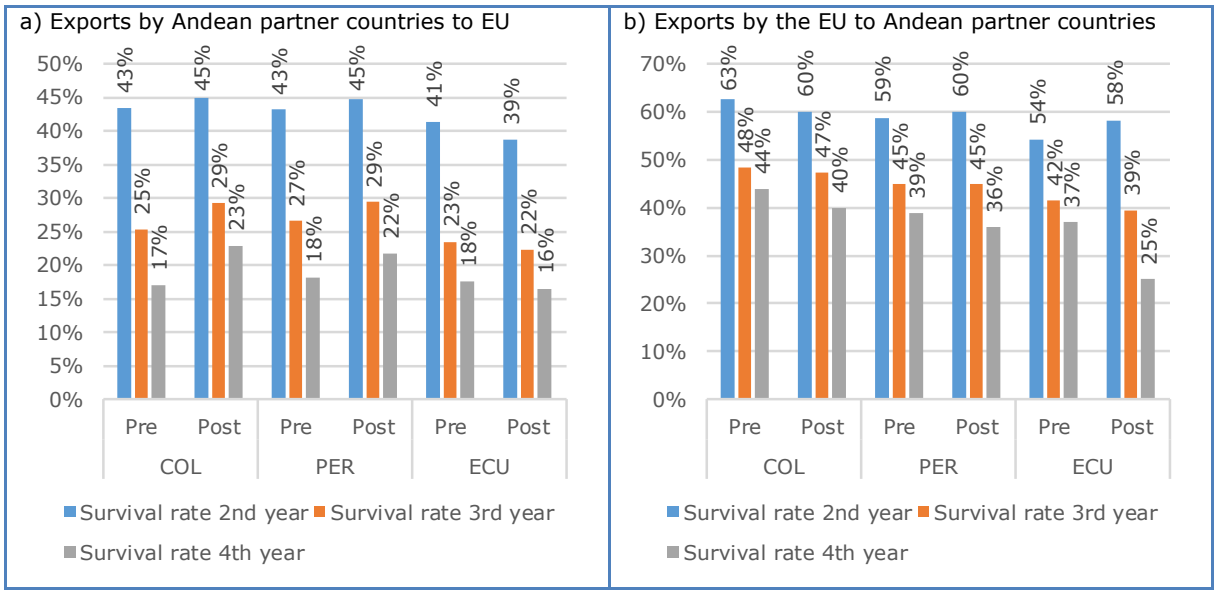
Figure 5-31: New export characteristics before and after Agreement's start of application



Notes: Exports by Andean partners are based on mirror statistics (i.e. imports reported by the EU). For Colombia and Peru, "Pre" refers to averages for 2008-2011, and "Post" to averages for 2013-2019. For Ecuador, "Pre" refers to averages for 2013-2016, and "Post" to averages for 2017-2019.
Source: Authors' calculations based on EU COMEXT database.

An indicator for the relative success of new exporters over time is presented in Figure 5-32, which shows the survival rates of new exports, i.e. the share of new exports that are consecutively exported to the respective partner for a second, third and fourth year.

Figure 5-32: Survival rates of new exports before and after Agreement's start of application



Notes: Based on exports at HS sub-heading (6-digit) level. Exports by Andean partners are based on mirror statistics (i.e. imports reported by the EU). For Colombia and Peru, "Pre" refers to averages for 2008-2011, and "Post" to averages for 2013-2019. For Ecuador, "Pre" refers to averages for 2013-2016, and "Post" to averages for 2017-2019.
Source: Authors' calculations based on EU COMEXT database.

For exports from Andean countries (Figure 5-32a), less than half of new export products (between 40% and 45%) are exported over two consecutive years, about a quarter over three years, and about a fifth over four years. While these number may sound low, they are roughly in line with international experience: entering into a new market is risky. In

this context, it is interesting to note that the survival rate of new exports from Colombia and Peru slightly improved in the post-Agreement period (by between two and four percentage points) – which could be a consequence of different factors, including better information about the EU market being available, a more strategic approach to entering the EU market, or a more stable trading environment provided by the Agreement compared to the unilateral preferences available previously. On the other hand, the survival rate of new exports from Ecuador slightly declined since the start of application in 2017. One explanation could be – although this requires further research as the study progresses – is that new exporters to the EU were mostly very small and not able to sustain exports over time. One indication for this is that the average value of new exports to the EU in the post Agreement period was smaller than prior to the start of application (see Figure 5-31 above).

For new exports from the EU (Figure 5-32b), survival rates are generally higher (between 55% and 60% in the second year, and still 35% to 45% in the fourth year, with one exception, but they have dropped since the start of application of the Agreement. Again, an explanation is a desideratum for the remainder of the evaluation.

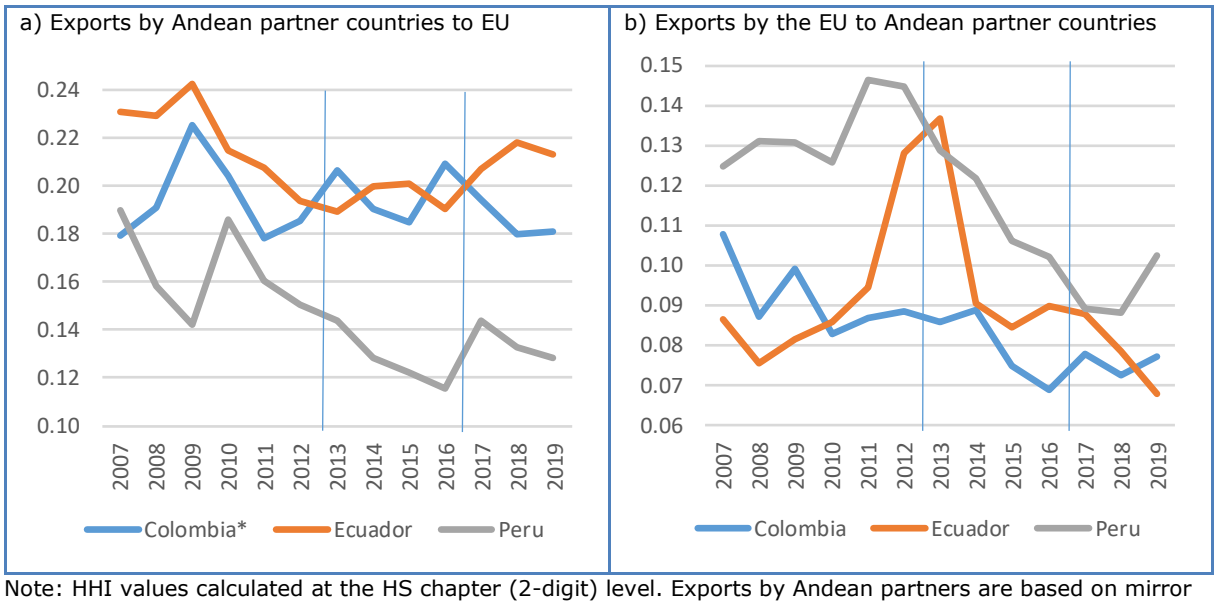
Another measure of the level of export diversification (or concentration) is through an index that measures the degree of export concentration in value terms. This takes into account differences in values of products being exported. We use the Herfindahl-Hirschman Index (HHI), applied at the HS chapter level.[74] Figure 5-33 shows that, first, EU exports to the Andean partner countries are more diversified – as is to be expected considering the much larger economic size of the EU. Second, and more importantly for the evaluation of the Agreement, the level of export concentration of the Andean partner countries has evolved unevenly over time. For **Colombia**, excluding coal/hydrocarbons, it has been quite stable over time, i.e. no diversification of exports has taken place. This assessment changes if hydrocarbons are included – the Colombian Government has pointed out in the consultations that non-hydrocarbon exports amounted to only 22% of Colombia's total exports to the EU in 2012, but 52% in 2019. But as explained above much of that effect has to do with the changes in the world market price rather than effects of the Agreement. In **Peru**, export deconcentration progressed rapidly from 2010 to 2016, and resumed again after 2017. As the process started already before the Agreement, it is difficult to attribute it to the Agreement. Finally, **Ecuador** saw an increase in export concentration since 2016, which would rather indicate a negative impact of the Agreement on the product diversification of exports.

For the **EU**'s exports to the partner countries, a clearer trend towards less export concentration can be observed (Figure 5-33b). Especially exports to Peru and Ecuador saw a change in trend since the start of application of the Agreement, which indicates that the preferential access accorded to EU exporters has led to more diversified exports.

These different trends can be explained with the level of opening by the respective markets: for the Andean partners, which had already benefitted from preferential access to the EU for many products under the GSP+, the additional product coverage of the Agreement was more limited than the Andean partner countries' preferential access for EU exporters.

[74] The HHI ranges from zero to one. A score of one means that only one product or sector accounts for a country's total exports, whereas a value approaching zero would mean that a country exports a multitude of products, each at small volumes, i.e. has a highly diversified export structure. A sensitivity analysis of calculating the HHI at the HS sub-heading level has been undertaken, yielding very limited differences to the analysis at chapter level.

Figure 5-33: HHI of bilateral exports by Agreement partners, 2007-2019



Note: HHI values calculated at the HS chapter (2-digit) level. Exports by Andean partners are based on mirror statistics (i.e. imports reported by the EU). *Values for Colombia exclude coal exports (HS chapter 27).
Source: Authors' calculations based on EU COMEXT database.

Some interviewed stakeholders were rather sceptical regarding the diversification of exports over time (and did not really see a link between the Agreement and the, in their view, limited diversification has taken place). For example, it was stated that Colombia had but one really successful new export product, avocados; but what was lacking was successful development of exports of processed or value-added products. More views will be collected as the study progresses.

Another type of bilateral trade diversification concerns the regional dimension, especially in the EU. In this context, the Government of Ecuador notes that exports since the start of application of the Agreement in 2017 managed to open up new markets among the EU Member States away from the traditional markets France, Germany, Italy, Spain and the UK. Table 5-11 provides some examples.

Table 5-11: New EU destinations for selected exports from Ecuador opened since 2017

Product	New EU markets
Banana	Slovenia, Greece, Finland
Shrimp	Denmark, Cyprus, Poland, Romania
Fish products	Czech Republic, Croatia, Slovakia, Estonia, Latvia
Flowers	Slovakia, Greece Ireland
Cocoa	Poland
Coffee	Latvia
Palm oil and other oils, and related products	Ireland

Source: Banco Central del Ecuador

5.10.2 Diversification of exporters

The number of new exporters starting to export to the EU since the start of application of the Agreement has varied across the partners (Table 5-12).[75] In **Ecuador**, according to information provided by the Government, 566 new exporters have exported to the EU in the period 2017 to 2020 (on average 142 per year), and 1,282 from **Colombia** since 2013 (183 per year on average).[76] No information could be obtained for these two countries with regard to the value of exports from the exporters, nor about the net number of exporters

[75] No information could be obtained on the number of EU firms starting to export to the Andean partner countries.
[76] Only counting non-mining products with an export value of more than USD 10,000.

from the two countries for any given year. **Peru** reports the highest number of new exporters per year, ranging from 500 to 600 in any year since 2013. Of the new exporters, 89% were micro and small businesses; the total value of exports to the EU from new exporters over the period 2013 to 2019 was USD 6.8 billion (Ministerio de Comercio Exterior y Turismo 2020). In the absence of any data for the pre-Agreement period, it is however impossible to determine any potential impact of the Agreement on these numbers.

Table 5-12: Number of new exporters from Andean partner countries since Agreement's start of application

	2013	2014	2015	2016	2017	2018	2019	Total	Av per year
Colombia	..	..	..	..	..	..	..	1,282	183
Peru	578	563	606	498	505	499	507	3,756	537
of which still exporting to EU in 2019	*60*	*81*	*95*	*108*	*159*	*195*			
Survival rate	*10%*	*14%*	*16%*	*22%*	*31%*	*39%*			
Ecuador					..	..	..	566	142

Sources: Colombia: information provided by ProColombia; Ecuador: information provided by Government; Peru: Ministerio de Comercio Exterior y Turismo (2020).

Data on survival rates for exporters, i.e. the share of exporters that manage to export to the EU in at least a second years after the initial market entry, are available only for Peru (Table 5-12). Although these appear to be low at first sight, the Peruvian survival rates are not too different from those in other countries. Internationally, about 50% of exporters continue to export in a second consecutive year (Eaton et al. 2008), compared to Peru's 39% of first-time exporters to the EU in 2018. Albornoz et al. (2016) found a 31% survival rate after two year for Argentina, equal to Peru's first time exporters in 2017. There is no indication that the Agreement had any impact on the survival rate of exporters – as is to be expected as the Agreement as such has no provisions that would reduce the entrepreneurial risk of new market entry into the EU.

5.10.3 Summary

Trade between the Parties today is clearly more diversified than at the time the Agreement started to be applied: more products are being traded and more exporters are involved – both in the EU and the Andean partner countries. The level of export concentration has evolved more unevenly, with a decline being most pronounced for the EU and Peru but little change in Colombia (if coal exports are excluded) and Ecuador.

The Agreement's impact on this overall positive evolution seems to be limited however, judging from a longer-time trend analysis: most of the positive developments were already evident prior to the start of application of the Agreement, and in most instances actually slowed down since then. A preliminary conclusion is thus that the Agreement has had a limited effect on bilateral export diversification. To foster the Agreement's role in the regard, more complementary measures, such as export marketing training for businesses, (even) more information about the respective partner market, and more specific support in market entry might be conceived.

5.11 Impact of the Agreement on SMEs

The Agreement includes a number of provisions which are specifically aimed at ensuring that SMEs (including micro-enterprises) benefit from the it. The evaluation of the Agreement's impacts on SMEs therefore not only looks at the "outcome", i.e. the trade performance of SMEs in the Parties (section 5.11.1), but also the implementation of the SME-related provisions in the Agreement (section 5.11.2).

As much of the broader analysis undertaken as part of the evaluation serves as an input to the SME analyses, at this stage we present only very preliminary findings.

5.11.1 SME trade performance

A systematic analysis of the SME's trade performance remains to be done (including for the EU) and will be presented in the draft final report; this will also include the presentation of a number of SME experiences. Initial findings are as follows.

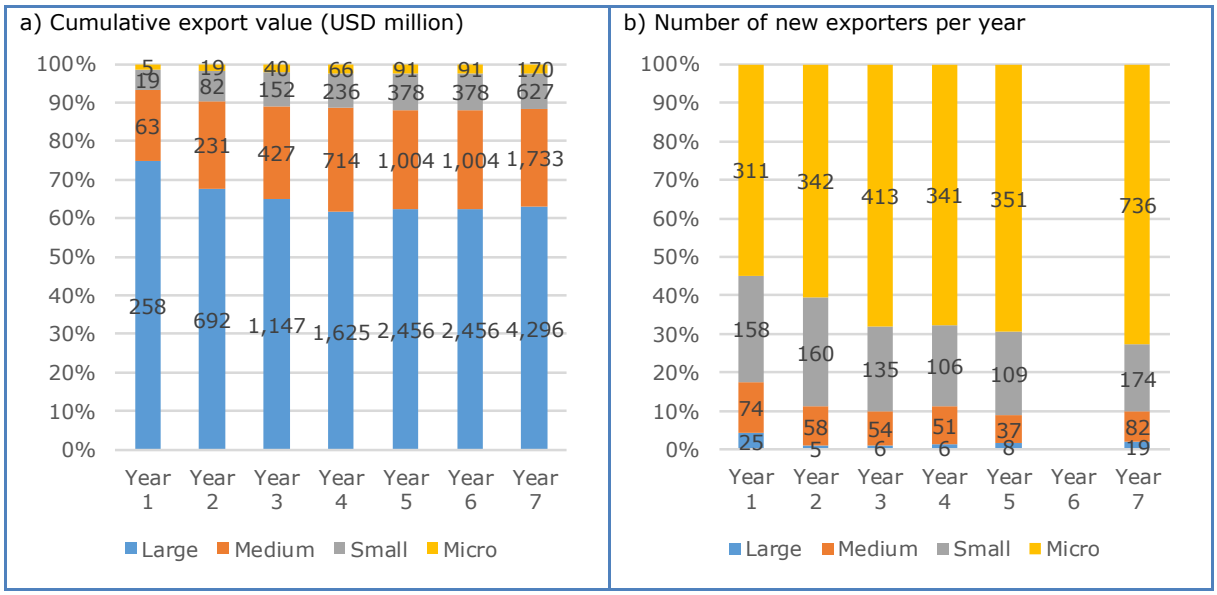
Colombia

The government has indicated that the majority of new exporters are SMEs; but a more detailed analysis remains to be done.

Peru

As mentioned above (section 5.10.2), 89% of new exporters since the start of application of the Agreement were micro and small businesses. Figure 5-34 provides information about the evolution over time. It shows that, in terms of export value (Figure 5-34a), MSMEs account for a minority (slightly less than 40%) of new Peruvian exports to the EU SMEs, with medium sized enterprises being most important (25% of total), followed by small exporters (10%) and micro ones (3%). The share of MSMEs exports increased in the initial four years of the Agreement and has since been constant. This indicates – this is to be confirmed in consultations – that MSMEs needed more time to become aware of the Agreement, develop the EU market and learn how to export under it; in this context, we note the various technical assistance projects that have been undertaken to support MSMEs (see next section).

Figure 5-34: New exporters from Peru to the EU by size, years 1-7 of the Agreement



Note: Classification of companies is by export value: micro: less than USD 100 k; small: USD 100 k to less than USD 1 M; medium; USD 1 M to less than USD 10 M; large: USD 10 M and above. Only registered companies with export value of at least USD 1,000 are represented. For year 6, the source reports the same values as for year 5, hence data for year 7 represent the new exports and exporters for year 6 & 7 combined.
Source: Authors' calculations based on the annual implementation reports, Ministerio de Comercio Exterior y Turismo (2014; 2015; 2016; 2017; 2018; 2019; 2020).

In terms of the number of exporters, (Figure 5-34b), micro-exporters constituted 55% of all exporters in the first year of the Agreement, and this share increased every year since, to 73% in year 6 and 7. This indicates that the Agreement has increased the willingness of small Peruvian companies to try the EU market, i.e. reduced the threshold for market entry.

Ecuador

Although no detailed statistics on the involvement of Ecuadorian SMEs in trade with the EU are available, according to the Government of Ecuador, more than 65% of the country's non-oil exporting companies to the EU are MSMEs; this corresponds to more than 700 companies. For these companies, about 70% of their exports are directed to the EU market. The Government notes that these companies have managed to position themselves in specific market niches in EU Member States, which were opened up, or kept open, by the Agreement.

5.11.2 Implementation of SME-related provisions in the Agreement

As mentioned, the Agreement includes a number of provisions explicitly aimed at facilitating trade between the Parties for (M)SMEs.[77] These are however quite limited. They include the following ones:

- In Article 59, the Parties commit to "provide effective, prompt, non-discriminatory and easily accessible" appeal procedures in relation to customs, specifically for MSMEs;
- Article 109 foresees the possibility for the Trade Committee to establish Working Groups, inter alia for "recommending mechanisms to assist Micro and SMEs in overcoming obstacles faced by them in the use of electronic commerce;"
- In relation to public procurement, the Parties "recognise" the importance of MSME participation and "agree to exchange information and work jointly" to facilitate this (Art. 192), including by providing information to allow for a "better understanding" of the Parties' public procurement markets for MSMEs (Art. 193);
- To promote the "development of Micro and SMEs, using trade as a tool for reducing poverty" (Art. 324(2)(b)), the Parties agree to strengthen cooperation which, in the understanding of the Agreement's Title XIII, also comprises technical assistance.

Possibly more important than these provisions are those that implicitly help MSMEs make use of the preferences which the Agreement provides. One important example is a measure aimed at ensuring that small exporters' exports can use tariff preferences without having to comply with the general rules to prove origin, i.e. the use of invoice declarations on origin for shipments of up to EUR 6,000[78] (Art. 20 of Annex II).

The following paragraphs review the implementation of the above stated provisions in practice.

Customs appeals procedures, and simplification of customs procedures more generally

All business stakeholders interviewed stated that the implementation of customs rules did not pose any problems, and that customs issues are normally solved through the normal procedures. No cases of formal appeals could be identified. It thus appears that the provision in Article 59 has not had to be used so far, and that customs measures do not pose a barrier for MSMEs to benefit from the preferences granted under the Agreement (also see section 5.5 above).

Although more analysis needs to be done at the next stage of the evaluation, including on the basis of the preference utilisation analysis, information available for Ecuador indicates that the use of invoice declarations has been instrumental to ensure the participation of micro and small enterprises in bilateral trade.

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[77] The Agreement specifically includes micro-enterprises in the definition of SMEs. Article 13(3) refers to "micro, small and medium-sized enterprises (hereinafter referred to as 'Micro and SMEs')".

[78] Authorised exporters can also use invoice declarations, including for shipments above EUR 6,000.

In **Ecuador**, invoice declarations have been used at an increasing number, and the value of exports covered by them more than doubled from USD 10 million in 2017 to USD 21 million in 2019; the drop in 2020 is most likely a consequence of Covid-19 (Table 5-13). Also, the share of exports using invoice declarations in total EU exports to Ecuador increased from 0.4% in 2017 to 0.8% in 2019 – this is still small but an indication that small exporters are increasingly using the preferences provided under the Agreement. Ecuadorian stakeholder consulted so far did not mention any issues with invoice declarations, such as rejections by importing EU customs authorities.

Table 5-13: Use of invoice declarations by EU exporters to Ecuador, 2017-2020

	2017	2018	2019	2020
Number of transactions/invoice declarations	3,591	6,568	7,729	6,244
Declared FOB value ('000 USD)	10,446	18,429	21,042	16,435
Average value per declaration (USD)	2,909	2,806	2,722	2,632
Total value of ECU imports from EU (million USD)	2,591	2,878	2,525	..
Share of imports using invoice declarations in total imports (%)	0.4%	0.6%	0.8%	..

Sources: Authors' calculations based on data provided by SENAE, Ecuador; and UN COMTRADE (total value of imports).

Facilitation of MSMEs' use of e-commerce

As reported above (section 5.8.4) the Agreement chapter on electronic commerce in general appears to have played a very limited role in the Agreement's implementation. No working group on MSMEs' use of e-commerce has been established, nor does this seem to have been discussed in any other forum under the Agreement.

Participation in government procurement

Information about the participation of the Parties' MSMEs in the respective other Parties' government procurement markets is not available. Nevertheless, as the analysis of public procurement shows (section 5.7), in general the Agreement appears to have had a limited effect on the participation of businesses in the EU in the Andean public procurement markets, and it has had no effect vice versa. Accordingly, no impact (positive or negative) on MSMEs is found. An obvious way for MSMEs to participate in public procurement markets is in consortia and as subcontractors. This, as analysed in section 5.7 is indeed what has happened in practice, at least for EU companies' participation in Andean countries' procedures – but there is no indication that this would have been influenced by the existence of the Agreement.

Specifically with regard to the Agreement's provision that Parties would provide information for MSMEs to allow for a better understanding of their public procurement markets, this has happened only to a limited extent. In this regard, the recommendations made in section 5.7 – that procurement websites should provide dedicated information about procedures covered by the Agreement, and that training should be provided to economic operators (including MSMEs) on how to navigate the online procurement systems – would benefit MSMEs specifically.

Technical assistance to facilitate MSME trade between the Parties

Complementary to the Agreement, the EU has provided technical assistance to enhance the (export) competitiveness of MSMEs in the Andean partner countries and foster bilateral trade. Box 5-3 provides some examples of the support initiatives.

A further assessment of the effectiveness of these initiatives still remains to be done.

Box 5-3: Selected EU support to increase the competitiveness of MSMEs and bilateral trade

Colombia

- Budget Support Regional Competitiveness in Colombia, a EUR 31.8 million programme supporting MSMEs, local productive units, national authorities, regional competitiveness commissions (RCC) aimed (1) consolidating governance schemes at sub-regional level for local economic development based on local competitive/comparative advantages; (2) increasing the productivity of rural SMEs and economic inclusion of vulnerable communities; and (3) increasing market access for MSMEs in poorer regions.
- Quality for Competitiveness - Reducing Quality Gaps of Regional MSMEs (2019-2021), a EUR 1.9 million project to improve metrological capacities and quality of MSMEs of two supply chains (cocoa and avocado) and the national authorities
- Sustainable production and trade (2019-2021), a EUR 1 million initiative to foster local economic development, entrepreneurial development and sustainable trade that reduce socioeconomic gaps and inequity

Ecuador

- Strengthening the capacities of MSMEs for the internationalisation of their production to the EU market, as well as strengthening institutional capacity of the Ministry of Trade. The project supported 107 MSMEs and 13 associative groups, of which 31 companies managed to export and 58 were ready to be exporters by the end of the project; of the associative groups, 6 were internationalised. A 34% increase in employment was generated, benefiting a total of 8,616 people. 90% of the project beneficiaries belong to the agri-food sector, all of them producing non-traditional exports, including chocolate, super food snacks, natural drinks or juices, and coffee and its derivatives.

Peru

- Seminar on EU Medical Devices Legislation (2018), organised by Eurocámaras, and technical assistance to DIGEMID to facilitate medical devices exports from Peru to the EU.
- Roadshow on INDECOPI activities on bureaucratic barriers (2019), organised by Eurocámaras, and technical assistance to members of Eurocámaras.

EU businesses

- ElanBiz (2015-2018), an EUR 11 million project financed by the Partnership Instrument. Aimed at the creation of a market access platform to Latin America for EU companies. Particular focus on Research and Innovation, Transfer of technology, Renewable Energies, Biotechnology and Bioeconomy, Environmental Technologies, Health, New Materials, Information and communications technology, Nanotechnologies[79]
- Market Access Team Peru (2019-2020, 2nd phase of ElanBiz), aimed at providing further information about Peru to facilitate market access for EU companies.

Source: Compiled by the Authors based on information provided by the EU Delegations in Colombia, Ecuador and Peru, and the Government of Ecuador.

5.11.3 Summary

Based on the analysis performed so far, the Agreement appears to have encouraged MSMEs to engage in bilateral trade between the Parties. This primarily seems to be a consequence of the tariff preferences in combination with the (relatively) efficient operation of customs, and including the use of invoice declarations on origin.

Some stakeholders in **Ecuador**, both from the public and private sectors, considered that the impact of the Agreement on MSMEs has been very positive, as it had created many opportunities for expanded sales either as direct exporters and as suppliers to exporters. At the same time, these stakeholders recognised that the positive potential of the Agreement from MSMEs is still not fully utilised – while many MSMEs are interested in exporting to the EU, fewer are actually capable of doing so. Stakeholders therefore highlighted the importance of providing assistance to businesses, including in such matters as compliance with SPS requirements.

Representatives of **EU** businesses in the Andean partner countries noted an increased involvement of EU MSMEs in the partner countries, including as investors, but doubted that this was a consequence of the Agreement, pointing rather to other developments, such as the Peace Agreement in Colombia or increased awareness raising at a bi-national level in the context of priorities set by individual EU Member States.

[79] https://www.elanbiz.org/home.

The explicit provisions in the Agreement aimed at facilitating the involvement of MSMEs in trade between the Parties seem to have played a role, albeit limited, with the exception of the technical assistance to businesses provided.

5.12 Impact of the Agreement on EU and partner country budgets

Due to the application of preferential tariffs, the Agreement has an impact on public revenues in the EU and the partner countries. Two effects need to be distinguished here. First, a direct, negative effect is caused by foregone tariff revenues due to the lower (or zero) tariffs under the Agreement when compared to MFN tariffs. The magnitude of this effect depends on the difference between MFN and preferential tariffs as well as on the scope of the trade diversion effect, i.e. the level of imports that are no longer sourced from a third country subject to MFN treatment but from the Agreement partner. These effects can be directly derived from the CGE model simulations. The second, usually positive, effect on government revenue stems from the overall changes in the economy brought about by the Agreement, measured e.g. by changes in GDP; typically, these changes in other government revenues (apart from tariff revenues) are roughly proportional to changes GDP.

Table 5-14 summarises the results of the calculations. The **EU** foregoes tariff revenues of USD 424 million (EUR 354 million) due to the Agreement, equivalent to about 1.6% of total tariff revenues in 2019. Among the partner countries, the impact is strongest for **Colombia**, estimated at USD 771 million in foregone tariff revenues, of which about one third resulting from diversion of imports. This is equivalent to 58% of trade taxes collected in 2019, or 1.2% of total 2019 government revenues. The indirect positive impact on revenues from the GDP growth caused by the Agreement is negligible. The high impact can be explained by relatively high Colombian MFN tariffs on goods for which the EU is an important supplier, such as motor vehicles, machinery, chemicals and pharmaceuticals. For **Peru** and **Ecuador**, the revenue impact is modest: tariff revenues are lower by USD 44 million for Peru and USD 28 million for Ecuador, equivalent to 0.1% of the respective total government revenues in 2019. Due to the relatively strong GDP impact of the Agreement in Ecuador, the indirect effect there overcompensates the duty revenue loss, and the overall effect of the Agreement is a marginal revenue increase of USD 29 million or 0.1%.

Table 5-14: Impact of the Agreement on the Parties' government revenues, 2020

	EU	Colombia	Peru	Ecuador
(1) Tariff revenue effects				
Change in tariff revenues (USD million)	**-424**	**-771**	**-44**	**-28**
Tariff revenues change from imports from partner(s)	-424	-525	-43	-28
Tariff revenues change from imports from third countries	0	-246	0	-1
Total taxes on international trade, 2019 (USD million)	26,707	1,325	423	..
Change in tariff revenues (% of trade taxes, 2019)	**-1.6**	**-58.2**	**-10.3**	**..**
Total revenue, 2019 (USD million)	..	62,658	38,386	35,914.00
Change in tariff revenues (% of total revenues, 2019)	**..**	**-1.2**	**-0.1**	**-0.1**
(2) Other revenue effects				
Change in GDP resulting from Agreement (%)	0.007	0.012	0.029	0.161
Proportional change in government revenue	..	8	11	58
Total revenue effects				
USD million	**..**	**-763**	**-33**	**29**
% of total government revenue	**..**	**-1.2**	**-0.1**	**0.1**

Sources: Authors' calculations based on European Commission DG TRADE CGE modelling results, DG TAXUD (EU tariff revenues), IMF Government Finance Statistics database (Colombia, Peru), and IMF (2020; Ecuador).

5.13 Impact of the Agreement on EU Outermost Regions (ORs)

The nine outermost regions (ORs) of the EU consist of six French overseas territories (French Guiana, Guadeloupe, Martinique, Mayotte, La Réunion and Saint Martin), two Portuguese autonomous regions (the Azores and Madeira) and one Spanish autonomous community (the Canary Islands). The ORs are primarily active in traditional sectors, as

agriculture, fishing and livestock farming. Typical products produced in these regions include exotic fruits and vegetables (e.g. bananas, melons, sugar cane, tomatoes and potatoes), fish through fishing or fish farming, and meat through livestock farming. The Azores for example produce approximately 30% of Portugal's total milk production (EC, 2017). Several ORs, such as La Réunion, Martinique and French Guiana, have diversified their economies towards small industries in the construction and public works sector, the wood sector, and the mining industry. The majority of these regions also largely depend on their hospitality, tourism and cruise sector.

Table 5-15 shows the values of exports and imports to/from the EU and the three Andean partner countries for eight ORs[80]. In general – with the exception of Madeira and, to a certain extent French Guiana), the ORs' imports from the EU (as well as total imports) are much larger than exports. Second, exports to the Andean partner countries from the ORs are insignificant; the same is true for most ORs' imports, with the exception of Guadeloupe, which sources 6% of imports from the partner countries, and Martinique (2.4%). Third, comparing the value of OR exports to the EU and to the rest of the world over time does not indicate any impact of the Agreement on them, with the potential exception of Guadeloupe and French Guiana: all other ORs' exports to the EU outperformed their exports to the rest of the world consistently before and after the Agreement (or, in the case of Martinique, consistently underperformed), which indicates no loss in (relative) export competitiveness for them after the Agreement started to be applied. For French Guiana, although the pattern of trade over time is in line with the expectation that it was affected by preference erosion, the specific trade structure (mostly related to space technology, which is not driven by tariff changes) shows that the Agreement has had no overall impact. This leaves Guadeloupe as the only OR whose exports to the EU might have been negatively affected – although this has been more than overcompensated by exports to the rest of the world.

In general, therefore, the small volumes of trade between the ORs and the three Andean partner countries, as well as the limited trade effects of the Agreement in the EU as estimated by the CGE simulations translate into modest overall impacts on any OR.

A potential impact of the Agreement on the ORs could exist at the sector/product level. As the CGE model does not represent the ORs as a separate region, a matching analysis between OR and Andean country exports has been used to estimate this impact. The logic is the following: if OR exports to the EU compete with Andean partner country exports to the EU, the effects are likely to be negative for the ORs in the sectors where partner country exports are expanding, through preference erosion and/or increased competitive pressure.[81] The likely significance of effects of the Agreement on OR exports to the EU can thus be inferred from the CGE estimates. Conversely, any impact on OR imports, even at the sector or product level, is limited by the very small shares of imports by the ORs from the Andean countries and the limited effect of the Agreement on EU trade.

Table 28 in Annex B shows the ORs' top export sectors/products to the EU over the period 2007 to 2019, as well as their performance over the period. Based on this, Table 5-16 lists the main exports highlighting those that may have faced stronger competition from the Andean partner countries in the EU market resulting from the preferences under the Agreement, based on the CGE model results as well as observed strong increases in exports from the Andean countries (see section 5.1 above): this applies to vegetables and fruits and processed food products (such as fish preparations) as a result of the CGE model, and sugar, alcoholic beverages, as well as fish and crustaceans based on the descriptive statistical analysis. This means, that specific sectors in six ORs – Guadeloupe, Martinique,

[80] The French Statistical Service does not provide data for Saint Martin; accordingly, it is excluded from the analysis.

[81] In line with the approach throughout this report, this analysis is performed on a ceteris paribus assumption, i.e. influencing factors other than the Agreement are assumed to remain constant.

La Réunion, Canary Islands, Azores, and Madeira – could be (negatively) affected by the Agreement.

Table 5-15: Value of exports/imports to/from the EU and Andean partner countries for eight ORs (EUR million)

	Export								Import
	Av 07-12	Av 13-16	Av 17-19		CAGR 07-12	CAGR 12-16	CAGR 16-19		Av 17-19
Azores	**81.9**	**101.9**	**98.1**						
CO/EC/PE	..	..	..		..	..	..		..
EU28	47.3	62.1	62.6		23.6%	-4.5%	13.9%		122.4
ROW	34.6	39.8	35.4		17.5%	-9.6%	6.1%		44.3
Canary Islands	**2,092.2**	**2,381.5**	**2,748.1**						
CO/EC/PE	2.2	6.2	1.2		..	..	..		26.8
EU28	405.5	273.7	298.1		-2.7%	-5.6%	9.3%		2,526.6
ROW	1,684.5	2,101.6	2,448.9		9.4%	-5.3%	9.1%		1,390.3
Guadeloupe	**26.9**	**48.0**	**61.0**						
CO/EC/PE	0.0	0.0	0.3		..	..	..		55.4
EU28	14.3	20.3	22.9		12.5%	20.9%	-11.5%		271.0
ROW	12.6	27.7	37.8		1.4%	18.8%	-4.3%		654.8
Guiana	**509.7**	**405.0**	**756.5**						
CO/EC/PE	0.0	22.0	0.0		..	..	..		8.7
EU28	113.7	138.8	187.3		44.5%	-37.1%	113.4%		438.0
ROW	396.0	244.2	569.1		12.3%	-24.2%	93.8%		356.7
Madeira	**109.0**	**182.4**	**340.1**						
CO/EC/PE	..	..	..		..	..	..		..
EU28	71.9	104.7	218.3		29.7%	-9.2%	40.2%		147.1
ROW	37.2	77.7	121.8		27.5%	-1.0%	23.0%		19.7
Martinique	**33.4**	**62.0**	**40.8**						
CO/EC/PE	0.3	0.0	0.1		..	..	..		22.6
EU28	9.2	5.7	6.7		-9.5%	-6.8%	1.8%		222.4
ROW	23.8	56.3	34.0		-5.7%	3.2%	10.0%		715.6
Mayotte	**..**	**4.5**	**5.3**						
CO/EC/PE	..	0.0	0.0		..	..	..		..
EU28	..	0.4	0.7		..	..	55.2%		67.5
ROW	..	4.1	4.6		..	..	0.6%		193.1
Réunion	**169.9**	**178.1**	**139.9**						
CO/EC/PE	0.0	0.0	0.0		..	..	..		1.1
EU28	49.6	64.0	63.6		14.0%	2.5%	-7.7%		619.1
ROW	120.3	114.1	76.3		7.8%	-5.6%	-13.9%		1,291.8

Note: Trade values with EU exclude France for Guadeloupe, Guiana, Martinique, Mayotte and Reunion; Spain for Canary Islands; and Portugal for Azores and Madeira.
Source: Compiled by the authors from Foreign Trade Statistics of France (http://lekiosque.finances.gouv.fr/portail_default.asp), Foreign Trade Statistics of Spain (http://datacomex.comercio.es/), and National Institute of Statistics of Portugal (https://ine.pt/xportal/xmain?xpid=INE&xpgid=ine_base_dados).

Table 5-16: **Top export sectors/products from ORs to the EU, 2007-2019**

OR	Export sectors
Guadeloupe	**Sugar** (about 50% of total exports), waste, **tropical fruits**, yachts, perfumes, **spirits**
French Guiana	Aircraft & spacecraft (about 80% of total exports), other equipment, machinery and motor vehicles
Martinique	Waste (about 30% of total exports), yachts, **spirits** (about 10%), machinery, vehicles, motors
Mayotte	Electrical equipment, motors, meat, jewellery – due to very low exports strong fluctuations from year to year
La Réunion	**Sugar** (about 50% of total exports), **spirits**, waste, **canned fish**, car parts
Canary Islands	**Vegetables** (about 25% of total exports), aircraft & spacecraft, vehicles, machinery, essential oils, **fish and crustaceans**
Azores	Animals (about 30% of total exports), **fish and crustaceans**, dairy products, **processed food and beverages**, **meat and fish preparations**, machinery
Madeira	**Processed food and beverages** (about 30% of total exports), transport equipment, boats, **alcoholic beverages**; animals, **fish and crustaceans**

Note: Products potentially facing more competition on the EU market as a result of the Agreement are in **bold**.
Source: See Tables 28 and 29 in Annex B.

A more detailed review of the potentially affected OR sectors and products shows that (for the numbers, see Tables 28 and 29 in Annex B):

- **Guadeloupe:** For the potential impact of the Agreement on the sugar sector in Guadeloupe, see Box 5-4. With regard to tropical fruits and spirits, these account for relatively small shares of Guadeloupe's exports to the EU and both sharply increased in value after the start of application of the Agreement (although fruit exports again

decreased after 2015/16). These products therefore cannot have been negatively affected by the Agreement.

- **Martinique:** Martinique's exports of distilled beverages (mostly rum) fluctuated between EUR 0.8 million and EUR 0.9 million over the period 2007 to 2015, but have dropped to about EUR 0.6 million since. This can, however, not be attributed to the Agreement: as discussed above, rum is a sensitive product for the EU and covered by TRQs – and the analysis above has shown that quotas for rum have not been used by the Andean partner countries, i.e. no preferential exports of rum have taken place.

- **La Réunion:** The potential impact of the Agreement on the sugar sector in La Réunion is discussed in Box 5-4. Regarding spirits, the same logic as for Martinique applies. Canned fish exports to the EU hovered between EUR 1 million and EUR 2 million throughout the period 2007 to 2019, with no clear change in trend discernible since the start of application of the Agreement.

- **Canary Islands:** vegetable exports to the EU have consistently decreased over the whole period, with the decrease slowing down since the start of application of the agreement. Also, vegetable exports consist almost completely of tomatoes (HS 0702) and cucumbers (HS 0707), which are hardly exported at all by the three Andean countries. With regard to fish and crustaceans, exports from the Canary Islands dropped from an average of EUR 26.5 million prior to the Agreement to about half of that since the Agreement, but the main decline took place before the Agreement's start of application, from EUR 31.6 million in 2009 to EUR 14.8 million in 2012, and then stabilised. There is thus no indication that the decrease in fish exports from the Canary Islands is a consequence of the Agreement.

- **Azores:** Exports of fish and crustaceans dropped in the initial years after the Agreement started to be applied, from EUR 25.2 million in 2012 to EUR 16.2 million in 2016, but have since rebounded to 28.8 million in 2019. On average, exports were higher in the post Agreement period than before. Conversely, exports of processed food and meat and fish preparations dropped after the Agreement and have not recovered; it is therefore possible that the Agreement contributed to this – this needs to be further analysed, including through stakeholder consultations, in the next stage of the evaluation.

- **Madeira:** The pattern of Madeira's fish exports to the EU resembles that of the Azores, whereas processed food exports increased after the start of application of the Agreement. Alcoholic beverage exports remained mostly flat throughout the whole period; there is thus no visible impact of the Agreement; in addition, Madeira's main alcoholic beverage, Madeira wine, hardly competes with rums and other distilled beverages exported by the Andean countries.

Box 5-4: Potential impact of the Agreement on the sugar sector in Guadeloupe and La Réunion

The EU cane sugar industry is mainly concentrated in La Réunion and, to a lesser extent, Guadeloupe: the two ORs account for 80% and 20% of the EU production, respectively. In La Réunion, sugar production is of crucial importance: Sugar cane is cultivated on half its agricultural area, the sugar industry employs about 18,300 people and sugar products rank first among the island's exports (70% in value each year, including rum).

Stakeholders from the ORs are concerned that preferential Andean sugar exports actors became a threat to the European cane sugar industry and sugarcane growers in La Réunion and Guadeloupe, and that this threat was further accentuated by the abolishment of the EU sugar quota in 2017. The brief analysis presented in this box aims at assessing the potential impact in more detail. It should be stressed, however, that establishing causality is difficult due to the fact that other factors, such as the end of the EU sugar quota, also occurred during the period and without doubt impacted on the performance of the EU sugar market.

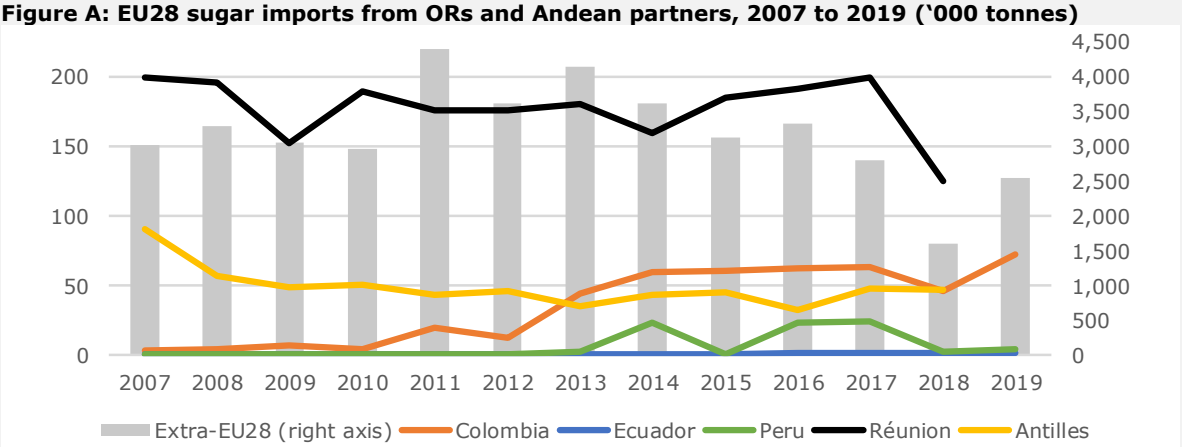
Sugar exports from the French Antilles (mostly **Guadeloupe**) to the EU declined from 91 thousand tonnes in 2007 to 35 thousand in 2013, and then stabilised, reaching 47 thousand tonnes in 2018 (Figure A). **La Réunion**'s sugar exports showed an uneven but largely declining trend from 200 thousand tonnes of exports

in 2007 to 159 thousand tonnes 2014, before recovering until 2017 to the 2007 value, and then sharply dropping to 125 thousand tonnes in 2018, a year after the sugar quota had been abolished. Sugar export values rapidly increased from EUR 26.1 million in 2007 to EUR 53.3 million in 2010, then continued on a slower and uneven growth path until 2017, reaching EUR 62.5 million, and then sharply dropping to just below EUR 40 million in 2018 and 2019. Export data are no longer reported since March 2019 due to confidentiality issues.

At the same time, EU imports of **Colombia**n sugar rapidly increased since the start of application of the Agreement, from 12 thousand tonnes in 2012 to 72 thousand tonnes in 2019. Some imports from **Peru** also took place since the start of application of the Agreement but remained highly volatile. Finally, sugar imports from **Ecuador** increased more or less steadily during the whole period 2007 to 2019 without any clear break in the trend from 2017, but remained very low, reaching about 1,600 tonnes in 2019.

Mostly driven by the increase in imports from Colombia, as well as the decline in total EU sugar imports during the last decade (Figure A), the combined market share of imports from the Andean countries in total extra-EU28 sugar imports increased from 0.4% in 2012 to 3.1% in 2019. By comparison, the corresponding shares of the two ORs also increased (between 2012 and 2018), from 4.9% to 7.7% in the case of La Réunion, and from 1.3% to 2.9% for the Antilles/Guadeloupe.

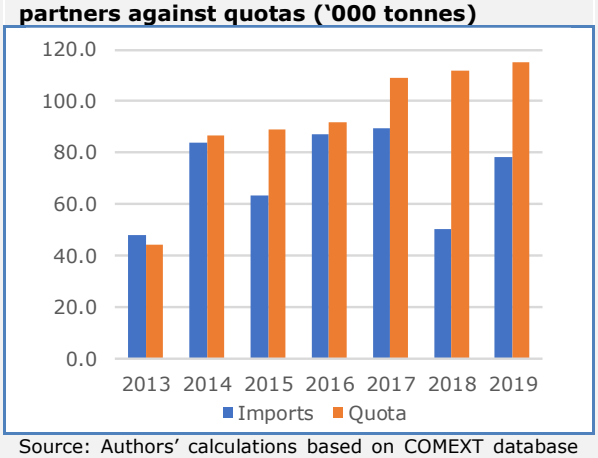
Figure A: EU28 sugar imports from ORs and Andean partners, 2007 to 2019 (‘000 tonnes)



Source: Authors’ calculations based on COMEXT database (COL, ECU, PER, and Extra-EU28) and FranceAgriMer (2020, 41) (Réunion and Antilles); the latter are reported total exports (including to France; exports from ORs to non-EU destinations are negligible).

Cane sugar (HS 1701) is covered by the EU TRQs for the Andean countries.[82] As the TRQ analysis in section 5.1.5 above has shown, Colombia has (almost) fully used its quotas in recent years; Peru’s fill rate of quotas was about 100% in the first years of the Agreement but dropped to 10%-20% in 2018 to 2020; and Ecuador has used about 10% of the quota in 2018 to 2020. Figure B shows the combined quotas and imports from the Andean countries. Although the annual increase in quotas is relatively limited,[83] compared to the imports of 2018 and 2019 there is still considerable scope for expansion of exports from the three countries (in a combined view). On the other hand, the sugar sectors in La Réunion and Guadeloupe were able to withstand the increasing competition from especially Colombia in the period up to 2019, as their also increasing exports show.

Figure B: EU28 sugar imports from Andean partners against quotas (‘000 tonnes)



Source: Authors’ calculations based on COMEXT database and CIRCABC TRQ database.

There is however one complication, i.e. the composition of sugar imports. A small but very profitable market segment is speciality sugars, which constitutes about 1.5% of the EU sugar market. According to the Sugar Association of La Réunion, this segment accounts for 45% of La Réunion’s sugar production, and the Association states that the growth of speciality sugars imports from the Andean Community constitutes a big challenge for EU cane sugar producers. For example, based on import volumes, the share of speciality sugars exported from Colombia to the EU has

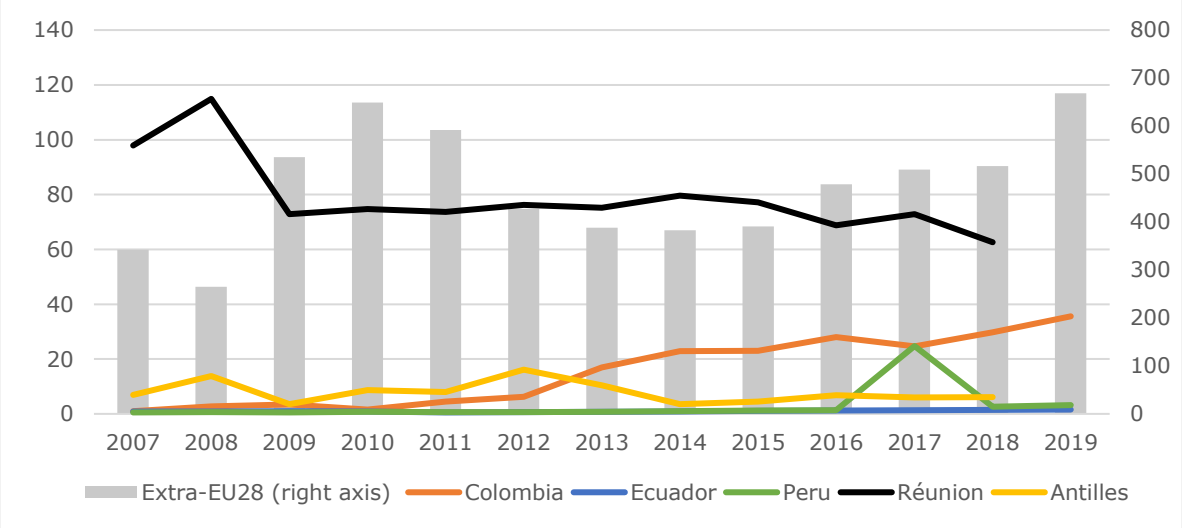
[82] For Colombia, category “SR” comprises cane sugars under HS 1701; for Peru, category “SR” also includes some other sugars under HS 1702, and for Ecuador, category “SR” only comprises raw cane sugar, whereas refined sugar is part of category “SP”.

[83] The low quota for 2013 is due to the fact that the Agreement started to be applied during the year with the quotas calculated pro rata, and the “jump” in 2017 is due to Ecuador’s accession to the Agreement.

increased from 34% in 2010-12 to 49% in 2017-19; for La Réunion, this share has been almost constant at 41%-42% over the same period.

Figure C shows a strong increase in EU speciality sugar imports from Colombia since 2013 and slight decline of speciality sugar exports from La Réunion. In line with these different trends, Colombia's market share (measured against total Extra-EU28 imports) increased from 1.5% in 2012 to 5.8% in 2018, while that of La Réunion decreased from 17.8% to 12.1% in the same period.

Figure C: EU28 speciality sugar[84] imports from ORs and Andean partners, 2007 to 2019 ('000 tonnes)



Source: Authors' calculations based on COMEXT database (COL, ECU, PER, and Extra-EU28) and FranceAgriMer (2020, 41) (Réunion and Antilles); the latter are reported total exports (including to France; exports from ORs to non-EU destinations are negligible).

In sum therefore, although La Réunion and Guadeloupe have largely been able to compete with increasing sugar imports from the Andean countries and the shift towards speciality sugar trade, the fact that further import increases within the established quotas are possible, as well as the high dependence of the two ORs (in particular La Réunion) on the sugar sector in combination with the existing competitive disadvantages (small size, location) call for a close observation of further trade trends. Such monitoring should not be restricted to the effects of only the Agreement but also consider imports from other countries with which the EU has FTAs in place, or is considering FTAs.

In sum then, with the potential exceptions of processed food and meat and fish preparations from the Azores (which is to be further analysed) and the stress caused by increased sugar imports from the Andean partners for Guadeloupe and especially La Réunion, we find no negative impact of the Agreement on OR exports and sectors.

5.14 Impact of the Agreement on developing countries and LDCs

The starting point for the analysis of the Agreement's impact on developing countries and LDCs are the CGE model simulations. Because the model does not have a separate LDC region, nor considers any individual LDC, the region "Sub-Saharan Africa" is used as a proxy for LDCs, and "rest of Asia" and the Middle East and North Africa (MENA) as proxies for developing countries more generally.

The overall economic impact of the Agreement on these country groups is negligible for both total exports and GDP change (Table 18 in Annex B): in percentage terms, for all three groups, the changes are not evident at the second digit percentage level (i.e. changes are 0.00%).

At a sector level, Sub-Saharan Africa registers marginal increases in exports and output for most sectors, but small losses in exports of fruit and vegetables (-0.2%) and other food

[84] HS codes 17011390 and 17011490 (prior to 2012: 17011190), 17019100 and 17019990.

products (-0.1%); nevertheless, these small losses in exports only lead to marginal declines in output from these sectors of -0.01% (see Table 23 in Annex B). In Asian developing countries as well as MENA countries, more sectors are estimated to register small declines in total exports as a result of the Agreement, of up to 0.1% (for motor vehicles and basic pharmaceutical products from both regions, as well as machinery, metal products, electronics, transport equipment, apparel, and metals from MENA countries). Unlike for Sub-Saharan Africa, these small export contractions also lead to (slightly lower) declines in output of the concerned sectors: for motor vehicles only in the case of Asia, and for a larger number of sectors in MENA countries (see Table 23 in Annex B).

In sum, the impact of the Agreement on LDCs and Asian developing countries has been negligible, both at the economy-wide and sector levels (except for a marginally negative impact on motor vehicles in Asian developing countries). For MENA countries, the macroeconomic impact is also negligible, but some sectors are estimated to register small negative effects on exports and output.

6 PRELIMINARY RESULTS OF THE SOCIAL ANALYSIS

6.1 Employment impacts[85]

The analysis of the Agreement's employment effects is guided by the results of the economic modelling, which estimates the impact of tariffs reductions (or avoidance of tariff increases) introduced by the Agreement on output and employment in individual sectors of the Parties' economies. This in turn helps to provide answer to the question if employment changes triggered by the Agreement helped to attain SDG No. 1 (no poverty).

In this context, it is important to highlight that the use of the economic model in the social impact analysis implies making certain assumptions and simplifications compared to the real world. In particular, total employment is held constant, unemployment does not exist, and workers move flexibly from declining sectors to the growing ones. In reality, limitations in people's mobility (e.g., between regions of a country), mismatches between skills offered by workers and those sought by employers in other sectors, time needed for training (e.g., upskilling) and other factors may prolong or make impossible transition between jobs and contribute to unemployment, move to the informal economy, sub-employment, self-employment or labour inactivity.

Trends observed in the labour markets of Colombia, Peru and Ecuador in the period 2007 to 2020 are discussed in detail in Annex C-1. Table 6-1 provides data related to employment across sectors and the overall number of workers, as these will help to evaluate the magnitude of changes indicated by the economic modelling.

Table 6-1: Sectorial shares in total employment in Colombia, Peru, and Ecuador (in %) before the Agreement's start of application and currently

Sector	Colombia		Peru		Ecuador	
	2007	2020	2008	2018	2009	2019
Trade, hotels, restaurants	25.4	25.3	24.3	26.6	24.0	24.3
Agriculture and fisheries	17.8	18.6	28.7	25.9	28.5	28.3
Industry	13.8	10.7	11.0	9.0	10.6	11.7
Transport, storage, comms	8.5	7.9	8.0	8.5	4.7	5.8
Construction	5.3	7.1	4.6	6.0	6.9	6.8
Social, communal, and personal services[86]	20.8	no data	23.4	24.0	7.5[87]	6.2
Professional, scientific, and technical services	no data	6.3			3.6	4.5
Real estate activities	5.8	no data				
Admin and public services	no data	11.5			4.1	3.6
Artistic & recreation activ.	no data	8.0				
All workers (in millions)	**17.9**	**19.7**[88]	**14.2**	**17.2**	**6.1**	**7.7**

Source: Colombia (DANE, 2020; DANE 1958-2020), Peru (INEI, 2017-2019, INEI, 2019, INEI, 2020), Ecuador. (INEC, 2019; 2014a, 2018f)

As outlined in Table 6-2, employment effects caused by the Agreement in **the EU** are very limited or negligible in relative terms for most sectors. The strongest impact is estimated for vegetables, fruits and nuts, with a decline of -0.2% (compared to the situation without the Agreement). In the EU, the sector provided 873,000 of full-time equivalent jobs in agriculture in 2016 (i.e., 9% out of 9.7 million)[89] with high shares of seasonal workers and

[85] Impacts related to income (including wages), welfare, poverty and inequality are addressed in section 6.5.
[86] The classification of sectors of economic activity has changed between 2007 and 2020 and there are no matching categories in 2020 for some of those existing in 2007.
[87] Education, health care and social services.
[88] In 2019, the total number of workers in Colombia equalled 22.1 million (DANE, 2020).
[89] EUROSTAT (2018), Farmers and the agricultural labour force – statistics: https://ec.europa.eu/eurostat/statistics-explained/index.php/Farmers_and_the_agricultural_labour_force_-

non-family members (compared to other agricultural sub-sectors) due to labour intensive work in the sector (European Parliament, 2019).[90] Considering this, the number of jobs in the sector is less than 2,000 persons lower as a result of the Agreement, however in the context of an overall trend of decreasing employment in EU agriculture since 2008.

In **Colombia**, the fruits and vegetables sector directly employed 558,000 persons in 2012[91] (22% out of 2,488,000 persons directly employed in agriculture). Until 2019, this figure increased to 745,390 persons and the employment share of the sector in agriculture rose to 26% (702,000 out of 2,682,000 persons directly employed) in 2018 and 30% of indirect employment (1,611,000 out of 5,341,000 indirect jobs in agriculture). The number of direct jobs in the fruits and vegetables sector increased in total by 33.6% between 2012 and 2019, with the annual growth rate ranging from 1.7% in 2013-2014 to 6.1% in 2018-2019 (Asohofrucol 2019, 2019a and 2018). With an estimated increase in the sector's employment by 1.2%, the Agreement contributed to the growth of the sector, with the estimated additional number of jobs ranging from around 6,700 to 9,000. According to the economic modelling, in the primary sector, Colombia records also job growth in crops (0.7% for skilled and unskilled workers) and metals (1.6%).

On the other hand, the literature suggests that Colombian dairy sector, notably small farm holders, have been negatively affected by EU exports, in particular of powder milk and cream competing with the local milk production (Hawkins, 2020), although this is not reflected in the modelling results, which estimate a small increase in employment in the dairy sector; this is to be still further analysed. In any case, the EU provided technical and financial support (2013-2018) to small dairy farmers to promote innovative techniques, strengthen the raw milk payment system to producers according to quality, promote associations of small milk producers and support their market access (Information shared with the study team by the EU Delegation in Colombia).

In **Ecuador's** primary sector, the economic modelling suggests employment growth in vegetables, fruits and nuts (1.2% for skilled and unskilled workers), cereals (2.7%), and fishing (2.0%). It is estimated that the latter employs in Ecuador in total (directly and indirectly) 100,000 persons.[92] Therefore, an employment increase of 2.0% would mean some 2,000 additional jobs created thanks to the Agreement. On the other hand, there are a few sectors with the estimated employment reduction of ca. 1.0%. These include wheat (-1.3%), oil seeds (-1.3%), plant-based fibres (1.0%), crops (-1.2%) and vegetable oils and fats (-1.8%). Moreover, the economic modelling estimates job reduction in the wool sector (-5.1%) which can be seen together with the textile (-1.9%) and apparel (+0.4%) sectors. The whole textile and garment sector in Ecuador employs 158,000 persons.[93]

_statistics#Agriculture remains a big employer within the EU.3B about 9.7 million people work in agriculture

[90] The numbers may be underestimated as statistical methods, including surveys may not be able to capture all workers, e.g., employed in small producing units or carrying out short-term undeclared work.

[91] We did not identify similar data for Peru or Ecuador so far. In case they are made available to the project team, we will include them into our analysis at a later stage of the study.

[92] Publicayo (August 2019), Panorama del sector acuacultura y pesca: https://www.publicayo.com/panorama-del-sector-acuacultura-y-pesca/

[93] AITE, Historia y actualidad: https://www.aite.com.ec/industria.html. Employment figures for the other sectors have not been found.

Table 6-2: Sectoral employment reallocation caused by the Agreement in EU and partner countries, skilled and unskilled workers

	Employment reallocation across sectors (%)							
	EU		CO		EC		PE	
Sector	Unskilled	Skilled	Unskilled	Skilled	Unskilled	Skilled	Unskilled	Skilled
1 Paddy rice	-0.01	-0.02	0.21	0.20	0.59	0.57	0.37	0.36
2 Wheat	0.01	0.01	-0.04	-0.05	-1.30	-1.32	-0.12	-0.13
3 Cereal grains nec	0.00	-0.01	0.09	0.08	2.75	2.74	0.23	0.22
4 Vegetables, fruit, nuts	-0.24	-0.24	1.19	1.18	1.22	1.21	1.30	1.29
5 Oil seeds	0.01	0.01	-0.06	-0.07	-1.33	-1.34	0.55	0.55
6 Sugar cane, sugar beet	-0.02	-0.02	0.01	0.00	-0.26	-0.28	0.39	0.38
7 Plant-based fibers	0.02	0.02	0.25	0.24	-1.07	-1.08	0.57	0.56
8 Crops nec	-0.01	-0.02	0.74	0.73	-1.20	-1.21	-0.25	-0.26
9 Bovine cattle, sheep and goats	0.00	0.00	-0.07	-0.08	0.16	0.15	0.08	0.07
10 Animal products nec	0.00	0.00	-0.12	-0.13	0.07	0.05	0.07	0.06
11 Wool, silk-worm cocoons	0.10	0.10	-1.11	-1.12	-5.10	-5.12	0.39	0.39
12 Forestry	0.01	0.01	0.04	0.03	-0.07	-0.08	0.03	0.02
13 Fishing	-0.01	-0.01	-0.02	-0.03	2.01	2.00	0.21	0.20
14 Coal	-0.01	-0.01	0.15	0.14	-0.53	-0.54	-0.13	-0.13
15 Oil	-0.01	-0.01	0.12	0.11	-0.21	-0.22	-0.07	-0.08
16 Minerals nec	0.00	0.00	0.04	0.03	0.10	0.09	-0.19	-0.19
17 Bovine meat products	0.00	0.00	-0.18	-0.22	-0.15	-0.21	0.19	0.15
18 Meat products nec	0.02	0.01	-0.33	-0.37	-0.29	-0.34	0.04	0.00
19 Vegetable oils and fats	0.02	0.02	-0.18	-0.22	-1.76	-1.82	0.84	0.80
20 Dairy products	-0.01	-0.01	0.09	0.06	0.10	0.07	0.24	0.22
21 Processed rice	-0.04	-0.04	-0.07	-0.11	-0.29	-0.35	-0.10	-0.14
22 Sugar	-0.03	-0.03	-0.15	-0.19	-0.51	-0.57	0.11	0.07
23 Other food products	-0.07	-0.07	0.35	0.31	3.89	3.83	1.84	1.80
24 Beverages and tobacco products	0.00	0.00	-0.15	-0.19	-0.33	-0.39	-0.04	-0.07
25 Textiles	0.04	0.04	0.61	0.57	-1.86	-1.93	0.28	0.23
26 Wearing apparel	0.04	0.04	-0.05	-0.10	0.40	0.34	0.39	0.35
27 Leather products	0.03	0.03	0.29	0.24	-1.66	-1.72	-0.11	-0.15
28 Wood products	0.01	0.00	0.13	0.08	-0.87	-0.94	-0.08	-0.12
29 Paper products, publishing	0.02	0.02	-0.04	-0.09	-1.13	-1.19	-0.41	-0.45
30 Petroleum, coal products	0.00	0.00	-0.05	-0.09	-0.27	-0.33	0.03	-0.01
31 Chemical products	0.00	0.00	0.84	0.80	-1.59	-1.66	1.52	1.48
32 Basic pharmaceutical products	0.05	0.04	-1.25	-1.30	-0.90	-0.96	-0.99	-1.04
33 Rubber and plastic products	0.02	0.02	0.37	0.33	-1.55	-1.62	0.01	-0.03
34 Mineral products nec	0.02	0.02	0.01	-0.04	-0.11	-0.18	-0.06	-0.10
35 Ferrous metals	0.05	0.05	0.09	0.05	-0.70	-0.77	-0.29	-0.33
36 Metals nec	0.01	0.01	1.66	1.62	-2.34	-2.41	-0.75	-0.80
37 Metal products	0.05	0.05	-0.50	-0.54	0.40	0.34	-0.09	-0.13
38 Computer, electronic and optic	0.04	0.03	0.37	0.33	-0.94	-1.01	-0.43	-0.47
39 Electrical equipment	0.04	0.03	0.30	0.26	-1.28	-1.34	-0.42	-0.46
40 Machinery and equipment nec	0.06	0.06	-0.66	-0.70	-0.21	-0.27	-0.36	-0.41
41 Motor vehicles and parts	0.10	0.10	-0.24	-0.29	-4.30	-4.36	-0.23	-0.28
42 Transport equipment nec	0.02	0.01	1.27	1.23	0.02	-0.05	-0.22	-0.26
43 Manufactures nec	0.02	0.02	-0.24	-0.29	-0.17	-0.23	-0.26	-0.30
44 Electricity	0.00	0.00	0.07	0.03	-0.37	-0.43	-0.03	-0.08
45 Gas manufacture, distribution	-0.03	-0.03	0.70	0.68	-1.00	-1.03	-0.34	-0.36
46 Water	0.00	0.00	-0.02	-0.07	-0.18	-0.25	-0.01	-0.05
47 Construction	0.01	0.01	-0.03	-0.08	0.40	0.33	0.11	0.06
48 Wholesale & retail trade	0.00	0.00	-0.02	-0.08	0.13	0.04	0.02	-0.04
49 Accommodation, Food and serv.	0.00	0.00	-0.18	-0.24	-0.47	-0.55	-0.04	-0.09
50 Transport nec	0.00	0.00	-0.04	-0.10	-0.19	-0.27	0.03	-0.03
51 Water transport	-0.01	-0.01	0.15	0.09	-0.52	-0.60	-0.19	-0.25
52 Air transport	0.00	-0.01	0.29	0.23	-0.30	-0.38	-0.17	-0.22
53 Warehousing and support act.	-0.01	-0.01	0.12	0.06	-0.83	-0.91	-0.08	-0.14
54 Communication	0.00	0.00	0.02	-0.03	-0.31	-0.38	-0.03	-0.08
55 Financial services nec	-0.01	-0.01	0.00	-0.04	-0.04	-0.10	0.00	-0.05
56 Insurance	-0.01	-0.01	0.04	-0.01	-0.34	-0.40	-0.14	-0.19
57 Real estate activities	-0.01	-0.01	-0.06	-0.11	-0.24	-0.31	-0.07	-0.11
58 Business services nec	0.00	0.00	0.07	0.03	-0.14	-0.20	-0.06	-0.11
59 Public Services	-0.01	-0.01	-0.02	-0.07	-0.02	-0.09	-0.02	-0.06

Source: European Commission DG TRADE CGE modelling results.

According to the available literature shared with the project team by civil society representatives, there are suggestions that trade in **dairy products** and imports of milk powder, butter milk serum, whey, and cheese from the EU have replaced local products, notably milk provided by small farmers to processing plants thus decreasing demand for local inputs and reducing milk price. Moreover, the use of substitute products, such as cheap buttermilk serum instead of local milk in milk-drinks have exacerbated these effects.

The literature identified to-date does not provide figures regarding employment impacts of this process for small farmers. However, trade with the EU under the Agreement is not the only factor influencing the situation in the dairy sector. Others include, e.g., the eruption of the Cotopaxi volcano whose ashes covered pastures and this in turn negatively affected milk quality in some regions in Ecuador. Another effect is related to increased imports of powder milk from Colombia, some of which, according to the literature, is smuggled across the border (Universidad Politécnica Salesiana, 2019).[94] The total pasture area in Ecuador started decreasing in 2010 and the number of milk cows and the amount of produced milk has been falling since 2013, i.e., well before the Agreement started to be applied. Moreover, milk prices offered to farmers by intermediaries and processors have been set below the official price level,[95] and this unfair trade practice is also behind the low prices paid to small producers. Overall, 600,000 persons depended on the dairy sector in Ecuador in 2016, while small producers represented 69% of 300,000 production entities (Daza et al., 2020).

In **Peru**, for most of the primary sector, employment changes caused by the Agreement are estimated as positive but limited in scale. The more pronounced ones include growth in jobs in vegetables, fruits, and nuts (1.3%) in vegetable oils and fats (0.8%), plant-based fibres (0.6%), oil seeds (0.5%), wool (0.4%), sugar cane (0.4%), and paddy rice (0.4%). Overall, the number of people working in agriculture has increased from 3,970,673 in 2008 to 4,080,009 in 2017, while the number of those covered by the special regime for agriculture (limiting workers' rights) increased from 182,552 in 2008 to 276,403 in 2017 (literature also speaks of 333,368) (Maldonado Mujica 2020). In 2020, the number of people employed in agriculture increased significantly (by 799,000 compared to 2019), while it decreased in other sectors, notably services and trade (by 3.1 million in these two sectors in total) (INEI, 2020).

Regarding **industry**, the only sector in the **EU** estimated to record an employment change of at least 0.1% thanks to the Agreement is the motor vehicles and parts sector (see outcomes of the economic modelling outlined in Table 6-2). In 2018, the EU automotive industry employed 14.7 million persons (directly and indirectly). This included 2.7 million in direct manufacturing, 1 million in indirect manufacturing, 4.7 million in automobile use,[96] 5.6 million in transport and 0.7 million in infrastructure. (In 2016, 3.4 million of these jobs were for high-skilled workers.) The total employment meant an increase of 18.5% since 2012, when around 12.4 million people worked in this sector.[97] The estimated employment change resulting from the Agreement would thus amount to about 3,000 additional jobs.

In **Colombia**, changes in industry employment related to the Agreement are limited and include an increase in metals (1.6% for skilled and unskilled workers), transport equipment (1.2%), chemical products (0.8%), and textiles (0.6%). Moreover, in four sectors (other food products, rubber and plastic products, computer, electronic and optic equipment, and electrical equipment) job creation of around 0.3% is estimated. On the other hand, job reductions of more than 0.2% are estimated for basic pharmaceutical products (-1.3%), machinery and equipment (-0.7%) and metal products (-0.5%). In 2019, the Colombian industry sector employed 705,999 persons in total. In illustrative terms, given the number of persons employed in the above-mentioned sectors and trends observed over time, the Agreement-related employment changes would be marginal. For illustrative purposes, in

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[94] Daza et al. (2020) speak about liquid milk, not powder milk imported from Colombia. For some dairy products, Ecuador's imports from the EU are limited, as shown by the limited use of TRQs (see section 5.1.5; also see Daza et al., 2020; European Commission, 2020b).

[95] In 2019, the President of Ecuador issue a Decree restricting the use of buttermilk. This had positive impact on milk prices (Daza et al., 2020).

[96] Automobile use is defined in this context as sale, maintenance and repair of motor vehicles, sale of vehicle parts, accessories, and fuel, as well as renting and leasing motor vehicles. (Institute for Innovation and Technology, 2018)

[97] European Automobile Manufacturers Association, Employment in the EU automotive industry: https://www.acea.be/statistics/article/employment

Table 6-3 we provide an estimation (based on the number of jobs in individual sectors and outcomes of the economic modelling) of the magnitude of change in the number of jobs caused by the Agreement.

Table 6-3: No. of workers in selected industrial sectors in Colombia (in 2012 or 2014 and 2019), trends and potential changes induced by the Agreement

Sector	Number of workers		Change in no. of jobs due to Agreement based on CGE modelling and 2019 employment
	Start of the Agreement	Latest (2019)	
Other food products	22,938	60,866	+183
Plastic products	48,601	55,340	+166
Chemical products	40,432	46,930	+375
Textiles	no data	32,772	+197
Pharmaceuticals	26,433	27,379	-356
Metal products	no data	19,872	-99
Machinery and equipment	13,684	12,954	-91
Total number of workers in industry (including also other sub-sectors)	676,425[98]	705,999	--------

Note: "Start of Agreement" refers to 2012 or 2014, depending on data availability
Source: DANE, 2009a, 2014a, 2017b and 2020d and calculations made by the author based on results of the economic modelling

In industry sectors in **Peru**, employment growth has been indicated in other food products (1.8% for skilled and unskilled workers), chemical products (1.5%), textiles and garment (around 0.3%). On the other hand, limited negative effects are related to pharmaceuticals (-1.0%), paper and publishing (-0.4%), metals (-0.8%), computer, electronic and optic equipment (-0.4% for unskilled workers and -0.5% for skilled ones), electrical equipment (-0.4% and -0.5%), machinery and equipment (-0.4%), manufactured products (-0.3%), motor vehicles (-0.2% for unskilled workers and -0.3% for skilled ones) and transport equipment (-0.2% and -0.3%).[99]

In industry sectors of **Ecuador**, employment growth has been indicated for other food products (3.9% for unskilled workers and 3.8% for skilled ones), apparel (0.4% and 0.3%) and metal products (0.4% and 0.3%). On the other hand, job reduction or slower growth has been estimated for motor vehicles (-4.3%), metals (-2.4%), textiles (-1.9%), leather (-1.7%), chemical products (-1.6%), rubber and plastics (-1.6%), electrical equipment (-1.3%), computer, electronic and optic equipment (-1.0%), wood products (-0.9%), paper (-1.1%), and ferrous metals (-0.7%).[100]

Regarding **services**, the modelled effects should be treated with care, as they stem only from macroeconomic adjustments in response to the Agreement's tariff liberalisation effects. Impacts on employment in the **EU** are negligible. In **Colombia**, they are also very limited or negligible, except utilities (0.7% in gas production and distribution), air transport (0.2%) and accommodation and food services (-0.2%). Given that employment in the combined trade and hospitality sector in Colombia increased from around 4.5 million in 2007 to 6.3 million in 2019,[101] any negative effect of the Agreement would mean a slower (or more limited) job creation in a growing sector or a move of people to other, more

[98] In 2007, industry in Colombia employed 637,621 workers in total (DANE, 2009a).
[99] We did not identify to-date data regarding employment in industrial sectors in Peru which would enable the project team to carry out an analysis similar like the one done for Colombia. If such data is identified or made available to the project team at a later stage of the study, we will include it into our analysis.
[100] To date, we have identified data related to employment in a few of the affected sectors in Ecuador in 2011, as the reference year. If more recent data is identified or made available to the project team at a later stage of the study, we will be able to carry out a similar analysis like the one for Colombia, estimating impact of the Trade Agreement against the background of trends in the affected sectors. In 2011, the number of workers was as follows: other food products (76,266), rubber and plastics (15,677), paper (14,688), apparel (15,752), chemicals (9,266) (INEC, 2011).
[101] DANE, Colombia, Información histórica del Mercado Laboral, Anexos: https://www.dane.gov.co/index.php/estadisticas-por-tema/mercado-laboral/empleo-y-desempleo/mercado-laboral-historicos

attractive sectors rather than a job reduction. In **Peru**, changes are also estimated as very limited, with job reduction or a slower growth in utilities (gas, -0.3%), air transport, water transport and insurance (each -0.2%). In **Ecuador**, estimated changes are of a larger scale, with employment growth of around 0.4% in construction and otherwise decrease: in gas distribution (-1.0%), electricity (-0.4%), water transport (-0.5% for unskilled workers and -0.6% for skilled ones), warehousing and support activities (-0.8% and -0.9%), air transport (-0.3% and -0.4%), communication (-0.3% and -0.4%), insurance (-0.3% and -0.4%) and real estate activities (-0.2% and -0.3%). Regarding food services and accommodation, the economic modelling estimates an employment level that is 0.5% lower than in the absence of the Agreement. Given that the sector increased its share in the overall employment in Ecuador between 2009 and 2018 from, 4.5% to 6.3 % and the number of jobs from 274,500 to 485,100, the 0.5% shift in jobs away from the sector in practice rather corresponds to slower growth of employment in the sector rather than a job reduction as such.

Overall, the estimated effects of the Agreement on employment in the EU are very limited and in the partner countries while they are limited overall, they are also mixed, with some sectors experiencing job increase supported by trade with the EU, while others may face a slightly limited job growth than without the Agreement or job reduction.

6.2 Impacts on the informal economy and informal employment

In this section, we analyse to what extent the Agreement impacted the size and other characteristics of the informal economy and informal employment in Colombia, Peru, and Ecuador. Trends in the informal sector in the period 2007 to 2019 are discussed in Annex C-1. Here, we refer to the main indicators, sectors and regions where informal employment is high on one hand, and those where it is low, on the other. Then, based on tariff reductions in trade between the EU and all partner countries and the results of the economic modelling, we compare sectors and regions with diverse informality rates with the overview of sectors where the Agreement brought about changes in employment, output, and trade flows, and we draw conclusions if exposure to trade is linked to informality levels.

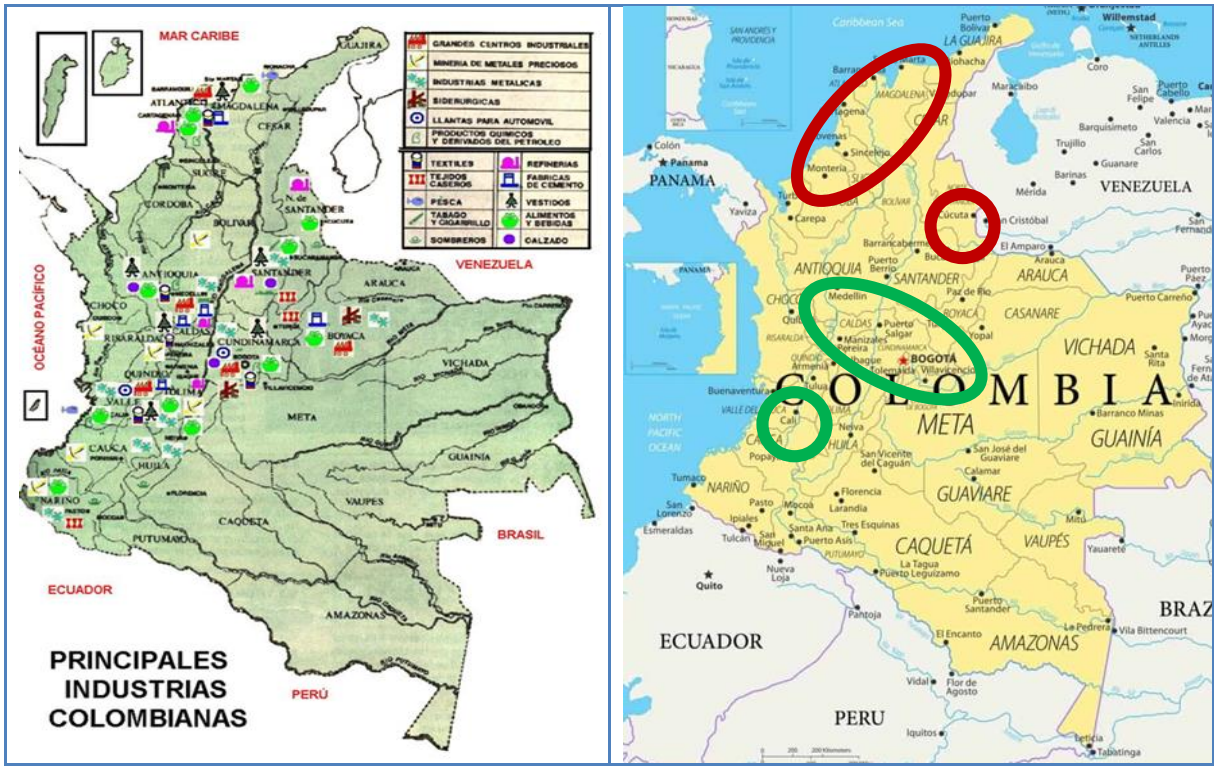
Box 6-1: Economic benefits and risks of informal sector activity

According to the ILO, the existence of the informal economy may help to reduce poverty, offer opportunities for internal and external migrant workers (moving from rural to urban areas, and between countries) and cushion effects of economic cycle by offering job opportunity and income to workers who have been laid-off (and e.g. due to the lack of unemployment benefit need to take any job to secure income) or who due to low level (or type) of skills, or the personal situation cannot find a job in formal employment. However, it also imposes limits on seizing the opportunities for development and growth, including those offered by trade agreements. Informal enterprises are characterised by low productivity and due to their status, face constraints in access to funds (preventing them from investing in skills and technology to increase productivity), market (e.g., to public procurement), support schemes for MSMEs and match with new suppliers or customers (given their limited capacity and operation in cash, without invoices). The ILO suggests, therefore, a range of policies and measures encouraging transition of those enterprises from informal to formal economy, including using the opportunity of increased trade flows to reduce the levels of informality (e.g., pursuing export promotion, providing advisory services for MSMEs to develop their exporting capacity, and supporting their inclusion into the value chains of exporting sectors) (ILO, 2015).
Such policy measures are in line with the ILO Recommendation No. 204 (2015) "Transition from the Informal to the Formal Economy" which suggests initiatives in areas including trade, taxes, business environment, employment, education, skills development, business and financial services, access to markets, infrastructure and technology, governance and targeted actions facilitating operation of MSMEs. On the other hand, the ILO highlights that increased competition on the market (being a result of the reduction of tariff and non-tariff barriers) may increase outsourcing of certain services or processes and sub-contracting at low cost, thus leading to increased levels of informality (ILO, 2014; 2015).

The rate of informal employment in **Colombia** decreased in 13 metropolitan areas from 57% in 2007 (55.5% among men and 58.8% among women) to 46.4% in 2019 (44.1% for men and 49.1% for women), with the main sectors of their employment being trade, hotels, and restaurants, communal, social, and personal services, and industry (DANE, 2007b; 2019a). This overview does not include agriculture, where the informality rates are

the highest. Regarding regions (Figure 6-1), the lowest informality rates were in 2007 and 2019 in Bogotá, Medellin (department of Antioquia), Manizales (Caldas), Tunja (Boyacá), Pereira (Risaralda) and Cali (Valle del Cauca); the highest in Cúcuta (Norte de Santander), Sincelejo (Sucre), Santa Marta (Magdalena) and Monteria (Cordoba), the last three on the north coast, belonging to the poor regions in Colombia (DANE, 2007b; 2019a).[102] Factors contributing to observed trends at the beginning of the analysed period included economic growth supported by monetary and fiscal policy, reduced inflation rate, more balanced budget and improved tax system enabling provision of social policies, job creation (notably in services sector) and poverty reduction. There was also an observed increase in formalization of MSMEs in urban areas, e.g., increase from 53.1% in 2007 to 77.3% in 2012 in the rate of MSMEs pursuing book-keeping and from 43% to 69.7% the rate of MSMEs being formally registered. It was underpinned by new legislation and non-legislative initiatives supporting entrepreneurship and MSMEs through availability of funding, access to advice in establishment procedures, public procurement contracts, export support, and production chains, as well as reduction of fiscal burden (i.e., reduced tax rates and social security contributions) (ILO, 2014a). Other measures included policy on national competitiveness, simplification of procedures, a portal for setting up enterprises, measures to limit evasion of social security payments, legislation encouraging employment formalisation, enhancing labour inspection capacity (ILO, 2014c; ILO, 2015a), creation of a national network for labour formalisation and extension of social security coverage.[103]

Figure 6-1: Spatial distribution of informality in Colombia



Key: **Red shape** – regions with a high level of informality **Green shape** – regions with a low level of informality
Sources: Proyecto Mapamundi: https://proyectomapamundi.com/america-del-sur/colombia/ (right panel); Plataforma virtual ciencias sociales: http://pvcsalicia.blogspot.com/2016/03/a-continuacion-encontraran-un-taller.html (left panel)

[102] Between 2007 and 2019, informality level decreased from 74.4% to 72.1% in Cúcuta, from 70.6% to 60.4% in Monteria, from 58.6% to 56.5% in Pereira, from 57.7% to 46.3% in Cali, from 50.8% to 41.4% in Medellin, from 53.8% to 39.3% in Manizales, and from 52.3% to 39.1% in Bogotá (DANE, 2007b and 2019a).

[103] La Red Nacional para la Formalización Laboral: http://www.mintrabajo.gov.co/de/empleo-y-pensiones/empleo/subdireccion-de-formalizacion-y-proteccion-del-empleo/que-es-la-red-nacional-de-formalizacion-laboral

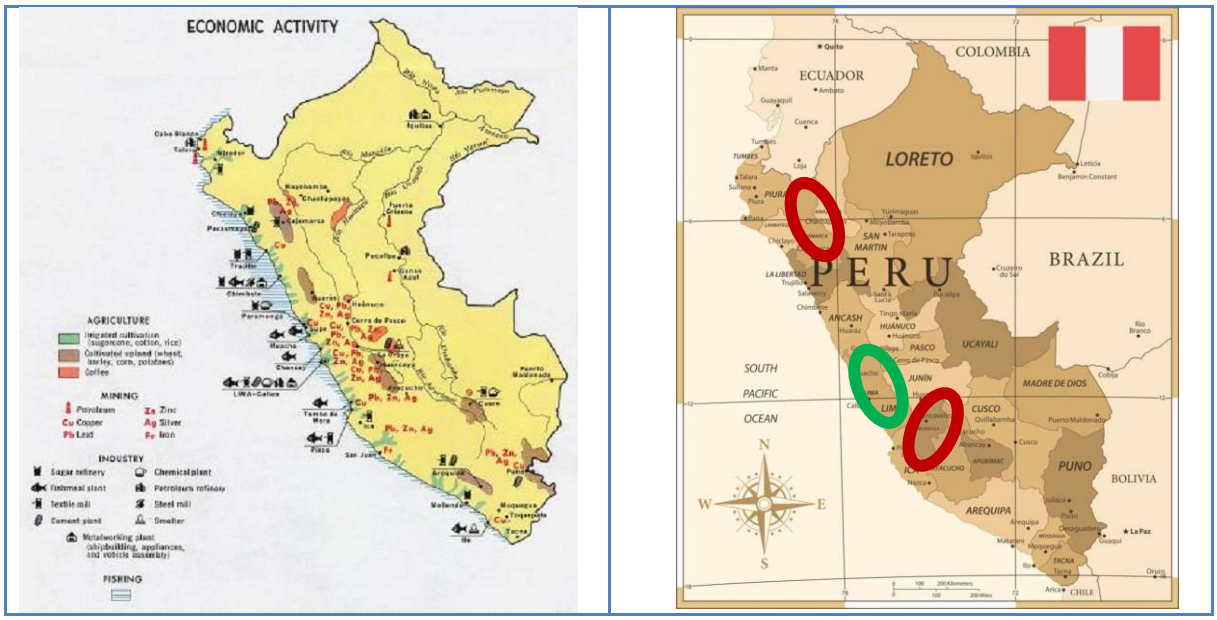
There was also an increase in the formalisation of MSMEs in urban areas, e.g. an increase from 53.1% in 2007 to 77.3% in 2012 in the rate of MSMEs pursuing book-keeping and from 43% to 69.7% the rate of MSMEs being formally registered (ILO, 2014a).

While measuring the level of informality only based on the rates in metropolitan cities does not provide an accurate picture of the situation in the whole country (given high levels of informal employment and informal economic activity in rural areas and agriculture, which have been omitted in Colombian statistics), even based on this partial analysis one can draw preliminary conclusions. In 2019, out of all informally employed people in Colombian metropolitan areas, 42% worked in restaurants and hotels (compared to 38.6% in 2007), 17.5% in communal, social, and personal services (18.2% in 2007) and 12% in industry (16.5% in 2007) (DANE, 2019a and 2007c). Looking at industry, departments with a low informality rate, host refineries, cement factories, metal industry, chemicals, mining of precious metals, pharmaceuticals, textiles, apparel, footwear industry, and food processing. Agriculture in these regions includes vegetables, fruits and nuts, animal breeding, flowers, cotton, sugar cane and coffee cultivation. Regions with high informality rates, host refineries, textiles, apparel, fisheries, banana plantations, cotton cultivation, food processing, and tourism (Asohofrucol, 2018, and maps).

In **Peru**, the share of informal employment in total employment decreased from 80% in 2007 to 72.4% in 2018 (from 83.6% in 2008 to 75.3% in 2018 for women and from 75.7% in 2008 to 70.1% in 2018 for men), while the GDP share created by the informal economy remained practically the same (18.9% in 2007 and 18.6% in 2017). Factors supporting decrease in informal employment, included economic growth, fiscal and monetary policy (aiming at reduced inflation rate and reduced public deficit), favourable terms of trade resulting in investment flows, formal jobs creation, social policies aimed at poverty reduction, strengthened enterprise surveillance of enterprises through introduction of electronic submission of data related to workers, contracts, wages, taxes and social security contributions, and a reduction and simplification of fiscal burden imposed on SMEs (ILO, 2014d). In 2018, in cooperation with the ILO, Peru adopted a Sectoral Strategy for Employment Formalisation 2018-2021 (ILO, 2018a). In a regional overview (Figure 6-2), the share of informal employment in 2017 varied from 91.3% in Huancavelica and 90.1% in Cajamarca to 58.5% in Lima. Overall, lower rates of informal employment are recorded in the coastal areas considered also as the most competitive, while the highest in the mountain regions which record also high poverty levels. Across sectors of economic activity, the rate of informality in total employment was highest in agriculture (98% in 2007 and 94 % in 2018), followed by hotels and restaurants (87% in 2007; 79% in 2017), transport and communication (84% in 2007; 77% in 2017), construction (82% in 2007 and 77% in 2017) and trade (78% in 2007 and 67% in 2017). Regarding the share of informality in production across sectors, the highest one has been in agriculture (84% in 2007; 86% in 2017), followed by hotels and restaurants (47% in 2007; 43% in 2017), transport and communication (34% in 2007 and 2017), construction (28% in 2007; 26% in 2017) and trade (25% in 2007; 19% in 2017) (INEI, 2018d; 2019).

Regarding industrial activity in regions with low levels of informal employment, it includes mining, refineries, metal processing, cement plants, chemical industry, textiles, and fishing. In agriculture, cultivation of fruits, vegetables, nuts, sugar cane, cotton, and rice. In regions recording high levels of informality, industry includes mining and in agriculture, there is cultivation of wheat, barley, corn, and potatoes, as well as animal breeding.

Figure 6-2: Economic activity and selected regions with informal employment in Peru



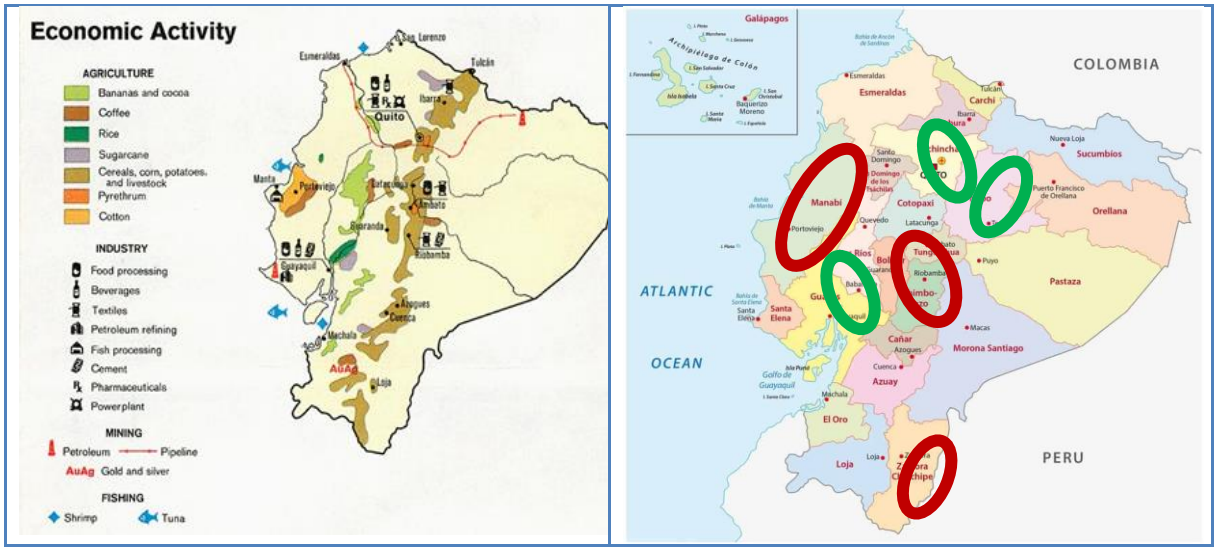
Red shape – regions with a high level of informality; **Green shape** – regions with a low level of informality
Source: Proyecto Mapamundi: https://proyectomapamundi.com/america-del-sur/mapas-de-peru/ (right)
Mapa económico del Perú: http://perumipais.com/wp-content/uploads/2019/02/produccion-peru-mapa.jpg (left)

Regarding changes in tariffs applied to EU imports in Peru based on the Agreement, the most important ones (from 9.0% to 0%) were related to vehicles, pharmaceuticals, paper, and metal products. However, these did not induce any substantial increase in trade flows. In Colombia, tariff reductions covered pharmaceuticals (from 7.9% to 0%), vehicles (from 35% to 0%), machinery, chemical products (from 5% to 0%), and paper (from 8.3% to 0%). The export increase from the EU to Colombia in these sectors estimated by the economic modelling ranged from around 30% (for basic pharmaceuticals) to 122% (for motor vehicles), and in value terms from USD 79 million (for paper products) to USD 974 million (for motor vehicles). On the other hand, reductions in the EU's tariffs on imports from Colombia and Peru included vegetables, fruits, and nuts (from 19.6% to 10.4%), sugar (from 110% to 0%), textiles, metals (both from 0.3% to 0%), processed rice (from 28.2% to 0%), wheat and leather products (both from 0.1% to 0%). An export increase caused by the Agreement has been estimated for all these sectors (Table 5-1 in section 5.1.3.2). Other sectors enjoyed tariff-free access to the EU previously, under GSP+ preferences.

As discussed in sections 5.1.3.2 and 6.1, the economic modelling estimates that an increase in output and employment in Colombian and Peruvian sectors benefitting from tariff reductions in the EU has taken place. In addition, exports have increased in sectors which had tariff free access already before the Agreement, e.g., chemical products. In general, Colombian, and Peruvian sectors benefitting from the Agreement are the same as those located in regions with low levels of informality and decreasing over the analysed period. On the other hand, imports from the EU in the two countries do not appear to have affected informality levels in Colombia and Peru, probably because these imports mostly concern products, such as pharmaceuticals, vehicles, machinery, etc. which do not compete with the informal sector. As noted above, the level of informality decreased in Colombia from 57% in 2007 to 46.4% in 2019 and the share of informal employment in industry in total informal employment decreased from 16.5% in 2007 to 12% in 2019 (DANE, 2019a and 2007c). In Peru, the share of informal employment in total employment decreased from 80% in 2007 to 72.4% in 2018, and the share of informal workers employed in industry in total informal employment decreased from 10% in 2007 to 8.2% in 2017. Moreover, the overall level of informality in manufacturing industry decreased from 72.1% in 2008 to 61.9% in 2018 (INEI, 2018d; 2019).

In **Ecuador**, the rate of informal employment fell from 81.1% in 2007 to 67.1% in 2014 to increase again to 72.9% in 2018. In rural areas, it decreased from 93% in 2007 to 80% in 2014, to increase again to 89% in 2019. A similar pattern was observed in urban areas, where informal employment rate fell from 75% in 2007 to 60% in 2015 and increased to 65% in 2019. The initial reduction in informal employment coincided with economic growth and favourable terms of trade, notably high prices of exported petrol. The second stage was related to economic slowdown. In a break-down by gender, informal employment fell from 81% in 2007 to 68% in 2014 and increased to 74% in 2019 for men, while among women, it changed from 80% in 2007 to 67% in 2014 and 74% in 2019. In a territorial overview (Figure 6-3), within each of the three big regions (coast, mountains and east), there have been departments with both, low and high levels of informality (marked on a map above). In the coastal region, department of Guayas recorded reduction in informality from 81% in 2007 to 69% in 2019. In Manabí, informal employment decreased from 88% in 2007 to 82% in 2019 (Santo Domingo and Esmeraldas started from 82% in 2007 and arrived at 82% and 84% in 2019). In the mountains, the department of Pichincha (with the capital Quito) had a clearly lower informal employment level than the others during the whole analysed period, with rates from 70% in 2007 to 54% in 2019. The departments of Carchi, Cotopaxi, Bolívar, Chimborazo recorded values between 83% and 90% in 2007 and between 83% and 94% in 2019. In the eastern part of the country, Napo recorded similar values (83%-84%) at the beginning and at the end of the analysed period, however, managed to reduce the rate of formal employment in the years of economic growth (going down to 55% in 2012). Across sectors, the highest rates of informal employment have been in agriculture (96% in 2007; 93% in 2019) and construction (94% in 2007; 91% in 2019), followed by hotels and restaurants (90% in 2007; 82% in 2019), trade (89% in 2007; 81% in 2019) and industry (78% in 2007; 64% in 2019) (CEPAL, 2020).

Figure 6-3: Economic activity and regions with informal employment in Ecuador



Red shape – regions with a high level of informality; **Green shape** – regions with a low level of informality
Source: Proyecto Mapamundi: https://proyectomapamundi.com/america-del-sur/ecuador/ (right) Mapa Owje: https://mapas.owje.com/1938_mapa-de-actividad-economica-de-ecuador.html (left)

Regarding economic activity in the Ecuadorian regions, those with lower levels of informality host refineries, cement factories, textile, pharmaceuticals, beverages and food processing and agriculture covering banana, cocoa and coffee plantations, sugar cane, rice, potatoes, cereals, corn, and animal breeding. Those with high levels of informal employment host fisheries and fish processing, and cotton, banana, cocoa, and coffee plantations, therefore, have a relatively less diversified economy, focused on agriculture and fisheries.

As discussed in sections 5.2.2 and 6.1, positive changes in employment and output related to the Agreement are estimated for vegetables, fruits, and nuts, cereals, fisheries, other

food products, apparel, and metal products, while output and employment in other sectors is lower as a result of the Agreement. Given that exporting sectors benefitting from the Agreement (mainly agriculture and fisheries) are in both groups of departments, i.e., with high and low informality rates, both groups may have benefitted economically. However, a more precise conclusion of what an impact this may have had on informality levels, will require further analysis, e.g., information about informality levels and job characteristics in sectors exporting to the EU.

Regarding the situation in the EU, according to a study prepared for the European Platform to Tackle Undeclared Work (which facilitates cooperation between relevant authorities from the EU Member States),[104] undeclared work in the EU has been reported in sectors including construction (26 Member States), hotels and restaurants (23), trade (16), agriculture, forestry, and fishing (16), domestic work (16), and a few other sectors albeit to a lower degree (5-7). Measured as a percentage of GDP, the shadow economy (wider than undeclared work) ranges from 1.6% in Denmark to 24%-30% in Bulgaria, Cyprus, Greece, Croatia, Malta, Portugal, and Romania. Four more countries – Spain, Hungary, Latvia, and Poland – show estimates of up to 23 %. Given the overall, limited potential impact of the Agreement on the EU, one can assume that impacts on the informal economy will also be very limited, if any, e.g., according to the economic modelling, no impacts on employment in sectors, such as wholesale and retail trade or hotels and restaurants are expected for the EU, i.e., sectors where informal economy has been reported. The only sector which may experience job reduction of the range of -0.2% in the EU is the sector oof vegetables, fruits, and nuts. The sector provided 873,000 of full-time equivalent jobs in agriculture in 2016 (i.e., 9% out of 9.7 million)[105] with high shares of seasonal workers and non-family members (compared to other agricultural sub-sectors) due to labour intensive work in the sector (European Parliament, 2019).[106] Therefore, to illustrate the change which the Agreement may have caused, one can compare it to 1,746 jobs lost in the sector in the EU in total until 2020, as part of the overall trend of decreasing employment in agriculture since 2008. If indeed jobs were lost in the sector in the EU due to the Agreement, most likely this affected seasonal workers whose lower number might have been hired. Some of them work informally, however, as the practice varies across EU Member States, then, without very precise data, one cannot say with confidence whether formal or informal jobs were affected, given their overall low number and other trends related to employment in agriculture taking place in parallel.

Summary

Findings from the analysis in this section suggest that sectors that contribute most to exports from Colombia and Peru to the EU are located in departments that had already prior to the Agreement's start of application lower levels of informality and managed to reduce them further in the analysed period. According to the literature and data these departments have a more diversified economy, are more competitive, better connected to the world and more exposed to the international trade than the rest of the country. They host sectors which have benefitted from the Agreement, although not all of them use the available opportunities (e.g., by not using TRQs; see section 5.1.5 above).

In Ecuador, results are mixed. While also here it is true that departments with more diverse economy have lower informality levels, sectors playing a role in exports to the EU and benefitting from tariff reduction thanks to the Agreement, i.e., vegetables, fruits and nuts

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[104] European Commission, DG Employment, undeclared work: http://ec.europa.eu/social/main.jsp?catId=1298&langId=en

[105] EUROSTAT (2018), Farmers and the agricultural labour force – statistics: https://ec.europa.eu/eurostat/statistics-explained/index.php/Farmers_and_the_agricultural_labour_force_-_statistics#Agriculture_remains_a_big_employer_within_the_EU.3B_about_9.7_million_people_work_in_agriculture

[106] The numbers may be underestimated as statistical methods, including surveys may not be able to capture all workers, e.g., employed in small producing units or carrying out short-term undeclared work.

and fisheries are located in both groups of departments, i.e., those with high and with low informality levels. Moreover, as identified in the baseline analysis (see Annex C-1), levels of informality in Ecuador seem to be strongly linked with the macroeconomic situation in the country and have been increasing in the last few years as a result of the economic slowdown. It has also been identified that export prices and terms of trade play their role in this process, however, are only one of several contributing factors. Therefore, while the Agreement might have played a role, it is difficult to estimate its scale without having more precise data regarding types of jobs (formal compared to informal) in sectors benefitting from new terms of trade.

At the next stage of the study and in a dedicated case study, we will analyse impacts of the Agreement on informality levels in sectors trading with the EU, e.g., in the sector of vegetables, fruits, and nuts. However, to do this, we will need to identify data (at least some examples) regarding the kind of jobs that may have been created thanks to the Agreement, i.e., formal or informal (given high levels of informality in agriculture). We will also need to verify it in stakeholder consultations. At the next stage, we will also formulate recommendations taking into consideration advice from the existing literature.

6.3 Impacts on women – employment, entrepreneurship and participation in international trade

This section analyses the effects of the Agreement on women and their economic empowerment as workers, entrepreneurs, and traders. It also seeks to determine whether and to what extent the Agreement has contributed to the attainment of the SDG No. 5 (gender equality). The methodological approach is guided by UNCTAD's Trade and Gender Toolbox (UNCTAD 2017).

Trends observed in women's participation in labour markets of Colombia, Peru and Ecuador in the analysed period are discussed in detail in Annex C-1. Here, we summarise data related to employment, entrepreneurship, and trading across sectors, as these help to evaluate the magnitude and direction of changes indicated by the economic modelling.

6.3.1 Women as workers

In **Colombia**, the number of working women increased from 7.7 million in 2007 to 9.2 million in 2019. In 2007, 35.6% of women worked in the communal, social, and personal services sector (33.0% in 2019), followed by trade, hotels, and restaurants (30.3% and 32.8% in 2019), manufacturing industry (13.6%; 12.6% in 2019), agriculture (7.0% and 6.8% in 2019), real estate (6.7% and 8.9% in 2019), transport and communication (4.0% and 2.4% in 2019) and construction (0.4% and 1.0% in 2019) (DANE, 2007 and 2019).[107]

The economic modelling aggregates the communal, social, and personal services sector, i.e. the largest employer for women in Colombia, with other services into the "public services" sector. This, along with the combined trade and hospitality sector, is estimated to experience marginal negative employment effects from the Agreement (see section 6.1).[108] Moreover, given the observed employment growth in that sector over the analysed period (overall and among women) in Colombia, any negative effect of the Agreement would, in reality, mean a more limited job creation in the growing sector or a move of

[107] For men in Colombia, the figures were as follows: agriculture (27.5% in 2007 and 23.7% in 2019), followed by trade, hotels, and restaurants (21.2% and 22.6%), manufacturing industry (11.7% and 10.4%), transport (11.2% in both years), communal, social, and personal services (10.4% and 12.1%), construction (8.3% and 10.9%), real estate (5.5% and 6.5%), and mining (2.6% and 0.9%). The number of working men increased from 10.9 million in 2007 to 12.9 million in 2019 (DANE, 2007 and 2019).

[108] Given that the economic modelling does not provide estimates of impacts in a break-down by gender, we need to assume that these will be the same for men and women across sectors, which is a simplification. In case we identify gender-disaggregated employment data for the most affected sectors or more detailed information about employment trends therein, we will add it to our analysis at a later stage.

some workers to more attractive sectors rather than an actual job reduction. In agriculture and the food processing industry, limited negative employment impacts are estimated for animal products, meat, vegetable oils and fats, and sugar processing sectors, with more pronounced (-1.1%) effects for the wool sector. Other sectors are indicated as having benefitted from the Agreement, notably vegetables, fruits, and nuts sector (1.2%), crops (0.7%) and other food products (0.3%).

Moreover, women's employment in agriculture increased in absolute terms from around 539,000 in 2007 to 625,600 in 2019 (calculation based on the above data). Hence, effects related to the Agreement for women working in agriculture and food processing are limited but mixed when individual sub-sectors are considered. Given a smaller share of women (compared to men) working in these sectors, it is expected that the overall effects for women, both positive and negative, will also be of a smaller scale. A similar conclusion can be drawn regarding effects for other industry sectors (for details, see section 6.1) and women's employment in them. However, more precise conclusions regarding impacts for female workers may be formulated only when being supported by data about their number in each of the sectors affected either positively or negatively by the Agreement. If such data is identified at the final stage of the study, it will be included into the analysis.

In **Peru**, the number of employed women increased from 6.2 million in 2007 to 7.4 million in 2018 (INEI, 2019). In 2008,[109] 29% of economically active women worked in agriculture, forestry, and fisheries and 0.2% in mining (21.1% in 2018, combining all these sectors), 36% in all services sectors except trade, including: 24.9% in services, 6.7% in domestic service, 2.7% in financial services, and 1.7% in transport, storage and communications (this block increased to 44.2% in 2018), 22.7% in retail trade, 1.8% in wholesale trade (25.8% in trade in 2018), 10% in manufacturing industry (8.4% in 2018), and 0.3% in construction (0.5% in 2018) (Ministerio de Trabajo y Promoción del Empleo, 2008, 2019e).

Regarding the estimated impacts of the Agreement, in agriculture and food processing, most sectors (except wheat and crops) are estimated to benefit from employment increase of a diverse scale, with animal-related sub-sectors recoding lower growth rates than plant-related ones, i.e., 0.1% for animals and animal products, 0.2% for bovine meat products, 0.2% for dairy products, and 0.4% for wool. The plant-based sub-sectors are estimated to record job growth ranging from 0.4% to 1.8%. According to the ranking of jobs mostly occupied by women or men respectively in Peru in 2018, 74.8% of jobs related to animal breeding were occupied by women, while 98% of jobs in fisheries and plant cultivation were taken by men (Ministerio de Trabajo y Promoción del Empleo, 2019e). Therefore, it may be concluded that while the sectorial employment share of agriculture, forestry and fisheries in the total employment decreased for both, men and women between 2008 and 2018, the gains resulting from the Agreement might have benefitted to a higher extent men than women, given higher employment growth rates in sub-sectors employing men.[110] In other sectors, some limited negative impacts (-0.1% to -0.2%) have been estimated for mining, which is likely to affect more men than women, while e.g. textile and apparel industry, employing usually more women is estimated as a limited beneficiary of the Agreement, with job creation of around 0.3% to 0.4%.[111]

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[109] In 2008 and 2018, the sectorial employment structure for men was as follows: 35.4% in agriculture, forestry, and fisheries, 1.8% in mining (29.6% in 2018 for all these sectors combined), 17.9% in services, 11.2% in transport, storage and communications, 4.5% in financial services (37.3% for all services sectors in 2018) 11% in industry (9.4% in 2018), 8.1% retail trade, 2.4% wholesale trade (13.3% for all trade in 2018), and 7.3% in construction (10.3% in 2018) (Ministerio de Trabajo y Promoción del Empleo, 2008, 2019e, 2019f).

[110] For a detailed analysis, one should also compare the share of respective sub-sectors in the total employment in agriculture, given that even a lower growth rate in a large sub-sector may produce a substantial employment increase in absolute terms.

[111] According to Peruvian statistics, 77% of women employed in the industry is concentrated in three sectors: food production, textile, and apparel, therefore, they are likely to benefit from employment increase supported

In the remaining industry sectors, employment impacts of the Agreement are mixed, ranging from -1.0% to +1.5%, therefore, for an accurate evaluation of their meaning for women, a more detailed analysis would be needed, based on the total employment in each sub-sector and the share of women in the total number of workers. If such data is identified at a later stage of the study, it will be included in the analysis. In services sectors, limited job growth is estimated for construction (benefitting men), while transport services and insurance services are recording a limited reduction (-0.2%), also affecting more men than women, due to their shares in overall employment in a break-down by gender. On the other hand, there are very limited, but positive impacts on retail trade, notably for unskilled workers, where women occupy around 70% of jobs (if all female workers in this sector were unskilled, up to 3,830 jobs could be created for them, however, as there is a possibility of a very limited negative impact on skilled workers in the sector (job reduction of -0.04% according to the economic modelling), the overall impact may be more modest).

In **Ecuador**, in 2012, women worked mainly in wholesale and retail trade (26.5% of the female employment), agriculture (20.9%) and manufacturing industry (10%), followed by hotels and restaurants (8.6%) and education (8.2%), however, compared with the total number of workers in the respective sectors, women had the highest share in the domestic service (94.1% of all workers in that sector), social and healthcare services (68.3%), hotels and restaurants (65.8%) and education (61.9%) (INEC, UN Women, 2013).

Regarding estimated effects of the Agreement for employment, the wholesale and retail trade sector is estimated to have benefitted from a modest increase (up to 0.1%). Moreover, while the hotels and restaurants sector, according to the economic modelling records an employment reduction of -0.5%, the real-life data indicates that the sector increased its share in the total employment (of men and women jointly) from 4.5% to 6.3 % between 2009 and 2018 (INEC, 2018f) and the number of jobs from 274,500 to 485,100. Therefore, the suggested negative effect of the Agreement in reality means a more limited growth of the sector (than without the Agreement). In primary sectors and food processing, the effects of the Agreement are mixed, with changes ranging from 3,8% in other food sector to -5.1% for wool. A more detailed analysis would require data regarding the total number of workers in each of the sub-sectors and the share of women in each of them (if we identify such data at a later stage of the study, it will be used for analysis). Regarding impacts for other industry sectors, for most of them, the economic modelling foresees negative effects ranging from -0.2% to -4.3%, while the apparel sector features as an exception (together with metal products) and job creation of up to 0.4% for unskilled workers. This may mean positive results for women, given the usually female majority among the workers in the apparel sector. As for the overall effect on industry, also in this case, a detailed analysis would require data regarding the total number of workers in individual sub-sectors and the share of women among them. In the services sector, construction is indicated as a sector likely to benefit from employment creation for up to 0.4% which means positive effects for men. On the other hand, sectors employing men, e.g., transport or utilities, record (according to the economic modelling) negative effects of the Agreement.

For the **EU**, as mentioned in section 6.1, the effects are limited to three sectors, with job creation estimated for the machinery and automotive sectors (up to 0.1%). While the overall employment in manufacturing covering motor vehicles is higher for men than for women (23% for men and 11% for women; Eurostat, 2018) across EU Member States the situation was more nuanced over the last decade and in the manufacturing of motor vehicles, the share of women in workforce ranged in 2012 from 19% in Germany, over 21% in Spain and France, 24% in Italy and 33% in Poland to 64% in Bulgaria (European Sector Skills Council 2013). Therefore, the very limited overall impact may or may not

by the Agreement; see "Produce: mujeres lideran el 25 % de las empresas manufactureras en el Perú", Andina (2017), https://andina.pe/agencia/noticia-produce-mujeres-lideran-25-las-empresas-manufactureras-el-peru-685698.aspx

have meaning for women depending on the Member State involved in trade with the Andean countries.

On the other hand, employment reduction has been estimated for vegetables, fruits and nuts sector (-0.2%) which provided 873,000 of full-time equivalent jobs in agriculture in 2016 (9% out of 9.7 million)[112] with high shares of hired seasonal workers and probably both, men, and women (European Parliament, 2019).[113]

Summary

Based the analysis undertaken so far, one may conclude that sectors in Colombia having high shares in female employment either were not affected by the Agreement or changes were limited and mixed but leaning towards positive. They may have contributed to job creation, offering employment opportunities and a chance of poverty reduction. On the other hand, they were either too limited in scope or of such a nature (e.g., as indicated above, increasing the number of jobs in some sub-sectors of agriculture) that they did not induce a change of the overall disadvantaged position of women in the labour market. Hence, in majority, women remain concentrated in sectors of low-quality and low-paid jobs. However, as noted above, the lack of more precise data regarding the number of women on the overall number of workers in sectors affected by the Agreement (e.g., in industry) does not allow to draw more detailed conclusions. At a later stage of the study and in stakeholder engagement, we will seek to determine if there are examples of changes not captured by such aggregated data.

In Peru, overall, similarly as for Colombia, changes induced by the Agreement may be more diverse and more pronounced for men than women, and for the latter, while they seem to be rather positive, and may create jobs helping to reduce poverty, they are also quite limited in size and expected in sectors traditional employing women and not requiring high skills, therefore not likely to change the situation of women on the labour market. However, as noted for Colombia and Ecuador, the lack of detailed data in Peru regarding the number of women employed in individual sectors (and their share in the total number of workers) does not allow for drawing more precise conclusions.

In Ecuador, the overall impacts of the Agreement for women are mixed, while the lack of more detailed data does not allow for carrying out a more accurate analysis. Moreover, while there may be sectors, including in textiles or in agriculture where jobs for women have been created providing income opportunities and reducing poverty, in general, changes induced by the Agreement, in terms of scale and direction are not likely to have contributed to an improvement of the overall situation of women on the labour market, and they will probably remain in the same sectors and job profiles as before (if in this consideration we put aside impacts of Covid-19 on certain sectors, such as hospitality).

6.3.2 Women as entrepreneurs

Regarding women as entrepreneurs, the analysis of their activity across sectors, the factors influencing it, and measures taken by Colombia, Peru, and Ecuador to support them, are discussed in detail in Annex C-1. Here, we refer to sectorial shares in operation of women-led enterprises, as these help to evaluate the impact induced by the Agreement. The analysis is limited by the fact that breakdowns of enterprises by gender are available only for highly aggregated six sectors.

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[112] EUROSTAT (2018), Farmers and the agricultural labour force – statistics: https://ec.europa.eu/eurostat/statistics-explained/index.php/Farmers_and_the_agricultural_labour_force_-_statistics#Agriculture_remains_a_big_employer_within_the_EU.3B_about_9.7_million_people_work_in_agriculture

[113] The numbers may be underestimated as statistical methods, including surveys may not be able to capture all workers, e.g., employed in small producing units or carrying out short-term undeclared work.

In **Colombia**, in 2018-2019 almost half of all women-led enterprises operated in wholesale and retail trade, followed by manufacturing; only 6.9% were in mining and agriculture, and 1.6% in ICT (Table 6-4). Aggregated to the six sectors, the CGE modelling results suggest a limited impact on output, ranging from -0.02% for health care, education and social services to 0.13% for manufacturing; at the same time, within the sectors, the range of output impacts is high, especially in agriculture and mining, and manufacturing. The exact impact on women-led enterprises will therefore depend on the sub-sector in which they operate. Therefore, a more accurate evaluation of impact would require more detailed data about sub-sectors in which women-led enterprises operate.

Table 6-4: Colombia - Enterprises by gender and sector, and impacts of the Agreement on output

Sector	Share in number of companies (%)		Output changes based on CGE modelling (%)		
	Women-led	Men-led	Weighted average	Min	Max
Wholesale and retail trade	45.7	41.6	0.05	0.05	0.05
Manufacturing	17.0	19.8	0.13	-1.19	1.72
Health care, education and social services	16.0	7.8	-0.02	-0.02	-0.02
Financial, professional, administrative and consumer services	12.8	16	0.04	-0.11	0.48
Mining & agriculture	6.9	8.6	0.07	-1.15	0.87
ICT	1.6	6.2	0.10	0.07	0.12
Total	**100**	**100**	**0.06**		

Sources: Number of companies: GEM (2018-2019); Output changes: authors calculations based on DG TRADE CGE modelling results.

Based on the currently available aggregated data, we note that the small increase in output for wholesale and retail trade in Colombia may have also benefitted women-led enterprises. However, considering that the level of informality of women-led businesses in the sector is high (81.4% among those being on the market for less than four years and decreasing for more mature enterprises; GEM 2018-2019a) not all of them might be able to benefit from opportunities provided by the Agreement on equal terms with others.

In (non-food) manufacturing, the positive impact is relatively strongest, followed by ICT services, and agriculture & food processing (and mining). The only aggregate sector that sees a marginal decline in output from the Agreement is health services, education and social services, in which however the share of women-led enterprises is much higher that men-led ones.

In **Peru**, according to the Global Entrepreneurship Monitor, the concentration of women-led enterprises in the retail and wholesale trade in 2018-19 was even stronger than in Colombia (68.1%); and accordingly other sectors relatively less important (Table 6-5).[114]

With the limited increase in output estimated for the wholesale and retail trade sector, on average the large majority of women-led businesses would marginally benefit from the Agreement. More positive impacts in manufacturing and agriculture would also benefit women businesses; whereas 10% of women businesses in health care, education and social services on average experienced a marginal decline in output. But as noted above, effects for women-led enterprises will depend on the sub-sector. For example, according to data of the Peruvian Ministry of Production, 25% of enterprises in the textile and apparel sector

[114] According to national sources, the sectors with the largest presence of female entrepreneurs include retail and wholesale trade (39.5%), agriculture (28.7%), services (24.6%) and manufacturing industry (7.2%); see "Más de 122 mil mypes lideradas por mujeres emprendedoras se crearon en 2018", Peru21 (2019), https://peru21.pe/economia/122-mil-mypes-lideradas-mujeres-emprendedoras-crearon-2018-464471-noticia/

in Peru are led by women,[115] a sector which the modelling estimates to have grown by 0.3% to 0.45%, stronger than the manufacturing average.

Table 6-5: Peru - Enterprises by gender and sector, and impacts of the Agreement on output

Sector	Share in number of companies (%)	Output changes based on CGE modelling (%)		
	Women-led	Weighted average	Min	Max
Wholesale and retail trade	68.1	0.06	0.06	0.06
Manufacturing	13.8	0.22	-0.94	1.56
Health care, education and social services	10.0	-0.02	-0.02	-0.02
Financial, professional, administrative and consumer services	4.8	0.03	-0.20	0.09
Mining & agriculture	1.9	0.29	-0.34	1.86
ICT	1.6	-0.01	-0.01	0.00
Total	**100**	**0.14**		

Sources: Number of companies: GEM (2018-2019); Output changes: authors calculations based on DG TRADE CGE modelling results.

In **Ecuador**, the sectoral breakdown of women-led enterprises is similar to the one in Peru, with a high predominance of women business in wholesale and retail trade, although with a higher share in agriculture (Table 6-6). Unlike in Colombia and Peru, the wholesale and retail trade sector has benefitted from the Agreement, with an increase in output by 0.34%. On the other hand, the almost 10% of women-led business in manufacturing, on average the effect has been negative – although much (and much more than in Colombia or Peru) depends on the specific sector in which a business operates. While a more accurate analysis of effects for women-led enterprises would be possible only with more detailed data on their presence in each sub-sector (respectively sector as defined in the CGE model), the overall average is slightly more positive than in the other two Andean countries.

Table 6-6: Ecuador - Enterprises by gender and sector, and impacts of the Agreement on output

Sector	Share in number of	Output changes based on CGE		
	Women-led	Weighted average	Min	Max
Wholesale and retail trade	69.5	0.34	0.34	0.34
Manufacturing	9.6	-0.52	-4.15	0.60
Health care, education and social services	10.0	0.10	0.10	0.10
Financial, professional, administrative and consumer services	6.4	0.27	-0.55	0.68
Mining & agriculture	8.5	0.58	-4.72	4.09
ICT	2.5	-0.04	-0.15	0.02

Sources: Number of companies: GEM (2018-2019); Output changes: authors calculations based on DG TRADE CGE modelling results.

In the **EU**, according to a one-off study prepared for the European Commission, in 2012 women-led enterprises operated in the following sectors: health and social work (making 60% of enterprises in the sector), other services (65%), education (55%), accommodation and food services (39%), administrative and support services (37%), professional, scientific, and technical activities (34%), wholesale and retail trade (33%), agriculture, forestry and fishing (30%), financial and insurance services (26%), manufacturing (20%), and information and communication services (20%). (European Commission, 2014) Four out the first five sectors have not been included in the economic modelling therefore, we need to assume a lack of identified impact on them. For the hospitality, the estimated output increase is of USD 91 million (less than 0.1%), for the wholesale and retail trade USD 334 million (less than 0.1%), for communication USD 218 million, less than 0.1%, while for financial and insurance services, effects are mixed (+USD 6 million for the former and -USD 17 million for the latter). In agriculture and food processing, estimated effects

[115] "El 25% de las empresas textiles de Perú son lideradas por mujeres", Fashion Network (July 2019), https://pe.fashionnetwork.com/news/El-25-de-las-empresas-textiles-de-peru-son-lideradas-por-mujeres,1121643.html

of the Agreement are overall very limited, except two sectors: vegetables, fruits, and nuts (output reduction of USD 279 million (-0.2%) and other food products (output reduction of USD 422 million, -0.1%). In industry, all sectors record output increase, with the largest gains in motor vehicles, machinery, pharmaceuticals and metal products, and much more modest growth in textiles and apparel. Therefore, women-led enterprises in the manufacturing industry may also benefit from the estimated growth, however, its scale will depend on the sub-sector.

6.3.3 Women as traders

Regarding women as traders (exporters), data identified so far is quite limited and we will be looking for additional sources at the next stage of the study.

In **Peru**, the export promotion agency (PROMPERU) established in 2016 an online platform, filtering exports statistics by gender of the enterprise owner or manager. Accordingly, 291 women-led enterprises exported in 2016 goods worth in total USD 1.5 billion, including manufactured products (58%), agricultural products (17%), apparel (16%), fisheries (6%) and mining products (3%). (Frohmann, 2018) The economic modelling results estimate an export increase to the EU for chemical products (USD 218 million, 103%), apparel (USD 75 million, 124%), textile (USD 5 million, 42.6%), leather products (USD 3 million, 25.9%), mineral products (USD 2 million, 16.5%) and rubber, and plastics (USD 1 million, 38.8%), with all other industrial sectors (except wood products and paper products) recording a more limited export increase (Table 5-1 in section 5.1.3.2). This means that women-led companies exporting apparel and other manufactured products have also benefitted from this trend. In agriculture and food processing, exports increased in other food products (USD 234 million, 48.5%), vegetables, fruits, and nuts (USD 74 million, 32.2%), vegetables oils and fats (USD 39 million, 41.2%) and more limited increase in sectors covering wool, meat, dairy products, fishing, and sugar. There was also an export reduction in crops.

Therefore, the overall effects for exporting women-led enterprises in Peru (trading with the EU) are likely to be positive, while the scale of gains depends on the exported products and the sector they represent. According to the World Bank Enterprise Survey, 11.4% of surveyed women-led enterprises in Peru exported directly or indirectly in 2017.[116]

We have not identified so far export-related data for women-led enterprises in **Colombia** and **Ecuador**.

Regarding women's participation in trade in the **EU**, a joint study of the European Commission and International Trade Centre reveals that compared to the composition of surveyed EU enterprises, women-led companies producing goods are well represented in exports of clothing, fresh and processed food and agro-based products, and electronic components (European Commission, ITC, 2019). According to the economic modelling, EU exports increased thanks to the Agreement, e.g., regarding textiles and apparel, meat and vegetable oils and fats, as well as computer, optic and electronic equipment, crops and to a lesser extent, other agricultural and agro-based products, i.e. groups traded by women-led enterprises in Europe. Therefore, provided that EU women-led enterprises participate in trade with the Andean countries, they have also benefitted from the Agreement.

Summary

While the lack of more detailed data regarding sectors and sub-sectors in which women-led enterprises operate, as well as groups of products in which they trade does not allow

[116] World Bank (2017), Enterprise Surveys, Peru: https://espanol.enterprisesurveys.org/es/data/exploreeconomies/2017/peru#biggest-obstacle

for drawing very precise conclusions regarding impact of the Agreement on them, the below information helps to better understand the context of female entrepreneurship in the Andean countries and women's role from the region in the international trade, which also apply to trade relations between the EU and the Andean countries under the Agreement.

The existing literature acknowledges improvements in labour market participation among women in Latin America and the Caribbean, including in Colombia, Peru and Ecuador, improved access to childcare facilities and an increasing attention being paid and support provided to female entrepreneurs and traders, which contribute to economic and social development, poverty reduction and women's economic empowerment. However, it also outlines remaining challenges which disproportionally affect women due to sectors of their economic activity or size of owned or managed enterprises. The latter are often small and operate in sectors with a low profitability (e.g., some services sectors) or in those where high entry barriers or non-tariff (regulatory) barriers in international trade increase costs of presence in the market or impede international activity (e.g., food products, textiles, and garments). Moreover, cumbersome domestic regulation and high level of taxes and social contributions increase costs of operation on the domestic market while difficulties in access to funds restrict growth opportunities for MSMEs. Women also more often than men have reduced possibilities to benefit from professional networks, advice, and training, although the situation has been improving thanks to dedicated online platforms (Banco Interamericano de Desarrollo, 2020; ITC, 2015). In the Andean countries, constraints in ownership of assets, incl. land in rural areas, and the lack of equal treatment in decision-making also put women in a disadvantaged position (Delgado and Hawkins 2020; Maldonado Mujica 2020). A high level of informality among economic operators also provides a challenge, reducing growth opportunities for informal enterprises and representing an unfair competition for the formal ones, as reported in the World Bank Enterprise Survey, where 33.9% of female entrepreneurs from Peru, 26.4% from Colombia, and 9.5% from Ecuador named unfair competition from the informal sector as the main obstacle for their activity (other included corruption, labour legislation, tax rates, inadequate knowledge and skills of workers, access to finance, regulations on customs and external trade, licenses and permits, crime and political instability).[117] New technologies are thought to support women, notably in occupations where their application reduces a need for physical effort, while digital solutions facilitate access to online training, professional networks, and commercial platforms, including SheTrades (developed by the International Trade Centre) where female entrepreneurs may offer their products or services and be connected to international customers. On the other hand, a lower level of digital skills among women compared to men, and a lesser access to Internet and smart devices reduce immediate opportunities for women to work remotely and to run business (Banco Interamericano de Desarrollo, 2020; ITC, 2015). In Peru, access to Internet increased from 25.5% in 2007 to 51.4% in 2018 for women and from 30.3% to 56% for men (INEI, 2019). These factors may also affect the extent to which female workers and entrepreneurs benefit from a trade agreement, including the one between the EU and Colombia, Peru, and Ecuador, and signal a need for domestic and international initiatives addressing the identified challenges and new trends, including those exacerbated by Covid-19, e.g., increased remote working, learning and trading online, as well as increased use of online documents and procedures in international trade and domestically (e.g. to set up a business, and pay taxes or social security contributions). In Peru, e.g., the programmes "Mujer Produce" (woman produces) and "Ella exporta" (she exports) aim at supporting

[117] World Bank (2017), Enterprise Surveys, Peru: https://espanol.enterprisesurveys.org/es/data/exploreeconomies/2017/peru#biggest-obstacle; World Bank (2017), Enterprise Surveys, Ecuador: https://www.enterprisesurveys.org/en/data/exploreeconomies/2017/ecuador#biggest-obstacle; World Bank (2017), Enterprise Surveys, Colombia: https://www.enterprisesurveys.org/en/data/exploreeconomies/2017/colombia#biggest-obstacle

female entrepreneurs and traders. In Ecuador, the EU provides support for new and existing exporters, including women (for details, see Annex C-1).

Regarding the evaluation question, it is not possible at this stage to say precisely whether the Agreement has contributed to attaining SDG No. 5 (gender equality) in the Andean partner countries given the lack of data for a more detailed analysis and mixed outcomes, as set out above, depending on the country, sector of employment or economic activity, and the exposure to trade with the EU (e.g. female traders from the Andean countries may or may not have benefitted from the Agreement depending on whether they are involved in trade with the EU, or whether they focus on trade within the region, with neighbouring countries or with the US, for example).

6.4 Impacts on working conditions, labour standards and enforcement

This section analyses to what extent the Agreement may have contributed to attaining the SDG No. 8 (sustainable development and full and productive employment and decent work for all, incl. respect for core labour standards). Annex C-1 provides an overview of the situation in Colombia, Peru, and Ecuador in each of the areas covered by this section.

6.4.1 Labour standards - Child labour[118]

In this section, we analyse the situation in sectors participating in trade with the EU, notably in exports, from the point of view of child labour incidence, its reasons, and possible links with the Agreement. The objective is to estimate whether the Agreement might have had an impact on child labour and its levels, and whether the role of other factors should be considered. By doing so, we also take into account policy dialogue between the Parties, as well as technical or financial assistance, when relevant.

As discussed in the economic analysis and in sections 6.1 to 6.3, **Colombian** sectors benefitting from trade with the EU (with increases in exports and output supporting job creation) include parts of agriculture (e.g., vegetables, fruits, and nuts), food processing (other food products), textiles, apparel, metals, chemical products and rubber and plastics. Negative effects have been estimated for machinery, motor vehicles and pharmaceuticals.

As outlined in Annex C-1, the number of working children in Colombia has decreased until 2019, both as a share in the age group of 5-17 years, and in absolute terms. However, it remains a problem notably in poorer parts of the society (in 2010, the rate of child labour among the poor was 16.4%, while among the non-poor 2.3%; in 2017, the rates were 15.4% and 1.5%; DNP 2019) and in rural areas,[119] with agriculture being the main sector of child labour occurrence (37.3% in 2009 and 41.6% in 2019). Other sectors include trade, hotels, and restaurants, mining, and industry (DANE, 2020a, and 2011a). While in 2016, the largest population (in absolute numbers) of working children lived in Bogota (93,000), Medellin (35,000) and Cali (29,000),[120] their highest share compared to the whole age group was identified in the northern coastal departments and in the south-west,

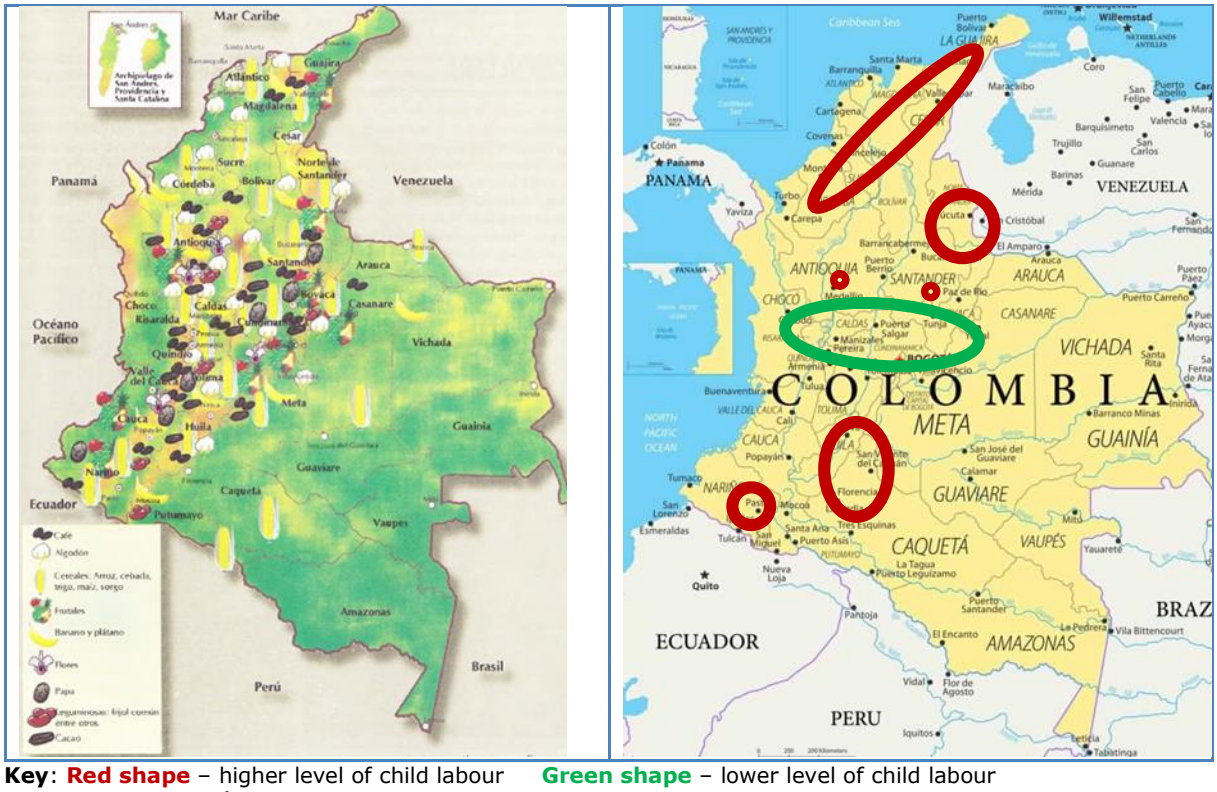
[118] According to the ILO, child labour is a matter of concern and subject to elimination, when it means an economic activity which interferes with child's physical or mental development, prevents it attending a school or forces to leave the school early or makes it to struggle by combining school attendance with work for long hours and hence does not allow for having enough time for rest or leisure activities adequate for their age and the stage of personal development. Moreover, all forms of hazardous work are prohibited ofr children an dyoun persons under the age of 18 years, and these include e.g. work in conditions having a negative on health and development, e.g. handling chemicals, working with dangerous tools and machines, carrying heavy loads.

[119] In 2018, out of 645,000 working children in Colombia, 305,000 lived in urban areas and 340,000 in rural ones. Un periódico digital, Universidad Nacional de Colombia (July 2020), Trabajo infantil: más frecuente en la informalidad rural que en la agroindustria: http://unperiodico.unal.edu.co/pages/detail/trabajo-infantil-mas-frecuente-en-la-informalidad-rural-que-en-la-agroindustria/

[120] Universidad del Rosario (June 2016), En Colombia trabajan 1.018.000 menores, el 9,1% de la tasa nacional: https://www.urosario.edu.co/Home/Principal/noticias/Investigacion/En-Colombia-trabajan-1-018-000-menores,-el-9,1-de/

close to the border with Ecuador (Figure 6-4). Low shares were identified essentially in departments with more diversified and better developed economy and lower levels of informal adult employment. On the other hand, while there were exceptions, regions with high child labour rates corresponded with those having high levels of informal adult employment and less diversified economy. For example, the highest levels of informality are registered in Cucuta (74.4% in 2007 and 73.1% in 2019) and at the same time the area was marked as having the third highest level of child labour (12.5% in 2015) (DANE, 2007b; 2019a). Regarding agriculture, i.e., a sector with a high rate of child labour incidence, which (at least in part) benefits from exports to the EU, according to Torres-Tovar et al. (2018) due to automation of processes and formal employment for adults there is no evidence of child labour in rice, cotton, and sugar cane cultivation in Colombia. On the other hand, coffee plantations and production of panela sugar cane are related to family undertakings, with often informal employment involving children and adolescents.

Figure 6-4: Agricultural activity and regions with child labour incidence in Colombia



Key: **Red shape** – higher level of child labour **Green shape** – lower level of child labour
Source: Atlas geográfico: https://atlasgeografico.net/produccin-agrcola-en-colombia.html (left panel); Proyecto Mapamundi: https://proyectomapamundi.com/america-del-sur/colombia/ (right panel)

Reportedly, inspection services have only very limited resources at disposal in rural areas[121] and therefore, child labour may remain not addressed. Moreover, the lack of training and respect for health and safety at work principles (including that children and adolescents operate field machines) results in a high rate of accidents at work and the lack of medical infrastructure may reduce the possibility of providing medical assistance in case of an accident. Rice and cotton are cultivated in El Espinal (department of Tolima). While work in these two sectors is automated and workers have formal contracts, there are cases of poor, homeless families that are hired informally, incl. children and adolescents (the latter usually remain outside education system). Sugar cane is cultivated in the department

[121] To improve labour enforcement in rural areas in Colombia and strengthen the capacity of labour inspection, the EU financed a technical assistance project, defined in the framework of the implementation of the TSD Title of the Agreememt. The ILO implemented this project in 2019 and 2020.

of Valle de Cauca and panela sugar cane is produced in Cundinamarca (Torres-Tovar et all, 2018). Coffee plantations are *inter alia* in Tolima and Huila. Recently, projects have been implemented with the National Federation of Coffee Producers aiming at eradication of child labour from the sector.[122] Another sector of high child labour incidence is small scale artisanal mining,[123] classified as hazardous type of work, prohibited for persons under 18 years of age. Child labour is related there to lack of formal employment opportunities for adults, deteriorating living conditions (e.g., due to an accident at work of an adult family member), presence (until recently) of the armed conflict and the lack of quality education offer. Precise data regarding the number of children working in the sector are not available.[124] At the beginning of the 2000s, activities of the small-scale mining sector covered seven departments (Boyacá, Nariño, Cundinamarca, Antioquia, Chocó, Sucre y Santander) (Ministerio del Trabajo, 2017a).

Given that children are involved in work on e.g., coffee plantations, there may potentially be cases where products related to child labour are exported to the EU. In this context, there are a few elements to consider. First, the Agreement through creating opportunities for increased exports and income generation may have contributed to poverty reduction, better satisfaction of basic needs and, in some cases, potentially reduction of the need for child labour, if incomes of adult household members turned out to be suffcient. In addition, the work of the Colombian Government and civil society organisations, and their awareness raising campaigns, as well as policy dialogue under the TSD Title based on the commitments undertaken therein in this regard, may have also helped to stimulate a change towards an increased school attendance by children and less time dedicated to work. On the other hand, the tradition of involving the whole family in work on a farm and economic factors, such as reportedly low prices of some sold commodities (see also the observations on Peru below) preventing small-hold farmers from hiring adult workers may prolong the use of child labour, including in sectors exporting to the EU. However, the Agreement as such does not have a direct impact on the level of incomes (i.e., does not prevent customers from paying decent prices to suppliers).

This preliminary conclusion will be tested at the next stage of the study, incl. in stakeholder consultation and in relation to other sectors recording child labour incidence. We will pursue the analysis, along two routes: 1) in a dedicated case study, we will analyse in a more detailed way chosen sectors involved in trade with the EU (e.g., coffee, mining) to determine, whether the Agreement might have had an impact on child labour incidence identified in these sectors (either directly or through creation of employment opportunities for adults); 2) knowing reasons triggering presence of child labour (e.g., poverty, informal economy, lack of decent, formal job opportunities for adults), we will draw conclusions for child labour based on other parts of our analysis (e.g. impacts on poverty, informality, job creation, and working conditions). We will conclude the analysis making a reference to the TSD Title and its provisions committing the Parties to implement effectively ratified ILO fundamental conventions incl. two (No. 138 and 182) related to elimination of child labour.

[122] Semana Sostenible (October 2019), ¿Qué sucede con el trabajo infantil en el sector cafetero colombiano?: https://sostenibilidad.semana.com/impacto/articulo/que-sucede-con-el-trabajo-infantil-en-el-sector-cafetero-colombiano/47061

[123] Alliance for Responsible Mining, Trabajo infantil en minería – Desde la normativa hasta el territorio: https://www.responsiblemines.org/2017/07/trabajo-infantil-en-mineria/

[124] Records from the official register SIRITI mention 5,000 persons, however, the Ministry of Labour admits this number is an underestimation.

In **Peru**, according to a survey carried out in 2015,[125] almost 2 million[126] children aged 5-17 years (i.e. 26.1% of this age group and 47.6% among indigenous peoples)[127] worked. This meant a decrease from 3.3 million in 2007 (ILO, IPEC, INEI, 2009). In 2015, the rate was 52.3% in rural areas and 16.2% in urban areas, with higher rates for children of indigenous peoples (73.4% in rural areas). 87% of children working in rural areas were involved in agriculture while the main activities in urban areas included sales in shops and in the streets, diverse services, including domestic service, cleaning services, work in bars or restaurants, and construction. Among indigenous peoples, while some children were involved in economic activities in their family or the community, most worked for others, in plantations, mines, and domestic service, the reasons behind being poverty, discrimination and lack of accessible quality education (INEI, 2017). There is also a link between lower rates of child labour and regions with a more diversified economy, integrated into international trade and exports (e.g., agro-industry, fisheries' products, minerals, and textiles), developed infrastructure and better connectivity with the rest of the country and the world. On the other hand, regions with high child labour rates rely on traditional sectors, incl. family and subsistence farming and mining (Ministerio de Trabajo y Promoción del Empleo, ILO, 2016). In the latter, child labour is present in departments of Ica, Ayacucho, Arequipa, Libertad, Huancavelica, and Piura in small-scale underground gold mines,[128] and in Madre de Dios, in the open-air gold extraction (Figure 6-5). Regarding non-metal mining, child labour has been identified in sand, clay, and precious stones exploitation. Working children and adolescents are exposed to hazardous substances, noise in underground mines, vibrations, extreme temperatures, heavy loads, repetitive movements overburdening certain parts of the body, health and safety risks related to operation of heavy machines, and life in mostly masculine environment, characterised by high consumption of tobacco and alcohol, and high levels of aggression, which may also turn into violence and abuse of young women working in the neighbouring areas. Work in mining does not allow for dedication of much time to education and in some mining areas, there are no schools. Moreover, the work remains informal, and children receive worse contractual conditions than adult workers.[129] There are, however, examples of good practice preventing and eliminating child labour in mines. In Santa Filomena (Ayacucho), it has been prohibited for children to come to a mine and a school has been established in the community to facilitate education but also to enable parents to come to work not being accompanied by children (ILO, 2017c). A similar practice with education for children, health care advisory services and additional income generation opportunities for parents has been developed in Mollehuaca (Arequipa).

In agriculture, child labour in Peru has been present e.g., in cultivation of coffee, cocoa, blueberries, asparagus and avocado,[130] mainly as part of family farms, however, through cooperatives, trade intermediaries buying produce from family farms and subcontracting work on plantations, products involving child labour may be integrated in value chains of goods exported *inter alia* to the EU. Moreover, given that whole families are hired during the harvest season (some migrating from other parts of the country) child labour may be part of it, without being registered (the groups of casual workers are not checked for the

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[125] INEI (2016), *Alrededor de 2 millones de niñas, niños y adolescentes trabajan en el país*: https://www.inei.gob.pe/prensa/noticias/alrededor-de-2-millones-de-ninas-ninos-y-adolescentes-trabajan-en-el-pais-9394/. Note that information about the situation in 2019 has been provided to the evaluation team after completion of the interim report; accordingly the information will be updated in the next report.

[126] In 2007, 3.3 million children aged 5 to 17 years were economically active in Peru (ILO, IPEC, INEI, 2009).

[127] Between 2012 and 2016, the rate of child labour fell from 31.7% to 26.7%, i.e. around 370,000 (INE, 2017). However, Peru had at that time the highest rate of child labour in Latin America (see: Peru21 (2018), *Perú tiene la tasa más alta de trabajo infantil en Sudamérica*: https://peru21.pe/peru/infantil-peru-tasa-alta-sudamerica-informe-409742)

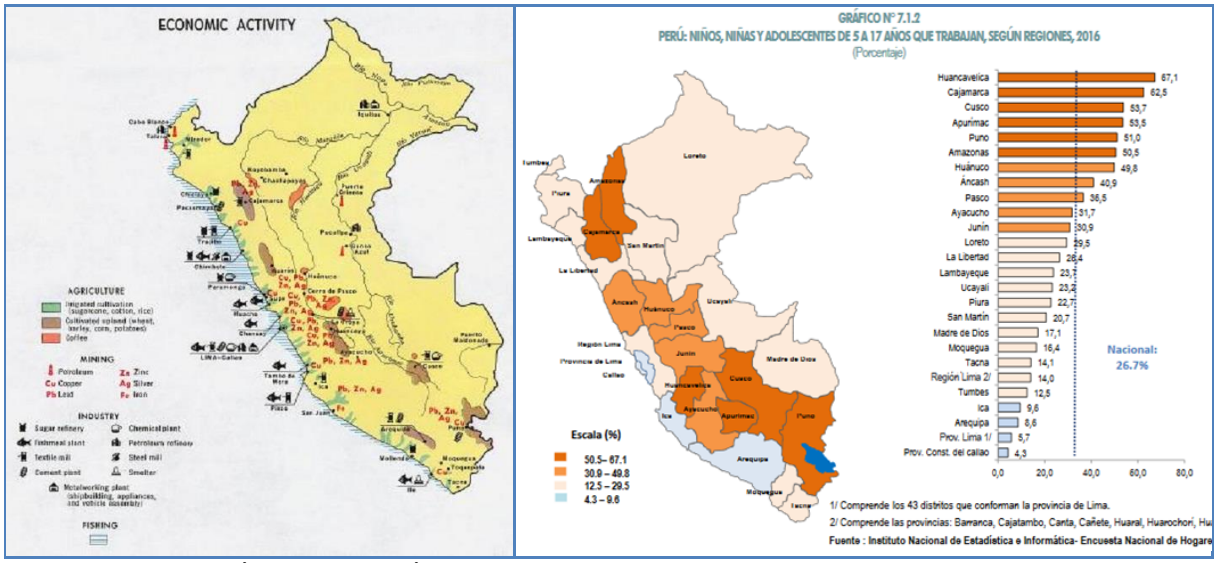
[128] In the early 2000s, around 30,000 families in Peru lived from income generation in gold mining (Ministerio del Trabajo, Colombia, 2017a).

[129] Ministerio de Energía y Minas, Protejamos a nuestros niños del trabajo infantil: http://intranet2.minem.gob.pe/ProyectoDGE/Mineria/TRIPTICO%20-%20Trabajo%20Infantil.PDF

[130] Desarrollo y autogestión, Perú: http://dyaperu.org/proyecto-semillas/produccion-agricola-libre-de-trabajo-infantil/

presence of children and as the payment depends on the weight or number of harvested fruits or vegetables, the more family members participate in work, the higher the income is).

Figure 6-5: Economic activity and regions with child labour incidence in Peru (2016)



Source: Mapa económico del Perú: http://perumipais.com/wp-content/uploads/2019/02/produccion-peru-mapa.jpg (left panel) INEI (2017), Perú: Características Sociodemográficas de niños, niñas y adolescentes que trabajan 2015; la Encuesta Nacional Especializada de Trabajo Infantil (ETI) 2015: https://www.inei.gob.pe/media/MenuRecursivo/publicaciones_digitales/Est/Lib1426/libro.pdf (right)

In 2020, Covid-19 prevented children and adolescents from attending school and the lack of access to Internet did not enable many of them to follow classes online, which increased the probability of being involved in work to support family budget. The frequently quoted reasons of continued child labour in agriculture include low income levels not allowing for contracting adult workers to help on small farms and the custom of passing the agricultural practice between generations. The Peruvian Association of Cocoa Producers estimates, for example, that the cocoa price on the international market should increase by ca. 40% (from USD 2,300 to USD 3,200 per tonne) to ensure decent income for small farmers. There are also initiatives, such as launched in 2019 by the Government of Peru, "Seal of products free from child labour" granted to farmers who can demonstrate the lack of child labour use in their practice. These are complemented by awareness raising campaigns which explain to parents in rural areas that children should attend school and have time for rest in addition to learning agricultural activities and should not be involved in work which may pose risks to their health and safety.[131]

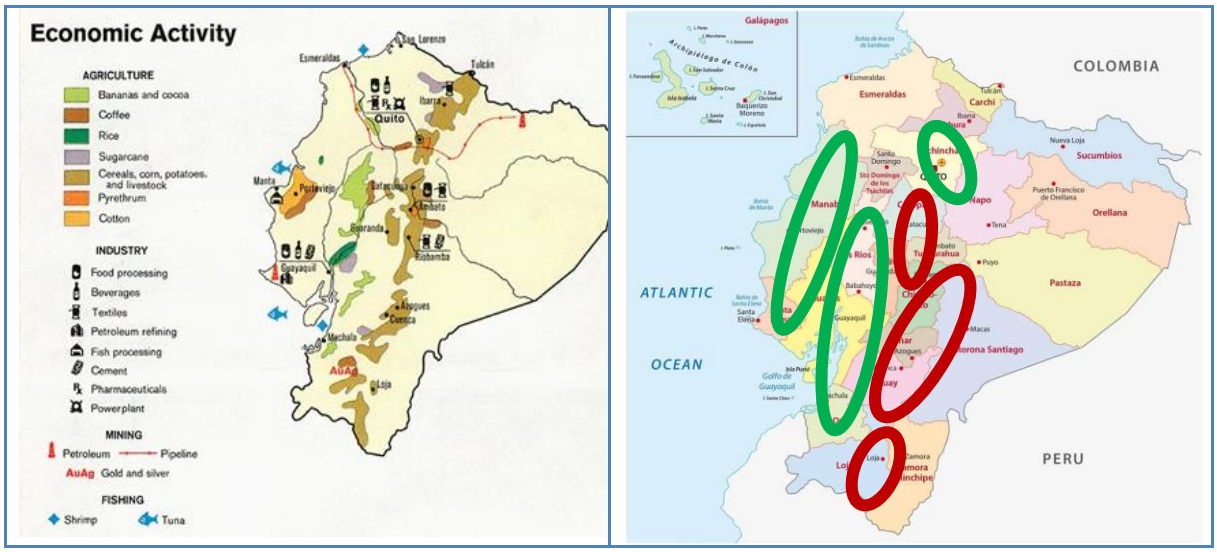
We will continue the analysis, including in a dedicated case study to verify preliminary findings. We will conclude it by making a reference to the TSD Title and its provisions committing the Parties to implement effectively ratified ILO fundamental conventions including two (No. 138 and 182) related to elimination of child labour. We will also make a reference to the policy dialogue taking place under the TSD Title. At this stage, the preliminary findings are similar as for Colombia: Through encouraging agricultural exports, the Agreement contributes to job and income creation for adults (both farmers and hired workers) and may have a positive influence on poverty reduction and satisfaction of basic needs. At the same time, low prices of sold products not always enable small farmers to hire workers to replace the work of children and adolescents. (As indicated above on Colombia, the Agreement, however, does not prevent paying decent prices to suppliers, and there are other economic factors setting prices, and being outside the scope of the

[131] Ojo público (August 2020), Los niños que el campo y la agroexportación esconden: https://ojo-publico.com/2001/los-ninos-que-el-campo-y-la-agroexportacion-esconden

Agreement.) Moreover, high levels of informality in agriculture and weak capacities of labour inspection do not provide incentives for a different practice and do not increase costs of breaking the law related to child labour, including to involving children in hazardous work at farms. At the same time, it is to be noted that informality levels are gradually decreasing and labour inspection capacity is being reinforced in Peru.

In **Ecuador**, the child labour rate among children aged 5 to 17 years decreased from 17% in 2006 (INEC, UNICEF, 2015) to 8.4% in 2017 (375,342 persons).[132] It is however estimated that due to Covid-19 and the increasing unemployment among adults and family poverty, child labour may increase again.[133]. According to a focused national survey carried out in 2012,[134] 8.6% of children and teenagers aged 5 to 17 years were engaged in an economic activity (15.5% in rural areas and 4.3% in urban areas), whereas the rate for indigenous peoples was much higher (29%). Agriculture was the main activity for 66% of working children aged 5-14 years and 50% of teenagers aged 15-17 years, followed by trade, manufacturing, construction, hotels and restaurants and domestic service.[135] The highest child labour rates were recorded in the central axis of the country (Figure 6-6) in the departments of Cotopaxi, Bolivar, Chimborazo, Cañar, Loja, and Azuay and the lowest one in coastal areas of Manabí and Los Ríos, El Oro, Santa Elena, Guayas, and the region around the capital Quito (Pichincha) (INEC, UNICEF, 2015). Departments with a high child labour incidence overlap partly with those having also high poverty rates (e.g., Cotopaxi, Bolivar, and Chimborazo), while the coastal departments and Pichincha were in 2014 among those recording the lowest poverty rates (INEC, 2015).

Figure 6-6: Economic activity and regions with child labour incidence in Ecuador



Red shape – high level of child labour; **Green shape** – low level of child labour
Source: Proyecto Mapamundi: https://proyectomapamundi.com/america-del-sur/ecuador/ (right), Mapa Owje: https://mapas.owje.com/1938_mapa-de-actividad-economica-de-ecuador.html (left)

In agriculture, child labour has been identified in banana and palm oil plantations, flowers and abacá sector, moreover, in fishing. In industry, in small-scale mining, gold mining and

[132] El Comercio (June 2019), Entre 2014 y 2018, el trabajo infantil se duplicó en Ecuador: https://www.elcomercio.com/actualidad/infantil-ecuador-cifras-aumento.html; Plan V (June 2020), El trabajo infantil en Ecuador aumentará por la pandemia: https://www.planv.com.ec/historias/sociedad/el-trabajo-infantil-ecuador-aumentara-la-pandemia

[133] UNICEF (June 2020), La mitad de los niños de Ecuador no tiene agua ni saneamiento adecuado en casa: https://news.un.org/es/story/2020/06/1475722

[134] INEC (2012) *Encuesta Nacional de trabajo infantil*: http://www.ecuadorencifras.gob.ec/trabajo-infantil/

[135] Plan V (June 2020), El trabajo infantil en Ecuador aumentará por la pandemia: https://www.planv.com.ec/historias/sociedad/el-trabajo-infantil-ecuador-aumentara-la-pandemia

production of bricks, and in services in construction, domestic services, shoe cleaning, and selling products (e.g., newspapers) in the streets. There are assistance projects focused e.g., on reducing the incidence of child labour in palm oil sector,[136] and producers and exporters of flowers cooperate with Government and trade unions to remove child labour also from this sector (ILO, 2017c). The majority of children working in agriculture in rural areas is not remunerated (in 2012, it was 91%), which suggests work as non-paid family members. Moreover, even if they receive payment, the amounts are usually very low. The poverty rates and job opportunities for adults have been closely related with child labour incidence. Over the last two decades, periods of economic growth and job creation went hand in hand with decreasing poverty and child labour incidence, while economic slowdown provoked an increase in both. A higher incidence of child labour is also recorded in poor families where a short-term gain from additional work carried out and generated income prevails over long-term investment in education and skills development (Consejo Nacional para la Igualdad Intergeneracional, 2018).

However, the very limited information and lack of latest data available about the child labour incidence in Ecuador, its forms, number of children involved, trends and reasons of its occurrence, in particular in sectors involved in trade with the EU does not allow at this stage for drawing preliminary conclusions about potential impacts of the Agreement in this area. We will continue the analysis in a dedicated case study, reaching out to stakeholders to receive more evidence.

6.4.2 Labour standards - Non-discrimination at work

Next, we focus on groups of vulnerable workers facing challenges on the labour market, such as migrants, persons with disabilities, indigenous peoples, and youth. Based on information related to sectors in which they work, and those affected by the Agreement, we draw conclusions about potential impacts for these groups. Annex C-1 provides a description of their situation in Colombia, Ecuador and Peru in the analysed period and initiatives taken by the Governments to improve it.

In **Colombia**, migrant workers originate mainly from Venezuela and, according to available data, take jobs in the informal sector, including hotels and restaurants, personal services, security services and courier services, among others. Persons with disabilities, worked in 2015, in the services sector (21.7%), agriculture (20.6%), other activities (19.3%), trade (15.6%), and industry (5.2%). 68% of them had informal jobs.[137] According to the National Development Plan 2018-2022, around 70% of persons with disabilities are classified as vulnerable living in poverty (DNP, 2019). Regarding indigenous peoples, we did not find data related to their employment in a break-down by sector. The available information indicates that in 2016, 77.9% of them had informal jobs (ANDI, 2019). Regarding youth, in 2020, 21.5% of working young people were employed in wholesale and retail trade, 18.5% in agriculture, 10.9% in manufacturing industry, 8.5% in public administration, 8% in other services, 7.1% in construction, 6.6% in hospitality sector, 6.4% in transport and storage and 5.8% in scientific, professional, technical, and other activities (DANE, 2020b).

As discussed in section 6.1, impacts of the Agreement on services sector in Colombia are very limited (0.1% or below), except utilities (0.7% in gas production and distribution), air transport (0.2%) and accommodation and food services (-0.2%). Moreover, given that employment in the combined trade and hospitality sector in Colombia increased from

[136] US Department of Labor, 2019 Findings on the worst forms of child labour: https://www.dol.gov/agencies/ilab/resources/reports/child-labor/ecuador; Primicias, Hay 257.052 niños trabajando, Ecuador incumplirá las metas de erradicación: https://www.primicias.ec/noticias/sociedad/trabajo-infantil-agricultura-industria-ninos/

[137] Ministerio de Salud y Protección Social (2015), Sala situacional de Personas con Discapacidad: http://www.discapacidadcolombia.com/index.php/estadisticas/185-estadisticas-2015

around 4.5 million in 2007 to 6.3 million in 2019,[138] any negative effect of Agreement would mean a more limited job creation in a growing sector or a move of people to other, more attractive sectors rather than a job reduction. Therefore, Agreement is likely to have had no or very limited effects for most people with disabilities and youth (except respectively 25% and 30% from within each group working in agriculture and industry). In addition, at this stage, there is too limited data identified regarding employment of migrants and indigenous peoples in a break-down by sector to estimate possible effects of the Agreement for them. In agriculture (20.6% employed disabled persons and 18.5% among youth), the exact impact on each of the two groups would depend on their employment break-down by sub-sectors and the number of persons employed in growing sectors compared to contracting ones; the same applies to manufacturing sectors, where the impact of the Agreement on the situation of employed disabled persons and youth would depend on the sub-sector of their activity, with a possible overall positive effect given the size of the sectors and changes over time in their total number of jobs (see section 6.1).

In **Peru**, changes in employment levels in services sectors caused by the Agreement are also estimated as very limited. Because migrant workers, 62.1% of persons with disabilities and 61.8% of young people are mainly employed in services (Table 6-7), the Agreement is unlikely to have an impact on them. On the other hand, the overall positive effects in agriculture (across almost all sub-sectors) might have benefitted 7% of disabled persons, 22.5% of youth and half of indigenous peoples through creation of additional employment and income generation opportunities. In the latter case, however, there is a need for further analysis, given that indigenous peoples may work on small subsistence farms forming the majority of production units in the mountain regions (64%) and not being involved in international trade or being affected by competition of imported inputs or products, e.g., in the dairy sector. For a comparison, subsistence farms represent 15% on the coast, where agricultural production for exports is concentrated (Maldonado Mujica 2020). In industry sectors, employment growth induced by the Agreement is estimated in the economic model for other food products (1.8% for skilled and unskilled workers), chemical products (1.5%), textiles and garment (around 0.3%), while for the others job reduction or a slower job growth (depending on the situation in the sector, i.e., whether overall it is growing or declining) have been estimated in the region between -0.2% and -1.0%. This means mixed employment results for sectors employing around one third of disabled persons, almost 10% of young people and 6.3% of working indigenous peoples, with both, potential for job creation, but also job reductions in certain sub-sectors and shifts of workers (the only available data for the indigenous peoples come from 2007, therefore sectorial shares can be considered only as approximation), depending on the sector they operate in.

In 2012 in **Ecuador**, migrant workers were employed in trade, hotels, and restaurants (30,562), communal, social and personal services (22,529), agriculture (13,979), industry (9,681), construction (4,990), transport (3,513) and domestic service (3,062).[139] The study team could not yet identify data regarding the sectors of employment of Venezuelan migrants in the country or related to employment of disabled persons and indigenous peoples in Ecuador in a break-down by sectors. We will continue search, including through stakeholder engagement. Regarding young people, in 2017, 24% worked in agriculture, 22% in trade, 12% in industry, 8% in construction, 8% in hotels and restaurants and 5% in transport and storage (Ministerio del Trabajo, Ecuador, 2018).

As discussed in section 6.1, job increases are concentrated in relatively few but large sectors, such as vegetables, fruits and nuts, fishing, and other food products, which draw

[138] DANE, Colombia, Información histórica del Mercado Laboral, Anexos: https://www.dane.gov.co/index.php/estadisticas-por-tema/mercado-laboral/empleo-y-desempleo/mercado-laboral-historicos

[139] ILO, Migración laboral en América Latina y el Caribe - Países: Ecuador – Estadísticas: http://libguides.ilo.org/migracionlaboralALCpaises/Ecuador-estadisticas

employment from all other sectors. This means mixed results for groups of workers in Ecuador depending on the sector they work in.

Table 6-7: Sectorial shares (in %) in total employment of disabled persons, youth, migrant workers, and indigenous peoples in Peru

Sector	Disabled persons		Youth	Indigenous peoples[140]	Migrant workers[141]	
	2014	2018	2018	2007	Self-employed	Hired workers
Trade	10.6	30.1	19.9	12.6	82.0	33.0
Agriculture, mining, fisheries	6.9	7.0	22.5	50.8	---	----
Industry	39.3	30.8	9.7	6.3	----	-----
Transport, storage, comms	7.7	7.5	9.4	4.3	6.0	3.0
Construction	----	----	6.0	5.5	6.0 – diverse services	6.0
Water, gas, electricity supply	35.4	24.5	32.5	----		----
Hotels, restaurants				3.8		11.0
Social, communal, and personal services[142]				1.7		10.0
Business services				----		33.0 – diverse services, including security, client & cleaning services
Education / Health				2.9		
Financial services				----		

Source: Ministerio De Trabajo y Promoción del Empleo, 2019; INEI, 2019; ILO, 2015e; IOM, 2019

Given the lack of detailed data related to the number of workers in a break-down by sub-sectors in the analysed groups, it is not possible to estimate more precisely the magnitude nor the overall direction (positive or negative) of changes in employment levels which may be attributed to the presence of the Agreement. Based on the available data, one may conclude the likelihood of lack of effects for migrant workers in Colombia and Peru, as well as for a large share of disabled persons and youth in Colombia (working mainly in the services sectors where the estimated impacts are very limited in both countries), with more pronounced results in Ecuador. Moreover, positive results may be expected for those employed in agriculture and food processing in Peru (e.g., over 20% of young people). On the other hand, mixed results are expected e.g., for disabled persons in Peru where around one third works in industry. At the next stage of the study, we will include here also considerations from other parts of the analysis, e.g., regarding informal employment or effects for working conditions to conclude if the Agreement might have contributed to more equality on the labour market between different group of workers, in particular improved situation of vulnerable groups.

6.4.3 Labour standards - Forced labour

In this section, we analyse information about forced labour in Colombia, Ecuador, and Peru, and – to the extent data related to its incidence in sectors, regions or groups of the society is available – we assess whether the Agreement might have had any impact on this phenomenon. For more details, see Annex C-1.

Information about forced labour cases in **Colombia** is very limited. Trafficking in persons has been recorded *inter alia* in Valle del Cauca, Antioquia, Risaralda, and Cundinamarca.[143] According to the ILO Committee of Experts' Report published in 2019, forced labour has

[140] In addition, 3.2% worked in domestic service, 1.8% in public administration, and 1.6% in real estate. (ILO, 2015e)

[141] The figures are provided based on a sample of 1,600 Venezuelan workers surveyed in Peru.

[142] The classification of sectors of economic activity has changed between 2007 and 2020 and there are no matching categories in 2020 for some of those existing in 2007.

[143] Prevencionar.com (August 2019), Prevención del trabajo forzoso en Colombia: https://prevencionar.com.co/2019/08/02/prevencion-del-trabajo-forzoso-en-colombia/; Ministerio de Trabajo (2017), Ministerio de Trabajo en la lucha contra la trata de personas con fines de explotación laboral y trabajo forzoso: http://www.mintrabajo.gov.co/prensa/comunicados/2017/junio/mintrabajo-en-la-lucha-contra-la-trata-de-personas-con-fines-de-explotacion-laboral-y-trabajo-forzoso

been identified in illegal gold mining (CEACR, 2019). In addition, there have been cases detected in agriculture, including flower sector, and coffee cultivation, crop picking in the coca fields[144] and forced recruitment to illegal armed groups and criminal organisations.[145]

As discussed in section 6.1, the economic modelling suggests employment growth thanks to the Agreement in a several sectors in Colombia, including metals (1.6%), vegetables, fruits, and nuts (1.2%) including coffee and flowers, and crops (0.7%). Further analysis will be required to collect more precise evidence regarding forced labour, notably cases identified in sectors involved in trade with the EU (e.g., coffee, flowers, extractive industry) to verify to the extent possible whether there is a risk that products involving forced labour might have found their way, through intermediaries and value chains, onto the EU market or whether there is likelihood that those products were sold elsewhere. The Agreement with the EU, through creating additional export opportunities might have encouraged some to generate income using cheap (forced) labour, while weak inspection capacities and law enforcement may not represent a sufficient deterrent to prevent such practices.

In **Peru**, identified types of forced labour discussed in the Second National Plan to Combat Forced Labour[146] include wood extraction in the regions of Amazon involving indigenous peoples, illegal mining activities, notably in the department of Madre De Dios (affecting migrants from other Andean countries, Bolivia, and Brazil) and domestic work (involving mainly women migrating from other Peruvian regions due to poverty or violence at home).

According to trade statistics, Peruvian exports of mineral fuels and ores to the EU decrease, and the economic modelling suggests employment and output reduction triggered by the Agreement in extractive industries, metal and mineral products, wood, and paper, i.e., all sectors participating in trade with the EU, where cases of forced labour have been identified. However, to draw conclusions about potential impacts of the Agreement on the incidence of forced labour, further analysis will be needed, including stakeholder engagement.

Ecuador is considered as a transit route and a destination in human trafficking, affecting migrants from Venezuela, South and Central America, the Caribbean, and the Ecuadorian citizens alike. Victims are exploited in sex trafficking and forced labour, including domestic service, forced begging, on banana and palm plantations, in floriculture, shrimp farming, fishing, sweatshops, street vending, mining, and in other areas of the informal economy.[147]

While due to the lack of more precise information it is not possible to draw conclusions at this stage whether products involving forced labour might have been integrated into the value chains and exported to the EU, the question of whether the Agreement through creating export opportunities might have encouraged income generation with the use of cheap (forced) labour, will be tested at the next stage of the study, including through stakeholder engagement.

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[144] Reuters (July 2019), Colombia creates 'elite unit' of labor inspectors to combat human trafficking: https://www.reuters.com/article/us-colombia-humantrafficking/colombia-creates-elite-unit-of-labor-inspectors-to-combat-human-trafficking-idUSKCN1UQ2UA

[145] US Department of State, 2020 Trafficking in Persons Report: Colombia: https://www.state.gov/reports/2020-trafficking-in-persons-report/colombia/

[146] Ministerio de Trabajo y Promoción del Empleo, Perú (2013), II Plan Nacional para la Lucha contra el Trabajo Forzoso 2013-2017: https://www.ilo.org/wcmsp5/groups/public/---americas/---ro-lima/---sro-lima/documents/genericdocument/wcms_240910.pdf; ILO (2018), La evaluación del II Plan Nacional para la Lucha contra el Trabajo Forzoso 2013-2017: https://www.ilo.org/wcmsp5/groups/public/---americas/---ro-lima/---sro-lima/documents/publication/wcms_625242.pdf

[147] UNHCR, 2018 Trafficking in Persons Report – Ecuador: https://www.refworld.org/docid/5b3e0b544.html

6.4.4 Labour standards - Freedom of association and the right to collective bargaining

The number of trade unions of different types (e.g., at the enterprise level, at the sector level) increased in **Colombia** from 2,768 (with 831,047 members in total) in 2005 (ENS, 2008) to 5,523 in 2017, with 1,028,764 members. Moreover, as outlined in Table 6-8, over the whole analysed period, in all sectors, the number of trade unions has been increasing and so has the absolute number of their members (financial intermediation is the only exception, with the number of trade union members falling between 2014 and 2017 despite an increase in the number of trade unions). In some cases, there were also minor reductions in the affiliation rate, i.e., the share of trade union members in the total number of workers in the sector (ENS, 2018). The number of collective bargaining agreements has decreased over time, however, in each sector it has been relatively stable since 2013. The number of collective accords (similar to collective agreements, but with non-unionised workers), after having increased in early 2000s, remains since 2007 at the level slightly above 200 annually and the number of trade union contracts (where a trade union acts as a de facto employer) has increased from 22 in 2007 to 964 in 2013 and around 2,000 in 2014 and 2015, almost all of them being in the health care sector (ENS, 2018). The latter two solutions have been raised by the ILO as requiring an analysis and a change of practice (e.g., that the collective pacts are negotiated with non-unionised workers only where there are no trade unions in an enterprise). The same conclusion was reiterated by the Committee of Experts in the 2021 report, where the Committee stressed that otherwise, agreements reached by employers with different groups of non-orgnised workers can be used to undermine the exercise of freedom of association and weaken the existence of workers' organisations. The Committee also noted diverging numbers of collective accords provided by trade unions (suggesting an increase from 141 in 2017 to 222 in 2019) and the Government suggesting a decrease in their use since 2015 (although, the Government quoted figures for half of 2019 only) (CEACR, 2020; 2021).

From the point of view of our analysis, it is important to note that observed trends occurred in all sectors of the economy, including those where the Agreement was not likely to have any impacts, e.g., in public administration, social and health care services which suggests an influence of other factors, e.g., improving security situation encouraging trade union membership, and the economic growth in the first few years of the last decade facilitating job creation, including formal jobs, in which workers had an opportunity to join or to form trade unions. Moreover, since the start of application of the Agreement, dialogue under the TSD Title includes freedom of association and effective implementation of the ILO fundamental conventions No. 87 and 98, with conditions for establishment and operation of trade unions. On the other hand, in sectors where the Agreement might have had an impact, e.g., in agriculture, mining, trade and manufacturing industry, the number of trade union members has increased by 2017, but at a slower rate since 2014. However, it is likely that it was not the direct impact of the Agreement that slowed down increase in trade union members in sectors involved in trade with the EU, but rather the macroeconomic situation in the country, with the economic slowdown caused by the oil price decline, decrease of investment rate and a lower number of new jobs created, which also meant that fewer people were taking on employment and therefore the number of potential trade union members was also lower than a few years before.

In a dedicated case study, including in stakeholder consultations, we will seek to determine, whether (in addition to factors listed above) the Agreement might have had an impact on trade union membership (either positive or negative) in sectors involved in trade with the EU, e.g., vegetables, fruits and nuts, mining and mineral products, chemicals, etc.

Table 6-8: Number of trade unions and trade union members by sector in Colombia, 2010-2017

Sector	No. of trade unions	% of workers in sector	No. of trade union members	No. of trade unions	% of workers in sector	No. of trade union members	No. of trade unions	% of workers in sector	No. of trade union members
	2010	2010	2010	2013	2013	2013	2017	2017	2017
Trade	562	8.4	68,498	741	8.7	83,730	818	8.4	86,742
Public admin.	520	11.9	96,532	827	11.3	108,821	1,041	11.8	121,153
Manufacturing industry	384	10.2	83.090	511	12.0	115,076	625	11.7	120,758
Agriculture	326	8.9	72,733	440	9.2	88,341	509	8.9	91,250
Transport, comms & storage	307	8.6	70,091	430	8.2	78,853	542	8.4	86,192
Social & health care services	168	9.8	79,628	466	9.8	94,589	648	11.1	114,559
Social, communal, personal serv.	165	1.7	14,218	198	1.6	15,616	234	1.8	18,595
Education	151	30.5	247,417	219	28.0	268,693	270	26.3	270,965
Construction	92	0.8	6,436	108	0.8	7,330	125	0.8	7,956
Real estate	81	0.7	5,942	115	1.4	13,465	154	1.6	16,493
Financial intermediation	41	2.8	23,252	55	2.8	26,597	80	2.4	24,579
Gas, water, electricity supply	38	2.8	22,567	62	2.6	25,366	88	2.9	30,355
Mining	35	1.3	10,524	52	1.9	17,974	77	1.8	18,971
Fisheries	31	0.2	1,495	33	0.2	1,569	37	0.2	1,742
Hotels and restaurants	28	1.1	9,102	41	1.0	9,908	53	1.0	10,328
Domestic service	6	0.03	273	9	0.05	488	15	0.1	778
Total	**2,936**		**811,850**	**4,384**		**959,214**	**5,523**		**1,028,764**

Source: Escuela Nacional Sindical, ENS (2011), Sistema de información laboral y sindical, Reporte a diciembre de 2010; ENS (2016), Sistema de información laboral y sindical, Reporte a diciembre de 2014; ENS (2018), Sistema de información laboral y sindical, Reporte a diciembre de 2017

In **Peru**, in 2019 203,169 workers (5.3% out of 3.8 million) in the private sector belonged to trade unions. This was an increase from 100,636 (out of 3.1 million, i.e. 3.2%) in 2007 (Ministerio de Trabajo y Promoción del Empleo, 2019d; 2007), although during the period the methodology changed and trade union members in the public administration sector and social and health care services stopped being counted. There is no uniform pattern across sectors between 2007 and 2019, and the number of trade union members in each of them reflects a unique situation in the sector influenced by different factors. For example, in mining, the number of trade union members increased between 2007 and 2013 (i.e., in the period of economic growth supported by high prices of exported oil) and then fell, further to the economic slowdown and fall in global oil prices (in parallel with a decreasing number of workers in the sector between 2012 and 2016, which meant a lower number of potential trade union members).[148] A similar trend is observed in construction, with economic growth (and an increase in the number of trade union members) being followed by a few years of investment reduction. In manufacturing, there was an increasing trend over the whole period, while the opposite is true for agriculture, most likely because of domestic legislation which may have an impact on the exercise of trade unions' rights. It includes regulations about short-term and seasonal labour contracts, including in non-traditional exporting sectors and agriculture which may be renewed a non-limited number

[148] Regarding employment in the mining sector, see: Ministerio de Enegría y Minas (2019), Informe de empleo minero. Panorama y tendecias en el Perú: http://www.minem.gob.pe/archivos/INFO_informe_Minero_FINAL_HD-zjr2599d.pdf

of times (ILO, 2019).[149] Overall, the number of people working in agriculture in Peru increased from 3.97 million in 2008 to 4.08 million in 2017, while the number of those covered by the special regime for agriculture increased from 182,552 in 2008 to 276,403 in 2017 (studies also speak of 333,368) (Maldonado Mujica 2020). The literature also provides numbers differing from Government statistics, showing an increasing number of unionised workers under the special agricultural regime[150] (from 8,295 in 2009 to 11,065 in 2016), with trade union membership rate varying over the period from 4.9% in 2009 down to 3.3% in 2012 and up to 4.6% in 2016.[151] In other sectors, mainly in textile, in 2010-2016, between 69,041 and 83,425 workers were covered by the non-traditional exporting regime.[152] Some of them worked for 15 and more years in the sector on several consecutive short-term contracts, not providing any certainty or stability in either personal or professional life. According to the ILO and the Ministry of Labour (Ministerio de Trabajo y Promoción del Empleo, 2019b), such forms of contracts may decrease the possibility to join a trade union and, as a result, trade unions' operation in these sectors (one of the arguments provided says that in case of fixed-term contracts their renewal depends on the good will of employers who may not renew the contract or threaten not to renew in case of trade union activity). In the case submitted by the Peruvian trade unions on the matter, the ILO Committee on Freedom of Association called on the Government to ensure that the contract regime in non-traditional exports does not interfere with the exercise of trade unions' rights[153]. However, the number of unionised workers in the non-traditional sector decreased from 7,769 in 2010 to 2,265 in 2016, i.e., from 10% to 3.2%.[154] There is also a special regime for microenterprises which has been extended on other companies, and requires e.g., to have at least 20 employees to form a trade union. This may discourage or make impossible the trade union operation in MSMEs. Overall, the share of trade union members in the total number of workers in Peru, between 2013 and 2017 was around 16% in public sector while in private sector, it decreased from 6.4% in 2013 to 5.2% in 2017 (Ministerio de Trabajo y Promoción del Empleo, 2019d). In the report published in 2019, the ILO Committee of Experts invited the Government to consider changes to the Act on the Promotion of Non-Traditional Exports in tripartite consultations with trade unions and employers' organisations. It also requested information about measures taken by labour inspection to ensure that workers on short-term contracts will not face a threat of their non-renewal for their trade unions' activity (CEACR, 2019).

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[149] In the agriculture sector covered by the special regime, the number of workers increased from 170,110 in 2009 to 239,194 in 2016, while the rate of trade union membership varied between 3.3% and 5.1% during the same period, i.e., differed from figures provided by the Government sources used in Table 6-9. Workers in the sector often receive short-term or seasonal contracts and much lower benefits than those operating under the general regime, e.g., 15 days of holidays instead of 30, the monthly wage of USD 403 in 2016 (on average) compared to USD 696 under the general regime and lower compensation in case of being dismissed. Moreover, contracts are often not renewed if the worker undertakes trade union activity. See: (2017), Queja contra el gobierno peruano por falta de cumplimiento de sus compromisos laborales y ambientales, contenidos en el Acuerdo Comercial entre Perú y la Unión Europea: http://www.europaperu.org/wp-content/uploads/2017/10/20171018-Queja-AC-UE-Peru.pdf

[150] The legislation related to the special agricultural regime (promotion of agriculture) was adopted in 2002. Ley de Promoción del Sector Agrario (Ley N° 27360): http://www2.congreso.gob.pe/sicr/cendocbib/con4_uibd.nsf/5C947E120537341B05257B7A004B13E5/$FILE/27360.pdf

[151] (2017), Queja contra el gobierno peruano por falta de cumplimiento de sus compromisos laborales y ambientales, contenidos en el Acuerdo Comercial entre Perú y la Unión Europea: http://www.europaperu.org/wp-content/uploads/2017/10/20171018-Queja-AC-UE-Peru.pdf

[152] Promotion of exports from non-traditional sectors was introduced for the first time in 1978 and was amended since then (Ley de Exportación no Tradicional (Decreto Ley N° 22342): http://www2.produce.gob.pe/dispositivos/publicaciones/2001/dl22342.pdf

[153] In 2016-2018, there were two proposals to modify the Law on non-traditional exports, however, they did not get the priority in the National Congress. At the same time, the Government considered prolongation of the regime by another 24 years. See: Actualización de la queja contra el gobierno peruano por falta de cumplimiento de sus compromisos laborales y ambientales, contenidos en el Acuerdo Comercial entre Perú y la Unión Europea. (May, 2018): https://www.fdcl.org/wp-content/uploads/2018/08/REDGE_Actualizacion-QUEJA_FINAL.pdf

[154] (2017), Queja contra el gobierno peruano por falta de cumplimiento de sus compromisos laborales y ambientales, contenidos en el Acuerdo Comercial entre Perú y la Unión Europea: http://www.europaperu.org/wp-content/uploads/2017/10/20171018-Queja-AC-UE-Peru.pdf

Table 6-9: Number of trade unions and trade union members in the private sector in Peru, by sector, 2007-2019[155]

Sector	2007		2013		2019	
	% of workers in sector	No. of trade union members	% of workers in sector	No. of trade union members	% of workers in sector	No. of trade union members
Trade	1.7	3,157	0.6	3,251	1.0	5,952
Public administration	33.6	16,245	6.6	382	3.3	202
Manufacturing industry	4.1	12,296	7.2	35,973	8.0	43,413
Agriculture	4.96	3,871	1.8	3,372	0.9	2,921
Transport, comms & storage	5.1	4,116	5.4	12,252	5.1	16,426
Social and health care services	44.6	18,108	2.3	1,276	2.5	2,064
Services: social, communal, personal	2.4	1,572	3.1	6,534	2.1	4,899
Education	3.4	3,411	3.2	6,246	2.7	6,692
Construction	16.1	12,268	32.7	74,446	26.7	57,285
Real estate	1.9	4,320	3.4	21,027	3.0	21,852
Financial intermediation	2.5	1,930	1.1	1,295	2.2	3,165
Gas, water, and electricity supply	44.7	5,665	39.6	5,830	35.1	7,876
Mining	20.1	13,395	23.6	28,083	25.6	27,151
Fisheries	0.1	19	2.7	480	12.1	2,283
Hotels and restaurants	0.5	263	0.2	272	0.2	295
Domestic service	No data	No data	No data	No data	-----	No data
Others			1.7	254	3.2	693
Total	**7.1**	**100,636**	**----**	**200,973**	**-----**	**203,169**

Source: Ministerio de Trabajo y Promoción del Empleo, Perú (2019d), Anuario estadístico sectorial; Ministerio de Trabajo y Promoción del Empleo, Perú (2007), Anuario estadístico sectorial; Ministerio de Trabajo y Promoción del Empleo, Perú (2013), Anuario estadístico sectorial

As outlined in sections 6.1-6.3, the Agreement has triggered an increase in Peruvian exports, output and employment in the chemical sector and sectors covered by special regimes, i.e., agriculture (e.g., vegetables, fruits and nuts), food processing, textiles, and apparel. Hence, by creating favourable conditions to trade and encouraging economic activity in these sectors, the Agreement may have contributed indirectly to preserving the special regimes and extending them on a higher number of workers to maintain flexibility and cost competitiveness of the considered sectors. The literature (Maldonado Mujica 2020, p.15) provides as an example a list of Peruvian companies operating in the agro-industry and exporting their products. It also includes the number of employees of these companies including those covered by the special regime. While the websites of the listed companies not always provide detailed information regarding their export markets, some of those that export also to the EU have doubled the number of their employees covered by the special regime between 2008 and 2017. In most cases, workers covered by the special regime represent almost the total of the workforce of those companies. While this would mean that more people have formal jobs and poverty may be reduced, the low quality of created jobs and restrictions imposed on workers' rights and benefits (compared to the general regime) would remain in place together with challenging conditions for trade unions to be established and to operate (although, as indicated above, regarding situation in agriculture, there is some evidence of trade union activity under the special regime). On the other hand, the Agreement includes provisions in the TSD Title committing the Parties to respect core labour standards, incl. freedom of association. However, as noted in section 6.7, while aspects related to special regimes and trade union activity have been raised by the EU and the ILO with Peru, there was no follow-up from the Peruvian side to introduce any changes.

[155] There was no explanation provided regarding methodology, however, judging upon figures, the approach to counting and classifying trade union members in public sector must have changes between 2007 and 2019 (see differences for public administration and social and health care services).

In 2017 in **Ecuador**, three trade union confederations represented 879,000 workers from 21 sectors, i.e., some 4% of all workers. The trade union affiliation was low in particular in the private sector. One of the reasons may be a high number (30) of minimum workers needed to set up a trade union in an enterprise (this was considered too high by the ILO, in particular if compared with other countries in the region, e.g., 8 in Chile, 12 in Costa Rica and 25 in Colombia). In 2017, Ecuador was considered as an individual case by the ILO Committee on the Application of Standards with regard to Convention No. 87. The Committee requested amendments in the existing legislation to bring it in line with the Convention. This included Basic Comprehensive Penal Code which foresaw penal sanctions for participation in a peaceful strike. Moreover, the minimum requirement in the Labour Code of 30 workers to establish a trade union at the enterprise level in the private sector was considered too high (it was 15 before the previous change in 1985) (CAS, 2017). In the report published in 2019, the ILO Committee of Experts noted observations by the Association of Agricultural, Banana and Rural Workers (ASTAC) that three Ministerial Orders of 2017 and 2018 (Ministerial Orders Nos. MDT-029-2017, MDT-074-2018 and MDT-096-2018) establishing special regimes for temporary contracts for banana plantation workers and agricultural workers, obstruct the effective exercise of the right to collective bargaining in those sectors (CEACR, 2019 and 2020). Further to two requests for information (n 2019 and 2020), in the report published in 2021, the Committee noted response of the Government that Ministrial Orders referred to temporary jobs which are common in the banana sector and that it had been precisely thanks to those new forms of contractual relations that situation of temporary workers was regularised. The Government informed also that four collective agreements had been reached in agriculture between June 2019 and June 2020, three of which in the banana sector which confirms that the new rules do not impede trade unions' activity in the sector (CEACR, 2021). In addition, the requirement of having at least 30 workers to establish a trade union represented a hurdle in the sector where many enterprises are small and owners apply practices to avoid trade union activity (e.g., by dividing enterprises into parts, keeping workers without social security affiliation, creating own trade unions, using threats, etc.).[156] The Committee of Experts reiterated in 2021 a request to the Government to consider with social partners amendments to the Labour Code which would reduce the minimum number of workers able to establish a trde union at the enterprise level and also to allow for establishment of trade unions comprised of workers from several enterprises (CEACR, 2021).

For Ecuador, the economic modelling suggests gains in exports, output and employment thanks to the Agreement in some sectors that are covered by special regimes, e.g., vegetables fruits, and nuts, incl. the banana sector. Given that for Ecuador we did not manage to identify data regarding trade union activity or membership, similar to those for Colombia or Peru, we will focus on a few chosen sectors and in the dedicated case study seek to determine possible impacts of the Agreement on freedom of association in sectors involved in trade with the EU.

6.4.5 Working conditions and enforcement

This section assesses the extent to which the Agreement might have had an impact on working conditions and the quality of law enforcement in Colombia, Peru, and Ecuador, notably in sectors involved in trade with the EU. Annex C-1 provides in this context a detailed description of the situation in the Andean countries, trends observed in the analysed period and factors influencing them, incl. actions taken by the Governments.

In **Colombia**, limited data regarding job quality is available in a break-down by sector and we will seek to reduce this gap through further research and stakeholder consultations. In general, some indicators have improved in the analysed period, e.g., the share of workers

[156] ASTAC (2019), Queja de las trabajadoras y los trabajadores bananeros por violación de derechos: https://ecuador.fes.de/news-list/e/queja-de-las-trabajadoras-y-los-trabajadores-bananeros-por-violacion-de-derechos/

being in sub-employment, i.e., in jobs with an insufficient number of hours per week, low wages and inadequate to acquired competences has decreased by 10 percentage points (DANE, 2019c). The minimum wage was increased in 2019 by 6% (the highest growth in the last 25 years) by the tripartite Commission for Policies on Labour and Wages, while the Government admits that 44% of workers in the country earn less than the minimum wage (Joint Statement, 2019). The number of labour inspectors has gradually increased from 530 in 2013 to 826 in 2015 (CEACR, 2015) and the number of fatal and non-fatal accidents at work per 100,000 workers in the whole economy has been decreasing since 2014.[157] Looking at three sectors affected by the Agreement, and trade with the EU, i.e., agriculture, mining, and industry, Table 6-10 provides indicators related to accidents at work in each of them in 2009 and 2019.

Table 6-10: Accidents at work in Colombia in selected sectors in 2009 and 2019

Sector	Number of workers	Number of non-fatal accidents at work	No. of non-fatal accidents at work per 100,000 workers	Number of fatal accidents at work	No. of fatal accidents at work per 100,000 workers
2009					
Agriculture	267,234	35,874	13,424	29	10.8
Mining	113,350	12,213	10,775	50	44.1
Industry	860,427	74,150	8,618	53	6.1
2019					
Agriculture	396,867	62,585	15,770	66	16.6
Mining	159,336	19,655	12,336	79	49.6
Industry	1,137,844	101,619	8,931	29	2.5

Source: Sistema General de Riesgos Laborales: https://sistemas.fasecolda.com/rldatos/

We notice that for each of the sectors, the number of fatal and non-fatal accidents at work per 100,000 workers increased in the analysed period (except fatal accidents in industry). At the next stage of the study, we will seek to determine if this may be attributed to more systematic and comprehensive reporting of accidents or to a deterioration of health and safety at work conditions, including in sectors exporting to the EU. As indicated in the part related to child labour, in agriculture and rural areas the capacity of labour inspection is insufficient and there is no systematic provision of training on health and safety at work, which results in accidents at work and breaches of labour legislation, including in relation to child labour and hazardous child labour. To address the situation, the EU has launched in cooperation with Colombia focused assistance initiatives, e.g., a project on sustainable mining free from mercury, a project about labour inspection in rural areas delivered jointly with the ILO. Moreover, labour inspection has been addreassed at the TSD sub-committee meetings. For example, at the 2019 TSD Sub-committee meeting, Colombia informed about ongoing work to harmonise procedures and sanctions applied by labour inspectors in relation to priority areas of action in 35 territorial directorates and 85 municipal inspectorates (European Commission, 2019c). In 2020, at the TSD Sub-committee meeting, Colombia informed that all inspectors were covered by the administrative career system and that virtual inspections were carried out during the Covid-19 pandemic (European Commission, 2020c).

Overall, changes noted in the analysed period can be attributed to actions of the Colombian Government, and other relevant institutions and the economic growth in the first part of the last decade (e.g., minimum wage increase, reduced sub-employment rate, increase in the number of labour inspectors) rather than to operation of the Agreement. We will verify this preliminary conclusion at the next stage of the study, incl. in stakeholder engagement.

In **Peru**, certain indicators have also improved, incl. the rate of workers with adequate employment (working for 35 hours or more a week and earning more than the minimum

[157] Sistema General de Riesgos Laborales: https://sistemas.fasecolda.com/rldatos/

wage) which went up from 32.6% in 2007 to 52.5% in 2018. Among the indigenous peoples, the proportion was less favourable as in 2018, 43.5% of workers had adequate employment and 53.5% were in a situation of sub-employment. The average weekly number of hours worked decreased from 47 hours in 2008 to 45 in 2018 (INEI, 2019). The health care and social protection coverage has also improved: while in 2007, 45.3% of workers had a health care insurance, this rate increased to 77.3% in 2018. The share of workers covered by pension system increased from 2007 to 2018 by 4.7% annually to reach the level of 35.5% (INEI, 2019). On the other hand, while the share of workers having a contract increased from 49.6% in 2007 to 56.4% in 2018, the share of those having a permanent one fell from 18.1% in 2007 to 15.9% in 2018, while the proportion of those with a fixed-term contract increased from 25.5% in 2007 to 34.5% in 2018 (INEI, 2019). This resulted from legislation foreseeing special regimes for non-traditional exports sectors and agriculture (Ministerio de Trabajo y Promoción del Empleo, 2019b). Regarding health and safety at work, the number of reported fatal and non-fatal accidents at work increased from 4732 in 2011 to 35,083 in 2019, with mining and manufacturing recording the highest numbers (Ministerio de Trabajo y Promoción del Empleo, 2011, and 2019c). The labour inspection services (National Labour Inspection Authority - SUNAFIL) have been increasing the number of inspectors, while reportedly the overall administrative capacity remained weak (CEACR, 2016). At the TSD Sub-committee meeting in 2020, Peru informed that the number of labour inspectors had increased to 723 in 2019 and 810 in 2020. Moreover, the number of enterprises visited by labour inspection had increased from 42,877 in 2019 to 70,300 in 2020 (European Commission, 2020c). However, there is a need for further strengthening capacity of labour inspection. In the 2021 report of the CEACR, the Committee of Experts noted information provided by the Autonomous Workers' Confederation of Peru, according to which the insufficient number of inspectors means that those who work are overloaded. Moreover, they have only access to workplaces in private sector, with no possibility to inspect public sector and workplaces in informal economy (CEACR, 2021).

Looking at sectors benefitting from trade with the EU and the Agreement, it stands out that while the total number of people working in agriculture has increased from 3.97 million in 2008 to 4.08 million in 2017, the number of those covered by the special regime for agriculture (limiting workers' rights) increased by the same amount, from 182,552 in 2008 to 276,403 in 2017 (possibly even 333,368) (Maldonado Mujica 2020). This means that while the number of people in formal employment (under the special regime) increased, potentially improving working arrangements compared to informal ones, they remain in precarious employment compared to the general regime. Therefore, while the Agreement might have contributed to job creation in agriculture (as discussed in section 6.1), it might have also encouraged an increase in different forms of employment, potentially including permanent contracts, but also precarious employment in the special regime in sectors exporting to the EU. At the next stage of the study, we will seek to identify more data, in a break-down by sectors, including the number of accidents at work in chosen sectors, i.e. in agriculture, mining and industry, as those affected by the Agreement. Overall, similarly as in Colombia, trends observed in job quality in the analysed period seem to have been triggered by domestic legislation (e.g., the move from permanent contracts to fixed-term ones), and other actions taken by the Government, such as creation of labour inspection services and increase in the number of labour inspectors, or extension of the health care insurance and social security coverage over a larger share of workers. In the first part of the previous decade, this was supported by economic growth. The Agreement on the other hand, might have contributed to job creation in sectors engaged in exports to the EU under conditions offered there, including the special regime for agriculture. However, dialogue under the TSD Title may have also supported progress in labour-related aspects, such as strengthening of labour inspection services.

In **Ecuador**, the adequate employment rate fell from 43.2% in 2007 to 38.3% in 2019. On the other hand, while in 2007, 70.5% of workers did not have any social security insurance, this share decreased to 56.9% in 2018. Wages were increasing between 2007

and 2013, while in the following period, their levels recorded fluctuations and remained at a similar level between 2016 and 2018 (INEC, 2018f; INEC, 2015b; INEC, 2017a; INEC, 2020). Regarding working time, in 2019, 39% of workers in Ecuador worked for 40 hours a week, 19% between 41 and 59 hours and 7% worked for 60 hours or more a week. The number of recorded accidents at work has been increasing systematically, from 6,304 in 2007 to 19,089 in 2017 (including an increase in fatal accidents from 135 in 2007 to over 200 annually in the following years.[158] According to the ILO Committee of Experts reports of 2015 and 2019, further to the initial increase in labour inspectors in Ecuador, from 65 in 2006 to 245 in 2013, the number fell again to 207 in 2015 and from 2017 to 2018, decreased by 22.5% (CEACR 2019, CEACR 2015). At the 2020 TSD Sub-committee meeting, Ecuador informed that there were in total 135 labour inspectors in the country, which means a further reduction compared to previous years (European Commission, 2020c). In 2019, the Trade Union Association of Agricultural, Banana and Rural Workers (ASTAC) outlined in a complaint working conditions in the banana sector directly employing 200,000 workers and up to 2 million indirectly. Accordingly, low price levels established by European supermarkets have a direct impact on revenues, workers', and producers' incomes, as well as respect for labour and environmental standards. In a survey carried out among workers in the sector, 68% did not have a formal contract, 80% had working days extended to 10 hours a day, around half did not receive 13th or 14th salary and two thirds did not have holidays. Only 49% of workers were covered by the social security contributions (contrary to the existing legislation which foresees penalties for no affiliation of workers to social security by their employer). In 2017 and 2018, three Ministerial regulations introduced special regimes for temporary contracts in the banana sector reducing stability of working relations, and worsening conditions for trade union operation and collective bargaining in the sector. Finally, the use of chemicals has proved to have negative impacts on the health of workers and inhabitants in the plantation areas.[159]

As outlined above, changes in job quality in Ecuador in the analysed period have resulted mainly from the economic cycle (economic growth followed by slowdown having an impact on adequate employment rates, wage levels and public revenues, including the ability to hire e.g., labour inspectors), and actions taken by the Government, such as extension of social security coverage and the new legislation establishing labour regime in the banana sector with precarious working conditions. According to some stakeholders, European supermarkets and their price setting policy may have also played a role imposing a cap on revenues in the banana sector and limiting possibilities to improve working and living conditions. Against this background, the Agreement seems to have played an indirect role by opening export opportunities and job creation, however, with a lesser influence on working conditions and incomes of workers and small producers. At the next stage of the study, we will seek to identify more data in a break-down by sectors, incl. for fishing and other sectors benefitting from or otherwise affected by the Agreement and draw conclusions based on this regarding overall impacts.

6.5 Impact on consumers, welfare and poverty

This section analyses to what extent the Agreement has contributed to the attainment of SDG 1 (no poverty) and SDG 10 (reduced inequality) through its impacts on consumers, as well as welfare and poverty levels in the EU and the Andean partner countries. In this context, Annex C-1 provides a description of the situation in Colombia, Peru, and Ecuador in the analysed period regarding trends in poverty and extreme poverty levels, and factors influencing them, including Government policies. Data is also provided regarding the composition of expenditures.

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[158] IESS, *Boletín Estadístico*: https://www.iess.gob.ec/es/web/quest/estadisticas

[159] ASTAC (2019), Queja de las trabajadoras y los trabajadores bananeros por violación de derechos: https://ecuador.fes.de/news-list/e/queja-de-las-trabajadoras-y-los-trabajadores-bananeros-por-violacion-de-derechos/

Given limitations in the modelling, the analysis presented here is qualitative and builds upon conclusions drawn in sections 6.1-6.4.

Regarding the availability and affordability of traded goods and services for consumers in all Parties to the Agreement, both the economic modelling and trade statistics confirm an increase in trade in certain groups of products which benefitting from tariff and non-tariff liberalisation under the Agreement. In EU exports, some of them, e.g., pharmaceuticals, motor vehicles, medical devices or other transport means (e.g., metro in Quito, the tramway in Cuenca, and the cableway in Guayaquil) may either be purchased by consumers directly, as goods, or used as part of provision of transport or health care services, ideally ensuring diversity, high-quality and safety. Tariff reductions should also have brought about price reductions; however, this element will require further analysis. Other EU exports might have led to mixed results, e.g., certain dairy products, such as powder milk or butter milk serum may compete (according to literature, e.g., Universidad Politécnica Salesiana, 2019, Daza et all, 2020, Hawkins, 2020, see section 6.1 of this Report) with local milk in Colombia and Ecuador as an input for further processing and therefore, while being conveniently cheap for processors and consumers, they may negatively affect local small milk producers and their incomes. However, the EU provided technical and financial support to small dairy farmers to promote innovative techniques, strengthen the raw milk payment system to producers according to quality, promote associations of small milk producers and support their market access. Finally, some EU exports, such as machinery, are unlikely to have a direct effect for consumers, as they represent capital goods or inputs for further processing. However, they might have indirect effects depending on their type or use.

In imports to the EU, tariff reductions (compared to trade under the GSP+ arrangement) supported increase in trade in vegetables, fruits and nuts, sugar, fishery products, textiles, and leather products, among others. These are likely to benefit EU consumers, as provide either products which are not grown or manufactured in the EU, or ensure supply of them outside season (e.g., fruits and vegetables) increasing diversity of available goods. Their impacts on producers or growers of like products (e.g., Outermost Regions) are discussed in other sections of this report. Regarding the affordability of imported goods for consumers, prices of some of them (e.g., bananas) are kept low by retailers, which is convenient for consumers but has negative impacts on producers' incomes in the exporting countries.

Regarding product safety, for the period 2005-2020, there is only one alert entry for an unsafe product from Colombia in the EU RAPEX system (leather footwear rejected at the border in 2016 due to incompliance with REACH Regulation and a potential to cause allergy). There is also one alert for a product from Ecuador (children's clothing, withdrawn from the market as not meeting the relevant standard) recorded in 2014, i.e., before the start of application of the Agreement. There are furthermore three entries for products from Peru: for children's footwear in 2012 (rejected at the border due to non-compliance with national standard, i.e., having small parts, which can be easily detached and swallowed by small children), jewellery in 2015 (it had integrated seeds of two plants which are extremely toxic if ingested or get in contact with a skin wound, and therefore was withdrawn from the market), and a paint in 2016 (for non-compliance with Toy Safety Directive and microbiological risks was withdrawn from the market). These numbers are insignificant and constitute no real concern for consumer safety in the EU. For comparison, there are (as of the end of January 2021) eight entries for products from Argentina, 39 for Brazil, 58 for Mexico, and 14,408 for China.[160]

[160] European Commission, Rapid alert system for dangerous non-food products: https://ec.europa.eu/consumers/consumers_safety/safety_products/rapex/alerts/?event=main.listNotifications&lng=en

Regarding impacts on the purchasing power of consumers and structure of their expenditures, Annex C-1 includes information about the composition of household expenditures in the Andean countries. Given the dominating type of EU exports (motor vehicles, machinery), they are unlikely to change prices of goods and services making the substantial part of the consumer basket in Colombia, Peru and Ecuador and therefore are also unlikely to have had direct effects for the majority of population in these countries. Other EU exports, e.g., dairy products, as mentioned above, may have some negative impacts for producers of like products, e.g. small milk producers, and affect their income level, and in turn their welfare and purchasing power. However, trade with the EU may also have impacts for income of workers and producers, including small ones of goods exported to the EU from Colombia, Peru, or Ecuador. As discussed in sections 6.1 and 6.4, the Agreement has contributed to job creation in some sectors, thus providing an opportunity for poverty reduction and income generation, incl. in rural areas and in agriculture. The overall effect for employment in each of the Andean countries remains unknown, but is likely to have been positive, considering the small increases in GDP and the fact that the Andean countries have comparatively lower wages. Moreover, the opportunity to export to the EU has created additional income opportunities for producers, including small ones. However, as discussed in section 6.4, prices set for at least some exported agricultural products are low, and therefore the welfare effects for small producers and their families are limited, not allowing for decent living conditions, or hiring adult workers, which in turn means that in some cases this perpetuates the use of child labour as non-paid family workers.

Regarding impacts on poverty and inequality levels, the overall effect is difficult to estimate. However, as discussed in section 6.1, given the estimated limited and rather positive effects for employment in agriculture and food processing, notably in Peru and Colombia, it is possible that the Agreement contributed to job creation and additional income generation in these sectors, in rural areas and hence to a limited poverty reduction in rural areas where it is still the highest in each country. More mixed results have been estimated for Ecuador and therefore it is more difficult to draw a precise conclusion for this country. Moreover, as discussed in detail in sections 6.3 and 6.4, while mixed results have been estimated regarding overall employment effects for each of the groups that are disadvantaged on the labour market and are considered as vulnerable also as consumers (women, youth, persons with disabilities, indigenous people, and migrant workers), the Agreement is likely to have had very limited ones effects on a large part of each of these groups, given the high percentage of people employed in services sectors. Therefore, the impacts on poverty levels in these groups and their unequal situation on the labour market, are also expected to be limited and concentrated on those employed in agriculture and industry, with both, positive and negative impacts, depending on the sub-sector.

Finally, the Agreement's impact on public revenues – and therefore on the level of spending on public services, e.g. health care or education, as well as social policies, including income support for poor families or other forms of support, which may play a role in times of economic slowdown (including the current pandemic) – has been negligible in all Parties except Colombia (see 5.12). In **Colombia** the estimated USD 771 million in foregone tariff revenues compares, in the 2019 budget, to education expenditures of USD 11.6 billion, i.e. 6.6%. For health and social protection, the 2019 budget foresaw USD 9 billion, hence the lost tariff revenue represented 8.6% of planned expenditures in this area. For social inclusion and reconciliation, it was USD 3.3 billion (lost tariff revenue equalling 23.4% of this part).[161] However, it is to note that the estimated loss of public revenues represents the overall amount accumulating over the analysed period of six years, therefore the actual impact on annual expenditures has been much lower.

[161] Gobierno de Colombia: Aprobado Presupuesto General de la Nación 2019, enfocado en una mayor equidad: https://id.presidencia.gov.co/Paginas/prensa/2018/181018-Aprobado-Presupuesto-General-de-la-Nacion-2019-enfocado-en-una-mayor-equidad.aspx

6.6 Impacts on Corporate Social Responsibility/Responsible Business Conduct

The analysis of the extent to which the Agreement has contributed to the uptake of CSR/RBC practices by enterprises in Colombia, Peru, and Ecuador is still in the early stages. Annex C-1 provides description of initiatives launched in each of the countries over the analysed period, including cooperation with international organisations (e.g., the UN, OECD, and the ILO) and the EU.

The analysis will be further developed at the next stage of the study and informed by the stakeholder consultations. We will seek to determine the reasons behind uptake of CSR/RBC practices to-date, and whether the Agreement and more broadly cooperation with the EU played a role. At this stage, it seems that most likely a few factors have influenced the situation. These include, first, Colombia's and Peru's moves to become OECD members (and Colombia's achieved membership) and their adherence to OECD Guidelines for Multinational Enterprises. Another factor relates to cooperation with the EU, incl. the regional project promoting CSR practices (in this framework, the National Action Plan on Business and Human Rights will be developed for Ecuador) and discussions under the TSD Title. Some influence on the uptake of CSR practices might also have been triggered by trade agreements with other partners, including the US.[162] Finally, global trends promoting sustainability and CSR elements being included into the strategy of enterprises and their daily operation also play a role. As stated by one of the Colombian enterprises ranking high in implementation of CSR/ RBC practices, there is close scrutiny of business operations by consumers (customers), and shareholders' expectation that considerations related to sustainability, incl. help to attain SDGs and climate change policy objectives, as well as responsible behaviour (such as reducing consumption of water, paper, electricity, or reduction of CO2 emissions) will be integrated into business daily activity.[163]

Moreover, the Agreement could play a role in CSR/RBC uptake in the future. E.g., the interviewed EU DAG members highlighted a need to focus more on a positive agenda and cooperation activities, suggesting, among others, CSR/RBC as a good candidate for exchange of good practice. In addition, the Commission's 2021 work programme envisages tabling a proposal for a Directive on Sustainable Corporate Governance, which may include mandatory mechanism for due diligence related to respect for human and labour rights, as well as environmental standards along supply chains by EU companies and companies placing products on the EU market, i.e., also exporters and / or importers.[164]

6.7 Effects of implementation of the TSD Title

This section contributes to a response to what extent the TSD Title of the Agreement has supported sustainable development in the Parties, and whether actions taken by the Parties have helped to attain the Sustainable Development Goals, in particular SDGs No. 8 and

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[162] The US Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA) bans imports to the US of products manufactured with the use of forced labour or child labour: https://www.cbp.gov/trade/trade-enforcement/tftea#Forced%20Labor

[163] Bancolombia, 2019 Corporate Report: https://www.grupobancolombia.com/wps/wcm/connect/d7c8bbc8-02cb-40b1-b6ea-a251aced57b6/Resumen_ejecutivo_Informe.pdf?MOD=AJPERES&CVID=n3g2JDw; Bancolombia, Hoy seguimos siendo uno de los bancos más sostenibles del mundo: https://www.grupobancolombia.com/wps/portal/acerca-de/informacion-corporativa/sostenibilidad/por-que-somos-sostenibles

[164] European Parliament (January 2021), MEPs: Hold companies accountable for harm caused to people and planet: https://www.europarl.europa.eu/news/en/press-room/20210122IPR96215/meps-hold-companies-accountable-for-harm-caused-to-people-and-planet; European Commission (October 2020), 2021 Commission work programme – key documents: https://ec.europa.eu/info/publications/2021-commission-work-programme-key-documents_en

13-15.[165] Below, we provide an overview of the provisions of the TSD Title, grouping them into "building blocks" based on the structure of the Title.

6.7.1 Promotion of core labour standards

In Article 269 of the Agreement, the Parties commit to the **promotion** and effective implementation in law and practice **of core labour standards** contained in eight ILO fundamental conventions, as well as exchange of information regarding advancement in ratification of the ILO priority conventions and other ILO conventions classified as up to date.

In the analysed period, EU Member States have progressed with ratification of the ILO conventions, with the Maritime Labour Convention reaching 25 ratifications out of 27 countries. Council Decisions of January 2014 authorised Member States to ratify Chemicals Convention No. 170 (nine ratifications by the EU Member States by the end of 2020) and Domestic Workers Convention No. 189. (seven ratifications by the EU Member State by the end of 2020). The Work in Fishing Convention No. 188 was transposed into an EU Directive of December 2016 and has been actively promoted among the Member States (seven ratifications by the end of 2020). Further to Council Decisions of 2015 authorising EU Member States to ratify the 2014 Protocol to Convention No. 29 on forced labour, an increasing number of them followed with ratifications (18 EU Member States by the end of 2020). Similarly, a high number of EU Member States have ratified priority conventions (27 regarding Convention No. 81 on labour inspection, 26 regarding No. 144 on tripartite consultations, 25 regarding No. 122 on employment policy and 21 regarding No. 129 on labour inspection in agriculture) (Joint Statement TSD Sub-committee, 2014, 2016).[166]

In the analysed period, Colombia ratified in 2014 Domestic Workers Convention No. 189, Ecuador ratified Convention No. 156 on workers with family responsibilities and Domestic Workers Convention (both in 2013), while Peru ratified Maternity Protection Convention No. 183 (in 2016) and Domestic Workers Convention in 2018.

Regarding implementation of the ILO fundamental conventions, and the exercise of the right of the Parties to regulate, steps taken by Colombia, Peru and Ecuador in the analysed period have been outlined in detail in Annex C-1, while here we provide a summary. In the Annex C-1, we have also provided detailed statistics in each thematic area.

On **child labour**, as outlined above, in Annex C-1 and section 6.4, in the analysed period, the Parties have taken steps to reduce the incidence of child labour and thus to come closer to meeting the commitment of Article 269 of TSD Title and SDG No. 8.7 (i.e., "Take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.") However, in the last few years, the levels of child labour in Colombia, Peru and Ecuador remained above the Latin America average and further to COVID-19 outbreak, the ILO, UNICEF and CEPAL warned that child labour may increase again due to rising poverty, job and income loss among adults, and temporary schools' closure (further details in Annex C-1). Hence, the efforts will need to continue, incl. financial support for families, initiatives to increase school attendance and ensuring decent working conditions, incl. wages for adults. Moreover, as suggested by our preliminary findings presented in section 6.4, the Agreement, through encouraging agricultural exports contributes to job and income creation for adults (both, farmers and hired workers),

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[165] **SDG No. 8**: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all, **SDG No. 13**: Take urgent action to combat climate change and its impacts; **SDG No. 14**: Conserve and sustainably use the oceans, seas and marine resources for sustainable development; **SDG No. 15:** Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss.

[166] ILO NORMLEX database: https://www.ilo.org/dyn/normlex/en/f?p=1000:12000:::NO:::

poverty reduction and potentially reducing the number of working children in cases where incomes of adult household members turned out to be sufiicient. On the other hand, due to low prices of sold commodities (independent from the Agreement), it may have happened that despite exports to the EU children and adolescents may need to continue working on some farms if there is no possibility to afford hiring adult workers. In both cases low incomes (wages of temporary adult workers not satisfying needs of their families and low prices of sold products not enabling small farmers to hire workers) do not leave much room for a choice and perpetuate the work of children and adolescents. Moreover, high levels of informality in agriculture and weak capacities of labour inspection do not provide incentives for a different practice and do not increase costs of breaking the law related to child labour, including to involving children in hazardous work at farms.

On **forced labour**, as outlined in Annex C-1 and section 6.4, in the analysed period, Parties to the Agreement have taken steps to combat forced labour and trafficking in human beings to meet the commitment of Article 269 of TSD Title and SDG No. 8.7 ("Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking.") However, given the difficulties to estimate the real scale of forced labour and trafficking in human beings, it is difficult as well to estimate the progress achieved, while some reference is provided by the increasing number of detected cases. On the other hand, as in the case of Peru, insufficient funding, and administrative capacity pose challenges in implementation of the policy and legislative framework in this area. Therefore, the efforts will need to continue, incl. addressing root causes of forced labour and trafficking, such as poverty, low level of job-related skills and violence, as well as migration from neighbouring countries. Regarding the effects of the Agreement as indicated in section 6.4, further analysis will be required to collect more precise evidence regarding forced labour, notably cases identified in sectors involved in trade with the EU (e.g., coffee, flowers, and extractive industry in Colombia, mining and wood sector in Peru, banana and oil palm plantations, flowers, shrimp farming, fishing and mining in Ecuador) to verify to the extent possible if there is a risk that products involving forced labour might have found their way, through intermediaries and value chains, onto the EU market or whether there is likelihood that those products were sold elsewhere. The Agreement, through creating additional export opportunities might have encouraged some to generate income using cheap (forced) labour, while weak inspection capacities and law enforcement may not represent a sufficient deterrent to prevent such practices. However, the situation in each of the Andean countries is different, while sectors in Colombia and Ecuador where cases of forced labour had been identified, have benefitted from the Agreement, those in Peru record a slowdown in exports.

On **freedom of association**, as outlined in Annex C-1 and in section 6.4, while the situation in Colombia has improved regarding acts of violence against trade union activists (the number of trade unionists' homicides decreased from 53 in 2010 to 13 in 2019, while the total number of cases of violence decreased from 723 in 2011 to 123 in 2019[167]), other problems that have been raised by the ILO and OECD persist, including high level of impunity, continuous practice of negotiating collective pacts with non-unionised workers, the lack of progress in respecting the right to strike and the so-called trade union contracts where a trade union organises work for its members and acts as a de facto employer or a work intermediary. Similarly, in Peru, the rate of trade union membership in private sector is falling and so is the number of collective agreements and the existing legislation restricts trade unions' and workers' rights in public sector. In addition, contract regimes in non-traditional exports and agriculture, make the establishment, joining and operation of trade unions more difficult, given a high rate of temporary jobs under these regimes: the high rotation of workers and risk of non-renewal of a contract may impede trade union activity. In addition, there have been cases of abuse by companies of fixed-term contracts to prevent the establishment and operation of trade unions (Ministerio de Trabajo y

[167] Written contribution by civil society organisations Oidhaco and catapa.

Promoción del Empleo, 2019b). These issues have been raised by the Commission (further to a complaint submitted by the civil society) and the ILO, however, without the expected follow-up by the Peruvian side (some actions have been taken to strengthen labour inspection capacity; see below). In Ecuador, the right to set up a trade union is restricted by a high minimum number of workers required (30) and the impossibility to form a trade union composed by workers from different enterprises. This has impacts e.g., in the banana sector, where many enterprises are small, and their number of workers falls below the threshold to set up a trade union. Moreover, according to civil society stakeholders, some enterprise owners apply practices to avoid trade union activity (e.g., by dividing enterprises into parts, keeping workers without social security affiliation, creating own trade unions, using threats, etc.).[168] Further obstacles are related to the contract regimes in the banana sector, extended on other sectors as well (due to the prevailing temporary contracts). There are also restrictions in joining a trade union in public sector. These issues have been raised by the ILO and the Commission, however, with no follow-up by Ecuador to-date. One can therefore conclude that over the analysed period, the Andean Parties did not sufficiently improve their record in this area (regarding effective implementation in law and practice of the ILO core labour standards enshrined in fundamental conventions, as outlined in Article 269) and in some respect, the situation has even worsened. However, the number of labour inspectors in Colombia and Peru has increased, and both Governments have taken other steps as well to strengthen the capacity of inspection services (European Commission, 2018d, 2019c, 2020c). Moreover, as indicated in section 6.4, the number of trade unions and trade union members have increased in Colombia over the analysed period in all sectors and observed trends suggest that this may have been related with the overall security situation which has improved, as well as with the economic cycle, slowing down the growth since 2014. Further analysis is needed to conclude if Trade Agreement might have also had an impact in this area. In Peru, trends regarding the number of trade union members vary from one sector to another and while in the mining and construction the economic cycle seems to play a prominent role (as it led e.g., to employment reduction in the mining sector), in manufacturing the numbers have increased in the analysed period, while in agriculture (under the special employment regime), they fell. Therefore, while further analysis will be required to test our preliminary findings, at this stage, they suggest that Trade Agreement by creating favourable conditions to trade and encouraging economic activity in sectors, such as agriculture, may have contributed indirectly to preserving the special regimes and extending them on a higher number of workers to maintain flexibility and cost competitiveness of the considered sectors.

On **non-discrimination at work**, as outlined in Annex C-1 and section 6.4, the Parties have taken steps to improve e.g., the situation of women and disabled persons on the labour market, however, challenges persist. While the participation rate increased in the EU, Colombia and slightly in Ecuador, it decreased in Peru. Gender-based wage gap decreased in Colombia and Ecuador, while it remained the same in Peru and the EU. The situation of disabled persons, indigenous peoples and youth on the labour market remains challenging with higher rates of unemployment or an inadequate employment among youth than among the rest of the working age population, and high poverty rates among disabled persons and indigenous peoples compared to the rest of the society. The Andean countries face also high numbers of migrant workers from Venezuela in the last few years putting pressure on receiving communities and public services and influencing situation on the local labour markets. Therefore, further efforts are needed to bring the Parties closer to attaining SDG No. 8.5 "By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value.", as well as SDG No. 8.8 "Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in

[168] ASTAC (2019), Queja de las trabajadoras y los trabajadores bananeros por violación de derechos: https://ecuador.fes.de/news-list/e/queja-de-las-trabajadoras-y-los-trabajadores-bananeros-por-violacion-de-derechos/

particular women migrants, and those in precarious employment." (UN, 2015) Given the lack of detailed data related to the number of workers in a break-down by sub-sectors in the analysed groups, it is not possible to estimate more precisely the magnitude nor the overall direction (positive or negative) of changes in employment levels which may be attributed to the presence of the Agreement. Based on the available data, one may conclude the likelihood of lack of effects for migrant workers in Colombia and Peru, as well as for a large share of disabled persons and youth in Colombia (working mainly in the services sectors where the estimated impacts are very limited in both countries), with more pronounced results in Ecuador, including positive outcomes for construction and trade and negative for other sectors. Moreover, positive results may be expected for those employed in agriculture and food processing in Peru (e.g., over 20% of young people), while most sectors in Ecuador (in agriculture and industry) are likely to record negative effects affecting young people and to a lesser extent migrant workers. On the other hand, mixed results are expected e.g., for disabled persons in Peru where around one third works in industry.

6.7.2 Implementation of multilateral environmental agreements

Similar to Article 269 for core labour standards, in Article 270 the Parties commit to the effective implementation of a number of multilateral environmental agreements (MEAs). Developments with respect to this are described in Annex C-2. This section summarises the corresponding activities undertaken by the Parties in the meetings of the TSD Sub-committee, primarily based on meeting minutes.[169] Nevertheless, it is difficult to assess the importance which the Agreement has had on the Parties' ratification of MEAs.

At the 2016 joint meeting, civil society representatives stressed the importance for Colombia to ratify the Paris Agreement and Minamata Convention.[170] Colombia signed the Paris Agreement in April 2016 and ratified in July 2018. The Minamata Convention was signed by Colombia in October 2013 and ratified in August 2019. At the joint meeting in 2017, they expressed satisfaction that Peru and Ecuador have ratified both.[171] Civil society expressed their concerns about lowered environmental protection levels and altered environmental management systems due to changes in legislation, which aim to promote investments in Peru and Colombia.[172] Especially in Peru, the procedures with respect to environmental certification has been modified. Moreover, increased flexibility in access to land and territories of indigenous peoples, negatively affecting the collective rights of indigenous peoples has been reported.[173]

6.7.3 Domestic laws and policies to encourage high levels of environmental and labour protection

In line with the commitments made in Articles 269 and 270, and notwithstanding the right of the Parties to regulate, in Article 268 the Parties endeavour to ensure that "laws and policies provide for and encourage high levels of environmental and labour protection." Article 277 further specifies that "[n]o Party shall encourage trade or investment by reducing the levels of protection afforded in its environmental and labour laws."

Labour issues

Regarding policies and legislation regulating working conditions, labour inspection and the move from informal towards formal economy, i.e., elements related to decent work, steps

[169] Progress with respect to MEAs not discussed in the TSD Sub-committee meetings have not been analysed yet.
[170] Summary outcome of discussion, DAGs, 2016.
[171] Summary outcome of discussion, DAGs, 2017.
[172] Summary outcome of discussion, DAGs, 2018 and 2019.
[173] Summary outcome of discussion, DAGs, 2017.

taken by Colombia, Peru and Ecuador in the analysed period have been outlined in detail in Annex C-1, while here we provide a summary.

Regarding **informality**, as outlined in Annex C-1 and sections 6.3 and 6.4, picture is mixed. The share of informal employment in total employment decreased in Colombia and Peru, while it increased again in Ecuador, and all three countries have taken steps to reduce the level of informality in enterprises. All have also recorded improved social security and health care coverage. However, informality remains high and requires sustained efforts and a mix of measures addressing poverty, supporting skills development and diversification of economy, strengthening labour inspection and law enforcement, further awareness raising and better conditions for creating formal, decent jobs.

Regarding **working conditions**, as outlined in Annex C-1 and section 6.4, picture is also mixed. While shares of adequate employment (i.e. full-time employment with at least minimum wage) have increased in Colombia and Peru, a decrease has been recorded in Ecuador and in addition regulations introducing or extending special contract regimes in Peru and Ecuador have been contributing to a widespread use of fixed-term and seasonal contracts in affected sectors, leading to lack of stability and certainty among workers and to precarious working conditions. These have been raised by the ILO and the Commission with both countries, but with no follow-up from their side, to-date. Overall, only part of measures applied by these two countries can be considered as being in line with striving towards higher levels of labour protection and decent work (as set out in Articles 268 and 277), while the remaining part e.g., specific contract regimes, goes into the opposite direction. Therefore, while progress has been made towards the SDG No. 8.3 "Promote development-oriented policies that support productive activities, decent job creation, entrepreneurship, creativity and innovation, and encourage the formalization and growth of micro-, small- and medium-sized enterprises, including through access to financial services." and SDG No. 8.8 "Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment." (UN, 2015) further work is needed. Overall, as indicated in section 6.4, changes noted in the analysed period can be attributed to actions of the Governments, and other relevant institutions and the economic growth in the first part of the last decade (e.g., minimum wage increase, reduced sub-employment rate, increase in the number of labour inspectors) with a following slowdown (reflected in indictors predominantly in Ecuador) rather than to operation of the Agreement. The latter might have contributed to job creation in agriculture, e.g., in Peru, while also encouraging increase in precarious employment in the special regime in sectors exporting to the EU.

Environmental policies

Developments with respect to domestic environmental policies over the period 2007 to 2020 are described in Annex C-2. In general, it is difficult to assess the importance which the Agreement has had on the Parties' ratification of MEAs.

Stakeholder views

Civil society (DAG) representatives expressed in this context the following views:[174]

Environment

- At the 2016 joint meeting, they expressed concern about Peruvian laws reducing level of labour and environmental protection and the rights of indigenous people, to promote investment. This concern was reiterated in 2017, including the flexibility in access to

[174] These have been obtained from the respective summary outcomes of joint meeting discussions, DAGs.

territories of indigenous peoples, in 2018 and 2020. The need to comply with the Agreement and the SDGs was also emphasised.
- In 2019, civil society called upon Peru to amend the Environmental Impact Assessment System which does not record impacts on collective rights of indigenous peoples. The need to consult the latter had also been raised by the Ombudsman's Office.
- In 2020, civil society expressed concerns about the modified environmental management and lowered levels of environmental protection in Peru to attract investments. In relation to the Covid-19 pandemic crisis, they warned that investment projects are developed that do not effectively guarantee the right to participation.
- In 2020 they also expressed concerns about delays in the ratification of the Escazú Agreement in Peru and Colombia. They asked the Governments and Congresses of Colombia and Peru to promote the ratification of the Escazú Agreement.

Labour

- At the joint meeting in 2017, they expressed concern about changes in the labour legislation in Peru and the practice of setting low minimum wages, and introducing precarious working conditions, including a widespread use of temporary contracts in sectors involved in exports, which deprive workers of stability, and certainty and the right to decent work, and negatively affects their health and safety at work and right to freedom of association and collective bargaining. Similar practices were also observed in Colombia, Ecuador, and some EU countries. The lack of progress in addressing concerns was raised in 2018 and 2019.
- They also emphasised the importance to end the impunity of violations of workers' rights and human rights in Colombia and to follow the European Parliament 2012 resolution about the roadmap. Civil society representatives also stressed the need for the Parties to effectively implement ratified ILO conventions and to address recommendations of the monitoring bodies.
- At the joint meetings in 2017 and 2018, they expressed concern over high levels of job insecurity and vulnerability due to high levels of informality in the Andean countries and weak capacity of inspection services.
- In 2018, they expressed concern about legislative changes in Ecuador reducing levels of labour protection and being therefore non-compliant with Article 277.
- In 2019 and 2020, they raised the situation in the banana sector in Ecuador and the lack of action from the Government to remedy it. Moreover, in 2020, they highlighted the complaint submitted by Ecuadorian workers of the exporting abacá sector regarding cases of child labour and work in conditions akin to slavery.
- They also called on the Parties, in 2018, to protect rights of migrant workers and their families, in accordance with Article 276.
- In 2019, they expressed concern over the labour and pension reform in Colombia which may lead to less-regulated work relations and precarious working conditions. They were also concerned about collective pacts, i.e., agreements with non-unionised workers that impede establishment and operation of trade unions and had also been raised by the ILO Committee of Experts.
- Also in 2019, civil society expressed concern about the situation in the EU, where some Member States had launched reforms which may lead to precarious working conditions and where outsourcing employment and organising work on digital service platforms may decrease levels of labour protection.
- In 2020, DAG representatives brought to the Parties' attention complaints of workers from the mining and agriculture sector in Peru (for being forced to work during the Covid-19 pandemic without the necessary protection and assistance of labour inspection services). They also raised concerns regarding social impacts of Covid-19, including reduced level of labour protection in some sectors.

6.7.4 Sustainable management of natural resources

Articles 272 to 274 of the Agreement address sustainable management of natural resources to conserve and sustainably use biodiversity, forestry and fish stocks. The analysis of performance is currently still under way.

6.7.5 Enhancing efforts related to climate change

Article 275 calls on the Parties to enhance efforts related to climate change, incl. through domestic policies and international initiatives to mitigate and adapt to climate change, trade and investment policies and responsible use of natural resources.

The **EU** has made progress in reducing its greenhouse gas emissions (see also the climate change baseline). As previously mentioned, the EU Green Deal includes ambitious targets for the reduction of greenhouse gas emissions (i.e. at least 55% by 2030). The EU Climate Law will be one of the main elements to achieve this target. The 2030 Climate and Energy Framework includes EU-wide targets and policy objectives for the period from 2021 to 2030. An important instrument is the EU Emissions Trading System[175] which covered around 40% of total EU emissions (excluding international aviation) in 2019 (European Commission, n.d.). Other instruments are the Effort Sharing Regulation with Member States' emissions reduction targets and the Land use, land use change and forestry Regulation.

During the analysed period, **Colombia**, **Peru** and **Ecuador** all signed and ratified the Paris Agreement. Information on the individual NDC can be found in Annex C-2.

6.7.6 Promotion of best business practices related to Corporate Social Responsibility

Article 271 addresses the promotion of best business practices related to Corporate Social Responsibility (CSR), and facilitation and promotion of trade and foreign direct investment contributing to sustainable development (e.g., trade and investment in environmental goods and services). Article 286 complements this with cooperation between the Parties in areas related to TSD.

As outlined in Annex C-1, during the analysed period, Colombia adopted two consecutive National Action Plans on Business and Human Rights (in 2015 and 2019), the latter being preceded by public consultations and evaluation of the implementation of the first one; a new one was presented in December 2020.[176] In Peru and Ecuador, such Plans are under preparation. Moreover, Colombia and Peru adhere to the OECD Guidelines for Multinational Enterprises and their National Contact Points have considered a few specific instances (complaints) against enterprises from diverse sectors. There are also initiatives, e.g. in Peru, to promote CSR activities and their visibility through a register of socially responsible enterprises, a directory of companies having sustainability reports, and granting a certificate "Responsible Peru" to enterprises managed in a socially responsible way. The ongoing process for the adoption of a National Action Plan on Business and Human Rights in Peru, supported by the RBCLAC project. Moreover, an award on good labour practices has been created in Peru with 85 companies and 215 examples of good practices being presented in 2019 (Joint Statement, 2019). Furthermore, in all three countries, national or international enterprise surveys provide examples of companies following CSR practices, incl. in their supply chains

[175] For more information see https://ec.europa.eu/clima/policies/ets_en

[176] http://www.derechoshumanos.gov.co/Prensa/2020/Documents/Plan-Nacional-de-Accion-de-Empresa-y-Derechos-Humanos.pdf

In the EU, CSR/RBC policies are developed and implemented at the national and EU level. In 2015, the Commission published an overview of the EU legal and policy framework related to the UN Guiding Principles on Business and Human Rights, and actions implementing them.[177] In 2019, in the follow-up to the CSR strategy 2011-2014, it published an overview of EU actions taken to promote CSR activities and protect human rights in operation of enterprises. Applied measures include legislative instruments, e.g., Directive 2014/95/EU on disclosure of non-financial and diversity information by large companies,[178] 2014 Public Procurement Directives (expanding the possibilities to use sustainability criteria in public tenders) and the EU Regulation on responsible sourcing of minerals from conflict affected and high-risk areas, that will enter into force in 2021.[179] The EU also promotes international instruments related to CSR/RBC and OECD sectorial due diligence guidance documents developed for supply chains in sectors of minerals, agriculture, extractive industries, textile and garment, and financial services,[180] and own initiatives, e.g., sustainable development of the garment sector (European Commission, 2019b).[181] The Commission has also devised guidance documents for business, such as CSR handbook and questionnaires for SMEs and their advisers. At the national level, several Member States have developed and implement national action plans or strategies on CSR/RBC and separate action plans on Business and Human Rights. They also promote multi-stakeholder initiatives involving governments, business, and civil society organisations focused on respect for human rights, labour, and environmental standards in global value chains.

Civil society representatives expressed in this context the following position:

- At the joint meeting in Lima in 2017, they emphasised the role which the National Action Plan on Business and Human Rights can play in encouraging respect for human rights by enterprises in Colombia. They noted however, that the 2015 version of the Plan should be revised to take account of the Peace Agreement and that civil society and the affected communities should have an opportunity to contribute to the updated version. (Note: Indeed, a new Plan was adopted in 2019, following public consultations.)

6.7.7 Transparency and review of sustainability impacts

In Article 279 the Parties commit to review, monitor and assess the impact of the implementation of the Agreement on labour and environment through their respective domestic, participative processes. The evaluation team is not aware of any such impact analysis (apart from those carried out by the EU) conducted by the Parties where civil society or other stakeholders would have been involved to meet this commitment.

While there is no explicit reference to transparency in the TSD Title (unlike in TSD chapters of other EU trade agreements), civil society representatives requested that their respective governments applied an appropriate level of transparency and civil society engagement when developing and adopting policies and domestic legislation, as well as when assessing the impacts of the Agreement on labour and environment. They presented the following positions:

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[177] For more details related to Business and Human Rights at the EU and Member States' level, please, see: http://ec.europa.eu/growth/industry/corporate-social-responsibility/in-practice_en

[178] https://ec.europa.eu/info/business-economy-euro/company-reporting-and-auditing/company-reporting/non-financial-reporting_en

[179] http://ec.europa.eu/trade/policy/in-focus/conflict-minerals-regulation/regulation-explained/

[180] For more details, please consult OECD website: http://www.oecd.org/corporate/mne/

[181] Commission Staff Working Document (2017), Sustainable garment value chains through EU development action, SWD (2017), 147: https://ec.europa.eu/transparency/regdoc/rep/10102/2017/EN/SWD-2017-147-F1-EN-MAIN-PART-1.PDF

- At the annual joint meeting in 2016, the EU DAG representatives emphasised in key messages to the Parties the need for Governments to put in place transparent processes regarding consultation with civil society of draft laws and policies. They also requested an open dialogue at all stages of the negotiation and implementation of trade and investment agreements, and that an analysis of their impacts is carried out. Moreover, relevant Government policies, standards and laws should be subject to a prior consultation process and dialogue with civil society, indigenous peoples, and their organisations within the framework of ILO Convention No 169.
- At the annual meeting in 2017, civil society (DAG) representatives called on the Parties to carry out annual analysis of implementation of the Agreement and its impacts in all Parties, following the example of annual FTA implementation reports published by the EU, but complemented with a more detailed analysis of environmental and social impacts, e.g., those related to labour rights.
- Civil society representatives also requested in 2017 the inclusion of civil society, notably DAG members, in the ex-post evaluation of the Agreement, from the beginning of the process, i.e., a discussion on the Terms of Reference. In their view, the evaluation should cover economic, social, environmental, and human rights impacts and include a separate section evaluation implementation of the TSD Title with recommendations.[182]

[182] We note that the evaluation indeed examines a broad range of impacts, with a separate section dedicated to the TSD Title, and civil society has been invited to contribute at each stage.

7 PRELIMINARY RESULTS OF THE ENVIRONMENTAL ANALYSIS

By means of the Agreement, the EU, Colombia, Ecuador, and Peru confirm their commitments to sustainable development. This is in line with the EU trade policy in place at the time of signature of the Agreement. Since 2012, environmental issues and climate change have only assumed a more central role in the EU policies, including EU trade policy.

Since the signature of the Agreement, major achievements have been made with respect to environmental policies in the EU. Milestone achievements include the signature of the Paris Agreement[183] (PA) in 2015 and the publication on the EU Green Deal[184] in 2019. In the EU Green Deal, diplomacy and trade policy have been identified as a means to promote and enforce sustainable development across the globe and to support the EU's green transition. These policy developments make a transparent, evidence-based evaluation of the environmental effects of existing EU trade deals even more relevant as the findings can inform the Commission on the alignment of existing FTAs with these renewed policies.

This section provides a preliminary evaluation of the Agreement's environmental impacts. At this stage of the research work, the environmental baselines have been developed (section 7.1), the impact screening and scoping exercise has been finalised (section 7.2), and preliminary quantitative analysis of the impact on land use and GHG emissions has been undertaken (section 7.3 and 7.4).

7.1 Environmental baselines in the Parties

In this section, the baseline situation is described for three different environmental impact areas: climate change, biodiversity and national resources, and other key environmental parameters (including three additional topics: water, air quality, and waste management and circular economy). In these baselines, both the governance framework per country and the environmental performance in the period around the Agreement are discussed.[185] The baselines serve various purposes:

- They set the scene with regard to environmental performance in the Parties over the past years to inform civil society; and
- They allow for (and contribute to) a more efficient, effective, and targeted assessment of the environmental impacts of the Agreement.

We note that the baselines are based on a descriptive analysis on trends and developments in different environmental impact areas in different countries, but do not establish any causal links between the Agreement and the impact areas.

7.1.1 Climate change

7.1.1.1 Climate change in the Andean countries

As a result of geographical conditions, the Andean countries are relatively vulnerable to the impacts of climate change, according to the Climate Risk Index (CRI). Colombia and Peru are particularly vulnerable as they are identified in the first quartile[186] of countries most vulnerable to climate change globally (GermanWatch, 2019).

Climate related impacts differ across (climate) regions (Magrin et al., 2014) (CEPAL, 2018). Along the **coastline**, the major impacts related to climate change are sea level rise (which

[183] Available at: https://unfccc.int/resource/docs/2015/cop21/eng/l09r01.pdf
[184] Available at: https://ec.europa.eu/info/sites/info/files/european-green-deal-communication_en.pdf
[185] The governance sections are presented in Annex D-1.
[186] Colombia is ranked 44, Peru 47 and Ecuador 100 out of 181 in the Climate Risk Index (which assesses the climate risks between 1999-2018).

increases the incidence of floods), coastal erosion, and more frequent extreme weather events. Aside from the coastal effects, climate change also poses a significant threat to ocean life as it leads to acidification, which is likely to negatively affect aquatic ecosystems (i.e., fish population)

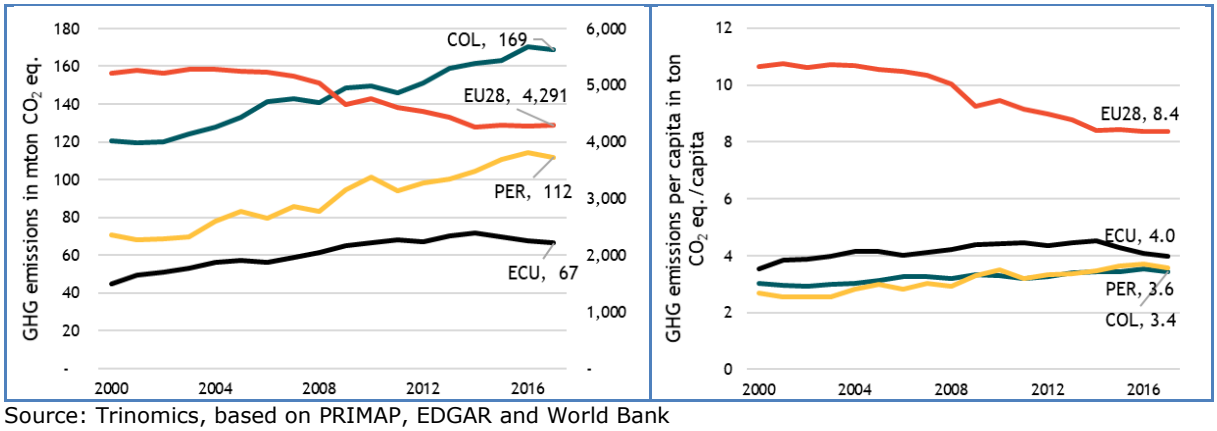
In the **Andean highlands**, the major climate impacts are related to water as climate change alters precipitation, run-off patterns and glacier melt. As a result, water is expected to become even more scarce in dry season. In wet season, more extreme water run-off is expected, increasing the risk for floods and landslides (Magrin et al., 2014). These impacts on water availability are in turn expected to negatively affect the agricultural sector (GFDRR, 2011).

In the tropical areas, like **the Amazon**, extreme droughts and record floods have been observed since the start of this millennium. Reduced rainfall may lead to irreversible replacement of Amazon forests by savanna-like vegetation (Magrin et al., 2014). This could in turn have major impacts on biodiversity and the global and regional climate. In all regions discussed, climate change is also expected to intensify the incidence of tropical diseases like dengue fever and malaria.

7.1.1.2 Evolution in gross greenhouse gas emissions

In the Andean countries, GHG emissions seem not to have peaked yet: emissions have been growing during this millennium and no clear downward trend has been observed for a longer period (as shown in Figure 7-1, left panel). In absolute terms, however, total GHG emissions in the EU28 (4,291 megaton CO_2-equivalent[187]) were still magnitudes higher than the emissions in Colombia (169 mton CO_2eq.), Ecuador (67 CO_2eq.) and Peru (112 CO_2eq.) in 2017. As the Andean countries differ substantially from the EU, both in terms of population and economy size, these numbers are difficult to compare. Yet, also after correction for population differences, EU GHG emissions are still significantly higher compared to the Andean GHG emissions, as shown in Figure 7-1 (right panel). Thus, the same pattern is observed, both in absolute as well as per capita GHG emissions: GHG emissions in the EU are significantly higher than emissions in the Andean countries, but emissions have been decreasing in the EU, in contrast to emissions in the Andean countries.

Figure 7-1: Gross GHG emissions (CO_2, CH_4, N_2O) in Mton CO_2 eq., excluding LULUCF emissions (left panel; EU28 on secondary axis) and gross GHG emissions per capita in ton CO_2 eq., excluding LULUCF emissions (right panel)

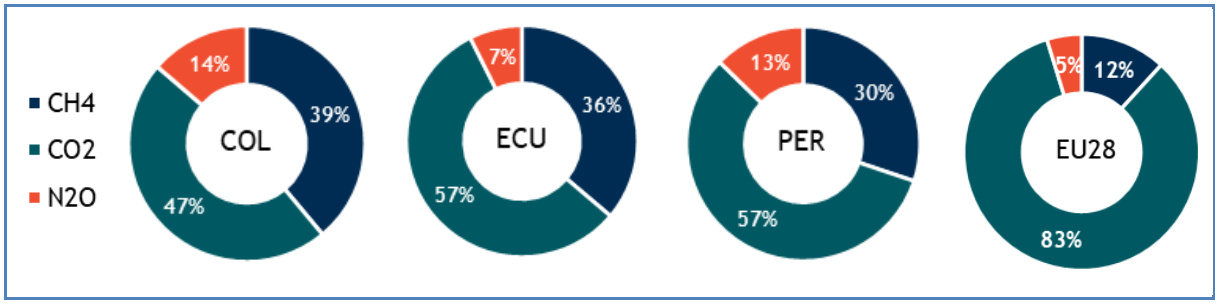


Source: Trinomics, based on PRIMAP, EDGAR and World Bank

[187] GHGs differ in terms of their *global warming potential* (GWP). The GWP refers to the heat absorbed by any GHG in the atmosphere, relative to the heat absorbed by the same mass of CO_2. As such, the GWP is 1 for CO_2. CO_2-equivalence (CO_2-eq.) is the unit used to compare the climate effects of different GHGs and corrects for the differences in GWPs.

The Andean countries differ substantially from the EU in terms of the relative shares of different GHGs. Figure 7-2 shows the shares of the three most significant[188] GHGs in 2012. **Even though CO_2 emissions represent the largest share of emissions, CO_2 emissions accounted for a much larger share in the EU (83%) than in Colombia (47%), Ecuador and Peru (both 57%).**

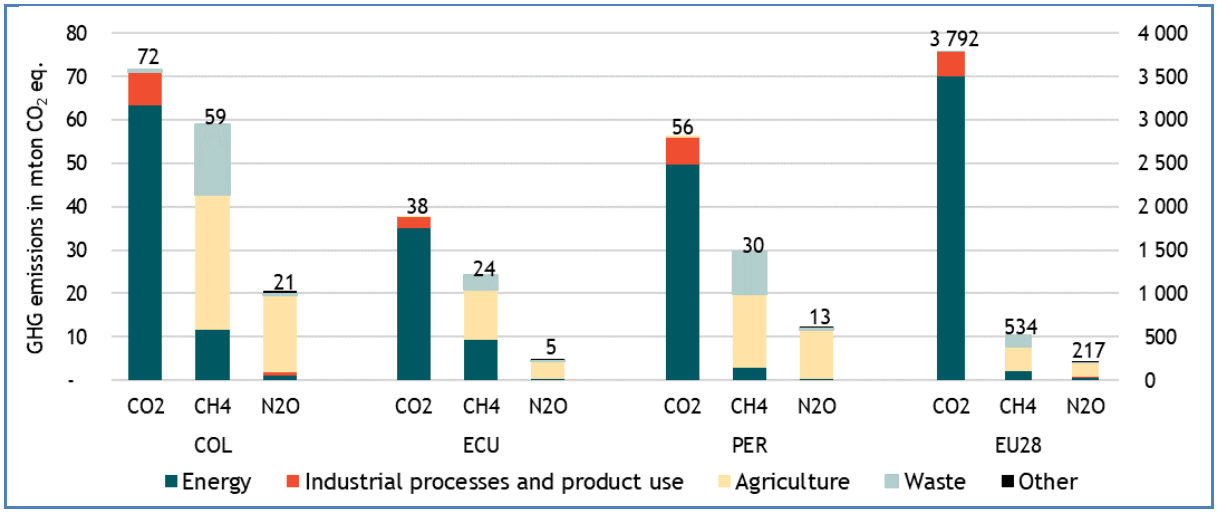
Figure 7-2: Shares of different GHG emissions (CO_2, CH_4, CO_2) in 2012, per country



Source: Trinomics, based on PRIMAP

The differences in terms of the proportions of different GHGs are predominantly caused by fundamental economic and geographical differences between the EU and the Andean countries (Figure 7-3). In the EU, most of the GHG emissions are driven by energy use and industrial processes.[189] CO_2 is the major GHG related to energy generation and industrial processes. **In the Andean countries, emissions related to energy use and industrial processes account for a significant share of total GHG emissions. However, compared to the EU, emissions related to energy use and industrial processes account for a much smaller share, while the share of agricultural emissions is much larger in the Andean countries compared to the EU.** Whereas in the EU, the agricultural sector accounts for roughly 10% of total GHG emissions, the sector accounts for roughly 20-30% of the total emissions in the Andean countries. The major GHG emissions related to agriculture are CH_4 (livestock) and N_2O (soil).

Figure 7-3 Greenhouse gas emissions (CO_2, CH_4, N_2O) per sector in 2012 (EU on secondary axis)



Sectors defined as per IPCC 2008 classification (transport emissions are therefore reported under "energy").
Source: Trinomics, based on PRIMAP, Edgar.

[188] Most significant in terms of emissions in tonnes of CO_2-eq. per year.
[189] A significant share of the emissions categories as energy-related emissions are resulting from energy use in the industrial sector and therefore still related to economic differences between the EU and the Andean countries.

When analysing the targets set in the first NDCs from both the EU and the Andean countries as part of the Paris Agreement (PA), independent estimates had concluded that most of the targets set were not consistent with holding global warming below 2°C (CAT,2020a). However, these estimates do not consider the updated NDCs submitted in 2020. The European Commission updated the **EU** target to at least a 55% reduction compared to 1990. **Colombia** committed in December 2020 to a 51% reduction compared to BAU and to reduce black carbon emissions by 40% compared to 2014 in 2030. **Peru** committed to limit its GHG emissions to a maximum level of 208.8 $MtCO_2e$ (unconditional) and 179.0 $MtCO_2e$ (conditional) in 2030. **Ecuador**'s latest NDC was submitted in 2019 (after a unique participatory process), where the country presents its commitment in lines of action by sector (instead of GHG reductions), in (inter alia) energy, agriculture, and industrial processes.

7.1.1.3 The role of LULUCF

The role of land use, land-use change and forestry (LULUCF) in reducing GHG emissions has long been recognised, as some activities within the sector can drive changes in the exchange of CO_2 between the terrestrial biosphere system and the atmosphere. On the one hand, LULUCF can mitigate climate change by the removal of GHGs from the atmosphere and halting the loss of carbon stocks; and on the other hand, some LULUCF activities have the potential to result in great amounts of GHG emissions if not properly managed (e.g., by illegal logging or unsustainable forest management) (UNFCCC, n.d.a).

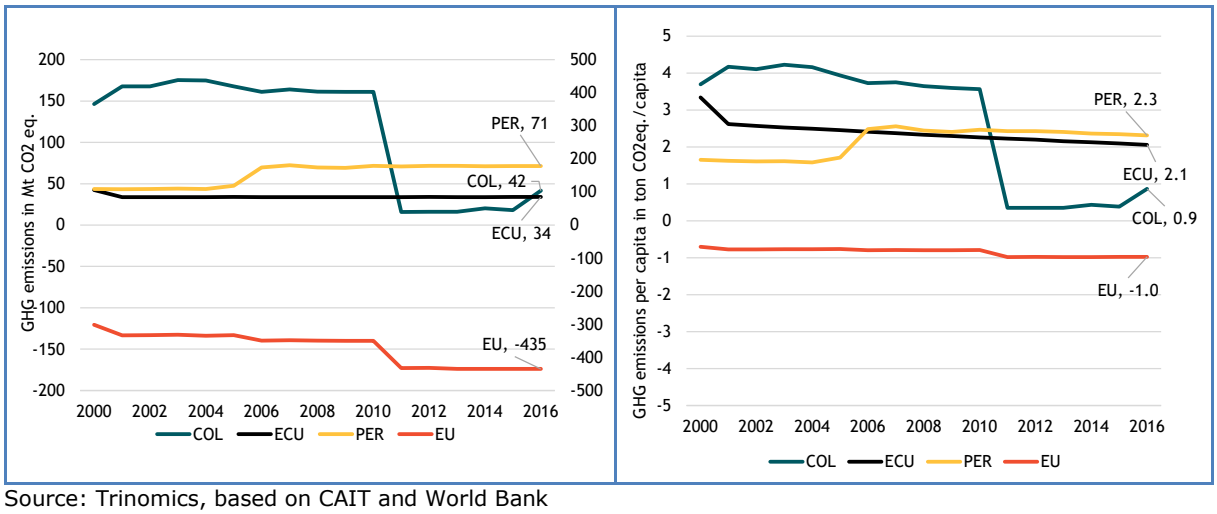
Colombia, Peru and Ecuador included emission reductions in the LULUCF sector in their NDCs commitments to the PA. First, Colombia's NDC reaffirms its pledge to reduce deforestation in the Amazon region as a key strategy to reduce emissions. Similarly, in its NDC Peru presented eight measures specifically targeting emissions of the LULUCF sector including, for instance, promoting conservation, sustainable forest management, and assignment of emission rights. For its part, Ecuador's NDC contained eight lines of actions such as expanding protected areas and strengthening forest monitoring that jointly have the potential to result in sectorial GHG reductions of 4% (16% under the condition of sufficient international support).

Besides the commitments set in the PA, the Andean countries joined the Reducing Emissions from Deforestation and Forest Degradation (**REDD+ Programme**) aiming to reduce the LULUCF-related emissions. REDD+ is a framework negotiated under the UNFCCC to guide activities in the forest sector to reduce emissions from deforestation and forest degradation, as well as the sustainable management of forests and the conservation and enhancement of forest carbon stocks (UNFCCC, n.d.b). In **Colombia**, in the context of REDD++, the Amazon Vision (PVA) and REDD Early Movers (RED) Programmes constitute the basis of payment-for-performance to avoid deforestation in the Colombian Amazon (GGGI, 2018). The Programme rewards emission reductions as a result of reduced gross deforestation by targeting the beef, dairy, cocoa, rubber, and non-timber sectors and investing the collected funds to further contribute to the efforts to stop deforestation (KfW and GIZ, 2015). In **Peru,** the REDD+ strategy is still under development, led by MINAM and financed by international organizations such as the Moore Foundation and the German bank KfW (MINAM and CIFOR, 2012). Finally, In **Ecuador**, the REDD+ Action Plan is framed on the National Climate Change Strategy and guides LULUCF emissions mitigation actions that include sustainable forest management, and transition to sustainable production systems, among others (MAE, 2017a).

As shown in Figure 7-4 (left panel) the LULUCF sector of the Andean countries *emit* between 34 and 70 Mt of CO_2eq to the atmosphere every year. In contrast, the LULUCF sector in the EU *removes* annually about 435 Mt of CO_2eq. After correction considering population differences, Peruvian emissions are higher compared to the other countries as shown in Figure 7-4 (right panel). The abrupt change in 2011 of the LULUCF emissions

from Colombia before 2011 is due to a change in methodology, as reported by the country.[190]

Figure 7-4: LULUCF gross GHG emissions (CO2, CH4, N2O) in Mt CO2 eq. (left panel; EU on secondary axis) and LULUCF gross GHG emissions per capita in ton CO2 eq. (right panel)



Source: Trinomics, based on CAIT and World Bank

In the Andean countries, the LULUCF sector is one of the biggest contributors to GHG emissions. In **Colombia**, between 2011 and 2017, LULUCF emissions rose from 16 to 42 Mt CO_2, as shown in Figure 7-4, reaching a share of at least 20% of the total GHG emissions of the country in 2017 (CAIT Data). The high degradation and deforestation of the Amazon (70% of the total national deforestation has occurred in this region in 2018) have been a major pressure on the local CO_2 sinks, and agriculture (incl. change of land to pastures, illicit crops), livestock, and illegal mining are some of the drivers of the deforestation and associated emissions (IDEAM, 2018). In **Peru,** 43% of the total GHG emissions came from the LULUCF sector in 2017 (CAIT Data). Agriculture, gold mining, extensive cattle ranching, hydroelectric generation, and the exploitation of hydrocarbons, among others, are the main drivers of a high deforestation rate and thus of the significant GHG emissions (CDP, 2019). In **Ecuador**, where the LULUCF sector was responsible for 35% of the total GHG emissions, changes in agricultural land are the main pressure contributing to the emissions of the sector (97% of the sectorial emissions) (CAIT Data) (MAE, 2017b).

7.1.2 Biodiversity

The Andean countries are known for the abundance and diversity of their habitats and species resulting from the variety in geographical characteristics and climate. The countries hold important ecosystems such as forest systems (e.g., the Amazon forest, mountain forest of the Andes, and the Chocó region), freshwater and coastal wetlands (including mangroves), grasslands, mountains, and deserts ecosystems (CEPF, 2015). These serve as natural carbon sinks and generate unique conditions for rich biodiversity. **Notably, the three countries are among the 17 megadiverse countries in the word.**[191] As of 2015, the Andean region contains about one-sixth of all plant life in the world. It has the

[190] While both inventories are based on IPCC guidelines from 2006, the BUR used tier 1 and 2 guidelines while the Third National Communication is based on tier 2 and 3 guidelines, which include also local emission factors. As a result, emissions in 2010, which is used as base year in Colombia's INDC, are much higher in the Third National Communication when compared to the BUR. See: https://www.umweltbundesamt.de/sites/default/files/medien/1410/publikationen/2018-11-01_climate-change_25-2018_country-report-colombia.pdf.

[191] In July 2000, the World Conservation Monitoring Centre recognised 17 'megadiverse countries', most located in the tropics. Together, these 17 countries harbour more than 70% of the earth's species (Mittermeier et al. 1997).

largest variety of amphibians with 981 distinct species, 1,724 bird species, 570 mammal species and takes second place for reptile diversity at 610 species (CEPF, 2015). Yet, various pressures are present, such as agricultural activities, (illegal) mining and logging practices, deforestation and forest degradation, wildlife trading, overfishing, urbanization, and climate change. These pressures are putting the region's rich biodiversity at risk.

Table 7-1 shows the environmental performance of the Andean countries, based on the Environmental Performance Index (EPI). The EPI is based on 32 underlying performance indicators (including biodiversity & habitat) covering 11 categories. All scores are scaled from 100 to 0 (Wendling et al., 2020). Colombia is ranked higher than Peru and Ecuador with regards to the general EPI indicator. However, Ecuador obtained the highest score for the biodiversity and habitat category[192] and outperformed the other Andean countries in the ecosystem services category[193] (Wendling et al., 2020).

Table 7-1: EPI scores for the Andean countries for the year 2020

	EPI score	Global Rank	EPI score for biodiversity & habitat	Ecosystem services
Colombia	52.9	50th	76.8 (regionally [194] ranked. 7 (Reg. 7))	36.4 (Reg. 11)
Ecuador	51	57th	77.3 (Reg. 6)	38.3 (Reg. 8)
Peru	44	90th	59.5 (Reg. 17)	37 (Reg. 10)

Source: Wendling, et al. (2020).

Protected areas

Ecosystem-based adaptation practices, such as the establishment of protected areas[195] and their effective management, are important measures to protect biodiversity (Magrin et al., 2014). The CBD Secretariat (n.d.) defines protected area drivers and pressures as any human activity or related process that has a negative impact on key biodiversity features, ecological processes, or cultural assets within a protected area. Several key drivers are (illegal) exploitation of resources, deforestation, transportation (i.e., roads and ship lanes) and human intrusions, including inappropriate recreational activities. The associated pressures are modification of natural ecosystems, such as altered hydrological and fire regimes, invasive alien species, pollution, and climate change-related threats, such as coral bleaching. A more indirect pressure is the low awareness in society about the importance of protected areas (Crofts et al. 2020). Drivers and pressures to protected areas can be addressed by effective management of protected areas, as well the evaluation of management effectiveness (Hockings et al. 2006).

In **Colombia,** there is **strong growth of protected areas since 2005** (UNEP-WCMC, 2020) because of the SINAP and other conservation strategies (see governance section). In 2018, a total of 1093 areas were protected, of which 58 via the Forest Reserves Zones (RFZ), 59 via System of National Natural Parks (PNN) (Ibid.). The other protected areas fall under regional and private[196] protected areas. **Colombia is close to meeting Aichi Target 11**[197] with 15.9% of protected coastal and marine areas and 13.7% terrestrial protected areas (Ibid.). However, the effectiveness of protected areas needs to be assessed for the actual conservation of biodiversity and ecosystem services. Currently, 12.9% of terrestrial protected areas and 4.4% of coastal and marine protected areas are evaluated on their effectiveness (Ibid). Due to a gap in legislation for protected areas, **only a very**

[192] Indicators of Terrestrial biome protection (protected areas) (40% of weight), marine protected areas (20% of weight), Protected Area Representativeness Index (PARI) (10% weight), Species Habitat Index (SHI) (10% weight), Species Protection Index (SPI) (10% weight), Biodiversity Habitat Index (BHI) [10% weight).

[193] Includes tree covers loss (90% weight), grassland loss (5% weight) and wetland loss (5% weight).

[194] The region includes Latin America & Caribbean.

[195] According to the IUCN definition of 2008, a protected area is a clearly defined geographical space, recognised, dedicated, and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values.

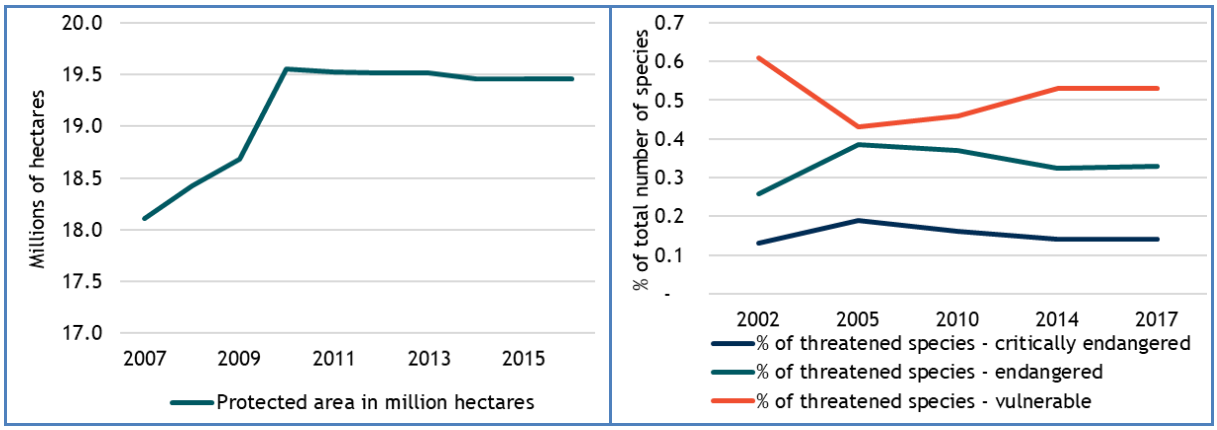
[196] Civil society nature reserve (RNSC).

[197] Aichi Biodiversity Target 11 calls for the conservation of "at least 17% of terrestrial and inland water areas and 10% of coastal and marine areas.

small proportion of protected areas is truly protected (Aldana and Mitchley, 2013). Deforestation, mining, and oil exploration affects the protected areas (Minambiente, 2019a). In the BAP (2017), it was reported that 44 mining areas were granted in the PNNs and 57 areas in ZRFs, including highly biodiverse areas of the Amazon, Orinoco and Chocó (Minambiente, 2017b).

In **Peru**, **protected areas coverage increased between 2008 and 2011, but growth stagnated from 2011 onwards** (see Figure 7-5). In 2020, Peru contained 263 protected areas of which 74 (14.1%) included effective management evaluations. The protected areas correspond to 27,962,000 hectares of terrestrial protected areas (21.5%) and 403,700 hectares of marine and coastal area protected (0.5%) (UNEP-WCMC, 2020).

Figure 7-5: Peruvian protected land and marine area according to the IUCN categories in 2007-2016 (left panel) and percentage of threatened species in Colombia compared to total number of species in 2001-2017 (right panel)



Sources: MINAM (n.d.) & Alexander von Humboldt Biological Resources Research Institute (n.d.)

In 2014, the SINANPE provided protection to 19,528,800 hectares (15.2% of total land) (Fajardo et al., 2014). According to the Sixth National Report (2018), the protected areas in Peru are effective in conserving biodiversity. In less than 5% of protected areas, anthropic pressures were reported. However, in a study by Fajardo (2014) it was found that national system of protected areas does not provide sufficient protection for many species according to the specified conservation goals. **Especially the conservation of species in coastal regions was found to be insufficient, whereas Amazonian species are the best represented, followed by the Andean species**. This is mainly due to the fact the protected areas are smaller in the coastal areas (Ibid.)

Ecuador has **steadily expanded its coverage of protected areas since 1980** and currently contains 82 protected areas, of which 25 include effective management evaluations (UNEP-WCMC, 2020). The 82 protected areas correspond to 22.4% of the total terrestrial area and 13.4% of the total marine and coastal area (UNEP-WCMC, 2020). With this number, **Ecuador meets Aichi Target 11.** The Galapagos National Park Marine Reserve is included in this total. In 1959, 97% of the Galapagos Islands (7,665,100 hectares) was declared a National Park (UNESCO, n.d.).

In 2015, it was estimated that PANE covers around 4,300,000 hectares and the SocioBosque Program covers around almost 1,500,000 hectares. However, **major ecosystem and species conservation shortages are identified** which were mostly concentrated in the Southern Andes, Central Amazon, and the Central and Southern portions of the Coastal plain. For instance, endemic and threatened species are poorly represented in the current national protected areas system (Cuesta et al., 2017).

Deforestation

Deforestation is among the main pressures to the conservation of biodiversity in the Andean countries. The principal drivers of deforestation in the Andean forests are mining, (illegal) logging, agricultural production including oil crops (e.g., palm oil) and illicit crops, and population growth (Minambiente, 2017b). Moreover, deforestation in the Amazon region is closely related to drivers such as poverty, social inequality, the lack of opportunities and armed conflict in the region (FAO, 2020). Associated pressures are land use conversion (forest encroachment), infrastructure projects, urbanisation, and overgrazing (Boucher, et al., 2011).

Colombia lost 5.3% of its forest cover between 2001 and 2019 of which 36% of the tree cover loss happened in area of humid primary forests (Global Forest Watch, 2020). The total area of humid primary forest in Colombia decreased by 2.7% (Ibid.). It is estimated that 10% of forest loss was reported in the jurisdiction of indigenous reservations (20,713 hectares) (Minambiente, 2019a). In 2014, deforestation was mainly concentrated in the region of the Amazon rainforest, representing 45% of the total tree cover loss, followed by the Andean region with 24%, and the Caribbean with 17,5% and Pacific with 13.5% (Minambiente, 2017b). It is estimated that 75% of the annual timber production in Colombia comes from natural forests and 25% from commercial plantations. About **42% of this production is illegal**, contributing 480 km^2 of annual forest degradation and overexploitation of 21 tree species (Minambiente, 2017b). In 2018, 70% of the national deforestation was generated in the Amazon region (IDEAM, 2018). Agricultural expansion is also a main driver of deforestation in Colombia. Especially crops as cocoa and avocados showed a notable increase in area planted of 88% and 127% between 2012 and 2016 respectively (IDEAM, 2019).

Box 7-1: Transformed ecosystems in Colombia

In **Colombia, land-based and insular ecosystems have changed most over the past years**, while those that are aquatic and coastal ecosystems seem to be preserved in greater proportion (Minambiente, 2017b). Colombia contains 91 types of general ecosystems (marine, aquatic, coastal, terrestrial, and insular), of which 70 corresponds to natural ecosystems and 21 to transformed ones. Between 2005-2009 and 2010-2012 33.5% and 35.1% of the terrestrial ecosystems were transformed, respectively. For island areas, the proportion of changed area is 46.2% between 2010-2012 (IDEAM et al., 2017). **Habitat loss has been related to extensive agriculture for traditional export products and bioenergy crops** (Minambiente, 2019a).

Peru lost 4% of its tree cover between 2001 and 2019 (Global Forest Watch, 2020). Over the same period, the total area of humid primary forest in Peru decreased by 2.8%. In 2018, the loss of Amazon rainforest was 154,766 hectares, slightly less than the loss reported the previous year (MINAM, 2019). **In 2018, the remaining area of the Amazon rainforest equalled 684 Mha and occupies 53.2% of the total area of the country. In 2005, 55.1% of the total area of the country was forest area (INEI, 2018).**

Despite the large number of rules to regulate deforestation, **surveillance and control reportedly remains ineffective** to combat illegal logging (Development Solutions et al., 2009; FAO, 2016). Notably, **palm oil production is growing in the Amazonian region, where 72% of new plantations have expanded into forested areas, representing 1.3% of the total deforestation for that country for the years 2000–2010** (Gutiérrez-Vélez et al., 2011). In 2014, the growing international demand for organic products[198] is still considered insufficient to promote a change in performance in the national agricultural sector (MINAM, 2014).

[198] The contribution of eco-friendly businesses to the national economy has increased considerably in recent years, with a recorded increase of 20% in exports of bio products, as well as a 25% increase in surface dedicated to organic or ecological production.

As part of the UN-REDD Programme, the Peruvian Government set-up several indigenous forest monitoring initiatives to generate useful data and information for the management of forest resources and to empower local and indigenous communities to monitor and measure forests (UN-REDD, 2019). Although it is too early to report on the effectiveness of Community-based forest monitoring initiatives in Peru, several studies point out that the initiatives contribute to efficiency in tracking deforestation through Peru's National Forest Monitoring System (NFMS) (UNREDD, 2019). In addition, the community engagement strengthens the legitimacy of forest conservation programmes (Kowler, et al. 2020).

In **Ecuador**, native forest represents 50.7% of the continental territory and agricultural land represents 35.98% of the continental territory, according to the Coverage and Land Use map (2016) (MAE, 2017). Between 2001 and 2019, the **country lost 4.3% of its tree cover** (Global Forest Watch, 2020). Over the same period, the total area of humid primary forest in Ecuador decreased by 1.6%.

In the Ecuadorian Sixth National Report under the CBD, it was stated that **99.4% of deforested areas between 2000 and 2008 were transformed into agricultural areas**. In 1990, the deforestation rate peaked on 129,100 hectares / year. Between 2000-2008, the rate dropped to 75,300 hectares/year and between 2008 and 2012, the deforestation rate was 65,880 hectares/year (MAE, 2018).

Box 7-2: Mangroves and shrimp production in Ecuador

Since 1969, Ecuador has lost 27.7% of its mangrove area (Rodríguez, 2018). The mangrove areas of Cojimies estuary, the Chone estuary and the Jambelí Archipelago estuary have lost most of their mangrove coverage, predominately **driven by land use change related to shrimp farming** (Ibid.).
Since 2007, Ecuador has maintained a steady annual growth rate of approximately 12% with regard to shrimp exports, achieving 246,000 MT in 2017. According to the Aquaculture Alliance (2020) exports tripled in 2017, accounting for more than 50% of the production of the Americas region (Piedrahita, 2018). The COA has been regarded as setback in relation to shrimp farming within mangrove ecosystems as it eases the exceptional authorisation mechanism (FES-ILDIS and CDES, 2017).

Species

Drivers of biodiversity loss are linked to the drivers of deforestation and threats to protected areas. Pressures are habitat loss - resulting from ecosystem transformation driven by e.g., forestry, agriculture and mining activities. Other drivers and pressures to biodiversity are for instance illegal trafficking of wildlife species, introduction of exotic species, and climate change (Minambiente, 2020b).

In **Colombia,** the number species haven been declining, amphibian species in particular. In total, Colombia contains 54,871 species of which 1,203 are at various threat levels as identified by the International Union for Conservation of Nature (IUCN). More specifically, 173 species are identified as critically endangered, 390 species as endangered and 640 species are categorized vulnerable (Ibid.). **The proportion of threatened species in the critically endangered category and the threatened category lowered since 2005 and has been stable since 2014, whilst the proportion of species in the vulnerable category grew since 2005 and remained stable since** (Alexander von Humboldt Biological Resources Research Institute, n.d.).

In 2015, **Peru** had 24,079 flora and fauna species of which 8,567 were endemic. The number of species have been growing since 1996 (20,611 species) which can partly be explained by increase in knowledge associated with the species (MINAM, n.d.). The IUCN Red List however, indicates that **there has also been an increase in the number of threatened species since 1999, with 1,269 threatened species in 2014** (MINAM, 2014).

Exports of native plant and wildlife species have been increasing, with annual values reaching more than USD 250 million (CBD Secretariat, n.d.).

In **Ecuador,** the number of species on the IUCN Red List of threatened species grew from 2,308 species in 2015 to 2,497 in 2019 (IUCN, n.d; Statista, 2020). As such, Ecuador **has the highest number of species on the IUCN Red list of threatened species among the countries in Latin America** (Statista, 2020)**.**

Between 2004 and 2015, a minimum value of USD 35 million a year was estimated for the trading of wildlife. Among others, frogs, and salamanders (of which one third are CITES listed[199]), shark meat and orchids are traded (Sinovas and Price, 2015).

Box 7-3: Fisheries in Ecuador and Peru

The fish sector is very important for Ecuador and Peru (CBD Secretariat, n.d.). In **Ecuador**, the supply chain of **marine commodities** (fishers, processors, transportation, refrigeration, etc.) **represented 1.5% of the Ecuador's total GDP in 2015** (Global Marine Commodities, n.d.). Ecuador is among the top 25 countries of wild fish capture with 715,357 metric tons (Mt) reported in 2016 of which the three most significant fisheries by volume were the small pelagic (337,053 Mt) tuna (286,946 Mt) and mahi-mahi (6,153 Mt) fisheries. Between 2010-2016, 65.5% of all profits in the fishing sector are derived from the tuna sector, making tuna fishing an econonomically attractive option (MPCEIP, 2017).

However, the **use of fish aggregating devices such as FAD[200] brings the population of the yellowfin tuna in further risk** of extinction as these devices capture the adolescent and small tunas who are important for the reproduction of the specie. The Asociación de Trabajadores del Mar, a union that organises fishermen of the country's largest tuna fleets, publicly stated its concerns about the use of fish aggregating devices (FES-ILDIS and CDES, 2017).

Other fish populations are also affected by (over)fishing and harmful practices such as bycatch[201] and discards. Between **2004-2014, about 9,000 tons of sharks were caught annually as bycatch in Ecuador** (MAE, 2018).

In **Peru**, the cold sea provides a nutrient rich habitat for over 1,200 fish species. Moreover, the Humboldt Current - the world's largest upwelling system, which flows from Chile to northern Peru – is very nutrient-rich and supports the world's largest fishery, namely anchoveta (a species of fish from the anchovy family) (The Nature Conservancy, 2019). **The Peruvian anchovy population is considered by WWF (2009) as a global priority as it plays a key role in the eastern Pacific food chain** and supports the largest fishery in the world (oil and fishmeal exports surpass US$ 1,500 million per year) (WWF, 2009).

Despite programmes and policies for the sustainable use of the marine resources, analysts report that there is a need for better environmental and economic policies to ensure there is sustainable framework to promote diversification, regulate fisheries, support sustainable development, and ensure the responsible use of aquatic resources (McKinley, et al., 2019). Compared to terrestrial ecosystems, scientific research, and conservation of the marine ecosystems in Peru has been limited (Ibid.). However, the **proportion of sustainable fishing with respect to GDP is increasing from 0.4% in 2013 to 0.6% in 2018** (INEI, 2018).

7.1.3 Other key environmental indicators

7.1.3.1 Water

7.1.3.1.1 Water use

Figure 7-6 shows the sectoral use of water in each of the partner countries. The two main water consumers across Colombia, Ecuador and Peru, and EU 27 are the energy generation

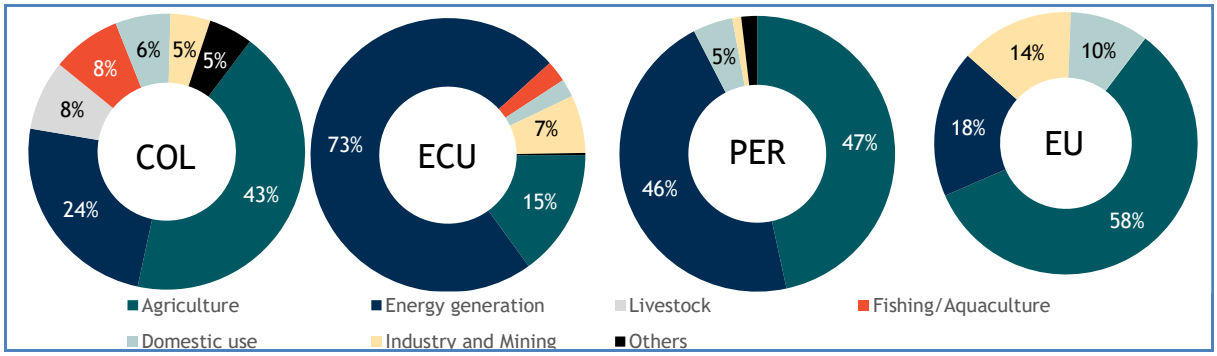
[199] A list of species that are protected by CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) against over-exploitation through international trade

[200] FADs are artificial fish aggregating devices i.e. "food islands" that are installed with materials based on plastic polymers in certain parts of the Ocean and attract tuna to facilitate their capture

[201] The capture of unwanted sea life while fishing for a different species

and agriculture sectors, the latter being in most cases the predominant water user. Differences in the climatic conditions, as well as the structure of the energy generation systems of the countries, are two of the main reasons for the variations of water use across regions.

Figure 7-6: Water use (%) per sector



Note: Data presented is the latest available at the time of data collection: COL (2017), ECU (2016), PER (2013), and EU (2017).
Sources: IDEAM (2018); SENAGUA/ARCA (2017); DAR (2017); EEA (2019)

As shown in Figure 7-6, according to the ENA (2018 National Water Study) in **Colombia** the main economic sectors driving higher water demand are agriculture (43.1%), energy generation (24.3%), and livestock (8.2%) (IDEAM, 2019). Particularly, the water demand driven by **electricity generation** sector has increased 9% compared to 2012, which corresponds to the pressure on water resources caused by the entry into operation of new hydropower plants and more intensive use of thermal generation plants because of El Niño[202] (Ibid). Moreover, concerning the **agriculture sector**, pressure on the land resources has been driven by the expansion of the agricultural area in Colombia (which increased by about 21%, compared to 2014). In particular, the permanent crops (i.e., with a constant area throughout the year) of coffee, palm, sugarcane, and banana consumed 57% of the water demand of the agriculture sector; while the transitory crops (mainly rice and corn) used 18% (Ibid). The crops with the largest water footprint are summarised in Table 7-2. Though the water footprint of some crops is today relatively smaller compared to others, the ENA predicts a further increase in water demand due to the expanded production of avocado, cacao, and palm oil. In fact, it is estimated that the area planted with avocados (whose exports increased by 1519% between 2014 and 2017, with EU countries being the main importers) already increased by 127% in last years (Ibid). Regarding virtual water trade from Colombia, the largest share was attributed in 2016 to coffee exports (65%), followed by palm oil (16%) and sugar cane (8%). Pressure on water resources was also driven by the **livestock sector**, of which cattle constitute roughly 70%, pork 22%, and poultry 7% of the sectorial water demand (Ibid).

In **Peru**, water use is driven mainly by **agriculture** (46%) and **energy generation** (47%) sectors (DAR, 2017). However, in some regions of the country, the **mining sector** also requires a significant share of the total water demand. Specifically, 57% of the water used by the mining sector is consumed in the Pacific region while 41% is consumed in the Amazon (mainly in the Peruvian highlands) (Ibid). Most of the crop production in Peru is concentrated in the arid coastal region and part of the Andean zone. Of the crops currently produced in Peru, the five with the largest water footprint are rice, coffee, potatoes, alfalfa, and sugar cane, as summarised in Table 7-2.

[202] El Niño-Southern Oscillation (ENSO) is the Earth's most important weather-producing phenomenon. During an El Niño event, the surface waters in the central and eastern Pacific Ocean become significantly warmer, which in Colombia has led to a decrease of the water levels in hydropower drams by 60 to 70% compared to normal years, and thus, to the addition of new thermal power plants (WEC, 2016).

In contrast, in **Ecuador**, the highest share of water is employed for the power generation sector (see Figure 7-6), which increased from 52% in 2006 to 73% in 2016 (total water use during this period in Ecuador increased 380%, from 22 784 to 109 422 l/s) (SENAGUA and ARCA, 2017). By this estimate, power generation is responsible for 92% of the growth in water use over this time. The water used by the **agriculture sector**, on the other hand, increased from 9,341 l/s in 2006 to 16,413 l/s in 2016. As depicted in Table 7-2, banana, palm, and sugar cane are among the permanent crops with the highest water demand in the country (Silva, A., 2015).

Finally, as shown in Figure 7-6 the **EU,** on average, allocates throughout the year most of its water resources for agriculture production (58%), followed by energy generation (18%) and industry and mining (14%) (EEA, 2019a). Concerning the use of water by the agricultural sector, it is estimated that between 2005 and 2016, crop production became 12 % less water-intensive (EEA, 2019b). The large differences in climatic conditions and the structure and properties of agricultural production systems across Europe does not allow to have instructive average values for the region.

Table 7-2: Water use of crops as share of total water use by the agriculture sector.

Country	Water use of crops as share of total water use by the agriculture sector
Colombia	Permanent crops Plantain (26%); Palm (19%); Sugar cane (12%); Casava (12%); Cacao (7%). Transient crops: Rice (65%); Corn (22%); Potato (5%) Cotton (2%)
Ecuador	Permanent crops: Banana (24%); Palm (21%) Sugar cane (14%). Transient crops: Rice (28%); Corn (11%); Potato (1%)
Peru	Rice (26%); Coffee (26%); Potato (12%); Alfalfa (10%); Sugar cane (8%)

Sources: IDEAM (2018); SENAGUA/ARCA (2017); Silva, A, (2015); EEA (2019)

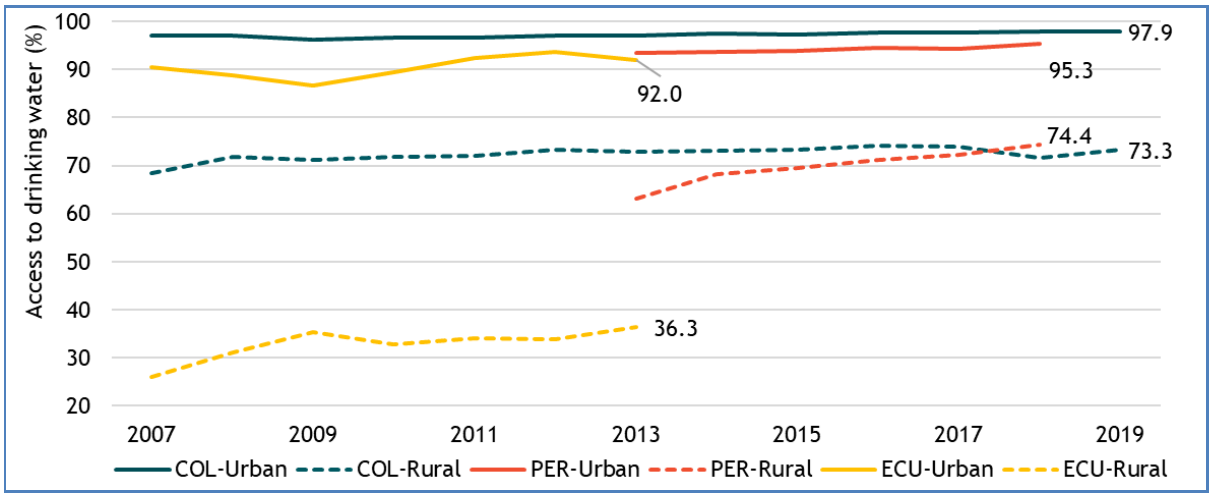
7.1.3.1.2 Access to clean and safe water

The Sustainable Development Goal 6 (SDG 6) calls for ensuring universal access to safe and affordable drinking water, and adequate and equitable sanitation for all. It also aims at improving water quality by reducing pollution, and sustainably increase water-use efficiency. A recent analysis of the SDG 6 in the Latin America and the Caribbean (LAC) showed that in 2015 only 40% of the rural population had access to safely managed drinking water (compared to 82% in urban areas), and only 28% of the rural population had access to safely managed sanitation (CEPAL, 2019). Moreover, as the analysis reports, concerning wastewater, most LAC countries treat less than 50% of their wastewater adequately (Ibid).

Figure 7-7 shows the share of the population of rural and urban areas in Colombia, Peru, and Ecuador with access to clean and safe water. The data availability varies per country, and therefore, the time frame presented in the figure is different in every case. Despite these disparities, **the increasing access to improved water sources** is a noticeable trend in all partner countries. Furthermore, the difference in the improvement degree of urban and rural water access is clear, with still a relatively small share of people (especially in Ecuador) having access to safe water.

With regard to wastewater, **Colombia** treats safely 43% and 85% of its domestic urban and industrial wastewater, respectively (DNP, n.d.). However, in some regions **mining exploitation** is driving the increase in the discharge of untreated water considerably (IDEAM, 2019). In the Colombian Amazon, for example, the environmental impacts of mining have been intensified in the last years due to pressure caused by the extraction of gold, cobalt, copper, among others. Furthermore, it is reported that there has been a considerably increased use of fertilisers driven by the **agriculture sector**, affecting the wealth of water bodies (Ibid).

Figure 7-7: Access to drinking water (% of total population)



Data presented is the latest available at the time of data collection.
Sources: SDG Tracker Colombia; ODS Territorio Ecuador; Sistema De Monitoreo y Seguimiento de los indicatores de los ODS de Perú.

In **Peru**, only 15.8% of wastewater is reported to be treated safely.[203] **Mining** is currently the sector driving the release of the largest among of treated water into the Peruvian rivers, followed by the domestic and energy sector. Even though mining is the sector with the highest amount of treated wastewater, a recent study showed it still dumps on average 22 tons of arsenic, 44 tons of lead, 11 tons of cadmium, 110 tons of copper and more than 331 tons of zinc annually (DAR, 2017).

Finally, in **Ecuador**, the **untreated sewage of human settlements** is the main driver of contamination of water bodies, but other sources of pollution also play a significant role in specific regions of the country. On the coast, for example, water pollution is driven by **shrimp and aquaculture activities,** and to the pressures caused by application of pesticides and fertilisers driven by the **production of banana and African palm**. (SENAGUA, 2019). Similarly, in the highlands, pressures on the environment due to the extensive use of pesticides and fertilisers to produce **flowers and broccoli** makes these products some of the main drivers of water pollution; while in the Amazon, **oil extraction and mining activities** are the major contributors to the water pollution problem (Ibid).

7.1.3.2 Air quality

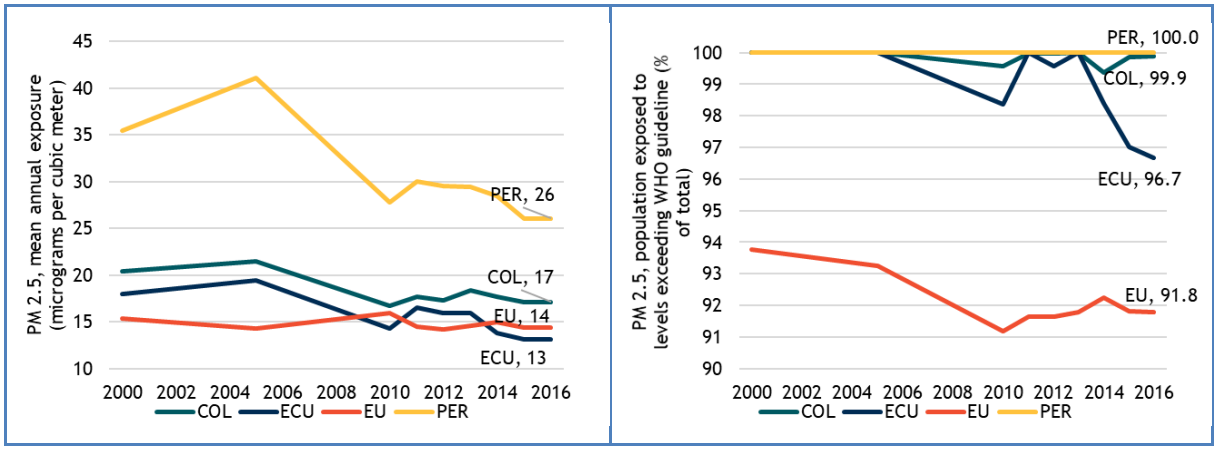
Air pollution has been recognised as one of the world's largest health and environmental problems (Hannah R., 2019). Fine particle matter ($PM_{2.5}$) (i.e. a complex mixture of extremely small particles and liquid droplets) can be carried over long distances by wind and then settle on ground or water. Depending on their chemical composition, the effects of this settling may include making lakes and streams acidic, changing the nutrient balance in coastal waters and large river basins, depleting the nutrients in soil, damaging forests and crops affecting the diversity of ecosystems, and contributing to acid rain effects, ultimately affecting human wellbeing (EPA, n.d.). Besides, many air pollutants contribute to climate change by affecting the amount of incoming sunlight that is reflected or absorbed by the atmosphere, with some pollutants warming and others cooling the Earth (IASS, n.d.).

As shown in Figure 7-8, all Andean countries have lower air quality than the EU, considering exposure to particulate matter ($PM_{2.5}$). The mean annual exposure to $PM_{2.5}$ (left panel) is higher in Peru compared to the other countries and the EU, but it has shown a relative

[203] Value provided for *Servicios de Saneamiento Gestionados de Manera Segura (SMS1).* Available at: http://ods.inei.gob.pe/.

improvement going from 42 mg/m^3 in 2005 to 26 mg/m^3 in 2016. In contrast, in the EU, the mean annual exposure to $PM_{2.5}$ has remained relatively constant between 2000 and 2016. Furthermore, regarding the percentage of population exposed to levels exceeding WHO guidelines, Figure 7-8 (right panel) shows that entire population of Colombia (99.9%) and Peru (100%) are exposed to unsafe[204] levels of $PM_{2.5}$. In comparison, Ecuador has experienced an improvement (going from 100% of its population exposed to unsafe levels of $PM_{2.5}$ in 2000 to 97% in 2016).

Figure 7-8: $PM_{2.5}$, mean annual exposure (left panel; micrograms per cubic meter) and $PM_{2.5}$, population exposed to levels exceeding WHO guideline (right panel ; % of total)



Source: Trinomics, based on World Bank

In **Colombia,** the results of a national emissions inventory in 2014 showed that important pressures to air pollution ($PM_{2.5}$) at the national level are caused by **natural causes** (38%) (e.g., natural fires), the **residential use of firewood** (29%) and **agricultural burning** (8%). The remaining 25% is contributed by stationary (19%) (e.g., industry, waste) and transport (5%) emission sources. In contrast, in urban areas, the main drivers of $PM_{2.5}$ emissions are automotive transport (80%) and the **industrial sector** (20%). Within the industrial sector, the brick kilns contribute about 40% of $PM_{2.5}$ and coal-fired boilers 19% in Bogota, while in other regions such as the Aburrá Valley, the **textile sector** is the main driver of air pollution (Minambiente, 2019b). Besides, air pollution near **open-pit mining** areas affecting the poor, working in illegal, traditional, and unauthorised mining is also of concern (OECD, 2014).

In **Peru**, studies have shown that the main pressures on air quality are the increase in the number of internal combustion engine (ICE) **vehicles**, other use of **fossil fuels** and other activities such as **brick kilns**, **mineral extraction and casting**, **fishing** and **electricity generation** (CEPAL & OECD, 2016).

In **Ecuador**, the main environmental pressures on air pollution are related to urbanisation, the **industrial sector**, the use of obsolete technologies in **productive and transport activities**, **poor fuel quality**, and **farms open-pit mining**, among others (MAE, 2010). In particular, the emissions from the Esmeraldas refinery and thermal power station have been reported as significant drivers of air pollution (Ibid).

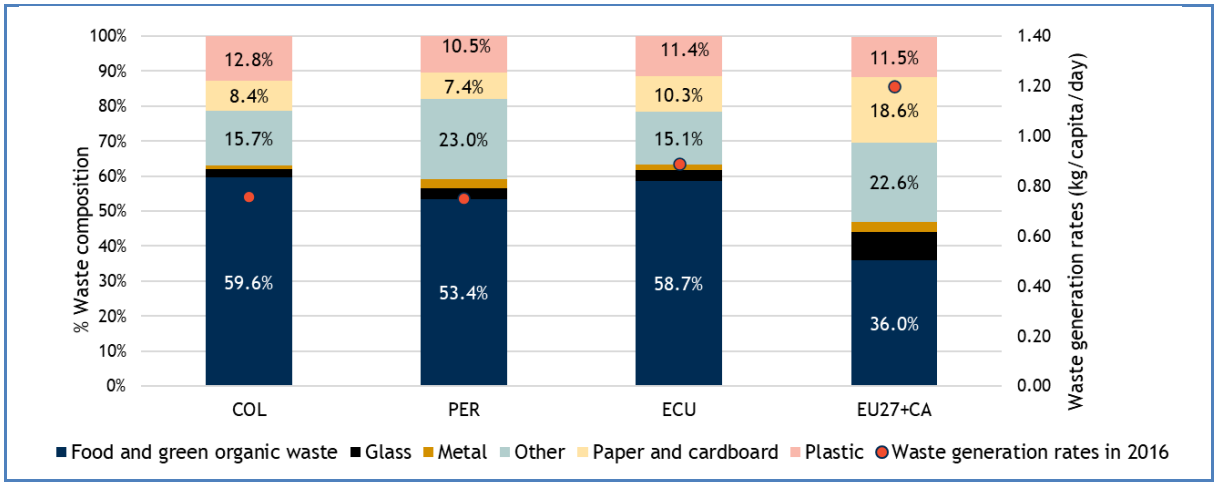
[204] Based on the World Health Organization (WHO) Air Quality Guidelines (AQG), which defines these AQG for various air pollutants based on an epidemiological assessment of the link between pollution exposure and health consequences (Hannah R., 2019). The WHO have set a AQG annual average concentration for PM2.5 of 10 micrograms per cubic meter (10µg/m3) (WHO, 2006).

7.1.3.3 Waste management and circular economy

Improper waste management can result in severe environmental impacts, including **water** and **soil pollution,** as well as the **emission of black carbon and GHGs** (UN Environment, 2018). Although proper final disposal of solid waste has significantly improved over the past decades in the LAC (Latin America and the Caribbean) region, approximately 145 000 ton/day (equivalent to the waste generated by 170 million people) end up in (illegal) dumpsites, are burned or are otherwise inadequately disposed of (Ibid).

Data compiled by the *What a Waste* report by the World Bank shows that waste generation and management practices do not vary widely across the three Andean countries. Regarding waste generation, over half (50-60%) of the municipal waste generated is food, as shown in Figure 7-9. Dry recyclables (plastic, paper and cardboard, metal and glass) account on average for a quarter of the waste generated (24-26%). Municipal waste generation per capita (Figure 7-9, secondary axis) in Ecuador is higher (0.89 kg/capita/day) compared to Colombia and Peru. By comparison, approximately 1.4 kg/capita/day of municipal waste were generated in the EU in 2019.[205] Concerning collection rates[206], these are above 80% in the three Andean countries (81% in Colombia, 83% in Peru, 84% in Ecuador). The informal sector (i.e., active pickers collecting recyclable materials) is highly active within the region (Kaza et. al., 2018).

Figure 7-9: Municipal solid waste composition (left panel; %) and waste generation rate (on secondary axis; kg/capita/day)



Note: For comparability proposes, the values presented here under EU27+CA correspond to the average regional figures for 'Europe and Central Asia' as reported by the WorldBank. Sources: (Kaza et al., 2018)

In terms of waste disposal[207], Colombia disposes of most of its municipal waste (89%) in sanitary landfills (Kaza et. al., 2018). Ecuador and Peru show a lower use of landfills for waste disposal (53% and 24%, respectively) (Ibid). In contrast, open dumping accounts for a larger share in Peru (56%) compared to Ecuador (22%), and Colombia (4%). Recycling is still very limited across the three countries (ranging from 4%[208] in Peru to 13% in Ecuador and 17% in Colombia) (Ibid). Correspondingly, in the EU, more than a half (54%) of the waste was treated in 2018 in recovery operations[209]: recycling (38 % of the

[205] Based on Eurostat. *Municipal waste statistics.*
[206] Waste collection figures of Colombia and Peru are based on the share of population covered by the waste collection system. Ecuador reports its collection rate as the number of households covered.
[207] The figures presented for waste disposal methods are provided as reported in the *What a Waste* report. In some cases, values do not add up to 100 percent or sum more than 100 percent. Refer to the *What a Waste* report for further information about the original sources (Kaza et. al., 2018).
[208] Recycling rate may be higher (14%), as reported by (WWF and CyclosGmbH, 2019).
[209] Based on Eurostat. *Waste treatment statistics.*

total treated waste), backfilling (10 %) or energy recovery (6 %). The remaining 45.8 % was either landfilled (39 %), incinerated without energy recovery (0.7 %) or disposed of otherwise (6 %).

In general, data on the generation, collection, treatment and disposal of other types of waste (e.g., industrial, electronic, and construction waste) in the Andean Countries is very limited. Regarding e-waste, it is estimated that 5.4 kg of e-waste per inhabitant is generated each year in Colombia, 4.5 kg in Ecuador and 5.9 kg in Peru (Ibid). In contrast, in 2017, the collected e-waste varied across the EU Member States, ranging from 2.4 kg to 14.1 kg per inhabitant[210]). In Colombia, **mining and quarrying waste** is also reported as major driver of waste in the country (however, data are not available for these waste streams) (OECD, 2019).

Efforts to move toward a circular economy are gaining momentum in all the Andean countries assessed. In 2018, the Colombian Government published the National Strategy on Circular Economy (CE), one of the central instruments to increasing the recycling and reuse rates in the country. The national strategies of Peru related to waste management and circular economy are presented in the *National Plan for Comprehensive* Solid Waste *Management 2016-2024.* Similarly, governmental institutions in Ecuador have been working since 2019 on the construction of a country roadmap towards a *National Strategy of Circular Economy: The White Book of the Circular Economy.* According to the Horizon 2020 CICERONE Project, which analysed the CE context in countries outside Europe, though the concept of CE is fairly new in Colombia, Ecuador, and Peru, and has only been applied within a limited scope, increasing concerns with respect to the availability of resources is leading to raising awareness on the need to move towards more circularity in these countries (CICERONE, 2019). It was concluded that private sector initiatives (e.g., food and IT sectors), as well as improvements in the agri-food sector for export, are more advanced in Colombia than in Peru and Ecuador (Ibid.). Research trends related to CE, waste technologies are dominating the list of research activities in Ecuador, while in Colombia and Peru, the main technological trend is related to the replacements of plastic packaging through biodegradable/sustainable packaging or other options with a lower footprint (Ibid.).

7.1.4 Baseline summary

The detailed baselines described in the previous sections have been used to set the scene, and to inform the impact screening and scoping exercise. Table 7-3 schematically summarises the key results.

Table 7-3: Drivers, pressures, impacts and responses across environmental impact areas

Environmental impact area	Drivers	Pressures	Impacts	Responses
Climate change	Agricultural production (land use conversion), industrial production, energy production	Deforestation and forest degradation, increased greenhouse gas emissions	Global warming	Paris agreement, NDCs, trade in environmental goods and services
Biodiversity	Mining & logging, agricultural production (incl. the harmful use of pesticides), population growth, (illegal) wildlife trafficking, poverty, social inequality, armed conflicts	Land use change (deforestation and forest degradation) resulting in ecosystem transformation and habitat loss. Other pressures are invasive alien species, pollution, and climate change-related threats, infrastructure projects,	Loss/degradation of ecosystems associated biodiversity loss	National and regional biodiversity strategies, including protected areas, sustainable forestry, measures for wildlife trading, sustainable agriculture practices

[210] Based on Eurostat. *Waste statistics - electrical and electronic equipment.*

Environmental impact area	Drivers	Pressures	Impacts	Responses
		urbanisation and overgrazing		
Terrestrial				
Marine	Fishery industry, aqua- and agriculture industry, population growth	Unsustainable fishing practices (e.g. overfishing, IUU fishing), climate change, pollution (e.g. plastic litter and chemical pollution), and deforestation (mangrove areas)	Loss/degradation of ecosystems associated biodiversity loss	Sustainable fishery policies, IUU fishing regulation, marine protected areas, improve monitoring and surveillance practices
Other environmental parameters	Mining (i.e., gold, cadmium, cobalt, copper), agricultural production, oil extraction, shrimp/ fishing	Discharge of untreated wastewater (with high content of metals), fertilizer and pesticides use (e.g., for broccoli and flowers production)	Pollution of water bodies, reduced water availability	Instruments for water management, water use environmental licenses
Water				
Air quality	Heating and cooking (residential use of firewood), agricultural waste management, open-pit mining, industry (brick kilns, textile, fishing), transport (in urban areas), electricity generation	Natural disasters, agricultural burning, poor urban planning, increase in vehicle use (fossil-fuel powered)	Pollution of water, soil depletion, acid rain effects (as particle matter can be carried over long distances)	National air quality strategies, regulatory frameworks including standards for different pollutants monitoring
Waste and circular economy	Domestic and Industrial waste generation, including mining and quarrying,	Generation of waste, inadequate disposal of waste	Water pollution, emission of toxic gases and particle matter, global warming	Waste management plans, Circular Economy programmes, private sector initiatives

7.2 Impact screening & scoping

Based on two rounds of impact screening and scoping (see Annex D-2 for details), the following priority areas for environmental impacts (both positive and negative) have been identified, which will be analysed in more detail in the analytical stage. Justification for the selection can be found in Annex D-2.

Colombia

- The potential impact of the Agreement through the horticulture sector on land conversion (related to climate change and biodiversity), water availability and on sustainable agricultural products.
- The potential impact of the Agreement on climate change through economic changes in industry (i.e., output changes in various industrial sectors) and changes in agricultural production (potentially affecting the LULUCF sector).
- The potential impact of increased output in (and imports of) transport equipment on air pollution.
- The potential impact of the Agreement on the improvement and effective implementation of environmental standards.

Peru

- The potential impact of the Agreement through the horticulture (e.g. avocados) and the seed oil sector on land conversion (related to climate change and biodiversity), water availability and on sustainable agricultural products.

- The potential impact of the Agreement on climate change through economic changes in industry (i.e., output changes in various industrial sectors) and changes in agricultural production (potentially affecting the LULUCF sector).
- The potential impact of industrial waste on pollution (e.g., driven by potential changes sectors "chemical products" and "wearing apparel").
- The potential impact of the Agreement on the improvement and effective implementation of environmental standards.

Ecuador

- The potential impact of the Agreement through the horticulture sector on land conversion (related to climate change and biodiversity). This will include the banana sector, where attention will also be paid to pesticide and water use. The impacts of the Agreement on promoting more sustainable agricultural products will also be analysed.
- The potential impact through the fishing (e.g., shrimps) sector.
- The potential impact of the Agreement on climate change through economic changes in industry (i.e., output changes in various industrial sectors) and changes in agricultural production (potentially affecting the LULUCF sector).
- The potential impact of the Agreement on the improvement and effective implementation of (international) environmental standards.

7.3 Potential impacts of the Agreement on land use change – quantitative analysis

Estimating the spatial extent and distribution of deforestation due to the Agreement is a complex task, unavoidably requiring the use of certain assumptions. All assumptions are based on best and most detailed data, and state of the art scientific advances on forests, agriculture, and other land use for the three Andean countries. This section explains the methodological steps and summarises the key results. The full analysis is provided in Annex D-3.

7.3.1 Estimated changes in land use - hectares

The methodology uses the results of the CGE model as inputs to estimate the extent to which the Agreement-induced output change resulted in permanent deforestation. The CGE modelling results are used because they provide the most (and only) reliable estimate of *Agreement-induced changes* by calculating the difference between the actual observed situation and the modelled (hypothetical) situation without the Agreement. As such, the results of the CGE model show the Agreement-induced economic changes in 2020. The CGE results cannot be directly used to assess the impact on land use change and deforestation as the results are in monetary units (millions of USD). The first stage of the analysis therefore aims to transpose the CGE results on Agreement-induced output changes per sector into a spatial metric (hectares of land).

Table 7-4 shows the results of this first stage. In all Andean countries, the *vegetables, fruits nuts* sector experiences the largest Agreement-induced increase in output (in USD). The second largest in output change (in USD) the *crops nec* sector, which includes cocoa and coffee production. In contrast to Colombia, Peru and Ecuador experienced a negative *net* FTA-induced output change on cropland area. This is driven by the negative *gross* impacts on the *crops nec* sector (the average land use intensity of crops under the *crops nec* sector is larger than the average land use intensity of the crops under the *vegetables, fruit, nuts* sector). It is also noted that the Agreement-induced output change in the sector related to grazing (*bovine cattle, sheep, and goats*) is negative. As such, it is considered very unlikely that the Agreement contributed to deforestation through grazing activities. For that reason, the analysis focusses on estimating the impacts through the Agreement-induced changes in cropland area.

Table 7-4: Agreement-induced output change in 2020 and corresponding hectares of land

#	Sector	Agreement-induced output change in 2020 (in mln USD)			Sector	Estimated land use change (in ha)		
		COL	*PER*	*ECU*		*COL*	*PER*	*ECU*
1	Paddy rice	0.0	2.0	1.0	Cropland	10,766	-4,336	-2,007
2	Wheat	0.0	-3.5	-0.1				
3	Cereal grains nec	-0.5	1.7	5.0				
4	Vegetables, fruit, nuts	45.9	54.8	27.1				
5	Oil seeds	-1.4	2.5	-2.4				
6	Sugar cane, sugar beet	-2.3	2.0	-3.0				
7	Plant-based fibers	0.0	1.6	-2.7				
8	Crops nec	8.3	-26.0	-7.3				
9	Bovine cattle, sheep and goats	-5.9	-0.4	-0.4	Grazing	n/a	n/a	n/a

7.3.2 Land use change analysis for the Andean countries

In the second stage of the analysis, the context of the Andean countries with regard to land use conversion is incorporated. The following steps have been used to estimate the share of deforestation resulting from cropland and grazing activities:

- The first step is to extract tree cover loss data per country (based on satellite images).
- In the next step, the spatial analysis commences. By laying a country's land cover map over the tree cover map, the share of deforestation resulting from cropland expansion is estimated.
- Based on the results of step 1 and 2, the amount (hectares) of deforestation resulting from cropland is calculated for the period 2012-2016 (by multiplying the results from both steps).
- The last step is to divide the results from step 3 by the actual (observed) cropland increase over the same period, to estimate the share of cropland expansion resulting in deforestation.

Table 7-5 shows the result of this stage of the analysis for Colombia, i.e. the share of **cropland expansion resulting in deforestation**. This has only been calculated for Colombia as no net cropland increase has been observed over the last years in Peru and Ecuador, as a result of which such a share cannot be calculated for these countries. In fact, statistics from FAO (FAO 2021) show that cropland areas in Ecuador and Peru decreased in the analysis period. This was also confirmed by looking at alternative data sources (World Bank 2021).

Table 7-5: Final calculation to estimate the share of cropland change resulting in deforestation in Colombia (2012-2016)

Country	Observed tree cover loss	% deforestation caused by cropland expansion	Observed change in cropland area	% cropland expansion resulting in deforestation
Colombia	942,900 ha	10.2%	272,300 ha	34.5%

Source: Calculations Trinomics & IVM

The numerator in the share is equal to the observed tree cover loss multiplied by the share of deforestation caused by cropland expansion (10.2%). Due to lack of certain data after the year 2016 in Colombia, it was decided to base the estimates for the period 2012-2016. The observed tree cover loss in this period in Colombia was equal to 942,900 ha. The denominator is based on FAO statistics (FAO 2021) on observed change in cropland area for Colombia over the same period (273,200 ha). The result of this calculation shows the share of cropland expansion resulting in deforestation in Colombia between 2012 and 2016, which equals 34.5%.

7.3.3 Estimated deforestation resulting from output changes in the agricultural sector caused by the Agreement

In the third stage, the outcomes of the previous two stages are combined to estimate the deforestation resulting from changes in the agricultural sector induced by the Agreement.

The following conclusions are drawn regarding the impact of the Agreement through Agreement-induced output changes in the agricultural sectors in the Andean countries on permanent deforestation and biodiversity thus far:

- For **Colombia**, it is estimated that the Agreement resulted in a *net* increase in cropland areas in Colombia (considering *all* crops produced). It is estimated that this increase resulted in 3,500 to 4,000 hectares of land being permanently deforested. This corresponds to roughly 0.5% of total deforestation driven by commercial agriculture observed over the period of the Agreement. It is unlikely that this deforestation occurred in the most (biodiverse) intact areas in Colombia.

- For **Ecuador** there is no evidence to conclude that the Agreement-induced output change in the agricultural sector resulted in permanent deforestation. This is because it is estimated that the Agreement resulted in a *net* decrease in cropland areas in Ecuador (considering *all* crops produced). Despite the net decrease in cropland area, cropland area for specific sectors increased (in particular the *vegetables fruits and nuts* sector), which could have resulted in deforestation. However, as only 0.5% of deforestation can be attributed to commercial agriculture in Ecuador over the past years (Curtis et al., 2018), it is unlikely that the Agreement induced output change in the agricultural sector resulted in permanent deforestation in Ecuador.

- For **Peru** it is estimated that the Agreement resulted in a *net* decrease in cropland areas (considering *all* crops produced). Despite the net decrease in cropland area, cropland area for specific sectors increased (in particular the *vegetables fruits and nuts* sector), which could have resulted in deforestation. However, the output increase in the *vegetables fruits and nuts* sector in Peru is unlikely to have resulted in significant permanent deforestation, as the crops under this sector have not contributed much to permanent deforestation in Peru over the last years (e.g., potato production and banana production in the Piura region) (GFW, 2021; Guirkinger, 2008; Mills-Novoa, 2019). The output increase (and corresponding cropland area expansion) in the *oil seeds* sector, which is dominated by oil palm production, suggests that Agreement-induced oil palm production may have resulted in deforestation. However, the estimated amount (equating to roughly 600 hectares) is considered too low to attribute to deforestation within reasonable boundaries of uncertainty; it could have also been produced in existing oil-palm areas, or on former deforested areas.

7.4 Potential impact on gross greenhouse gas emissions (excl. LULUCF) – quantitative analysis

While analysing the causal relation between the Agreement's effect and environmental developments is challenging in the absence of a counterfactual (i.e., what would have happened if the Agreement would not have been signed), the CGE output allows for a quantitative analysis of the causal effect of the Agreement on gross greenhouse gasses (GHGs). In theory, the Agreement may have generated impacts on GHG emissions through three different channels:

- **Scale effect**: the impact resulting from the overall change in production due to the Agreement;
- **Composition effect**: the impact resulting from the change in production due to the Agreement, considering the sectoral output changes and sectoral GHG emissions (and emission intensities); and

- **Technology effect**: the impact resulting from the exchange of technologies and production methods with (e.g.) different efficiencies resulting in a change of emissions per unit of production.

The methodology applied in the quantitative analysis (Box 7-4) allows to identify the scale and composition effects but cannot identify any (potential) technology effect. The technology effect will therefore be discussed qualitatively, in the next stage of this study.

Box 7-4: Methodology applied for GHG emissions analysis

The bullets below summarise the main steps that have been taken to estimate the Agreement-induced GHG emissions.

- **Step 1**: Extract data on 2014 GHG emissions from GTAP/EDGAR (emissions are based on the EDGAR database, but using the GTAP sector definition so that it can be matched with the output change at sector level).
- **Step 2**: Extract data on GHG emissions from other sources for more recent years. Data was extracted from PRIMAP, Climate Watch, and EDGAR.
- **Step 3:** Estimate 2020 emissions per country, per GHG. The 2020 emissions have been estimated by taking the growth rate per GHG per country between 2014-2017, based on PRIMAP data. This growth rate has been applied on the 2014 GHG emissions from GTAP (step 1) to estimate the GHG emissions in 2020 (at sector level). This calculation results in the estimated *2020 emissions with the Agreement.*
- **Step 4:** Estimate the 2020 GHG emissions that would have been produced without the Agreement. This has been done by multiplying the *2020 emissions with the Agreement* (per GHG, per country, per sector), with (100% - % output change resulting from the Agreement).
- **Step 5**: Deduct the 2020 GHG emissions that would have been produced without the Agreement (per GHG, per country, per sector) from the *2020 emissions with the Agreement,* which results in the Agreement-induced emissions.

7.4.1 Composition effect

Figure 7-10 and Figure 7-11 show the Agreement-induced change in gross GHG emissions in 2020 per country for eight different sectors. It is noted that the underlying analysis is based on the sectoral changes at a much more disaggregated level (59 sectors, as per the CGE results). These results have been aggregated for reasons of visualisation.

Impact in Andean partner countries

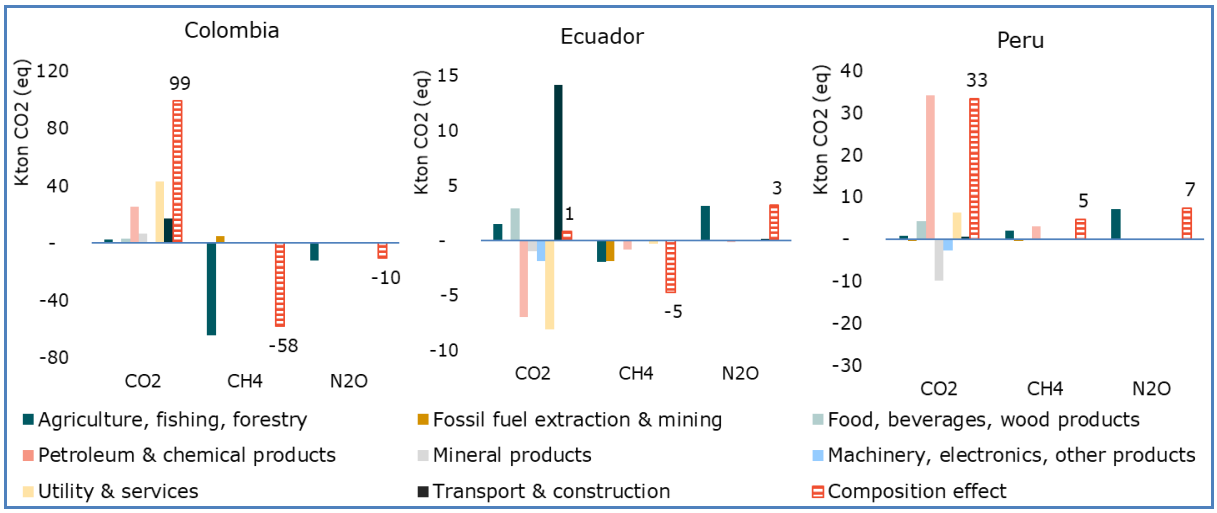
Figure 7-10 shows that, according to our estimates, the Agreement resulted in higher gross CO_2 emissions in all Andean countries. In **Colombia**, the increase is the result of increased emissions in all eight sectors, though the increase is predominantly driven by increased output in the sectors *petroleum & chemical* products and *utility & services*. Within these sectors, subsectors *chemical products* and *gas production and distribution* are responsible for the rise in CO_2-emissions. In **Ecuador**, the net composition effect on gross CO_2-emissions is much lower, as the Agreement resulted in lower outputs in the *petroleum & chemical* products and *utility & services* sectors. Yet, driven by increased emissions in the *transport & construction* sector, the net composition effect remains positive. In **Peru**, the increase in CO_2-emissions is driven by increased emissions from the *petroleum & chemical products* sector. Subsector *chemical products* (in which output increased by 1.6%) contributed significantly to the overall increase in CO_2-emissions.

It is noted that (changes in) CO_2-emissions from the sector *agriculture, fishing and forestry* are negligible in all Andean countries. It is stressed that this is the result of excluding LULUCF data in this analysis (based on data limitations). The impact on LULUCF emissions will be analysed in the next stage of this study.

As shown in the baseline description (section 7.1), the agricultural sector is the main source of **methane** (CH_4) emissions in all Andean partner countries. The Agreement caused CH_4-emissions to decline in Colombia, which can be explained by the Agreement's negative impact on output in subsector *bovine cattle, sheep, and goats*. In Ecuador, the Agreement-induced CH_4-emissions emissions are slightly negative, and in Peru slightly positive. **Nitrous oxide** (N_2O) emissions are also dominated by the agricultural sector in the Andean

countries, though both cattle grazing and crop cultivation have a major impact on N_2O-emissions (whereas CH_4-emissions are dominated by cattle grazing). The Agreement-induced changes in N_2O-emissions are negative in Colombia (due to lower output in subsector *bovine cattle, sheep, and goats*) and positive in Ecuador and Peru (due to increased output in the subsectors related to crop cultivation and the absence of negative impacts on subsector *bovine cattle, sheep, and goats*).

Figure 7-10: Agreement-induced emissions (excl. LULUCF) in 2020 at sector level in Andean countries, in kton CO_2 (eq)



The values shown in the graphs correspond to the composition effect (sum of the underlying effects per sector).
Source: Trinomics (2021), based on EDGAR, GTAP & PRIMAP

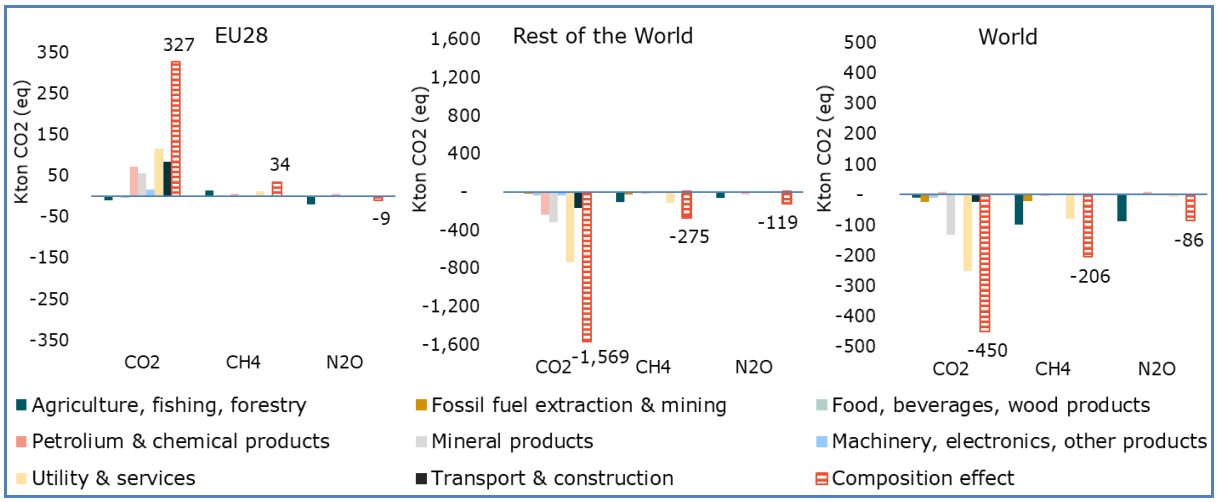
To conclude, according to our results, the economic changes caused in the year 2020 by the Agreement in partner countries resulted in increased gross GHG emissions in Colombia (CO_2-emissions +99 kton, CH_4-emissions -58 kton, N_2O-emissions -10 kton) and Peru (CO_2-emissions + 33 kton, CH_4-emissions +5 kton, N_2O-emissions +7 kton), and a decrease in gross GHG emissions in Ecuador (CO_2-emissions + 1 kton, CH_4-emissions -5 kton, N_2O-emissions +3 kton). In the next section (7.4.2), these numbers are put into perspective (by presenting the results as a share of the total gross GHG emissions per country in 2020).

Impact in the EU and globally

The Agreement caused **EU28** GHG emissions to rise (as shown in Figure 7-11). CO_2-emissions have increased in all sectors, except in sectors *agriculture, fishing, forestry*, *fossil fuel extraction & mining* and *food, beverages, wood products*. The increase in GHG emissions in the EU28 is predominantly driven by increased CO_2-emissions, which in total increased by 327 kton CO_2-emissions in 2020. The rise in CO_2-emissions can be attributed to increased economic activity in the sectors *petroleum & chemical products*, *mineral products*, *utility & services*, and *transport & construction*. CH_4-emissions increased by 34 kton, while N_2O-emissions decreased by 10 kton.

On a **global** level, it is estimated that the Agreement resulted in a reduction of gross GHG emissions (CO_2-emissions -450 kton, CH_4-emissions -206 kton, N_2O-emissions -86 kton). This is driven by decreased economic activity in the **Rest of the World**.

Figure 7-11: Agreement-induced emissions (excl. LULUCF) in 2020 at sector level in the EU28, Rest of the World, and World (total), in kton CO_2 (eq)

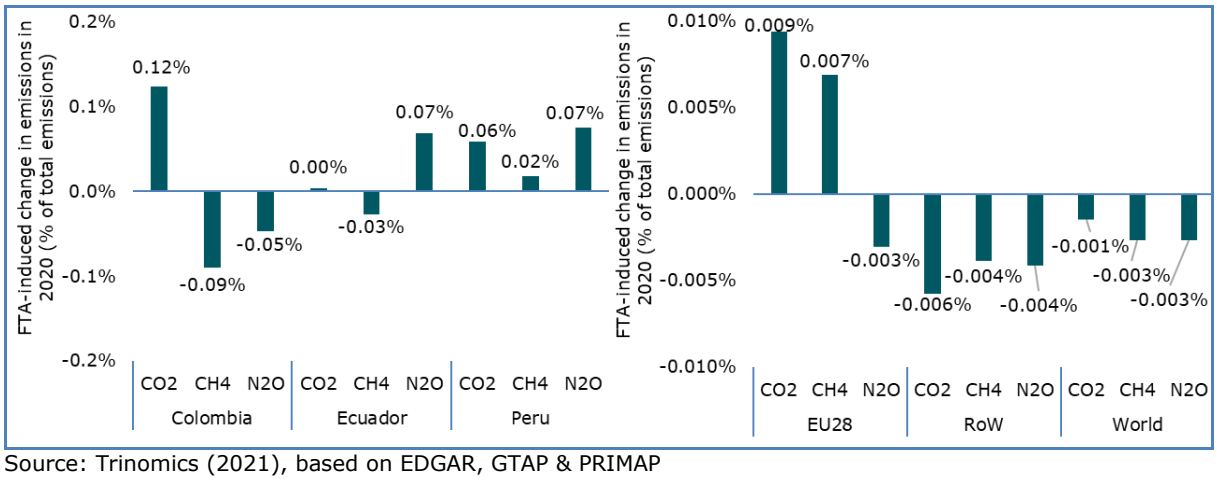


The values shown in the graphs correspond to the composition effect (sum of the underlying effects per sector).
Source: Trinomics (2021), based on EDGAR, GTAP & PRIMAP

7.4.2 Total effect

Figure 7-12 shows the Agreement-induced change in gross GHG emissions in 2020 (compared to overall GHG emissions in 2020). The figure shows the net effect, which is based on the scale effect, corrected for the composition effect. The net effect refers to the percentage change between what gross GHG emissions would have been in 2020 without the Agreement and gross GHG emissions in 2020 with the Agreement. The scale effect refers to the impact only taking changes in overall economic growth into account (while ignoring changes at sector level). Based on the scale effect, an increase in global emissions would have been expected (0.001%). Yet, when taking sectoral changes (and emission intensities) into account through the composition effect, it is shown that gross global GHG emissions decreased marginally.

Figure 7-12: Percentage change in emissions resulting from the Agreement compared to total emissions (excl. LULUCF) in 2020



Source: Trinomics (2021), based on EDGAR, GTAP & PRIMAP

Table 7-6 summarises the results on the Agreement-induced changes in gross GHG emissions in 2020. Although gross GHGs increased in Colombia, Peru and the EU28, it is estimated that the **Agreement caused global gross GHG emissions to decline by roughly 0.75 Mton CO_2 eq lower in 2020**. It is stressed that LULUCF emissions are not covered in this analysis.

Table 7-6: Agreement-induced emissions (excl. LULUCF) in 2020 per country in Mton CO2 (eq)

Country / Region	CO2	CH4	N2O
Colombia	0.099	-0.058	-0.010
Ecuador	0.001	-0.005	0.003
Peru	0.033	0.005	0.007
EU28	0.327	0.034	-0.009
RoW	-1.569	-0.275	-0.119
World	**-0.450**	**-0.206**	**-0.086**

Source: Trinomics (2021), based on EDGAR, GTAP & PRIMAP

7.5 Qualitative analysis and conclusions

In the next stage of this evaluation, the quantitative analyses will be complemented with additional qualitative analyses and the case studies. After that, the project team will answer the evaluation questions, informed by the baselines, the quantitative analysis, qualitative analysis, and case studies.

8 PRELIMINARY RESULTS OF THE HUMAN RIGHTS ANALYSIS

This chapter provides an analysis of the impacts of the Agreement on human rights.[211] The analysis focuses primarily on the impact of the Agreement on human rights in Colombia, Peru and Ecuador: Because of the asymmetry in economic size between the EU and the partner countries, the CGE modelling shows that the Agreement has had a significantly larger relative economic impact on partner countries than on the EU. The overall economic impact for the EU is negligible, and sector effects are also small, ranging from a 0.1% increase in the production of motor vehicles to a -0.2% decline in output of vegetables, fruits & nuts (see sections 5.1 and 5.2). This also implies that the impacts on human rights (via causal chains originating in the economic effects) accrue in Colombia, Peru and Ecuador and not in the EU.

Relying on the UN Guiding Principles on Human Rights Impact Assessment of Trade and Investment Agreements[212] and the EC Guidelines on the Analysis of Human Rights Impacts in Impact Assessments for Trade-related Policy Initiatives,[213] the analysis entails several steps and focuses on the specific human rights that may have been affected by trade and trade-related measures of the Agreement and the ability of the state parties to fulfil or progressively realise their human rights obligations.

The following sections present the results of the various steps of the analysis. First, a short background on the place of human rights in the EU trade policy and in the Agreement is presented (section 8.1). Section 8.2 provides summaries of the Parties' human rights profiles, and section 8.3 presents the results of the screening and scoping, which aims at establishing the cause-effect relationship between the Agreement and the human rights.

A detailed assessment of selected rights, both quantitative and qualitative,[214] will be carried out in the next stage of the evaluation, from which recommendations will be derived.

To address the challenge of isolating the Agreement impact from other factors that could have affected the enjoyment of a human right over time, a multi-pronged approach (i.e. a methodological cross-validation in order for one methodological element to corroborate/ validate the other method) is applied for each of the prioritised human rights: The impact of the Agreement is analysed based on the evidence from the CGE results, literature review, Agreement provisions, human rights indicators, stakeholder inputs and social and political situation, corroborating and cross-validating the findings of each of the method (see Inception Report for a detailed approach).

8.1 Human rights in the EU trade policy and in the Agreement

The protection of human rights is one of the EU's overarching objectives in its external action. The Commissions' 2020 EU Action Plan on Human Rights and Democracy points to the reinforcement of synergies between trade and human rights policies in the context of the EU trade arrangements.[215]

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[211] In line with the Tool No.28 of the Better Regulation "Toolbox" and the EC Guidelines on the analysis of human rights impacts in impact assessment for trade-related policy initiatives, "human rights" in this analysis are defined as set out in the Charter of Fundamental Rights of the European Union, core UN human rights treaties and relevant regional human rights treaties.

[212] A/HRC/19/59/Add.5

[213] European Commission (2015). *Guidelines on the analysis of human rights impacts in impact assessment for trade-related policy initiatives,* at: https://trade.ec.europa.eu/doclib/docs/2015/july/tradoc_153591.pdf

[214] For Ecuador, quantitative analysis is limited due to the short period of evaluation, so analysis mostly relies on literature review and stakeholder consultations.

[215] European Commission (2020). Joint Communication to the European Parliament and the Council, EU Action Plan on Human Rights and Democracy 2020-2024, 25 March 2020: https://ec.europa.eu/transparency/regdoc/rep/10101/2020/EN/JOIN-2020-5-F1-EN-MAIN-PART-1.PDF

The preamble of the Agreement reflects this objective and states the commitment of the Parties to the Universal Declaration of Human Rights and respect for labour rights and protection of the environment. The Parties also specify their intention to create new employment opportunities and improved working conditions, as well as raising living standards for their populations.

The standard "essential elements" clause or the human rights clause of the Agreement specifies that "respect for democratic principles and fundamental human rights, as laid down in the Universal Declaration of Human Rights, and for the principle of the rule of law, underpins the internal and international policies of the Parties… [and] constitutes an essential element of this Agreement" (Article 1). The democratic principles and fundamental human rights referred to in this clause are not further defined in the Agreement. They would cover relevant human rights norms and standards interpreted in accordance with the international human rights treaties binding on the parties. Article 8(1) of the Agreement specifies that obligations under the Agreement are positive obligations that, where necessary, require action on the part of the state ("any necessary measure") to ensure the effective implementation:

> "Each Party is responsible for the observance of all provisions of this Agreement and shall take any necessary measure to implement the obligations under it, including its observance by central, regional or local governments and authorities, as well as non-governmental bodies in the exercise of governmental powers delegated to them by such governments and authorities".

This means that the Parties have an obligation to engage in an activity to secure respect of democratic principles and fundamental human rights as opposed to the negative obligation to merely abstain from violation of these principles and rights (Bartels 2005). The Agreement does not provide for a specific mechanism for monitoring the implementation of the human rights clause.

In addition to the human rights clause, Title IX of the Agreement – the TSD Title – contains a separate set of provisions on labour standards which cover certain labour-related human rights. Article 269(3) specifies, for instance, that:

> "Each Party commits to the promotion and effective implementation in its laws and practice and in its whole territory of internationally recognised core labour standards as contained in the fundamental Conventions of the international Labour Organisation: (a) the freedom of association and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labour; (c) the effective abolition of child labour; and (d) the elimination of discrimination in respect of employment and occupation."

Article 271(3) contains provisions related to the promotion of best business practices related to corporate social responsibility (as areas of cooperation). Articles 271, 272, 273 and 275 include provisions on trade favouring sustainable development, the sustainable use of natural resources and sustainable use of biodiversity. Article 276 specifically refers to the rights of migrant workers: "The Parties recognise the importance of promoting equality of treatment in respect of working conditions, with a view to eliminating any discrimination in respect thereof to any worker, including migrant workers legally employed in their territories". Article 277 lays down the commitments of the Parties to uphold levels of protection, referring to both the legal framework and implementation of the existing labour laws:

> "(1) No Party shall encourage trade or investment by reducing the levels of protection afforded in its environmental and labour laws. Accordingly, no Party shall waive or otherwise derogate from its environmental and labour laws in a manner that reduces the protection afforded in those laws, to encourage trade or investment. (2) A Party shall not fail to effectively enforce its environmental and labour laws through a sustained or recurring course of action or inaction, in a manner affecting trade or investment between the Parties."

The Parties also make a commitment not to lower *de jure* or *de facto* the level of protection provided in the labour or environmental law, not in a way that would encourage trade or investment (Orbie, Putte, and Martens 2017).

The Parties' right to regulate is provided for in Article 277(3) & (4) which establishes limitations against the interference of other Parties into the domestic matters related to the regulation and application of labour and environmental laws:

> "The Parties recognise the right of each Party to a reasonable exercise of discretion with regard to decisions on resource allocation relating to investigation, control and enforcement of domestic environmental and labour regulations and standards, while not undermining the fulfilment of the obligations undertaken under this Title," and "Nothing in this Title shall be construed to empower the authorities of a Party to undertake labour and environmental law enforcement activities in the territory of another Party".

As such, the TSD Title reaffirms already existing obligations (as in Article 269, because all Parties already ratified the ILO conventions in question), sets minimum obligations to comply with international standards on these issues (Articles 271-275) and includes provisions that require the Parties not to lower their existing levels of protection related to labour rights (Marx, Lein, and Brando 2016). The Title leaves the Parties flexibility in implementing its provisions (e.g. Art. 281 on the establishment of domestic mechanisms) (Orbie, Putte, and Martens 2017).

The Agreement provides for a specific mechanism for monitoring the implementation of the TSD Title. The Sub-Committee on Trade and Sustainable Development is established under Article 280 and consists of "high level representatives from the administrations of each Party, responsible for labour, environmental and trade matters" and meets within the first year after the date of the Agreement and thereafter "as necessary". The Sub-committee is mandated to carry out a dialogue with civil society and the public at large (Article 282). Next to that, in accordance with national legislation, domestic mechanisms (Domestic Advisory Groups) need to be established or used for domestic consultation on the matters in the areas covered under the TSD Title (Article 281).

The Agreement does not provide for a specific enforcement mechanism under the TSD Title (Article 285(5)), except bilateral governmental consultations (Article 283) and an envisaged role of a Group of Experts in case mutually satisfactory resolution of the matter is not feasible (Articles 284-285). The recommendations of the Groups of Experts are not binding, although the Sub-Committee on Trade and Sustainable Development has a limited role in the oversight over the implementation of these recommendations (Article 285(4)).

8.2 Human rights profiles of the Parties

In this section, the human rights profiles are presented for Colombia, Peru, Ecuador and the EU. The profiles contain (1) human rights legal obligations of the Parties (section 8.2.1) and (2) a summary of the baseline conditions for the enjoyment of the relevant human rights in the period from five years before the provisional application of the Agreement until 2019 (section 8.2.2). Particular attention is given to the pre-existing conditions of stress and vulnerabilities with respect to human rights, highlighting the position of specific vulnerable groups. Detailed human rights profiles are presented in Annex E-1.

The human rights profiles aim to:

- Set the scene regarding the enjoyment of the relevant human rights in the partner countries;
- Identify social and political developments that may have impacted the human rights situation in the partner countries (see detailed profiles); and
- Allow for a targeted assessment of the human rights impacts of the Agreement.

The profiles are based on the analysis of the international human rights obligations, national legislation and policy framework as well as implementation issues with respect to relevant human rights. Potential links with the Agreement are not included here. The analysis is based on literature review, relevant indicators and preliminary stakeholder consultations.

8.2.1 Ratification record of international and regional human rights treaties

International human rights law lays down obligations which states are bound to respect. By means of ratification of international human rights treaties, states accept obligations to respect, protect and fulfil human rights. Detailed overview of ratification of international and regional human rights treaties by all the Parties are presented in Tables E-1 to E-3 in Annex E-2.[216]

Colombia

The Constitution of Colombia recognises a comprehensive list of human rights as interpreted in the international human rights treaties ratified by the state.[217] Colombia ratified all core UN human rights conventions and five out of nine optional protocols. It did not ratify the Optional Protocol to the Convention against Torture (CAT), the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Optional Protocol to the Convention on the Rights of the Child on a communication procedure and the Optional Protocol to the Convention on the Rights of Persons with Disabilities (CRPD) (see Table E-1 in Annex E-2). As part of its reporting obligations, Colombia regularly reports to the UN monitoring treaty bodies. The country has one report that has been overdue since 2014 – the report to the Committee on Civil and Political Rights.[218] In the evaluation period from 2008 till 2019, Colombia ratified the International Convention for the Protection of all Persons from Enforced Disappearance (in 2012) and the Convention on the Rights of Persons with Disabilities (in 2011).

Colombia has ratified all eight fundamental ILO Conventions that cover freedom of association, forced labour, discrimination and child labour (Table E-2 in Annex E-2). It has not ratified one out of four ILO governance conventions that refers to employment policy. It has ratified the ILO Indigenous and Tribal Peoples Convention (No.169). In the period from 2008 to 2019, Colombia ratified the ILO Domestic Workers Convention (No. 189).

Colombia is also a party to the main human rights instruments of the Inter-American System (e.g. American Convention on Human Rights, the Protocol of San Salvador, Belém do Pará Convention) and recognises the competence of the Inter-American Court of Human Rights (see full list of ratifications of regional human rights treaties in Table E-3 in Annex E-2).

Peru

The Constitution of Peru recognises a comprehensive list of human rights as interpreted in the international human rights treaties ratified by the state.[219] Peru ratified all core UN human rights conventions and seven out of nine optional protocols. It did not ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) on the abolition of death penalty and the Optional Protocol to the ICESCR (see Table E-1 in Annex E-2). As part of its reporting obligations, Peru regularly reports to the UN

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[216] Reservations expressed by Colombia, Peru and Ecuador are provided in Tables E-4 to E-6 in Annex E-2.
[217] Articles 11-41 of the 1991 Constitution of Colombia.
[218] UN Treaty Body Database: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/LateReporting.aspx
[219] The Constitution of Peru of 1993 with Amendments through 2009: https://www.constituteproject.org/constitution/Peru_2009.pdf?lang=en

monitoring treaty bodies. The country has two overdue reports (i) report to the Committee on Economic and Social Rights since 2017 and (ii) report to the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families since 2020.[220] In the evaluation period from 2008 till 2019, Peru ratified the International Convention for the Protection of all Persons from Enforced Disappearance (in 2012) and the Optional Protocol to the Convention on the Rights of the Child (CRC) on a communications procedure (in 2016).

Peru has ratified all eight fundamental ILO Conventions that cover freedom of association, forced labour, discrimination and child labour (see Table E-2 in Annex E-2). It has not ratified one out of four ILO governance conventions that refers to labour inspection in agriculture. It has ratified the ILO Indigenous and Tribal Peoples Convention (No.169). In the period from 2008 to 2019, Peru ratified the ILO Maternity Protection Convention (No.183) and the Domestic Workers Convention (No. 189).

Peru is also a party to the main human rights instruments of the Inter-American system (e.g. American Convention on Human Rights, the Protocol of San Salvador, Belém do Pará Convention) and recognises the competence of the Inter-American Court of Human Rights (see Table E-3 in Annex E-2).

Ecuador

The Constitution of Ecuador recognises a comprehensive list of human rights as interpreted in the international human rights treaties ratified by the state.[221] Ecuador ratified all core UN human rights conventions and all nine optional protocols (see Table E-1 in Annex E-2). In the period 2012 to 2019, Ecuador ratified the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (in 2018). As part of its reporting obligations, Ecuador regularly reports to the UN monitoring treaty bodies. Ecuador is one of the few states that does not have any overdue reports under the UN conventions it ratified.[222] The Constitution of Ecuador establishes in Article 11(3) that "the rights and guarantees set forth in the Constitution and in international instruments shall be directly and immediately enforced by and before any civil, administrative or judicial servant, either by virtue of their office or at the request of a party." Additionally, Article 426 establishes that "judges, administrative authorities, and public servants shall directly apply constitutional standards and those provided for in international human rights instruments as long as the latter are more favourable than those set forth in the Constitution, although the parties do not invoke them expressly".

Ecuador has ratified all eight fundamental ILO Conventions that cover freedom of association, forced labour, discrimination and child labour (see Table E-2 in Annex E-2). It has not ratified one out of four ILO governance conventions that refers to labour inspection in agriculture. It has ratified the ILO Indigenous and Tribal Peoples Convention (No.169). In the period 2012 to 2019, Ecuador ratified the ILO Domestic Workers Convention (No. 189) and the Workers with Family Responsibilities Convention (No. 156).

Like the other two partner countries, Ecuador is a party to the main human rights instruments of the inter-American system and recognises the competence of the Inter-American Court of Human Rights (see Table E-3 in Annex E-2).

[220] UN Treaty Body Database: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/LateReporting.aspx
[221] Title II of the 2008 Constitution of Ecuador. Full text of the Constitution: https://www.constituteproject.org/constitution/Ecuador_2008.pdf
[222] UN Treaty Body Database: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/LateReporting.aspx

European Union

Human rights are placed at the centre of the EU agenda in both its internal and external relations (Article 3(5) and Article 21 of the Treaty of the European Union), and each EU member state has international human rights obligations. EU Member States have different records with respect to ratification of international human rights treaties (see Table E-1 in Annex E-2), but they are bound by the human rights values enshrined in the Charter of the Fundamental Rights of the European Union. All Member States ratified the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), both Covenants – the ICESCR and the ICCPR - both Optional Protocols to the ICCPR (ICCPR-OP1 and ICCPR-OP2), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC) and its Optional Protocol on the involvement of children in armed conflict (OPAC), the Convention on the Elimination of All Forms of Racial Discrimination (ICERD), and the Convention on the Rights of Persons with Disabilities (CRPD). For the remaining conventions and their protocols, the ratification record is more diverse. The only human rights convention not ratified by any of them is the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICMW). All Member States ratified all the core ILO Conventions (see Table E-2 in Annex E-2).

8.2.2 Pre-existing conditions of stress and vulnerability

In this section, pre-existing conditions of stress and vulnerability with respect to human rights are discussed. Focused profiles for Colombia, Peru and Ecuador have been prepared, specifying baseline conditions for the enjoyment of relevant human rights as well as social and political developments related to human rights over the evaluation period (in the period from five years prior to the start of application of the Agreement until 2019). Specific attention is given to the position of vulnerable groups (indigenous peoples, women, children, migrants and refugees, persons with disabilities, LGBTI persons). Full profiles can be found in Annex E-1.

In **Colombia**, the human rights situation before 2016 had been heavily affected by the armed conflict that lasted many years. According to the International Committee of the Red Cross, there are five armed conflicts in Colombia.[223] The presence of the state remains weak in many areas and armed groups continue to threaten the civil population and recruit in former conflict zones.[224] Main pre-existing conditions of stress related to human rights include: (i) violence linked to the armed conflict, especially in some regions, primarly driven by feuds among criminal armed groups over illicit economies; (ii) discrimination against women, indigenous peoples, ethnic minorities, migrants, LBGTI persons, persons with disabilities; (iii) lack of consultation to seek prior informed consent of indigenous peoples and Afro-Colombian communities in projects on the exploitation of natural resources in their traditional territories, especially mining; (iv) high unemployment rates, especially among such vulnerable groups as women, young persons, indigenous and Afro-Colombian peoples; (v) anti-union violence and violence against human rights defenders; (vi) labour rights violations: cases of forced labour, high number of workers with salaries below the minimum wage, especially in the agricultural sector, large proportion of workers who do not have social security coverage, insufficient number of labour inspectors; (vii) low trade union activity and high number of people working in the informal sectors; (viii) child labour, the recruitment of children by illegal armed groups; (ix) high malnutrition rate which affects a considerable number of women and children, especially in rural areas; (x) limited access to safe and drinking water and sanitation, especially in the Chocò region;

[223] International Committee of the Red Cross (ICRC) (2019). Colombia: Five armed conflicts – What's happening? https://www.icrc.org/en/document/colombia-five-armed-conflicts-whats-happening

[224] United Nations Committee on the Elimination of Discrimination against Women (2019). Concluding observations on the ninth periodic report of Colombia, UN. Doc. CEDAW/C/COL/CO/9.

(xi) widespread forced displacements; (xii) high maternal and infant mortality, especially in rural areas and in indigenous communities.[225]

Population groups that have been in a particularly vulnerable position before the start of application of the Agreement included indigenous peoples, women and children, especially in rural and remote areas, persons with disabilities, LGBTI persons, migrants and refugees.[226]

In Peru some of the main pre-existing conditions of stress and vulnerability with regards to human rights include: (i) discrimination against women, indigenous peoples, ethnic minorities, LBGTI persons, persons with disabilities; (ii) labour rights violations: cases of forced labour, high number of workers with salaries below the minimum wage, especially in the agricultural sector, large proportion of workers do not have social security coverage; (iii) low trade union activity hampered by regulation, large informal sector, and high number of short-term contracts; (iv) child labour, especially in the informal sector and in the mining sector; (iv) high levels of poverty in the rural areas; (v) inadequate access to and quality of health services in rural and remote areas; (vi) significant number of children suffering from malnutrition; (vii) adverse effects of extractive industries on the health of population, in particular on the access to safe drinking water; (viii) lack of systematic effective consultation to seek prior informed consent of indigenous peoples in projects on the exploitation of natural resources in their traditional territories.[227]

Population groups that have been in a particularly vulnerable position before the start of application of the Agreement included indigenous peoples, women and children, especially in rural and remote areas, persons with disabilities, LGBTI persons.[228]

In **Ecuador**, some of the main pre-existing conditions of stress and vulnerability with regards to human rights include: (i) discrimination against women, indigenous peoples, persons with disabilities, migrants and refugees; (ii) limitations of freedom of expression; (iii) lack of consultation to seek prior informed consent of indigenous peoples and nationalities in projects on the exploitation of natural resources in their traditional territories; (iv) high unemployment rates and high level of informality; (v) high level of discrepancy in labour participation rates of women and men; (vi) low trade union participation; (vii) labour rights violations – practice of dismissal without cause, low salaries, health and safety conditions in the workplace, insufficient number of labour inspectors, large proportion of workers without social protection; (viii) high poverty levels, especially in rural areas; (ix) high levels of child malnutrition; (x) adverse environmental impact of mining and agribusiness projects on the land rights of indigenous communities and the access to clean and safe water, in particular in rural areas.[229]

Population groups that have been in a particularly vulnerable position before the start of application of the Agreement included indigenous peoples, women and children, especially in rural and remote areas, persons with disabilities, LGBTI persons, migrants and refugees.[230]

In the **EU**, while EU Member States have not followed homogenous development paths before becoming Members of the EU, some states have more human rights issues than

[225] Based on the Human Rights Watch Country reports for Colombia and the UN monitoring bodies reports in the period from 2008 until 2014.
[226] See country profile in Annex E-1 for more detail.
[227] Based on the Human Rights Watch Country reports for Peru and the UN monitoring bodies reports in the period from 2008 until 2014.
[228] See country profile in Annex E-1 for more detail.
[229] Based on the Human Rights Watch Country reports for Colombia and the UN monitoring bodies reports in the period from 2008 until 2014.
[230] See country profile in Annex E-1 for more detail.

others. Overall, Human Rights Watch regularly reports issues with the rights of migrants and asylum seekers, discrimination against LGBTI people, and the position of women.[231] Discrimination against people with disabilities, national minorities, migrants have been on the agenda of the Council of Europe's Commissioner for Human rights in 2017. Concerns were raised by the European Union Agency for Fundamental Rights with respect to discrimination against women and domestic violence, implications for the use of personal data, rights of the Roma people, children's rights.[232] However, it is important to note that many of these issues are unlikely to be directly related to trade relations with Colombia, Peru and Ecuador. And based on the preliminary results that stem from the modelling and expert opinions, at this stage it does not look like the Agreement affected the human rights situation in the EU or the ability of EU member states to fulfil their international human rights obligations. Nevertheless, we will seek for further evidence on the identified issues and whether they can be linked to the EU-Colombia/Peru/Ecuador trade relationship.

8.3 Screening and scoping

The main purpose of the screening and scoping exercise is to identify specific human rights for a detailed assessment of the effect of the Agreement. Using a multi-pronged approach,[233] based on the analysis of the Agreement text, results of the economic modelling, desk research, expert opinions, relevant indicators and stakeholder inputs, Table 8-1,

Table 8-2 and Table 8-3 present human rights affected by the Agreement in Colombia, Peru, and Ecuador, respectively. The human rights presented in the tables are drawn from the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, supplemented with references to the Universal Declaration on Human Rights, the core UN human rights treaties and conventions,[234] the Charter of Fundamental Rights of the European Union, relevant regional human rights treaties,[235] and ILO Conventions.

In line with the EC Guidelines for Human Rights Impact Assessments, the tables provide the following information:

- Specific human rights/issues and their normative framework;
- Intended impact of the Agreement as mentioned in the Agreement text;
- A short description of the impact with a reference to the source of information, specifying the kind of the impact (direct or indirect);
- Whether the affected right is an absolute human right;[236]
- The degree of the impact (major or minor); and
- Population groups affected by the impact.

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[231] Based on European Union Reports of the Human Rights Watch from 2008 until 2019.

[232] European Union Agency for Fundamental Rights (2020). Fundamental Rights Report 2020: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-fundamental-rights-report-2020-opinions_en.pdf

[233] See Inception Report for a detailed explanation on the methodology.

[234] Core UN human rights treaties include: International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social, and Cultural Rights (ICESCR), Convention on the Elimination of All Forms of Discrimination again Women (CEDAW), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Convention on the Rights of the Child (CRC), International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), International Convention for the Protection of All Persons from Enforced Disappearance (ICPED), International Convention on the Rights of Persons with Disabilities (ICRPD), and their Optional Protocols.

[235] The European Convention on Human Rights, the American Convention on Human Rights, the "Protocol of San Salvador," the Belém do Pará Convention.

[236] In line with the Better Regulation Toolbox (European Commission 2017) and more specifically, Fundamental Rights Check List of Tool #28: https://ec.europa.eu/info/sites/info/files/file_import/better-regulation-toolbox-28_en_0.pdf

Table 8-1: Screening and scoping of human rights affected by the Agreement in Colombia[237]

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
Freedom from discrimination *- UDHR, Art. 2* *- ICCPR, Art. 26* *- ILO Conventions 100 & 111* *- Protocol of San Salvador, Art. 3*	The Parties' commitments under Title IX of the Agreement on trade and sustainable development -*TSD Title*- (in particular, Article 269) to (1) recognise productive employment and decent work for all; (2) promote and effectively implement internationally recognized core labour standards (namely: a) freedom of association and the effective recognition of the right to collective bargaining; b) the elimination of all forms of forced or compulsory labour; c) the effective abolition of child labour; d) the elimination of discrimination in respect of employment and occupation) could improve labour situation in general. Provisions of Article 276 on the rights of migrant workers, where Parties recognize the importance of promoting equality of treatment in respect of working conditions for migrant workers legally employed in their territories, could improve position of this specific vulnerable population group. Further commitments of the Parties under the TSD Title (in particular, Articles 277, 279, 280-282, 286) related to upholding the level of protection in labour laws, monitoring the implementation of the Agreement on	The Agreement provisions refer to the freedom from discrimination at the workplace. The current situation analysis has shown that population groups most affected by discrimination in Colombia are women, indigenous peoples and persons of Afro-Colombian descent, migrants and refugees, persons with disabilities and LGBTI persons. The UN reports state weak implementation of the existing legal framework on the freedom from discrimination and issues with labour inspection capacities (see Annex E-1). This is an area for attention in the context of the Agreement because the economic analysis shows that several agricultural sectors have increased their production and employment (e.g. vegetables, fruits and nuts show a 0.9% increase in production, and a 1.2% increase in employment; and crops have experienced a 0.5% increase in production and a 0.7% increase in employment). Since these sectors are characterised by high level of informality (about 52% of all agricultural jobs in 2015 were in the informal sector)[238] and employ a high number of women, migrant workers and indigenous peoples, in the context of the Agreement it could mean that the growth of production and employment in the affected sectors along with increased competition has had positive economic effects for those economically active in them. However, given the pre-existing vulnerabilities and insufficient protection, the positive economic effects may not have been distributed equally.[239] While more jobs are the result, there may also be increased pressure on vulnerable groups not sufficiently protected by the existing laws, especially in the informal sector. Stakeholders report inequality for women at work (incl. indigenous and Afro-Colombian women) with respect to wages, working hours and social protection in the agricultural sectors of the economy (Delgado and Hawkins 2020). Based on the EC reports on the implementation of the Agreement, the EC notes to have discussed labour inspection issues with Colombian authorities on the annual basis and identified related areas of cooperation - exchange of good practices in labour inspections and mobilisation of informal to formal work. The annual reports of the EU on human rights and democracy in the world state increased cooperation and increased number of projects that aim to support gender protection and address women	Direct	Minor	Women working in agricultural sectors (esp. indigenous and Afro-Colombian women, women in rural areas); Migrant workers and indigenous peoples, in particular working in informal sectors

[237] The table does not include rights where neither desk research nor stakeholder outreach indicated that they could have been affected by the Agreement.
[238] OECD (2015). OECD Review of Agricultural Policies: Colombia 2015, OECD Publishing: https://www.minagricultura.gov.co/Reportes/Colombia_%20Agc_Review.pdf
[239] See also social analysis on non-discrimination and women.

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
	labour, promoting transparency and civil society participation in the process of assessment of the implementation of the Agreement and cooperation activities under this Title could strengthen effective implementation of labour protection in line with international standards.	inequality since 2017.[240] In 2019, the EC reports to have invested in the project led by the ILO to strengthen labour inspection in agricultural areas in Colombia.[241]			
Freedom from slavery and forced labour absolute right *- UDHR, Art.4* *- ICCPR, Art. 8* *- ILO Conventions 29 & 105* *- CFR, Art. 5* *- CESCR General Comment No. 18* *- ACHR, Art. 6*	TSD Title - see above	According to the 2018 Global Slavery Index, around 131,000 persons are estimated to live in the modern slavery conditions in Colombia (0.27% of the total population). The UN has noted substantial progress made by Colombia with respect to legal, policy and judicial measures taken to address forced labour and trafficking (see Annex E-1). One of the key focus areas of the EU in its cooperation with Colombia (outside the Agreement) is ensuring better protection of persons belonging to minorities and vulnerable groups, including indigenous peoples, migrants, women and children.[242] The EU has been active in supporting Colombia in projects aimed at combatting sexual exploitation of women.[243] Under the TSD Title, the EU has kept a dialogue with the Colombian authorities and encouraged Colombia to ratify the 2014 Protocol to the ILO Forced Labour Convention (European Commission 2019). Focusing on the impact of the Agreement, based on the literature review and stakeholder consultations carried out, there was no further evidence found to link the Agreement to freedom from slavery and forced labour via causal chain analysis.	Direct	Minor	Vulnerable population groups in Colombia
Children's rights (child labour) *- ICESCR, Art. 10* *- CRC, Art. 19, 32*	TSD Title – see above	Child labour in Colombia declined systematically since 2011 (from 13% in 2011 to 5.9 % in 2019).[244] Agriculture has been the main sector of child labour incidence which, contrary to the overall trend, increased from 31.3% in 2009 to 41.6% in 2019. In 2017 the UN CESCR expressed concern about economic exploitation of Colombian children and adolescents in illegal mining (see Annex E-1). According to the results of	Direct	Minor	Children in Colombia

[240] Based on the EU Annual Reports on Human Rights and Democracy in the World Country Updates from 2009 to 2019.
[241] See Annual Reports on the Implementation of the EU-Colombia/Peru/Ecuador Trade Agreement from 2014 to 2020.
[242] EU Annual Report on Human Rights and Democracy in the World in 2019, Country updates: https://eeas.europa.eu/sites/eeas/files/201007_eu_country_updates_on_human_rights_and_democracy_2019.pdf.
[243] EU Annual Report on Human Rights and Democracy in the World in 2017, Country updates: https://eeas.europa.eu/sites/eeas/files/compiled_country_updates_annual_report_on_human_rights_and_democracy_2017_clean_0.pdf
[244] Colombiareports.com (2019). Child labour in Colombia: declining but still endemic, 19 June 2019: https://colombiareports.co m/child-labor-in-colombia-declining-but-still-endemic/

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
- ILO Conventions 138 & 182		the economic modelling, some agricultural subsectors have grown due to the Agreement, but mining has not been impacted by the Agreement in terms of production. Also Colombian exports to the EU did not increase significantly, while imports from the EU went up by 8.2%. As stated in the social analysis, child labour in the agricultural sectors is attributed mostly to children working in the family business, with underlying reasons of poverty and informality. Annual implementation reports of the European Commission state regular engagement of the parties on this topic and advancements of Colombia on child labour, e.g. through the revisions of the list of hazardous occupations.[245] Ensuring better protection of children was one of the key focus areas in cooperation between the EU and Colombia regarding human rights.[246] Under the TSD Title, the EU has kept a dialogue with the Colombian authorities and encouraged Colombia to ratify the 2014 Protocol to the ILO Forced Labour Convention (European Commission 2019). Based on the information available, we do not find evidence of a causal chain effect from an economic impact on child labour. It is not likely that the declining trend in child labour is linked to the Agreement but rather to various domestic policies.			
Right of peaceful assembly, right to freedom of association, incl. the right to form and join trade unions *- UDHR, Art. 20* *- ICCPR, Art. 21, 22* *- CFR, Art. 12* *- ILO Conventions 87 & 98* *- ACHR, Art. 15, 16* *- Protocol of San Salvador, Art. 8*	TSD Title - see above	Colombia witnessed a high level of violence against human rights defenders and trade union activists. There has been a general decrease in murder and attack rates against trade unionists,[247] but the number of violence cases remains high. Multiple violations have been recorded by the ILO with respect to the freedom of association, in particular with respect to collective pacts with non-unionised workers (see Annex E-1). Some stakeholders report violations with respect to the right to freedom of association in the flower sector and in the sugar sector. Economic results show that the flower sector is not under pressure from the Agreement (this sector benefits), and sugar sector – only marginally (-0.2%, -2 USD million). However, outputs of other sectors are estimated to have declined (compared to an absence of the Agreement): basic pharmaceuticals (-1.2%; -40 USD million), metal products (-0.5%; -24 USD million), machinery (-0.6%; -30 USD million), motor vehicles (-0.2%; -13 USD million), manufactures (-0.2%; -20 USD million). For these sectors, competitive pressures to cut costs have been biggest, which could possibly put pressure against forming trade unions.	Direct	Minor	Workers in general, esp. in informal sectors

[245] See Annual Reports on the Implementation of the EU-Colombia/Peru/Ecuador Trade Agreement for 2014 and 2018.
[246] EU Annual Report on Human Rights and Democracy in the World in 2019, Country updates: https://eeas.europa.eu/sites/eeas/files/201007_eu_country_updates_on_human_rights_and_democracy_2019.pdf
[247] Based on data from Escuela Nacional Sindical: https://www.ens.org.co/

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
		Overall, however, increase in collective pacts has been observed in all the sectors of the economy (see statistics in the social analysis), not only in the sectors affected by the Agreement which suggests an influence of other factors.			
Right to social security *- UDHR, Art. 22, 25* *- ICESCR, Art. 9, 10* *- CESCR General Comment No. 19* *- ILO Convention 102* *- CFR, Art. 34* *- CEDAW, Art. 11* *- ICMW, Art. 27* *- Protocol of San Salvador, Art. 9*	TSD Title - see above	Colombia does not have strong social security protection mechanisms (see Annex E-1). Social protection is one of the key components of the decent work agenda,[248] recognised by the Parties (Article 269(1)). Stakeholders note no significant progress on social protection coverage as a consequence of the Agreement (Delgado and Hawkins 2020). The decrease in the tariff revenues (see economic analysis) has not caused a discernible impact on the right to social security. The social security budget has increased each year by 5.3% from 2008 – 2013 and by 5.6% since the Agreement started to be applied (from 2013 – 2018). While the Agreement is aimed at creating more trade, financial resources for public programmes and initiatives (e.g. the social security system) are mainly a domestic issue.	In-direct	Minor	Workers in general
Right to work, to free choice of employment, right to just and favourable conditions of work *- UDHR, Art.23, 24* *- ICESCR, Art. 6 & 7* *- Protocol of San Salvador, Art. 6 & 7* *- CFR, Art. 15 & 31* *- CEDAW, Art. 11* *- CRPD, Art. 27*	TSD Title - see above Commitments under Title III *Trade in goods* Chapter 1 (*Market access*) Section 2 on the elimination of custom duties (Article 22) and Section 4 on agricultural goods (Article 33 on administration and implementation of TRQs could lead to improvements/deterioration of the rights of workers from the affected sectors due to possible gain/loss of employment.	Trade liberalisation essentially leads to more employment overall. The unemployment rate in Colombia stayed approximately on the same level overall (10.7% in 2007 and 10.8% in 2019, with 9% recorded in 2016) but this is the observed total effect, not the Agreement effect. The CGE analysis only considers job re-allocations across sectors under the assumption that total employment remained constant (Table 6-2 above). As such, metals (+1.7%), transport equipment (+1.3%), vegetables, fruits and nuts (+1.2%) as well as chemicals (+0.8%), crops (+0.7%), and textiles (+0.6%) increased employment above average. These sectors demonstrate that the Agreement has had positive employment effects and thus a positive impact on the right to work, not only in agriculture, but also in industrial and service sectors.[249] Employment in other sectors has, however, declined relative to the average: pharmaceuticals (-1.3%), wool (-1.1%), machinery (-0.7%), metal products (-0.5%) and meat products (-0.3% for unskilled and -0.4% for skilled workers). In these sectors the right to work has come under pressure, in relative terms, from increased foreign competition.	Direct	Minor	Workers in general, workers from affected sectors

[248] ILO definition of the decent work agenda: "Decent work sums up the aspirations of people in their working lives. It involves opportunities for work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men", https://www.ilo.org/global/topics/decent-work/lang--en/index.htm

[249] See also social impact analysis (Chapter 6).

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
		Even though trade liberalisation covered a broad range of agricultural products and benefits from trade have accrued to the workers in these sectors, according to Delgado and Hawkins (2020), working conditions, wages and social protection of agricultural workers remained at the same level and in some sectors even deteriorated, especially for women. Our analysis shows that this could be the case for the workers in some agricultural subsectors (e.g. wool or dairy) but not for such dominant sectors as VFN and crops. The number of labour inspectors increased since the start of application of the Agreement. However, it remains low compared to most OECD countries,[250] and the ILO standards with respect to labour inspections have not been met yet.[251] Given pre-existing issues related to working conditions, the Agreement did not significantly improve the situation, recording minor developments as a result of cooperation activities and dialogue under the TSD Title (see also social analysis).[252]			
Right to privacy and protection of personal data *- UDHR, Art. 12* *- ICCPR, Art. 17* *- ACHR, Art. 11* *- CFR, Art. 7 & 8* *- CRC, Art. 16* *- CRPD, Art. 22 & 23* *- ICMW, Art. 14* *- Regulation (EU) 2016/679* *- ACHR, Art. 11*	The Parties' commitments under Chapter 5 on Regulatory Framework, Sections 4, 5 & 6 on telecommunications services, financial services and electronic commerce (Title IV, Trade in services, establishment and electronic commerce) include provisions related to confidentiality of the information transmitted or stored, data processing and data protection. These regulations could improve domestic legislation in data protection safeguards and the commitments of the governments in this matter, which is an important issue in the Latin American context.	The right to privacy is guaranteed under the Constitution of Colombia (Art.15). There is a legal framework on privacy and data protection in Colombia (e.g., the Law 1266 of 2008 on financial data protection and the Law 1581 of 2012 on management of personal data adopted ahead of the Agreement). The intended effect of the Agreement to strengthen protection of personal data and privacy has materialised in the adoption of the legislation prior to the application of the Agreement. Further interpretation of the Law by the Constitutional Court of Colombia has triggered questions on the application and reach of the Law shaping the data protection in Colombia.[253] Within the context of the Agreement, no further evidence was found on the impact of the Agreement on this right.	Direct	Minor	Population of Colombia
Right to adequate food *- UDHR, Art. 25*	The Parties' commitments under Title III – Trade in goods, Chapter 5 on SPS measures (in particular, Article 94 on	The main instrument of the Agreement regarding SPS measures is dialogue. Because SPS measures are determined domestically (with each party having the right to regulate) the Agreement has not had a discernible	Direct/ in-direct	Minor	Population of Colombia

[250] OECD (2016). OECD Reviews of Labour Market and Social Policies: Colombia 2016: https://www.oecd.org/els/emp/OECD-Reviews-of-Labour-Market-and-Social-Policies-Colombia-AR.pdf
[251] FDCI (2018). The Precarious state of labour rights in Colombia: Resolution 2628 of the European Parliament.
[252] See Annual Reports on the Implementation of the EU-Colombia/Peru/Ecuador Trade Agreement for 2014 and 2018.
[253] Privacyinternational.org, note on Colombia, at: https://privacyinternational.org/state-privacy/58/state-privacy-colombia#dataprotection.

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
- ICESCR, Art. 11 *- CESCR General Comment No. 12* *- Protocol of San Salvador, Art.12 & 17* *- CEDAW, Art. 12 & 14* *- CRPD, Art. 24 & 26* *- CRC, Art. 24 & 27*	measures linked to animal and plant health) could improve food safety. The Parties commitments under Title III Trade in goods, Chapter 1, Section 4 on agricultural goods could promote food availability and accessibility.	impact on food safety. This view was confirmed by stakeholder consultations and discussions with experts. According to the economic analysis, food sectors in Colombia experienced a mixed impact from the trade liberalisation under the Agreement in terms of production. Sub-sectors like VFN (+0.9%), crops (+0.5%), other food products (+0.4%) have increased production. Other sectors, like animal products (-0.3%), bovine cattle sheep and goats (-0.3%), meat products (-0.3%), oil seeds (-0.2%), have experienced marginal decreases in production. When these production effects are compared to the export effects of the Agreement for these same sectors, it is possible to isolate the impact of the Agreement on domestic food availability. The largest effect in absolute terms is in the VFN sector. Total Colombian production increased by 46 USD million (out of a total production of 5.3 USD billion) while exports increased by 62 USD million. This means that 16 USD million out of 5.3 USD billion domestic production is exported more than before (0.3%). Given these marginal changes, we conclude that domestic food availability was not significantly impacted by the Agreement.			
Right to an adequate standard of living *- UDHR, Art. 25* *- ICESCR, Art. 11* *- Protocol of San Salvador, Art.12 & 17* *- CEDAW, Art. 14* *- CRPD, Art. 28* *- CRC, Art. 27* *- CERD, Art. 5 & 7*	The Parties' commitments under Title III Trade in goods, Chapter 1 on market access for goods, Section 2 on the elimination of customs duties (in particular, Article 22) as well as commitments under Title IV Trade in services and Establishment Chapter could lead to cheaper prices for goods, higher GDP, more employment opportunities, and, in the long run, more tax revenue for the government, increasing public funds that can be spent on social protection programmes for various (esp. vulnerable) population groups. Commitments under Title III Trade in goods, Chapter 1, Section 4 on agricultural goods (in particular, Article 33 on administration and implementation of TRQs could lead to improvements/deterioration of the rights of workers from the affected	Poverty levels have decreased in Colombia, but poverty remains consistently higher in rural areas compared to urban areas and a very high share of indigenous peoples and Afro-Colombian population live in poverty (see Annex E-1). The economic analysis shows that the Agreement has contributed to an increase in Colombia's exports and domestic production overall. However, sectoral divergencies in employment suggest that the impact of the Agreement on the right to an adequate standard of living has also been mixed - positive impact of the Agreement for the workers from growing sectors and negative impact for the workers from declining sectors (see right to work). TRQs are included in the Agreement to limit the increase in imports for certain sensitive products. With some of the TRQs granted by Colombia fully used by EU exporters (e.g. in sweet corn, milk and cream powder), they have protected Colombian farmers by imposing an EU export maximum. For example, for dairy, the economic analysis shows a negligible decrease in domestic dairy production in Colombia, combined with a small increase in exports to the EU: The pressure on small-scale domestic farmers in Colombia from EU imports does increase, but this effect is capped by the TRQs (Delgado and Hawkins 2020). Hence the TRQ is for some products an important safeguard mechanism for smallholder Colombian farmers.	Direct	Minor	Workers from affected sectors, small scale producers

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
	sectors due to possible gain/loss of employment.				
Right to the enjoyment of the highest attainable standard of physical and mental health *- UDHR, Art. 25* *- ICESCR, Art. 12* *- CESCR General Comment No. 14* *- CFR, Art. 35* *- Protocol of San Salvador, Art. 10* *- CEDAW, Art. 11,12* *- CRPD, Art. 25* *- CRC, Art. 24* *- ICMW, Art. 28* *- CERD, Art. 5* *- Belém do Pará Convention, Art. 4*	Commitments under Title VII on Intellectual Property, Chapter 3, Section 5 (in particular, Article 230 (4) on patents), to make available a mechanism to compensate the patent owner for unreasonable curtailment of the effective patent term, could improve access to new drugs and promote research and development in pharmaceutical products but also could affect prices. The Parties' commitments under Title III Trade in goods, Chapter 1 on market access for goods, Section 2 on the elimination of customs duties (in particular, Article 22) could lead to cheaper prices for goods, higher GDP and, in the long run, more tax revenue for the government, increasing public funds that can be spent on programmes for various vulnerable population and thereby could improve quality of health care and access to health care for the most vulnerable population groups. The Parties' commitments under Title III – Trade in goods, Chapter 5 on SPS measures could affect human health and safety.	Colombia provides patent protection for pharmaceutical products in line with the TRIPS WTO Agreement. Patent term restoration (PTR) due to administrative government delays through such measures as supplementary protection certificates (SPCs) is not possible for pharmaceutical products in Colombia. There has been ample debate in Colombia whether stronger IP rights in the Agreement would lead to higher prices or reduced access. IFARMA (2014) predicted that patent term extension and regulatory data provisions would lead to increased expenditures because of higher prices.[254] Prada et al. (2018) found that while the Agreement was in place, Colombian government price interventions for medicines have been successful in reducing the prices for medicines and access to medicines improved. The Comisión Nacional de Precios de Medicamentos y Dispositivos Médicos (CNPMDM) oversees how drug prices are regulated and the Ministry of Health (MOH) is responsible for implementing price regulations. From 2010-2012 price caps were used. In 2013, CNPMDM introduced International Reference Pricing (IRP) to regulate drugs that were considered of public interest, that had a high financial impact, and had no therapeutic substitutes or a high market concentration. The scheme eventually included more than 3,000 products, covering 80% of public drug expenditure. As a result, prices decreased by 43% until 2014. Prada et al. (2018) also concluded that pharmaceutical expenditures still increased because of larger sales volumes, which could be a consequence of increased access to medicines. These developments happened while the Agreement was in place and suggest that prices for medicines are related to domestic policy initiatives rather than to the Agreement. The Agreement has increased access to medicines via reducing tariffs and regulatory barriers to trade in pharmaceutical products. Imports of basic pharmaceutical products into Colombia from the EU increased by 29.1% (185 USD million) because of the Agreement, providing Colombian patients more access to newer drugs. Public health spending in Colombia has increased from USD 1,002/capita in 2013 to USD 1,213/capita in 2019.[255] The growth rate of healthcare expenditures has increased from an annual average of 3.3% in 2008–2012	Direct/ in-direct	Minor	Population of Colombia, affected communi-ties

[254] IFARMA (2009a). Impact of the EU-Andean Trade Agreement on Access to Medicines in Colombia, http://www.haiweb.org/04102010/29_Mar_2010_Report_IFARMA_Impact_Study_Colombi a_EN_.pdf.

[255] OECD, Data – Health Spending – Colombia: https://data.oecd.org/healthres/health-spending.htm.

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
		to an annual average of 5.6% in 2013–2018 (see Annex E-1). This is in part due to an increase of healthcare expenditures as a share of GDP (towards average OECD levels). This also shows that the decrease in tariff revenues due to tariff liberalisation in the Agreement (see section 5.12) has had no significant impact on the healthcare budget. The main instrument of the Agreement regarding the SPS measures is dialogue. Because SPS measures are determined domestically (with each party having the right to regulate) the Agreement has not had a discernible impact on health and safety (also see section 5.6). This view was confirmed by stakeholder consultations and discussions with experts. Another impact on the right to health stems from pollution related to economic activity as a result of the Agreement. While mining and fishing are not impacted by the Agreement (see economic analysis), production of vegetables, fruits and nuts (e.g. bananas) has increased by 0.9% as a result of the Agreement has possibly contributed to a marginal increase in pollution from this sector (e.g. use of fertilisers, soil and water pollution).[256]			
Rights of indigenous peoples (right to self-determination; right to food, right to health, right to water, freedom from discrimination, right to maintain, control, protect and develop their traditional knowledge, land rights) *- UNDRIP*	Title VII on Intellectual Property, Chapter 2 on protection of biodiversity and traditional knowledge (in particular, Article 201) contains provisions that refer to common efforts of the Parties to respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional life styles relevant for the conservation and sustainable use of biological diversity (Art. 201(3)). Subject to domestic legislation, it also includes an "obligation to take measures with the aim of sharing in a fair and equitable way the benefits arising from the utilization of genetic resources" (Art. 201(4). While the objective of the FTA is not to use these	According to DESTA, the Agreement is the most ambitious of all EU FTAs in protecting traditional knowledge.[257] While not as outspoken as the Peruvian government, also the Colombian government wants to combat biopiracy. Indigenous peoples in Colombia face various kind of discrimination (see Annex E-1). The economic analysis does not show a direct impact of the Agreement for indigenous peoples. Also, because we know from the social analysis that indigenous peoples are relatively more engaged in the informal employment (77.9%), it is difficult to estimate the impact. Employment information by sector is not available (see social analysis). Colombia also has weak implementation of a prior consultation process due to the lack of a statutory law on prior consultation; weak state intervention; the lack of systematic mapping of ethnic communities; mistrust between parties; the emergence of 'new' communities; the lack of criteria to define compensatory measures; and armed conflict (EPRS and ICEI 2018). Land grabbing for economic activities has been common and affected rights of	Direct & in-direct	Minor	Indigenous communi-ties in Colombia

[256] See also environmental analysis.
[257] See graph in the screening and scoping analysis of Peru.

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
- ILO Convention No. 169 *- ICCPR, Art. 27* *- HRC General Comment No. 23*	IP provisions to support the rights of the indigenous peoples, these provisions could encourage the promotion and enactment of appropriate domestic legislation that addresses protection of this vulnerable population group. The Parties' commitments under the Establishment Chapter could increase investment in sectors like mining and other extracting sectors of the economy and affect land rights of indigenous peoples.	the indigenous communities in the country. Some European companies have been reported as involved in violations[258] (see Annex E-1). Based on the results of the economic analysis, it is not likely that land grabbing for mining projects has been affected by the Agreement as raw materials exports to the EU did not increase, neither the production in the mining sector. Although exports of vegetable oils and fats are estimated to have increased by 27.2%, output of the sectors is estimated to have decreased because of the Agreement (-0.2%). Production of vegetables, fruits and nuts (e.g. bananas) has increased by 0.9%. No impact is found from the provisions under the Establishment Chapter that refer to investment in mining and other extractive sectors, because no impact of the Agreement on investment is found (see section 5.4).			
Right to participate in public affairs *- UDHR, Art. 21* *- ICCPR, Art. 25* *- HRC General Comment No. 25* *- CFR, Art. 39* *- CEDAW, Art. 7* *- CRPD, Art. 29*	Article 267(e) sets out an objective to promote public participation in the matters covered under the TSD Title. Parties' commitments under the TSD Title (in particular, Articles 281-283) provide for an active dialogue with civil society and could enhance transparency and strengthen stakeholder involvement in public decision making.	The provisions of the Agreement are envisaged to stimulate civil society involvement related to the implementation of the TSD Title. Regular meetings have taken place to discuss the implementation of the TSD Title. The 2019 EC Report on the implementation of EU FTAs marks good progress in the involvement of civil society (European Commission 2019). The 2020 EESC report, however, notes delays in establishing the Domestic Advisory Groups (DAGs) due to the requirement for DAGs to be "in accordance with domestic law" (Art. 281) which also resulted in partial representation of the relevant associations. Next to that, the format of the forums for the dialogue with civil society (Art. 282) was noted to be not appropriate to facilitate dialogue on the issues (small rooms, limited allocated time, lack of travel allowance for participants).[259] Some stakeholders note slight improvement but claim that not all the associations were allowed to participate in the forums.[260] While organising the forum for civil society to participate in the implementation of the Agreement, issues with the mechanism of participation have not strengthened that positive impact.	Direct	Minor	Population of Colombia
Right to education *- UDHR, Art. 26*	The Parties' commitments under Title III Trade in goods, Chapter 1 on market access for goods, Section 2 on the	Trade liberalisation has contributed to poverty reduction in Colombia.[261] In parallel, public expenditure on education has increased from 14.7% of total government expenditure in 2008 to 16.3% in 2018.[262] From 2008–2018	In-direct	Minor	Population of Colombia

[258] Oidhaco & Catapa (2020). Trade Agreement between the EU, Colombia, Peru and Ecuador: http://www.oidhaco.org/uploaded/content/article/1326853725.pdf
[259] European Economic and Social Committee (2020). Evaluation of the role of civil society in the participation structures under the European Union/Colombia/Peru/Ecuador Agreement, REX/530.
[260] Based on the interviews carried out in the course of stakeholder consultations; also see Forero (2016).
[261] See economic analysis and social analysis.
[262] Based on UNESCO data.

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
- ICESCR, Art. 13 *- CESCR General Comments No. 11 & No.13* *- CRC, Art. 28* *- CEDAW, Art. 10* *- CRPD, Art. 24* *- ICMW, Art. 30* *- CERD, Art. 5* *- Protocol of San Salvador, Art. 13*	elimination of customs duties (in particular, Article 22) could lead to cheaper prices for goods, higher GDP and, in the long run, more tax revenue for the government, increasing public funds that can be spent on social programmes, including initiatives related to education.	the annual increase in the education budget was 3%. There has been no discernible increase in the growth rate of the budget after the Agreement came into effect. This also shows that the decrease in tariff revenues due to tariff liberalisation in the Agreement (section 5.12) has not had an impact on the right to education.			
Right to access information *- UDHR, Art.16* *- ICCPR, Art. 10* *- CFR, Art. 9* *- CRC, Art. 14* *- ICMW, Art. 12* *- CERD, Art. 5*	The Parties' commitments in the TSD Title on promotion of transparency and public participation (in particular, Articles 281-283) could improve transparency and strengthen civil society involvement in public decision making.	The Agreement has intended to contribute to the inclusion of civil society in public decision making by envisaging civil society involvement in the implementation of the labour and environmental provisions under the TSD Title. The EU Delegation in Colombia has taken an active role in engaging with civil society on the Agreement too (Ashraf and van Seters 2020). However, the national mechanism for civil society involvement, the DAG, has been criticised by interviewees for its limited inclusiveness, lack of transparency, insufficient allocated resources (Forero 2016). So the intended positive impact of the Agreement provisions has not been strengthened due to issues with the mechanism of participation.	Direct	Minor	Population of Colombia
Right to water *- ICESCR, Art. 11* *- CESCR General Comment No. 15*	--	Stakeholders report a deterioration with respect to water quality and water availability due to the increase in production in the energy and mining sectors as well as the increase in production of palm oil, providing specific examples linked to European producers (Forero 2016; EPRS and ICEI 2018). The economic effects for the mining industry as well as the vegetable oils and fats (palm oil) have been limited. The largest effect was a 0.05% increase in production of coal. But in the agricultural sector, there is economic evidence that the production of vegetables, fruits and nuts has increased by 0.9%. Some of the products from this sector are rather water-intensive, e.g. bananas, and could have affected water availability. The other source affecting the right to water, also linked to agricultural production, is the use of fertilisers, in detail studied under the environmental analysis.	Direct	Minor, possibly major in specific areas	Affected communi-ties in Colombia

Table 8-2: Screening and scoping of human rights affected by the Agreement in Peru[263]

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
Freedom from discrimination *- UDHR, Art. 2* *- ICCPR, Art. 26* *- ILO Conventions 100 & 111* *- Protocol of San Salvador, Art. 3*	The Parties' commitments under Title IX of the Agreement on trade and sustainable development -*TSD Title*- (in particular, Article 269) to (1) recognise productive employment and decent work for all; (2) promote and effectively implement internationally recognized core labour standards (namely: a) freedom of association and the effective recognition of the right to collective bargaining; b) the elimination of all forms of forced or compulsory labour; c) the effective abolition of child labour; d) the elimination of discrimination in respect of employment and occupation) could improve labour situation in general. Provisions of Article 276 on the rights of migrant workers, where Parties recognize the importance of promoting equality of treatment in respect of working conditions for migrant workers legally employed in their territories, could improve position of this specific vulnerable population group. Further commitments of the Parties under the TSD Title (in particular, Articles 277, 279, 280-282, 286) related to upholding the level of protection in labour laws, monitoring the implementation of the Agreement	The Agreement provisions refer to the freedom from discrimination at the workplace. The human rights profile shows that population groups most affected by discrimination in Peru are women, indigenous peoples and persons of Afro-Peruvian descent, migrants and refugees, persons with disabilities and LGBTI persons (see Annex E-1). The UN reports state weak implementation of the existing legal framework on the freedom from discrimination and issues with labour inspection, especially in the agricultural and textile sectors. This is an area for attention in the context of the Agreement because the economic modelling results show that output of several agricultural sectors has increased because of it (e.g. vegetables, fruits and nuts (VFN) by 1.1% and a 1.3% increase in employment; and vegetable oils and fats shows 0.9 % increase in production, and a 0.8% increase in employment); for textiles, production has also increased slightly, by 0.3%, and employment accordingly. Since these sectors are characterised by high levels of informality and employ a high number of women, migrant workers and indigenous peoples, in the context of the Agreement it could mean that the growth of production and employment in them has had positive economic effects for those economically active in them. However, given the pre-existing vulnerabilities and insufficient protection due to weak implementation, the positive economic effects may not have been distributed equally.[264] While more jobs are the result, there may also be increased pressure on the right to freedom from discrimination for vulnerable groups of population not sufficiently protected by the existing laws. Stakeholders report inequality for women at work (incl. indigenous and Afro-Peruvian women) with respect to wages, working hours and social protection in the agricultural sectors of the economy (Maldonado Mujica 2020). Based on the reports on the implementation of the Agreement, the EC notes to have discussed labour inspection issues with the Peruvian authorities on the annual basis and identified related areas of cooperation - exchange of good practices in labour inspections and mobilisation of informal to formal work. Rights of vulnerable populations, especially women, LGBTI persons and indigenous peoples are on the priority list of the EU cooperation with Peru (outside the Agreement), more intense cooperation has started in 2014, with regular financial support.	Direct	Minor	Women working in agricultural sectors (esp. indigenous and Afro-Peruvian women, women in rural areas); Migrant workers and indigenous peoples, in particular working in informal sectors

[263] The table does not include rights where neither desk research nor stakeholder outreach indicated that they could have been affected by the Agreement.
[264] See also social analysis on non-discrimination and women.

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
	on labour, promoting transparency and civil society participation in the process of assessment of the implementation of the Agreement and cooperation activities under this Title could strengthen effective implementation of labour protection in line with international standards.	Issues with respect to freedom of discrimination have been on the agenda of the Human Rights Dialogue with Peru since 2015.[265]			
Freedom from slavery and forced labour absolute right *- UDHR, Art.4* *- ICCPR, Art. 8* *- ILO Conventions 29 & 105* *- CFR, Art. 5* *- CESCR General Comment No. 18* *- ACHR, Art. 6*	TSD Title - see above	According to the 2018 Global Slavery Index, approximately 80,000 persons lived in the modern slavery conditions in Peru. The UN has noted substantial progress made by Peru with respect to legal, policy and judicial measures taken to address forced labour and trafficking (see Annex E-1). Human trafficking is on the priority list of the EU cooperation with Peru.[266] The EU has been active in supporting Peru in projects aimed at combatting human trafficking.[267] Under the TSD Title, the EU has kept a dialogue with the Peruvian authorities and encouraged Peru to ratify the 2014 Protocol to the ILO Forced Labour Convention (outside the Agreement) (European Commission 2019). Based on the literature review and stakeholder consultations carried out, there was no further evidence found to link the Agreement to the freedom from slavery and forced labour via causal chain analysis.	Direct	Minor	Vulnerable population groups in Peru
Children's rights (child labour) *- ICESCR, Art. 10* *- CRC, Art. 19, 32* *- ILO Conventions 138 & 182*	TSD Title – see above	Based on 2015 data, approximately 2 million children from 5 to 17 years were engaged in economic activity (see social analysis). More than half of these children are from rural areas. Often children are involved in hazardous work. The UN Committee on the Rights of the Child is concerned about the extensive prevalence of child labour in the country (see Annex E-1). According to the results of the economic modelling, subsectors within the agricultural sector have grown due to the Agreement, leading to positive effects for production, jobs and exports, while mining (petroleum, coal) has not been impacted much by the Agreement in terms of production and exports, and production of minerals has marginally decreased (-0.1%) despite information about increases in investments. Because most child labour occurs in the small-scale domestic focused agriculture not much linked to exports, the Agreement is not likely to have had a major effect on reducing child labour. Moreover, special regimes of employment in the	Indirect	Minor	Children in Peru, in particular in rural areas

[265] Based on the EU Annual Reports on Human Rights and Democracy in the World Country Updates from 2009 to 2019.
[266] Ibid.
[267] EU Annual Report on Human Rights and Democracy in the World in 2019, Country updates: https://eeas.europa.eu/sites/eeas/files/201007_eu_country_updates_on_human_rights_and_democracy_2019.pdf

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
		agricultural sectors could affect child labour through insecure adult employment, taking into account that main reasons for child labour are poverty and informality (see also social analysis). For the broader EU-Peru cooperation (not under the Agreement), cooperation in the area of child labour has been a focal point for the EU. For example, Peru participated in the global Clear Cotton Project that was aimed at improving national legislation and policies to address the needs of children engaged in or at risk of child labour.[268] Under the TSD Title, there was regular engagement of the parties on this topic, the EU has kept a dialogue with the Peruvian authorities[269] and encouraged Peru to ratify the 2014 Protocol to the ILO Forced Labour Convention.[270]			
Right of peaceful assembly, right to freedom of association, incl. the right to form and join trade unions *- UDHR, Art. 20* *- ICCPR, Art. 21, 22* *- CFR, Art. 12* *- ILO Conventions 87 & 98* *- ACHR, Art. 15, 16* *- Protocol of San Salvador, Art. 8*	TSD Title - see above	Peru witnessed a high level of violence against human rights defenders (see Annex E-1). Multiple violations have been recorded by the ILO with respect to the freedom of association.[271] Some stakeholders report that increased competition linked to the Agreement has recorded a number of violations, in particular, the practice of temporary contracts which made it more difficult for the workers to organise. The economic analysis results show that agricultural sectors have grown due to the Agreement. That means that more employment and economic opportunities have been created. However, overall, the number of people working on temporary contracts in agricultural sector has increased, which implies that job creation has mainly occurred in short-term and not long-term contracts (Maldonado Mujica 2020). It is difficult to establish the link between this practice and the Agreement, especially taking into account a long history of anti-trade union climate in Peru (Orbie, Putte, and Martens 2017), but by creating favourable conditions to trade and encouraging economic activity in these sectors, the Agreement may have contributed indirectly to preserving the special regimes.[272]	Direct/ indirect	Minor, possibly major in agri-culture	Workers in agriculture, esp. in informal sectors
Right to social security	TSD Title - see above	Social security protection mechanisms in Peru have been weak (see Annex E-1). Social protection is one of the key components of the decent work	Indirect	Minor	Workers in general

[268] Based on the EU Annual Reports on Human Rights and Democracy in the World Country Updates from 2009 till 2019.
[269] Coordinadora Nacional de Derechos Humanos (2018). UE exige al Perú cumplir sus obligaciones en materia laboral y ambiental del Acuerdo Comercial, Notas de prensa, 8 agosto 2018: http://derechoshumanos.pe/2018/08/ue-exige-al-peru-cumplir-sus-obligaciones-en-materia-laboral-y-ambiental-del-acuerdo-comercial/
[270] See Annual Reports on the Implementation of the EU-Colombia/Peru/Ecuador Trade Agreement for 2014 and 2018.
[271] ILO recorded multiple complaint procedures on freedom of association cases, 13 of them are active, see https://www.ilo.org/dyn/normlex/en/f?p=1000:20060:0:FIND:NO:20060:P20060_COUNTRY_ID,P20060_COMPLAINT_STATU_ID:102805,1495810
[272] See also social analysis.

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
- UDHR, Art. 22, 25 *- ICESCR, Art. 9, 10* *- CESCR General Comment No. 19* *- ILO Convention 102* *- CFR, Art. 34* *- CEDAW, Art. 11* *- ICMW, Art. 27* *- Protocol of San Salvador, Art. 9*		agenda,[273] recognised by the Parties under the Agreement (Article 269(1)). Stakeholders note no significant progress on social protection coverage as a consequence of the Agreement.[274] Additional analysis shows that while tariff revenues for Peru decreased by USD 38.4 million (section 5.12), this is too small to have had a discernible impact on the right to social security. Based on CEIC (2020) data, social security spending increased by 6.3% from 2008 to 2013 on average and by 4.1% from 2013 to 2017. While this is a relative drop in the growth rate of expenditures on social security, in absolute terms, the social security budget increase was PEN 788 million from 2008 to 2012 and PEN 828 million from 2013 to 2017. The regulations on social protection are defined by a national policy decision. Based on the economic analysis and stakeholder consultations, no significant impact from the Agreement has been recorded on the social security spending.			
Right to work, to free choice of employment, right to just and favourable conditions of work *- UDHR, Art.23, 24* *- ICESCR, Art. 6 & 7* *- Protocol of San Salvador, Art. 6 & 7* *- CFR, Art. 15 & 31* *- CEDAW, Art. 11* *- CRPD, Art. 27*	TSD Title - see above Commitments under Title III *Trade in goods*, Chapter 1 (*Market access*) Section 2 on the elimination of custom duties (Article 22) and Section 4 on agricultural goods (Article 33 on administration and implementation of TRQs could lead to improvements/deterioration of the rights of workers from the affected sectors due to possible gain/loss of employment.	The unemployment rate in Peru decreased slightly from 6.3% in 2007 to 4.4% in 2018, though this is the observed total effect, not the pure Agreement effect. The CGE analysis only considers job re-allocations across sectors under the assumption that total employment remained constant (Table 6-2 above): Employment has improved, in relation to the average, in the other food products sector (1.8%), chemical products (1.5%), vegetables, fruits and nuts (1.3%), vegetable oils and fats (0.8%), plant-based fibres (0.6%), oil seeds (0.5%), wool (0.4%), sugar cane (0.4%) and paddy rice (0.4%). These sectors demonstrate that the Agreement has had positive employment effects and thus a positive impact on the right to work, not only in agriculture, but also in some industrial and service sectors. However, due to special labour regimes allowed in agriculture under Law No. 27360, the number of workers covered by the special regime in agriculture has increased (almost doubled, according to some data), so gains from the Agreement did not reach all the population groups (Maldonado Mujica 2020). Sectors with relative employment decreases are pharmaceuticals (-1.0%), paper and publishing (-0.4%), metals (-0.8%), computer, electronic and optic equipment (-0.4% for unskilled workers and -0.5% for skilled workers), electrical equipment (-0.4% and -0.5%), machinery and equipment (-0.4%), manufactured	Direct	Minor	Workers in general, workers in affected sectors

[273] ILO definition of the decent work agenda: "Decent work sums up the aspirations of people in their working lives. It involves opportunities for work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men", https://www.ilo.org/global/topics/decent-work/lang--en/index.htm

[274] Complaint against the Peruvian Government for failing to fulfil its labour and environmental commitments under the Trade Agreement between Peru and the European Union, October 2017: https://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupMeetingDoc&docid=12295

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
		products (-0.3%), motor vehicles (-0.2% and -0.3%) and transport equipment (-0.2% and -0.3%). In these sectors the right to work has come under pressure, also from increased foreign competition. Even though trade liberalisation covered a broad range of agricultural products and benefits from trade have accrued to the workers in these sectors, according to the complaint of civil society submitted to the EC in 2017, working conditions, wages and social protection of workers remained at the same level and in some sectors even deteriorated, especially in the textile and clothing sector, mining sector and agricultural sector (Maldonado Mujica 2020). See also social analysis. The number and quality of labour inspections in Peru were not impacted by the Agreement, even though stakeholders had hoped for a positive impact of the Agreement in this area. Orbie et al. (2017) note that labour inspection has weakened due to the inadequate functioning of the national inspection agency, SUNAFIL, created in 2012. Under the TSD Title, the EU has kept a dialogue with the Peruvian authorities.[275] Overall, developments in working conditions and labour inspection remains a domestic matter and are attributed primarily to domestic legislation, policies and actions.			
Right to privacy and protection of personal data *- UDHR, Art. 12* *- ICCPR, Art. 17* *- ACHR, Art. 11* *- CFR, Art. 7 & 8* *- CRC, Art. 16* *- CRPD, Art. 22 & 23* *- ICMW, Art. 14* *- Regulation (EU) 2016/679* *- ACHR, Art. 11*	The Parties' commitments under Chapter 5 on Regulatory Framework, Sections 4, 5 & 6 on telecommunications services, financial services and electronic commerce (Title IV, Trade in services, establishment and electronic commerce) include provisions related to confidentiality of the information transmitted or stored, data processing and data protection. These regulations could improve domestic legislation in data protection safeguards and the commitments of the governments in this matter, which is an important issue in the Latin American context.	The right to privacy is guaranteed under the Constitution of Peru (Art.2). There is a legal framework on privacy and data protection in Peru (e.g., the Law No. 29733 of 2011 on personal data protection, adopted ahead of the Agreement, and the Supreme Decree No. 003-2013-JUS-Regulation of Personal Data Protection Law, amended in 2017). The intended effect of the Agreement to strengthen protection of personal data and privacy has materialised in the adoption of the legislation prior to the application of the Agreement.[276] No further evidence was found on the impact of Agreement on this right.	Direct	Minor	Population of Peru

[275] Coordinadora Nacional de Derechos Humanos (2018). UE exige al Perú cumplir sus obligaciones en materia laboral y ambiental del Acuerdo Comercial, Notas de prensa, 8 agosto 2018: http://derechoshumanos.pe/2018/08/ue-exige-al-peru-cumplir-sus-obligaciones-en-materia-laboral-y-ambiental-del-acuerdo-comercial/

[276] https://www.lexology.com/library/detail.aspx?g=da762a1b-232e-46c4-b99a-7cc6bb2007a5

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
Right to adequate food *- UDHR, Art. 25* *- ICESCR, Art. 11* *- CESCR General Comment No. 12* *- Protocol of San Salvador, Art.12 & 17* *- CEDAW, Art. 12 & 14* *- CRPD, Art. 24 & 26* *- CRC, Art. 24 & 27*	The Parties' commitments under Title III – Trade in goods, Chapter 5 on SPS measures (in particular, Article 94 on measures linked to animal and plant health) could improve food safety. The Parties commitments under Title III Trade in goods, Chapter 1, Section 4 on agricultural goods could promote food availability and accessibility.	The main instrument of the Agreement regarding the SPS measures is dialogue. Because SPS measures are determined domestically (with each party having the right to regulate) the Agreement has not had a discernible impact on food safety. This view was confirmed by stakeholder consultations and discussions with experts. According to the economic analysis, food sectors in Peru experienced a mixed impact from trade liberalisation under the Agreement in terms of production, but the overall effect is positive. Sub-sectors like vegetables, fruits and nuts (+0.9%), other food products (+1.9%), vegetable oils and fats (+0.9%), plant-based fibers (+0.4%) have increased production. Other sectors, like wheat (-0.2%), crops (-0.3%), have experienced marginal decreases in production. When these production effects are compared to the export effects of the Agreement for the same sectors, it is possible to isolate the impact of the Agreement on domestic food availability. The largest effect in absolute terms is in the other food products sector. Total Peruvian production increased by 226 USD million (out of a total production of 12.2 USD billion) while exports increased by 202 USD million. This means that more is domestically produced than exported in total, increasing food security for other foods. The effect is small, however (+0.2%). The largest (positive) effect on domestic food availability was in plant-based fibres (+0.4%). Given these marginal changes in Peruvian production and trade, one can conclude that domestic food availability was not significantly impacted by the Agreement.	Direct/ indirect	Minor	Population of Peru
Right to an adequate standard of living *- UDHR, Art. 25* *- ICESCR, Art. 11* *- Protocol of San Salvador, Art.12 & 17* *- CEDAW, Art. 14* *- CRPD, Art. 28* *- CRC, Art. 27* *- CERD, Art. 5 & 7*	The Parties' commitments under Title III Trade in goods, Chapter 1 on market access for goods, Section 2 on the elimination of customs duties (in particular, Article 22) as well as commitments under Title IV Trade in services and Establishment Chapter could lead to cheaper prices for goods, higher GDP, more employment opportunities, and, in the long run, more tax revenue for the government, increasing public funds that can be spent on social protection programmes for various (esp. vulnerable) population groups.	Poverty levels have decreased in Peru, but poverty remains consistently high in some rural areas, particularly affecting indigenous peoples (see Annex E-1). The economic analysis shows that the Agreement has contributed to the increase in Peru's exports and domestic production overall. However, sectoral divergencies in employment suggest that the impact of the Agreement on the right to an adequate standard of living has also been mixed - positive impact of the Agreement for the workers from growing sectors and negative impact for the workers from declining sectors (see right to work).	Direct	Minor	Workers from affected sectors
Right to the enjoyment of the highest attainable	Commitments under Title VII on Intellectual Property, Chapter 3, Section 5 (in particular, Article 230 (4)	Peru provides patent protection for pharmaceutical products in line with the TRIPS WTO Agreement, with the exception of the granting of patents for second uses. Patent term restoration (PTR) due to administrative	Direct/ indirect	Minor	Population of Peru

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
standard of physical and mental health *- UDHR, Art. 25* *- ICESCR, Art. 12* *- CESCR General Comment No. 14* *- CFR, Art. 35* *- Protocol of San Salvador, Art. 10* *- CEDAW, Art. 11,12* *- CRPD, Art. 25* *- CRC, Art. 24* *- ICMW, Art. 28* *- CERD, Art. 5* *- Belém do Pará Convention, Art. 4*	on patents), to make available a mechanism to compensate the patent owner for unreasonable curtailment of the effective patent term, could improve access to new drugs and promote research and development in pharmaceutical products but also could affect prices. The Parties' commitments under Title III Trade in goods, Chapter 1 on market access for goods, Section 2 on the elimination of customs duties (in particular, Article 22) could lead to cheaper prices for goods, higher GDP and, in the long run, more tax revenue for the government, increasing public funds that can be spent on programmes for various vulnerable population and thereby could improve quality of health care and access to health care for the most vulnerable population groups. The Parties' commitments under Title III – Trade in goods, Chapter 5 on SPS measures could affect human health and safety.	government delays through such measures as supplementary protection certificates (SPCs) is not possible for pharmaceutical products in Peru. Peru provides for a (varying) degree of Regulatory Data Protection. The Observatorio de Precios de Medicamentos was set up, as a win for consumers, focusing on price transparency of medicines. This has helped combat trade in substandard and counterfeit medicines. In 2019, prices for pharmaceutical products were significantly lower in Peru when compared to the regional average (see figure below). This indicates that the Agreement has not pushed up prices for medicines in Peru, due to various domestic initiatives. Peruvian prices for medicines compared to the regional average  Source: IPSOS, April 2019 The Agreement has helped Peru get better access to medicines via an increase in EU exports to Peru (of 57 USD million, 32.9%, through reductions in tariffs. This is important because Peru has a lot of counterfeit medicines (Rojas-Cortés 2020). Therefore, there was no evidence found that the Agreement affected pricing of medicines, despite the IP protection under the Agreement and the Agreement has helped Peru get better access to higher-quality medicines via an increase in imports. With increased imports of generic and patented EU medicines, domestic lower-quality drugs have been replaced. Public health spending in Peru has increased but remains low (see Annex E-1). Health care coverage (insurance) has increased from 37% in 2004 to 83% in 2017, due to the expansion of the non-contributory comprehensive			

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
		health insurance system (SIS). The impact of the Agreement on the healthcare budget in Peru is unlikely as it continued to increase, and the decrease in tariff revenues due to tariff liberalisation under the Agreement did not impact it (see section 5.12). The main instrument of the Agreement regarding SPS measures is dialogue. Because SPS measures are determined domestically (with each party having the right to regulate) the Agreement has not had a discernible impact on health and safety (also see section 5.6). This view was confirmed by stakeholders and experts. The 2017 civil society complaint to the EC indicates that the Peruvian Government has passed legislative acts that have relaxed environmental protection in the country.[277] The UN and OECD report adverse effects of large-scale business operations on health and the environment – industrial pollution, pollution from the mining operations (e.g., through emissions and releases of mercury),[278] oil spills, deforestation, water contamination[279] (see Annex E-1). While these trends are very concerning, we focus on the impact of the Agreement. Results of the economic analysis show that mining did not increase in Peru because of the Agreement – in fact, minerals mining decreased by a marginal 0.1%. Increases in agriculture activities such as palm oil and avocado production, however, have contributed to environmental challenges (e.g. water use, land use) and these sectoral effects are linked to the Agreement.[280] Economic effects of the Agreement indicate that production of vegetables, fruits and nuts (including avocados) and vegetable oils and fats (that includes palm oil) increase by 1.1% and 0.9% respectively. Also, Peruvian exports to the EU for these two sectors increase by 32.3% and 41.2% respectively. This possibly contributes to marginally more pollution from this sector (e.g. use of fertilisers, soil and water pollution).[281]			

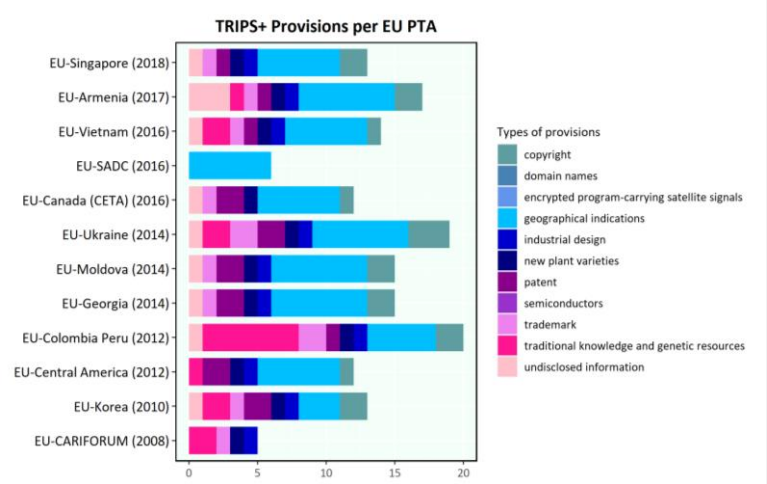
[277] Complaint against the Peruvian Government for failing to fulfil its labour and environmental commitments under the Trade Agreement between Peru and the European Union, October 2017: https://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupMeetingDoc&docid=12295

[278] Comisión Económica para América Latina y el Caribe (CEPAL)/Organización de Cooperación y Desarrollo Económicos (OCDE) (2017). Evaluaciones del desempeño ambiental: Perú, Santiago: https://repositorio.cepal.org/bitstream/handle/11362/42527/1/S1600240_es.pdf

[279] OECD (2020). OECD Responsible Business Conduct Policy Reviews: Peru, OECD, Paris: https://mneguidelines.oecd.org/OECD-Responsible-Business-Conduct-Policy-Review-Peru.pdf

[280] Ibid.

[281] See also environmental analysis.

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
Rights of indigenous peoples (right to self-determination; right to food, right to health, right to water, freedom from discrimination, right to maintain, control, protect and develop their traditional knowledge, land rights) *- UNDRIP* *- ILO Convention No. 169* *- ICCPR, Art. 27* *- HRC General Comment No. 23*	Title VII on Intellectual Property, Chapter 2 on protection of biodiversity and traditional knowledge (in particular, Article 201) contains provisions that refer to common efforts of the Parties to respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional life styles relevant for the conservation and sustainable use of biological diversity (Art.201(3)). Subject to domestic legislation, it also includes an "obligation to take measures with the aim of sharing in a fair and equitable way the benefits arising from the utilization of genetic resources" (Art.201(4). While the objective of the FTA is not to use these IP provisions to support the rights of the indigenous peoples, these provisions could encourage the promotion and enactment of appropriate domestic legislation that addresses protection of this vulnerable population group. The Parties' commitments under the Establishment Chapter could increase investment in sectors like mining and other extracting sectors of the economy and affect land rights of indigenous peoples.	Regarding respecting, preserving and maintaining knowledge, innovations and practices of indigenous and local communities, the Agreement contains clear Intellectual Property provisions (see figure below), which is where the Agreement stands out compared to other EU FTAs. According to DESTA, the Agreement is the most ambitious of all EU FTAs in protecting traditional knowledge. Unrelated to the FTA, the Peruvian government also plays an important role against biopiracy[282] and the Peruvian Anti-Biopiracy Commission has resolved various cases of claims related to native plants, invalidating several patents. Types of TRIPS+ provisions in EU FTAs  Source: DESTA database (2020) However, the Andean-Amazonian Initiative for the Prevention of Biopiracy, an NGO, is still very concerned that indigenous knowledge is threatened.[283]	Direct & indirect	Minor	Indigenous communi-ties in Peru

[282] "Peru Is Leader Against Biopiracy", Moeller IP Advisors/mondaq.com, 12 December 2016, https://www.mondaq.com/peru/patent/552022/peru-is-leader-against-biopiracy

[283] "Corporate 'Biopiracy' in Peru Threatens Indigenous Knowledge", Mariale Bellota/Iniciativa Andino Amazónica para la Prevención de la Biopirateria, 07 October 2016, https://biopirateria.org/corporate-biopiracy-in-peru-threatens-indigenous-knowledge/?lang=en

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
		Indigenous peoples' discrimination remains common (see Annex E-1). The economic analysis does not show a direct impact of the Agreement for indigenous peoples. Social analysis shows that indigenous peoples are relatively more present in agricultural sectors. The fact that the Agreement has had a positive effect for various important agricultural sectors (e.g. vegetables, fruits & nuts) in terms of employment, exports and production could mean positive economic effects for those economically active in them, including indigenous peoples. However, statistical data indicates that 64% of indigenous peoples work in the mountain region and are not involved in international trade. Due to lack of further statistical data, it is difficult to estimate the impact. Peru has a weak implementation of a prior consultation process. Land grabbing for economic activities has been common and affected rights of the indigenous communities in the country. The UN Human Rights Council notes that environmental impact assessments and effective consultations with the indigenous peoples are not always carried out[284] (see Annex E-1). Based on the results of the economic analysis, it is not likely that land grabbing for mining projects has been affected by the Agreement as raw materials exports to the EU did not increase, neither output in the mining sector. As to palm oil, production has increased due to the Agreement (by 0.9%), which has a small impact on land use, and (with the same weaknesses in implementation) may allow for land grabbing to occur. In the environmental analysis, we find that palm oil production increase is too small to fuel concerns about a specific part of land use, deforestation; production increases can also have originated from existing palm oil areas.			
Right to participate in public affairs *- UDHR, Art. 21* *- ICCPR, Art. 25* *- HRC General Comment No. 25* *- CFR, Art. 39* *- CEDAW, Art. 7*	Article 267(e) sets out an objective to promote public participation in the matters covered under the TSD Title. Parties' commitments under the TSD Title (in particular, Articles 281-283) provide for an active dialogue with civil society and could enhance transparency and strengthen	The provisions of the Agreement are envisaged to stimulate civil society involvement related to the implementation of the TSD Title. The 2019 EC Report on the implementation of EU FTAs marks good progress in the involvement of civil society (European Commission 2019). The 2020 EESC report, however, notes weaknesses in the implementation of these provisions. For example, the EESC notes delays in establishing the DAGs due to the requirement for DAGs to be "in accordance with domestic law" (Art. 281) which also resulted in partial representation of the relevant associations. Peruvian Domestic Advisory Group (National Council) has	Direct	Minor	Population of Peru

[284] UN Human Rights Council (2018). Report of the Working Group on the issue of human and transnational corporations and other business enterprises on its mission to Peru, UN Doc. A/HRC/38/48/Add.2; and European Parliamentary Research Service (EPRS and ICEI 2018).

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
- CRPD, Art. 29	stakeholder involvement in public decision making.	been criticised by academics, civil society and interviewees for its ineffectiveness and dysfunctionality.[285] While organising the forum for civil society to participate in the implementation of the Agreement, issues with the mechanism of participation have not strengthened that positive impact.			
Right to education *- UDHR, Art. 26* *- ICESCR, Art. 13* *- CESCR General Comments No. 11 & No.13* *- CRC, Art. 28* *- CEDAW, Art. 10* *- CRPD, Art. 24* *- ICMW, Art. 30* *- CERD, Art. 5* *- Protocol of San Salvador, Art. 13*	The Parties' commitments under Title III Trade in goods, Chapter 1 on market access for goods, Section 2 on the elimination of customs duties (in particular, Article 22) could lead to cheaper prices for goods, higher GDP and, in the long run, more tax revenue for the government, increasing public funds that can be spent on social programmes, including initiatives related to education.	Trade liberalisation has contributed to poverty reduction in Peru.[286] In parallel, public expenditure on education has increased from 14.5% of total government expenditure in 2008 to 17.5% in 2019.[287] From 2008 to 2012 the annual increase in education budget was 4.3% and from 2013 to 2018 the annual increase in the education budget was 6.5%. This points to a significant annual rate of increase of the education budget after the Agreement came into effect. This also shows that the decrease in tariff revenues due to tariff liberalisation in the Agreement (see section 5.12) has not had an impact on the right to education from a budgetary perspective.	Indirect	Minor	Population of Peru
Right to access information *- UDHR, Art.16* *- ICCPR, Art. 10* *- CFR, Art. 9* *- CRC, Art. 14* *- ICMW, Art. 12* *- CERD, Art. 5*	The Parties' commitments in the TSD Title on promotion of transparency and public participation (in particular, Articles 281-283) could improve transparency and strengthen civil society involvement in public decision making.	The Agreement has contributed to the inclusion of civil society in public decision making through envisaging civil society involvement in the implementation of the labour and environmental provisions under the TSD Title. However, the national mechanism for civil society involvement has been criticised by academics and interviewees for its ineffectiveness and dysfunctionality (Orbie, Putte, and Martens 2017; Mai Ha Thu and Schweisshelm 2020). So the intended positive impact of the Agreement provisions has not been strengthened due to the issues with the national mechanism of participation.	Direct	Minor	Population of Peru
Right to water *- ICESCR, Art. 11* *- CESCR General Comment No. 15*	--	Stakeholders report deterioration with respect to water quality and water availability due to mining and agricultural activities (Fritz 2018; EPRS and ICEI 2018). There is evidence that environmental impact assessments are not carried out in a due manner (see Annex E-1). The economic effects for the mining industry have been limited. Agricultural activities have increased as a result of the Agreement, as shown in the economic analysis: 1.1% increase in the VFN sector (production of fruits and vegetables, some of them are water-intensive, e.g. avocados) and 0.9% increase in the vegetable oils and fats sector (palm oil production) (see environmental	Direct	Minor, possibly major in specific areas	Affected communities in Peru

[285] Orbie et al. (2017); Thu and Schweisshelm (2020); Complaint against the Peruvian Government for failing to fulfil its labour and environmental commitments under the Trade Agreement between Peru and the European Union: https://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupMeetingDoc&docid=12295

[286] See economic analysis and social analysis, table on poverty and extreme poverty levels.

[287] Based on UNESCO data.

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
		analysis). These changes under the Agreement could have affected right to water (through increased use of water, use of fertilisers and pesticides), in particular in the communities adjacent to the production areas.			

Table 8-3: Screening and scoping of human rights affected by the Agreement in Ecuador[288]

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
Freedom from discrimination *- UDHR, Art. 2* *- ICCPR, Art. 26* *- ILO Conventions 100 & 111* *- Protocol of San Salvador, Art. 3*	The Parties' commitments under Title IX of the Agreement – the TSD Title – (in particular, Article 269) to (1) recognise productive employment and decent work for all; (2) promote and effectively implement internationally recognized core labour standards (namely: a) freedom of association and the effective recognition of the right to collective bargaining; b) the elimination of all forms of forced or compulsory labour; c) the effective abolition of child labour; d) the elimination of discrimination in respect of employment and occupation) could improve labour situation in general. Provisions of Article 276 on the rights of migrant workers, where Parties recognize the importance of promoting equality of treatment in respect of working conditions for migrant workers legally employed in their territories, could improve position of this specific vulnerable population group.	The Agreement provisions refer to the freedom from discrimination at the workplace. The analysis of the current situation shows that population groups most affected by discrimination in Ecuador are women, indigenous peoples and persons of African descent, Montubio people, rural populations, migrants, persons with disabilities and LGBTI persons (see Annex E-1). The UN reports state weak implementation of the existing legal framework on the freedom from discrimination and issues with labour inspection (decreased number of inspectors). The results of the economic analysis show that several agricultural sectors have increased their production and employment (e.g. other food products 4.1% increase in production and a 3.8% increase in employment for skilled and 3.9% for unskilled workers; the vegetables, fruits and nuts (VFN) +0.8% in production, and a 1.2% increase in employment; and the cereal grains sector +2.1% in production and a 2.7% increase in employment). Since these sectors are characterised by high level of informality and employ a high number of women, migrant workers and indigenous peoples, in the context of the Agreement it could mean that the growth of production and employment in the affected sectors along with increased competition has had positive economic effects for those economically active in them. However, given the pre-existing vulnerabilities and insufficient protection due to weak implementation, the positive economic effects may not have been distributed equally (especially differing between the export-oriented parts of these sectors versus the domestically-oriented parts of these sectors).[289] While more jobs are the result, there may also be increased pressure on the right to freedom from discrimination for vulnerable groups of population not sufficiently protected by the existing laws. Stakeholders report inequality for women at work with respect to	Direct	Minor	Women working in agricultural sectors (esp. indigenous women, women in rural areas); Migrant workers and indigenous peoples, in particular working in informal sectors

[288] The table does not include rights where neither desk research nor stakeholder outreach indicated that they could have been affected by the Agreement.
[289] See also social analysis on non-discrimination and women.

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
	Further commitments of the Parties under the TSD Title (in particular, Articles 277, 279, 280-282, 286) related to upholding the level of protection in labour laws, monitoring the implementation of the Agreement on labour, promoting transparency and civil society participation in the process of assessment of the implementation of the Agreement and cooperation activities under this Title could strengthen effective implementation of labour protection in line with international standards.	wages, working conditions and social protection, especially in the agriculture (Daza et al. 2020; Olmedo M. 2018). Based on the EC reports on the implementation of the Agreement, labour inspection issues were a regular point of discussion with the Ecuadorian authorities. Rights of vulnerable populations, especially women, indigenous peoples, children and migrants are on the priority list of the EU cooperation with Ecuador, more intense cooperation has started in 2014, with regular financial support and active engagement of the EU Delegation in Ecuador.[290]			
Freedom from slavery and forced labour absolute right *- UDHR, Art.4* *- ICCPR, Art. 8* *- ILO Conventions 29 & 105* *- CFR, Art. 5* *- CESCR General Comment No. 18* *- ACHR, Art. 6*	TSD Title - see above	According to the 2018 Global Slavery Index, approximately 39,000 persons (0.24% of the total population) lived in modern slavery conditions in Ecuador. Ecuador has made some efforts in the elimination of the forced labour but this has been hampered by the lack of updated statistical data on the victims (see Annex E-1). One of the key focus areas of the EU in its cooperation with Ecuador (outside the Agreement) is ensuring better protection of persons belonging to minorities and vulnerable groups, including indigenous peoples, migrants, women and children.[291] Under the TSD Title, the EU has kept a dialogue with the Ecuadorian authorities and encouraged Ecuador to ratify the 2014 Protocol to the ILO Forced Labour Convention.[292] Focusing on the impact of the Agreement, based on the literature review and stakeholder consultations carried out, there was no further evidence found to link the Agreement to the freedom from slavery and forced labour via causal chain analysis.	Direct	Minor	Vulnerable population groups in Ecuador: Women, Children, Indigenous peoples, Migrants and refugees
Children's rights (child labour) *- ICESCR, Art. 10* *- CRC, Art. 19, 32* *- ILO Conventions 138 & 182*	TSD Title – see above	Child labour in Ecuador decreased from 17% (in 2006) to 4.9% (in 2013). Based on the 2017 data, approximately 8.4% (375,342) children from 5 to 17 years old were engaged in economic activity (see social analysis). Most children are involved in work in agriculture (82%), in the production of bananas, palm oil, flowers and fishing; 13% of children worked in services (domestic work and street work) and 3.2% in industry (gold mining and small-scale mining).[293] According to the results of the economic modelling,	Direct	Minor	Children in Ecuador, in particular, children from rural areas, indigenous

[290] Based on the EU Annual Reports on Human Rights and Democracy in the World Country Updates from 2017 to 2019.
[291] EU Annual Report on Human Rights and Democracy in the World in 2019, Country updates: https://eeas.europa.eu/sites/eeas/files/201007_eu_country_updates_on_human_rights_and_democracy_2019.pdf
[292] See Annual Reports on the Implementation of the EU-Colombia/Ecuador/Peru Trade Agreement from 2017 ro 2019.
[293] US Department of Labour (2019). Findings on the Worst Forms of Child Labour in Ecuador: https://www.dol.gov/agencies/ilab/resources/reports/child-labor/ecuador

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
		some subsectors within the agricultural sector have grown due to the Agreement, leading to positive effects for production, jobs and exports, while other sectors have not been impacted much by the Agreement in terms of production and exports. Exports to the EU of vegetables, fruits and nuts (including bananas), crops (including flowers), and vegetable oils & fats (palm oil) are all increasing – by 25.7% (USD 126 million), 27.5% (USD 19 million) and 15.8% (USD 10 million) respectively. The export impact of the Agreement for fisheries is negligible. For VFN the significant additional exports come to a small extent from additional production, but mostly from redirected exports from other destinations. There is a shift to more export-oriented production in larger agricultural firms, that could be positive for the fight against child labour as child labour occurs mostly in the small-scale informal agricultural production (i.e. family-based subsistence farming). Crops (flowers) and vegetable oils & fats (palm oil) sectors also increase in exports from the Agreement, but domestic production declines (-1.3% and -1.6%, respectively); accordingly, the employment performance in the crops sector is below average (-1.2%, assuming that total employment in Ecuador is not affected) which could put pressure on those employed, especially in the informal sector. At the same time Ecuadorian exports to third countries are redirected to the EU which does not suggest more child labour in Ecuador. Nonetheless, because the EU has become a much more important export destination, the EU can leverage this position to engage more effectively with Ecuador to combat child labour. The same applies to the vegetable oils & fats sector, but to a much smaller extent. Under the TSD Title, the EU has kept a dialogue with the Ecuadorian authorities and encouraged Ecuador to ratify the 2014 Protocol to the ILO Forced Labour Convention (European Commission 2019). Ensuring better protection of children was one of the key focus areas in cooperation between the EU and Ecuador regarding human rights (outside the Agreement).			children and migrant and refugee children
Right of peaceful assembly, right to freedom of association, incl. the right to form and join trade unions *- UDHR, Art. 20* *- ICCPR, Art. 21, 22*	TSD Title - see above	Ecuador has made progress with respect to the protection of the right to peaceful assembly. Regarding the freedom of association, ILO has noted that the right has been compromised. Trade union activity in Ecuador is low, due to national regulations on the formation of trade unions (minimum 30 workers per enterprise) and due to high level of informality (see Annex E-1). Some stakeholders report that increased competition linked to the Agreement has led to a number of violations in the banana sector and	Direct	Minor	Workers from affected sectors

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
- CFR, Art. 12 *- ILO Conventions 87 & 98* *- ACHR, Art. 15, 16* *- Protocol of San Salvador, Art. 8*		agriculture.[294] According to the economic analysis, the VFN sector (bananas) has grown as a result of the Agreement and agricultural sectors in general have a mixed impact from the Agreement, some sectors growing and others declining. For the growing sectors, more employment and economic opportunities have been created. For the declining sectors, pressure could have been on the employers to cut costs (see economic and social analysis for the details at the sector level) and this could also put pressure on the right to freedom of association because of increased economic pressures. Issues with trade unions were present in Ecuador before the start of application of the Agreement, but some stakeholders indicated that they perceive that the situation has deteriorated since the Agreement (Daza et al. 2020). It is difficult to establish the link between the practice of special regimes and the level of informality and the Agreement, taking into account pre-existing anti-trade union climate in Ecuador and the lack of appropriate data, but we will seek more evidence in a separate case study on this. Within the cooperation under the TSD Title, the EU has kept a dialogue with the Ecuadorian authorities on the need to address issues regarding the freedom of association.[295]			
Right to social security *- UDHR, Art. 22, 25* *- ICESCR, Art. 9, 10* *- CESCR General Comment No. 19* *- ILO Convention 102* *- CFR, Art. 34*	TSD Title - see above	Social security protection mechanisms in Ecuador were weak before the start of application of the Agreement (see Annex E-1). Social protection is one of the key components of the decent work agenda,[296] recognised by the Parties (Article 269(1)). The regulations on social protection are defined by national policy decisions. Stakeholders note no significant progress on social protection coverage as a consequence of the Agreement.[297] Calculations based on the economic analysis show government revenues in Ecuador have not changes as a result of the Agreement (section 5.12), and thus the Agreement has had no impact on the right to social security from a budgetary perspective.	In-direct	Minor	Workers in general

[294] ASTAC (2019). Queja de las trabajadoras y los trabajadores bananeros por violación de derechos: https://ecuador.fes.de/news-list/e/queja-de-las-trabajadoras-y-los-trabajadores-bananeros-por-violacion-de-derechos/

[295] See Annual Reports on the Implementation of the EU-Colombia/Peru/Ecuador Trade Agreement for 2017 - 2019.

[296] ILO definition of the decent work agenda: "Decent work sums up the aspirations of people in their working lives. It involves opportunities for work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men", https://www.ilo.org/global/topics/decent-work/lang--en/index.htm

[297] Based on interviews and ASTAC (2019). Queja de las trabajadoras y los trabajadores bananeros por violación de derechos: https://ecuador.fes.de/news-list/e/queja-de-las-trabajadoras-y-los-trabajadores-bananeros-por-violacion-de-derechos/

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
- CEDAW, Art. 11 *- ICMW, Art. 27* *- Protocol of San Salvador, Art. 9*					
Right to work, to free choice of employment, right to just and favourable conditions of work *- UDHR, Art.23, 24* *- ICESCR, Art. 6 & 7* *- Protocol of San Salvador, Art. 6 & 7* *- CFR, Art. 15 & 31* *- CEDAW, Art. 11* *- CRPD, Art. 27*	TSD Title - see above Commitments under Title III *Trade in goods*, Chapter 1 (*Market access*) Section 2 on the elimination of custom duties (Article 22) and Section 4 on agricultural goods (Article 33 on administration and implementation of TRQs could lead to improvements/deterioration of the rights of workers from the affected sectors due to possible gain/loss of employment.	The unemployment rate in Ecuador decreased from 5% in 2007 to 3.8% in 2019. The CGE model only provides limited information for assessing the contribution of the Agreement to this decline, as based on the model assumptions total employment is held constant; therefore, the model only allows identifying the relative "winners" and "losers" across sectors (Table 6-2 above). Among the former are the other food products sector (+3.8%), fishing (+2.0%), cereal grains (+2.7%), paddy rice (+0.6%), and VFN (+1.2%). These sectors demonstrate that the Agreement has had positive employment effects and thus a positive impact on the right to work, not only in agriculture, but also in industrial and service sectors. However, due to high level of informality, special regimes for temporary contracts and pre-existing vulnerability with respect to the working conditions, stakeholders note that positive effects have not been distributed equally (Daza et al. 2020). For example, the Trade Union Association of Agricultural, Banana and Rural Workers (ASTAC) reports that 68% of workers in this sector do not have formal contracts, and the right to just and favourable conditions of work of the workers in this sector are often violated.[298] Stakeholders report that due to the use of toxic chemicals in the banana and floral sectors, the health of the workers are affected which breach health and safety regulations (Daza et al. 2020). Relative employment declines were registered in wheat (-1.3%), oil seeds (-1.3%), plant-based fibres (-1.0%), crops (-1.2%), vegetable oils and fats (-1.8%), motor vehicles (-4.3%), metals (-2.4%), textiles (-1.9%), leather (1.7%), chemical products (-1.6%), rubber and plastics (-1.6%), electrical equipment (-1.3%), computer, electronic and optic equipment (-1.0%), paper (-1.1%), and wool (-5.1% - but small in absolute size). In these sectors the right to work has come under pressure, also from increased foreign competition. Within the cooperation under the TSD Title, the EU has kept a dialogue with the Ecuadorian authorities on the need to intensify efforts to strengthen labour inspections (European Commission 2019).	Direct	Minor	Workers in affected sectors
Right to privacy and protection of personal data	The Parties' commitments under Chapter 5 on the Regulatory Framework, Sections 4, 5 & 6 on telecommunications services,	The right to privacy and personal data protection is guaranteed under the Constitution of Ecuador (Art.19). There are data provisions contained in the following legislation: the Organic Law on Transparency and Access to Public	Direct	Minor	Population of Ecuador

[298] ASTAC (2019). Queja de las trabajadoras y los trabajadores bananeros por violación de derechos: http://library.fes.de/pdf-files/bueros/quito/15297.pdf

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
- UDHR, Art. 12 *- ICCPR, Art. 17* *- ACHR, Art. 11* *- CFR, Art. 7 & 8* *- CRC, Art. 16* *- CRPD, Art. 22 & 23* *- ICMW, Art. 14* *- Regulation (EU) 2016/679* *- ACHR, Art. 11*	financial services and electronic commerce (Title IV, Trade in services, establishment and electronic commerce) include provisions related to confidentiality of the information transmitted or stored, data processing and data protection. These regulations could improve domestic legislation in data protection safeguards and the commitments of the governments in this matter, which is an important issue in the Latin American context.	Information, the Organic Law on Telecommunications, the Labour Code, the Health Law. The draft law on the Protection of Personal Data aims to strengthen the protection of personal data and is being fast tracked due to the data breach scandal. It is set to include fines for the misuse of data, compensation for victims of data fraud and punishment for companies and individuals that sell data obtained illegally.[299] No evidence was found on the significant impact of the Agreement on this right.			
Right to adequate food *- UDHR, Art. 25* *- ICESCR, Art. 11* *- CESCR General Comment No. 12* *- Protocol of San Salvador, Art.12 & 17* *- CEDAW, Art. 12 & 14* *- CRPD, Art. 24 & 26* *- CRC, Art. 24 & 27*	The Parties' commitments under Title III – Trade in goods, Chapter 5 on SPS measures (in particular, Article 94 on measures linked to animal and plant health) could improve food safety. The Parties commitments under Title III Trade in goods, Chapter 1, Section 4 on agricultural goods could promote food availability and accessibility.	The main instrument of the Agreement regarding the SPS measures is a dialogue. Because SPS measures are determined domestically (with each party having the right to regulate), the Agreement has not had a discernible impact on food safety. This view was confirmed by stakeholder consultations and discussions with experts. According to the economic analysis, food sectors in Ecuador experienced a mixed impact from the trade liberalisation under the Agreement in terms of production. Sub-sectors like VFN (+0.8%), other food products (+4.1%), cereal grains (+2.1%), fishing (+0.3%) have increased production. Other sectors, like wheat (-1.4%), oil seeds (-1.4%), sugar cane (-0.5%), crops (-1.3%), vegetable oils and fats (-1.6%), plant-based fibres (-1.2%) have experienced marginal decreases in production. When these production effects are compared to the export effects of the Agreement for these same sectors, it is possible to isolate the impact of the Agreement on domestic food availability. The largest effect in absolute terms is in the other food products sector. Total Ecuadorian production increased by 179 USD million (out of a total production of 4.4 USD billion) while total exports increased by 220 USD million, i.e. the increase in exports was higher than the increase in output. Domestic food availability decreased therefore by 0.9%. The largest (positive) effect on domestic food availability was in cereal grains (+2.2%). Given these marginal increases and decreases in Ecuadorian production and trade, economic results demonstrate that domestic food availability was not significantly impacted by the Agreement.	Direct	Minor	Population of Ecuador
Right to an adequate	The Parties' commitments under Title III Trade in goods, Chapter 1 on market	Poverty levels have decreased in Ecuador, but poverty remains consistently high in some rural areas, particularly affecting indigenous peoples and	Direct	Minor	Workers from

[299] Financial Times (2019). Ecuador fast-tracks data privacy law after massive breach: https://www.ft.com/content/35f9aea0-dbb0-11e9-8f9b-77216ebe1f17

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
standard of living *- UDHR, Art. 25* *- ICESCR, Art. 11* *- Protocol of San Salvador, Art.12 & 17* *- CEDAW, Art. 14* *- CRPD, Art. 28* *- CRC, Art. 27* *- CERD, Art. 5 & 7*	access for goods, Section 2 on the elimination of customs duties (in particular, Article 22) as well as commitments under Title IV Trade in services and Establishment Chapter could lead to cheaper prices for goods, higher GDP, more employment opportunities, and, in the long run, more tax revenue for the government, increasing public funds that can be spent on social protection programmes for various (esp. vulnerable) population groups.	women (see Annex E-1). The economic analysis shows that the Agreement has contributed to the increase in Ecuador's GDP, exports and domestic production overall. However, sectoral divergencies in employment suggest that the impact of the Agreement on the right to an adequate standard of living has also been mixed. Positive impact of the Agreement for the workers from growing sectors and negative impact for the workers from declining sectors (see right to work). The economic analysis suggest that the Agreement has asymmetric effects within sectors regarding the standard of living. Among producers for the domestic markets, still high levels of poverty and inequality remain (Daza et al. 2020).			affected sectors, small scale producers
Right to the enjoyment of the highest attainable standard of physical and mental health *- UDHR, Art. 25* *- ICESCR, Art. 12* *- CESCR General Comment No. 14* *- CFR, Art. 35* *- Protocol of San Salvador, Art. 10* *- CEDAW, Art. 11,12* *- CRPD, Art. 25* *- CRC, Art. 24* *- ICMW, Art. 28* *- CERD, Art. 5*	Commitments under Title VII on Intellectual Property, Chapter 3, Section 5 (in particular, Article 230 (4) on patents), to make available a mechanism to compensate the patent owner for unreasonable curtailment of the effective patent term, could improve access to new drugs and promote research and development in pharmaceutical products but also could affect prices. The Parties' commitments under Title III Trade in goods, Chapter 1 on market access for goods, Section 2 on the elimination of customs duties (in particular, Article 22) could lead to cheaper prices for goods, higher GDP and, in the long run, more tax revenue for the government, increasing public funds that can be spent on programmes for various vulnerable population and thereby could	As a WTO member, Ecuador is signatory party to the TRIPS Agreement, the Paris Convention and the Industrial Property Regime of the Andean Community. These memberships translate into the Organic Code on Social Economy of Knowledge and Innovation in Ecuador and define IP rights in the country. Regarding the pricing of drugs, Ecuador works with the National Council for Fixing and Reviewing the Prices of Drugs for Human Use and Consumption. The "Regulate Pricing Regulation" establishes ceiling prices for each market and segment of strategic and new drugs.[300] The government introduced price regulations in 2015, curbing prices by 30% (after an increase of 12.5% in prices for patented drugs in the five years before 2014).[301] A drug cannot be marketed at a retail price above the ceiling price set by the Council. According to PhRMA (2017) this system, however, does not adequately take into account differences in quality, efficacy or safety, affecting the quality of medicines on the market in Ecuador, affecting patient safety. The National Agency for Regulation, Control and Surveillance of Health (ARCSA) is in charge of the efficacy, safety and quality of drugs marketed in Ecuador.[302] According to The Economist, the Ecuadorian market is full of pirated drugs.[303] According to CEIC (2020), Ecuadorian imports increased by USD 75 million between 2018 and 2019. Combined with the tariff effect from the economic analysis, this indicates a 7.1% increase in imports from the EU (amounting to USD 10 million), while there is no	Direct	Minor	Population of Ecuador

[300] "How are the prices of drugs fixed and controlled in Ecuador?", Fernandez, M./CorralRosales Blog, 30 July 2019; https://corralrosales.com/en/how-are-the-prices-of-drugs-fixed-and-controlled-in-ecuador/

[301] ESPOL (2015) "Home Grown", https://www.thebusinessyear.com/ecuador-2015/home-grown/focus

[302] Duran, C. R. Lucia, J. Rovira (2017). "Pharmaceutical policy in Ecuador", Pharmaceutical Policy in Countries with Developing Healthcare Systems, pp. 221 – 236, March 2017.

[303] ESPOL (2015). "Home Grown", https://www.thebusinessyear.com/ecuador-2015/home-grown/focus

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
- *Belém do Pará Convention, Art. 4*	improve quality of health care and access to health care for the most vulnerable population groups. The Parties' commitments under Title III – Trade in goods, Chapter 5 on SPS measures could affect human health and safety.	increase in exports and domestic production declines by 0.7% (USD 8 million). This implies that the effect of the Agreement can explain around 13% of the growth in imports. The reason for these imports lies likely in low quality of domestic medicines: lower-quality domestic production is replaced by higher-quality imported (generic and patented) medicines from the EU. Therefore, there was no evidence found that the Agreement affected pricing of medicines, despite the IP protection under the Agreement. The Agreement has helped Ecuador get better access to higher-quality medicines via an increase in imports from the EU (10 USD million through reductions in tariffs), while domestic price control mechanisms have prevented price rises for drugs. With increased imports of generic and patented EU medicines, domestic lower-quality drugs have been replaced. As the Agreement has had no impact on government revenues, it has also not impacted on the health budget in Ecuador. Interviewees did not indicate a significant impact of the Agreement on the right to health from the budgetary perspective either. The main instrument of the Agreement regarding SPS measures is dialogue. Because SPS measures are determined domestically (with each party having the right to regulate) the Agreement has not had a discernible impact on health and safety (also see section 5.6). This view was confirmed by stakeholders and experts. The UN (2019) expressed concern at the environmental impact of large-scale mining and other extractive activities that particularly affect rural Afro-descendant and indigenous communities[304] (see Annex E-1). While these trends are very concerning, we focus on the impact of the Agreement. Results of the economic analysis show that mining did not increase in Ecuador because of the Agreement, while the production of palm oil decreased by 1.6%. This could alleviate pollution from this sector. Production of vegetables, fruits and nuts (e.g. bananas) has increased by 0.8%. This possibly contributes to marginally more pressure on the use of water resources and more pollution from these sectors (e.g. use of fertilisers, soil and water pollution).[305]			

[304] United Nations Committee for Economic Social and Cultural Rights (2019). Concluding observations on the fourth periodic report of Ecuador, UN. Doc. E/C.12/ECU/CO/4.
[305] See also environmental analysis.

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
Rights of indigenous peoples (right to self-determination; right to food, right to health, right to water, freedom from discrimination, right to maintain, control, protect and develop their traditional knowledge, land rights) *- UNDRIP* *- ILO Convention No. 169* *- ICCPR, Art. 27* *- HRC General Comment No. 23*	Title VII on Intellectual Property, Chapter 2 on protection of biodiversity and traditional knowledge (in particular, Article 201) contains provisions that refer to common efforts of the Parties to respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional life styles relevant for the conservation and sustainable use of biological diversity (Art.201(3)). Subject to domestic legislation, it also includes an "obligation to take measures with the aim of sharing in a fair and equitable way the benefits arising from the utilization of genetic resources" (Art.201(4). While the objective of the FTA is not to use these IP provisions to support the rights of the indigenous peoples, these provisions could encourage the promotion and enactment of appropriate domestic legislation that addresses protection of this vulnerable population group. The Parties commitments under the Establishment Chapter could increase investment in sectors like mining and other extracting sectors of the economy and affect land rights of indigenous peoples.	According to DESTA, the Agreement is the most ambitious of all EU FTAs in protecting traditional knowledge.[306] While not as outspoken as the Peruvian government, also the Ecuadorian government wants to combat biopiracy. Ecuador is party to the Convention on Biological Diversity and the Nagoya Protocol. All the EU member states are parties to the Convention on Biological Diversity but not all of them are parties to the Nagoya Protocol. Indigenous peoples' discrimination in Ecuador remains common (see Annex E-1). The economic analysis does not show a direct impact of the Agreement for indigenous peoples. In the context of the Agreement, sectors that benefit from the Agreement can experience growth in production and employment which has positive economic effects for those economically active in them, including indigenous peoples. For the sectors that lose from the Agreement, the situation is the opposite. Due to lack of further statistical data on the employment of indigenous peoples in economic sectors, it is difficult to estimate the impact. National legislation requires the government to carry out consultations with indigenous peoples but does not require their explicit consent (Decree No.1247). Land grabbing for economic activities is reported to have been common and this has affected rights of the indigenous communities in the country (see Annex E-1). Based on the results of the economic analysis, it is not likely that land grabbing for mining projects has been affected by the Agreement as raw materials exports to the EU did not increase, neither did production in the mining sector as a result of the Agreement. As to palm oil, the economic analysis shows that exports of vegetable oils and fats increased by 15.6%. Ecuadorian oils and fats production, however decreased by 1.6%. This means that the increase in EU exports did not come from increased domestic production, but from trade diversion from other countries to the EU. The fact that domestic production decreases also means that pressures on the land use for oils and fats has decreased marginally. This is in line with the environmental analysis where we find that there is no evidence of deforestation overall, which is part of the land use challenge in Ecuador, while for VNF only a marginal effect – within the error margins of our analysis – could have occurred (see environmental analysis).	Direct & in-direct	Minor	Indigenous communi-ties in Ecuador
Right to participate in public affairs	Article 267(e) sets out an objective to promote public participation in the matters covered under the TSD Title.	The provisions of the Agreement are envisaged to stimulate civil society involvement related to the implementation of the TSD Title. The 2019 EC Report on the implementation of EU FTAs marks good progress in the	Direct	Minor	Population of Ecuador

[306] See graph in the screening and scoping analysis of Peru.

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
- UDHR, Art. 21 *- ICCPR, Art. 25* *- HRC General Comment No. 25* *- CFR, Art. 39* *- CEDAW, Art. 7* *- CRPD, Art. 29*	Parties' commitments under the TSD Title (in particular, Articles 281-283) provide for an active dialogue with civil society and could enhance transparency and strengthen stakeholder involvement in public decision making.	involvement of civil society (European Commission 2019). The 2020 EESC report, however, notes delays in establishing the Domestic Advisory Groups (DAGs) due to the requirement for DAGs to be "in accordance with domestic law" (Art. 281) which also resulted in partial representation of the relevant associations. While organising the forum for civil society to participate in the implementation of the Agreement, issues with the mechanism of participation have not strengthened that positive impact. Stakeholders report that consultation with civil society organisation have made progress in the monitoring of issues, e.g. regarding the agricultural workers. Nonetheless the lack of resources and transparency by officials affects the efficiency of these consultations (Daza et al. 2020). While organising the forum for civil society to participate in the implementation of the Agreement, issues with the mechanism of participation have not strengthened that positive impact.			
Right to education *- UDHR, Art. 26* *- ICESCR, Art. 13* *- CESCR General Comments No. 11 & No.13* *- CRC, Art. 28* *- CEDAW, Art. 10* *- CRPD, Art. 24* *- ICMW, Art. 30* *- CERD, Art. 5* *- Protocol of San Salvador, Art. 13*	The Parties' commitments under Title III Trade in goods, Chapter 1 on market access for goods, Section 2 on the elimination of customs duties (in particular, Article 22) could lead to cheaper prices for goods, higher GDP and, in the long run, more tax revenue for the government, increasing public funds that can be spent on social programmes, including initiatives related to education.	Trade liberalisation has contributed to poverty reduction and increased GDP in Ecuador.[307] No data are available on the public expenditure on education after 2015, which means that it is not possible to analyse the education expenditures before and after the Agreement. However, as the Agreement has not impacted on government revenues (section 5.12) it has also not had an impact on the right to education from a budgetary perspective. Interviewees did not report any significant impact of the Agreement on the right to education.	In-direct	Minor	Population of Ecuador
Right to access information *- UDHR, Art.16* *- ICCPR, Art. 10* *- CFR, Art. 9* *- CRC, Art. 14* *- ICMW, Art. 12* *- CERD, Art. 5*	The Parties' commitments in the TSD Title on promotion of transparency and public participation (in particular, Articles 281-283) could improve transparency and strengthen civil society involvement in public decision making.	The inclusion of civil society in public decision making is provided for by the Agreement through envisaging civil society involvement in the implementation of the labour and environmental provisions under the TSD Title. Minor improvements regarding the inclusion of civil society have been noted by the EC officials, representative of the Ecuadorian government and some members of civil society from Ecuador. However, issues were noted with the follow-up of the consultations. In 2020 the Ecuadorian trade unions withdrew their participation from the DAG under the TSD Title because they find that the dialogue under the TSD Title a window dressing exercise rather	Direct	Minor	Population of Ecuador

[307] See economic analysis and social analysis, table on poverty and extreme poverty levels.

Human Right/ Normative framework	Intended effects (references in the Agreement)	Observed effects	Kind of effect	Scale of effect	Potentially affected population groups
		than a meaningful engagement with civil society. While organising the forum for civil society to participate in the implementation of the Agreement, issues with the mechanism of participation have not strengthened that positive impact.			
Right to water *- ICESCR, Art. 11* *- CESCR General Comment No. 15*	--	Due to the specific climate of Ecuador and natural shortage of water resources (especially in selected areas), as well as the environmental impacts of mining and agribusiness activities on water, there is an increased pressure on the right to water in Ecuador (see Annex E-1). In the context of the Agreement, the impact on the right to water can come from the water pollution activities in the selected economic sectors. Stakeholders report high level of pollution from the energy and mining sectors as well as fishing sector (production of shrimps) and agricultural sectors (involved in the production of e.g. palm oil or bananas). The economic effects of the Agreement for the mining industry have been limited. The largest effect was a 0.3% increase in production for metals. Agricultural sectors have a mixed impact, the largest effect recorded in the cereal grains sector (+2.1%). Fishing sector (shrimps) accounted for the minor increase of production by 0.3%. Production of vegetable oils and fats has decreased (-1.6%) and productions in the vegetables, fruit and nut sector has increased by 0.8%. Some of the products from this sector are rather water-intensive, e.g. bananas, and could have affected water availability. The other source affecting the right to water, also linked to agricultural production, is the use of fertilisers, in detail studied under the environmental analysis. Stakeholders report that regions with concentrated production (e.g. shrimps) cause river pollution and set limitations to the enjoyment of the right to water by the adjacent communities.[308]	Direct	Minor, possibly major in specific areas	Affected communi-ties in Ecuador

[308] Acción Ecológica (2020). Cuando el mar entra al la Tierra. Producción camaronera en tierras atlas: https://www.naturalezaconderechos.org/wp-content/uploads/2020/07/CUANDO-EL-MAR-ENTRA-A-LA-TIERRA2.pdf

8.4 Detailed analysis of the Agreement's impacts on selected human rights

Based on the results of the screening, further analysis will focus on the following human rights:

Country	Human right
Colombia	Right to freedom of assembly and association, incl. the right to join and form trade unions
	Children's rights (child labour)
	Right to water
Peru	Right to freedom of assembly and association, incl. the right to join and form trade unions
	Children's rights (child labour)
	Right to water
Ecuador	Right to freedom of assembly and association, incl. the right to join and form trade unions
	Children's rights (child labour)
	Right to water

These rights were identified for further analysis either because screening indicates a major (or regionally/sectorally major) impact of the Agreement on the enjoyment of these rights in the Parties, or because these rights are politically sensitive.[309] The freedom of assembly and association, including the right to join and form trade unions and children's rights for all three partner countries are presented as separate case studies. The right to water is investigated in close cooperation with the environmental team to ensure consistency of the analysis and involve expert opinions on the issues related to water use and availability.

At the next stage of the analysis, apart from standard stakeholder consultation process, an active targeted stakeholder outreach will be performed to seek to establish meaningful consultation for the analysis of the selected rights.

[309] As per the European Commission's Guidelines on the analysis of human rights impacts in impact assessment for trade-related policy initiatives (2015).

9 PRELIMINARY RESULTS OF THE INSTITUTIONAL AND PROCEDURAL ANALYSIS

This chapter analyses to what extent the institutional structures of the Agreement, both overall and specifically for the TSD Title supported the implementation of the Agreement.

Aimed at contributing to sustainable development in the Parties and attainment of the SDGs, in particular SDGs No. 8 and 13-15,[310] the institutional mechanism under the TSD Title consists of the following components:

- **Contact points** designated by the Parties in their administrations for trade-related aspects of sustainable development and communication on this between the Parties (Article 280).
- **Sub-committee on Trade and Sustainable Development** comprising high level representatives from each Party responsible for labour, environmental and trade matters (Article 280). The Sub-committee shall meet within the first year after the Agreement's start of application and then, as necessary, to oversee implementation of the TSD Title[311].
- **Civil society** advisory groups or **domestic consultative mechanisms** mandated to monitor implementation of the Title and provide recommendations to the Parties (Article 281). Under this Article, the Parties may consult the existing ones or establish new such groups or committees for labour and environment or sustainable development with a balanced composition of representative organisations in the above-mentioned areas.
- **Annual** (unless otherwise agreed by the Parties) **sessions** between the TSD Sub-committee and civil society and the public at large to carry out dialogue about the implementation of the Title (ideally with a balanced representation of stakeholders) (Article 282).

We first analyse the overall institutional mechanism (section 9.1), followed by various aspects related to the Sub-committee on TSD, i.e. the establishment of contact points and the Sub-committee on TSD (section 9.2), the domestic components of the TSD mechanism, as well as their ways of working (section 9.3), and the functioning of the TSD Title's dispute settlement mechanism (section 9.4).

9.1 Trade Committee and Sub-committees (other than the Sub-committee on Trade and Sustainable Development)

The supervision, facilitation of the operation and further development of the Agreement – including the evaluation of results obtained from the application of the Agreement – is under the direct responsibility of the **Trade Committee**, which comprises representatives of the EU and representatives of each signatory Andean Country. The Committee also supervises the work of all specialised bodies (e.g., the eight Sub-committees) established under the Agreement. The decisions adopted by the Committee are binding upon the

[310] **SDG No. 8**: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all, **SDG No. 13**: Take urgent action to combat climate change and its impacts; **SDG No. 14**: Conserve and sustainably use the oceans, seas and marine resources for sustainable development; **SDG No. 15:** Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss.

[311] The Sub-committee may also meet in sessions between the EU and one of the Andean Parties, in cases where the matter for discussion relates to bilateral relations, including matters being addressed as part of the Government Consultations (i.e., dispute settlement mechanism under this Title) as set out in Article 283.

Parties, which are to take all the necessary measures to implement them. The Trade Committee is scheduled to meet at least once a year.[312]

Indeed, meetings were held annually. During the first one, the Committee adopted its Rules of procedure (supposed to be used also by Sub-committees, unless it is justified to adopt for any of them separate set of rules), a list of arbitrators for the general dispute settlement mechanism, their Rules of procedure and the Code of Conduct, and a similar set of documents for the dispute settlement mechanism under the Trade and Sustainable Development Title, thus establishing framework for management of the implementation of the Agreement and ensuring compliance with its provisions. Each meeting also provided an opportunity to review trade relations between the Parties across all areas managed by Sub-committees, and to discuss other topics, such as developments in the WTO, progress in negotiation of trade agreements, ratification of the Agreement and its extension onto Croatia and Ecuador, economic recovery, and ways of promoting trade and investment post-Covid-19, cooperation activities, and financial and technical assistance available. Moreover, when appropriate the Parties used the space provided by the Trade Committee to reiterate concerns expressed at Sub-committee meetings. The Committee also adopted formal decisions, when needed to support implementation of the Agreement, and introduce amendments, e.g., to modify Appendix 1 to Annex XII related to Public Procurement or to amend Appendix 1 to Annex XIII to include new GIs for Colombia. The Committee discussed moreover transparency measures, notably publication of agendas and reports from the Committee and Sub-committee meetings.

Overall, the Trade Committee played its role in providing a forum for an overview of trade relations between the Parties and exercised its formal decision-making power to ensure operation of the Agreement and its institutional structures. However, even though several concerns were raised by the Parties during the meetings and review of work realised by Sub-committees, it seems that the Parties limited themselves to reiterating their positions expressed previously in the Sub-committee meetings, while the Trade Committee did not serve as a proper body for escalation of issues and their resolution or at least agreeing a way forward and mandating the Parties to take certain steps.

The operations of the Sub-committees are described in more detail in Annex F; their contribution to the discussion and solution of substantive issues affecting trade between the Parties has been addressed in the relevant section of chapter 5 above.

9.2 Contact points and Sub-committee on Trade and Sustainable Development

The Parties have established their contact points. For the EU, it is based in the European Commission, DG TRADE, in the unit responsible for bilateral relations on TSD and GSP. In the partner countries, these are in the Ministry of Production, External Trade, Investments and Fisheries in Ecuador, the Ministry of Foreign Trade and Tourism in Peru and the Ministry of Trade, Industry and Tourism in Colombia. In the Commission's view, contact points are an effective element of the institutional structure, facilitating preparation for the TSD Sub-committee meeting, ensuring follow-up, providing a channel for bilateral engagement with other Parties, a forum to discuss cooperation projects and a link for escalation to the higher level of the respective administrations, including to Trade Committee.[313]

The TSD sub-Committee held its first meeting in February 2014 (Lima, Peru), i.e., within the first year after the Agreement's start of application, as set out in Article 280(4) and has met since then every year, i.e., in June 2015 (Bogota, Colombia), December 2016

[312] The following information is based on minutes from Trade Committee and Sub-committee meetings published on DG TRADE website and from 2014-2017 shared by the Commission with the study team, as well as EU trade agreement implementation reports.

[313] To-date, an interview has been conducted with Commission's representatives, while similar interviews with representatives of the Andean partner countries will be held as soon as possible, in early 2021.

(Brussels, Belgium), November 2017 (Lima, Peru), December 2018 (Quito, Ecuador), October 2019 (Bogota, Colombia) and November 2020 (virtually). The EU is represented by the services of the European Commissionand Colombia, Ecuador and Peru by their respective Ministries responsible for trade, labour, environment, and climate change, in line with Article 280(2). Moreover, at each of those occasions, as foreseen in Article 282, par. 1, the Parties (members of the TSD Sub-committee) held an open session with civil society and the public at large.

During the first meeting, the Sub-committee agreed that it would operate under the Rules of Procedure envisaged for the Trade Committee, being co-chaired by the Parties. It also agreed the procedure for open sessions with civil society (as foreseen in Article 282(1)), as well as agreed and submitted for adoption by Trade Committee the list of experts to serve in the Group of Experts, and the rules of procedure for the Group (the arbitration panel in the dispute settlement mechanism under the TSD Title), in line with Article 284(3) and (6), thus complying with the provisions of the Title and enabling operation of the structures envisaged therein. The Parties also discussed their civil society consultative mechanisms envisaged to play the role foreseen in Article 281.[314]

At each meeting, the Parties also exchanged information about steps taken by them to implement provisions of the TSD Title (see section 6.7 for more detail), such as the adoption of strategic documents, development and implementation of relevant policies and legislation, and actions related to ratification and implementation of international conventions and agremeents. The Parties discussed moreover changes in the administrative capacity and operation of labour inspection services to ensure effective enforcement of policies and legislation in areas covered by the TSD Title. The Sub-committee meetings provided also an opportunity to exchange information about good practices e.g., related to CSR/RBC or impact assessment and ex-post evaluation.

The Parties discussed furthermore cooperation activities and assistance projects related to TSD implementation like for example the EU project to promote CSR/RBC activities in Latin America, the project to promote sustainable mining (notably free from mercury) implemented by UNIDO in Colombia, the project to strengthen labour inspection in rural areas of Colombia implemented by ILO, the development of a manual for the implementation of the TSD Title for Ecuador, and the EU project to support the role of civil society in monitoring the implementation of the TSD Title. Other examples are the workshops on circular economy (Peru), and on labour conflict management and strengthening labour inspection capacity (all with Peru) as set out in Article 280(6)c.

When necessary, the TSD Sub-committee meetings provided a framework to discuss compliance with provisions of the Title, including establishment and operation of the civil society consultative mechanisms. For example, in 2015, the EU requested information from Colombia and Peru about the structures they used, as such information had not been shared before in a way which would have enabled the civil society from all Parties to get in touch and start cooperating.[315] The EU raised the issue again in 2016, given that the EU DAG did not have clearly defined counterparts for dialogue. Along the same line, the EU raised in 2017 and 2018 with Peru issues highlighted in the civil society complaint from October 2017 and in 2019, the situation in the banana sector, with Ecuador. Recurrently, the EU expressed concern to Colombia regarding acts of violence against trade union and social activists. Ecuador raised in 2018 with the EU a concern regarding practices applied by European supermarkets in setting very low prices for bananas which do not allow for

[314] Information related to meetings of the TSD Sub-committee is based on minutes from the meetings, as well as the representatives of the Parties participating in meetings, including persons nominated as contact points.

[315] Against the lack of information about the Colombian and Peruvian civil society structures having mandate under the TSD Title, in May 2015, the Chair of the EU DAG sent letters to both Governments requesting such information. They remained without a response. Only after the joint meeting in Bogota, Colombia shared information about its domestic consultative mechanisms, while there was no follow-up from the Peruvian side.

covering costs and do not recognise efforts taken to ensure sustainability standards in the sector. The Parties also used the opportunity of bilateral dialogue provided for by Article 280(3), e.g., the EU and Peru to discuss matters raised by civil society.

In the Commission's view, meetings of the TSD Sub-committee provided a forum for stock-taking, acknowledging progress achieved, identification and discussion of challenges as well as policies to address them, and developing next steps in implementation, based on gradually developed trust and openness among the Parties, as well as increased transparency. The latter meant that most issues were discussed among all Parties (with an infrequent use of bilateral meetings) and reports from meetings started being published on DG TRADE's website (currently, reports from 2018 onwards are available). They provided occasion to discuss operation of civil society mechanism under the Title, as well as matters of concern requiring actions from other Parties (e.g., Peru or Ecuador) and engagement over a longer term for their resolution.

9.3 Domestic civil society mechanisms

This section discusses the process of establishment, composition, and operation of the domestic civil society mechanisms in each Party to the Agreement, as well as joint civil society meetings. In this context, it is worth to mention that the Agreement with Colombia, Peru and Ecuador was the second one after the EU-Korea FTA of the EU "new generation trade agreements" with a TSD chapter and civil society participation in the monitoring and advisory capacity, which emphasise civil society's importance in trade policy delivery.[316]

9.3.1 EU Domestic Advisory Group (EU DAG)

Representatives of the EU civil society participated in the first joint meeting (open session with Government representatives) in Lima, while the DAG was formally established in early 2015, further to a call for interest launched by DG TRADE. The European Economic and Social Committee (EESC) assumed the role of the EU DAG secretariat, providing also three members of the group (out of twelve). Since then, the EU DAG has been renewed approximately every two and a half years, to align the term with the EESC mandate. It has a balanced composition of business associations, trade unions and NGOs. It is managed by the Chair, elected by all members for the whole term on a rotating basis, and two Vice-Chairs representing the remaining two sub-groups, to ensure that all interests are represented in work of the group. The EU DAG has also adopted its rules of procedure.[317] It meets twice a year to discuss implementation of the TSD Title internally and with the Commission and to prepare annual joint meetings with civil society from the Andean partner countries and the TSD Sub-committee. Since the group's establishment, the Commission and the EESC have been supporting its operation providing secretariat, funds for travel, venue for meetings and other elements of logistics. Thanks to this and to its early establishment, the EU DAG has been able to monitor implementation of the TSD Title, convey concerns of the partner countries' civil society to the Commission, participate in all open sessions, and lead and coordinate work on annual civil society reports and recommendations to the Parties. Its members also played a supporting role in setting up the independent Colombian DAG in 2016.

[316] Chapters on trade and labour and trade and environment are also included in the Economic Partnership Agreement between the EU and CARIFORUM, with the Civil Society Consultative Committee playing a role similar to DAGs, but having a mandate to monitor and advise on the implementation of the whole Agreement.

[317] EU Domestic Advisory Group: https://www.eesc.europa.eu/en/sections-other-bodies/other/eu-colombiaperuecuador-domestic-advisory-group

The interviewed EU DAG members[318] offered several valuable reflections regarding the work of the group, as well as recommendations for changes and improvement in the future. They can be summarised as follows:

- The most frequent feedback related to the lack of a tangible follow-up to civil society concerns and recommendations by the Commission and the Governments of the partner countries, notably in cases raised in complaints. DAG members felt they had very limited influence and expressed frustration about what they see as insufficient pressure by the Commission on the partner countries' Governments. Given the lack of sanctions in the dispute settlement mechanism, they would expect a stronger Commission position and concrete actions or requests to compensate it. EU DAG members feel that they are not being taken seriously and described this situation as quite demotivating for the civil society.
- On the other hand, they appreciated the opportunity of dialogue with the Commission about the TSD Title and expressed their wish to have also a more frequent engagement with the European Parliament.[319] Advice from the EU Delegations in the partner countries, e.g., on labour-related aspects, would also be very much appreciated.
- Several members also highlighted that the work of the EU DAG is too much focused on the partner countries and their challenges (even though they admitted unanimously that those challenges are serious), while relatively too little attention is paid to impacts of the Agreement on the EU, the EU's compliance with the TSD provisions and positive agenda, i.e., cooperation activities, exchange of best practice, or themes of common interest, e.g., CSR/RBC practices, trade in green goods, etc.
- Some members observed that meetings and discussions of the EU DAG would benefit from technical support, i.e., receiving as a starting point for discussion a research paper, a report, a short note, etc., either already existing or prepared for the meeting (e.g., commissioned from an external expert through the EU DAG secretariat or the supporting project) providing data and other evidence on the subject matter.
- Based on this, as well as on engagement with civil society from partner countries, other sources and own expertise, the EU DAG should be able and encouraged to elaborate and submit to the Commission written reports and recommendations on the implementation of the TSD Title. Overall, the DAG should focus more on content than process (much attention has been paid to the latter due to problems with the establishment of partner country DAGs and ways of working with them). It should also cover the whole scope of the TSD Title (some parts of the content are rarely or not at all touched upon during discussions) and remember that TSD Title is embedded in trade relations between the Parties, and that therefore, economic considerations should also be kept in mind.[320]
- Others added that DAGs should have more influence on setting cooperation programmes for the TSD Title and priorities. Moreover, more local organisations should be given an opportunity to deliver projects, as there was a feeling of a too frequent recourse to international organisations (while in some cases, this was justified).
- While the DAG's work is generally well-organised and the secretariat consults with the Chair and Vice-Chairs plans for the meetings, more time should be allowed for the members to prepare, e.g., to consult within sub-groups and elaborate joint positions

[318] To-date, eight representatives of the EU DAG have been interviewed (serving under the term ending in 2020), with a few more interviews likely to happen in early 2021.

[319] An enhanced engagement and dialogue with the European Parliament has also been recommended in the EESC Opinion: Alberto Mazzola (January 2019), REX 510, The role of Domestic Advisory Groups in monitoring the implementation of Free Trade Agreements: https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/role-domestic-advisory-groups-monitoring-implementation-free-trade-agreements

[320] The EESC Opinion REX 510 (see above) recommends that the DAG's mandate is extended to the whole Agreement and all its aspects incl. economic ones. Thanks to this, economic operators could have an additional channel to raise interests and concerns vital e.g., for SMEs, such as market access barriers and other factors which influence utilisation of tariff preferences under EU trade agreements, and then in turn e.g., job creation.

rather than follow topics suggested by individual members and expecting them do the whole work.
- Some members also stressed that given differences in opinions which happen between the sub-groups, it is of utmost importance to ensure that all members of the Presidency, all DAG members and interests are treated equally, in a balanced way. Some referred in this context to the need to be constructive and flexible to attain common objectives, rather than seeing a DAG as a space of confrontation (trade unions against business).
- There was a feeling that the current two meetings a year do not provide enough time for a proper monitoring of the implementation of the Title, thorough follow-up after the joint meeting and preparation for the next one. Additional meetings or workshops could be organised to provide space for a more in-depth discussion of selected topics.
- While there was a general appreciation of funding and support in logistics provided in relation to joint meetings, some felt that there was yet some room for improvement, e.g. the EESC Information Report asked for the whole EU DAG to receive support to be able to attend annual meetings (EESC REX 530, Iuliano, 2020).
- In the Commission's view, meetings with the EU DAG and the exchange of views therein are important, and the Commission raises later on with the Andean partner countries the concerns discussed with civil society. However, there is room for improvement and the Commission would welcome more in-depth discussions with the EU DAG, more focused on how to address specific substantive issues rather than on reiteration of positions. Moreover, regarding civil society conclusions presented at open sessions, while the Commission takes them seriously, it also considers that they could be more operational, i.e., focused on selected aspects and providing ideas for possible intiatives to be taken by the Parties.

9.3.2 Colombian Domestic Advisory Group

Colombia, similarly to Peru, originally chose existing domestic mechanisms to perform the role of a DAG. For labour, it was the Permanent Commission on Salaries and Labour having representatives from the government, trade unions, a pensioner organisation, and employer federations. Specific matters related to the Agreement were supposed to be dealt with by the Permanent Commission's Sub-Committee on International Affairs. For environment, the National Council on Environment was selected, having representatives from national and sub-national governments, scientific institutions, universities, NGOs, indigenous and afro-Colombian peoples' organisations, and sectoral bodies representing the agricultural, industrial, forest, mining, and export sectors.[321]

However, as raised by civil society representatives from Colombia and the EU (EESC REX 530, Iuliano, 2020), these bodies did not comply with provisions of the TSD Title, because they included Government representatives, therefore not guaranteeing independence as civil society consultative mechanisms. Moreover, as highlighted by the Colombian civil society, the mechanisms did not provide space for a genuine dialogue, but rather an opportunity for the Government for one-way information sharing about negotiated and implemented trade agreements. Against this background, in 2016, the Colombian civil society established an independent DAG with a diverse, balanced composition, which was then recognised by the Colombian Government at the joint annual meeting in December 2016 in Brussels. The DAG has three sub-groups, each taking for one year the rotating Presidency. In this context, interviewed members of the Colombian DAG[322] shared the following observations:

[321] Based on information provided by the Government of Colombia.
[322] In 2020, interviews with two members of the Colombian DAG were held. Further are planned for early 2021.

- The work of the Colombian DAG and its execution of the mandate envisaged by the TSD Title would benefit from holding more than one meeting a year as this would allow for a more in-depth monitoring and discussion and preparation for annual meetings.
- DAG members have high-level jobs and are not able to dedicate much time to work of the DAG. Therefore, it would be very useful if the DAG could have a technical secretariat that would prepare agendas for meetings, take care of their overall organisation, carry out research to support discussions, etc.[323]
- Equally, additional funding may be needed to support operation of the secretariat and its research function. Research reports could also be prepared by some DAG members or independent experts and provide basis for a discussion with the Government about the implementation of the TSD Title.
- Frustration was expressed regarding the lack of political will of the Government to address issues raised by civil society under the TSD Title, e.g., violations of trade unions rights and acts of violence against trade union activists in Colombia, with an insufficient pressure from the European Commission to bring about changes.
- There was also a feeling that the Colombian DAG does not have many opportunities to play its role as envisaged by the TSD Title, given that the Government does not consult it either before or after joint annual meetings, does not share information presented to the Parties in the TSD Sub-committee and does not offer space for a dialogue either at the annual meetings or meetings within national consultative mechanisms.[324]

9.3.3 Ecuadorian Domestic Consultative Council (DCC)

According to information provided by members of the Ecuadorian DCC,[325] the Ministry of External Trade launched a consultation process with civil society in 2018,[326] incl. through several workshops, to establish the DCC as envisaged by the TSD Title. The group was set up in December 2018 and a dedicated commission prepared its rules of procedure. The DCC has 12 members (four in each of the three sub-groups) designated for two years, and each sub-group has a right to invite up to five organisations as observers (who may participate in meetings and work of the DCC but cannot vote). Each sub-group elects its coordinator and then the President of the DCC out of the three, to chair the DCC on a rotation basis (the President is elected for the term of two years, except for the first one, which is of two years and a half, and manages meetings of the DCC cooperating with the two remaining coordinators). The DCC holds its meetings quarterly.[327] Before the Covid-19 pandemic, regular meetings with the Government were held, as well as contacts with

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[323] The interviewed EU DAG Secretariat has also expressed the view that it would be beneficial for work under the TSD Title if the partner countries' DAGs/DCC/consultative mechanisms had technical secretariats supporting them.

[324] According to information provided by the Colombian Government at the TSD Sub-committee meeting in 2018, there had been two meetings between the Government and the Colombian DAG that year, and the Government had shared with the DAG a report about implementation of Colombian trade agreements envisaged for presentation in the Congress, as well as a report on labour-related aspects. See: https://trade.ec.europa.eu/doclib/docs/2019/february/tradoc_157701.pdf. In 2019, at the TSD Sub-committee meeting, the Colombian Government informed about one meeting held with the DAG, and the agreement that the DAG would provide proposals for cooperation activities under the TSD Title which could then be presented to the European Commission for consideration. See: https://trade.ec.europa.eu/doclib/docs/2019/november/tradoc_158481.pdf

[325] In 2020, interviews with four members and one observer of the Ecuadorian DAG were held, further are planned in 2021.

[326] According to information provided by the Ecuadorian Government at the TSD Sub-committee meeting in 2018, the consultation process started already in 2017, was led by several ministries (Ministry of External Trade, Ministry of Environment, Ministry of Labour and Ministry of External Relations and Human Mobility) and included engagement with their sectorial councils. However, as civil society representatives expressed a wish to establish a DCC, as a preparation for this, four regional workshops were held in Ecuador with 155 participants, and one workshop at the national level, further to which a commission was designated to prepare the Rules of procedure for a DCC. In December 2018, the Rules of procedure were ready and DCC was established. Its Presidency is held on a rotation basis, by each sub-group for eight months. See: https://trade.ec.europa.eu/doclib/docs/2019/february/tradoc_157701.pdf

[327] Information based on interviews and text of the Rules of procedure shared with the evaluation team.

the Colombian and Peruvian civil society. The interviewed members of the DCC shared also the following observations:

- The DCC does not receive any financial or technical support from the Government. Having such a support would enable it to have e.g., a secretariat which – according to the rules of procedure – would support the DCC President, promote the work of the DCC in relations with partners, e.g., relevant Ecuadorian institutions, the EU Delegation, civil society from other Parties to the Agreement and the Group of Experts, prepare minutes of the DCC meetings, and contribute to the preparation of joint meetings with civil society representatives (DAGs) of the other Parties.
- While financial support provided by the Commission is appreciated, DCC members feel its limits given that it only facilitates participation in annual meetings, but not further elements of civil society's work on monitoring the implementation of the TSD Title.
- The DCC faces challenges in access to information and statistics regarding trade with the EU. This could also be facilitated. Moreover, regarding topics relevant for trade with the EU and TSD Title, experts from agricultural sector, incl. Ministry of Agriculture should be invited for TSD meetings.

We also note that trade union members of the Ecuadorian DAG/DCC consider actions taken by the Commission in the follow-up to the complaint filed with the Ecuadorian authorities as insufficient, given the lack of Ecuadorian Government's reaction to the ILO recommendation regarding ASTAC's registration, as well as measures adopted by the Government lowering levels of working conditions in the banana sector, which were then extended on other sectors. Expressing protest against the lack of action from the Commission and the Government of Ecuador and the perceived ineffectiveness of TSD structures, the trade union sub-group (having Presidency in the Ecuadorian DAG/DCC) withdrew from DCC activities in November 2020, explaining its position in a letter sent to the Ecuadorian authorities and the Commission.[328] The letter was followed by an exchange between Ecuador and the EU at the TSD Sub-committee meeting in 2020. More details regarding the complaint are provided in sections 6.4 and 6.7, as well as Annex C-1.

9.3.4 Peruvian domestic mechanisms

The Peruvian Government decided to use the existing domestic consultative mechanisms led by the Ministry of Labour and the Ministry of Environment, respectively. In the area of labour, they include the National Council for Labour and Promotion of Employment, the National Council on Health and Safety at Work, the National Council for combatting forced labour and the National Committee for Prevention and Eradication of Child Labour.[329] These are all tripartite bodies comprising Government representatives, employers' associations, and trade unions.

The provisions of Article 281 are quite limited (compared to other agreements) with respect to the requirements that the domestic consultative mechanisms have to fulfil. For example, they do not require independence of the advisory groups or committees, only their balanced composition. However, the evaluation team considers that the existing bodies in Peru are not in line with the spirit of the TSD Title, as they are managed by the Government which also set their agenda. They can thus not be considered as independent advisory groups or committees providing recommendations to the Peruvian Party (or Parties to the Agreement) on the implementation of the TSD Title. Moreover, as the bodies are many and never meet jointly, they do not provide the space to discuss labour-related provisions of the TSD Title in their entirety. In fact, according to the interviewed members of the Peruvian civil society, while these bodies have in their remit labour-related aspects which

[328] A copy of the letter was shared with civil society organisations and the evaluation team.
[329] The list of the bodies has been provided in the complaint of the EU and the Peruvian civil society, as well as in the minutes from the TSD Sub-committee meeting of 2018.

are covered by the TSD Title, they do not discuss the implementation of the Title as such, do not always have quorum and, in addition, trade unions decided in 2017 or 2018 to suspend participation in work of the National Council for Labour and Promotion of Employment (Martens, Potjomkina, Orbie, 2020).[330]

In the area of environment and climate change, there are numerous bodies and technical groups, incl. the Climate Change Commission, the National Commission for Biological Diversity, the National Commission for Wetlands, the National Commission for Desertification and Droughts, and the National Environmental Commission. These also comprise Government, academia and civil society representatives, and reflect similar challenges as mentioned above regarding their role under Article 281 of the TSD Title. In response to the complaint of the Peruvian and the EU civil society, it was agreed that two bodies, i.e., the National Council for Labour and Promotion of Employment and the Climate Change Commission would play the role foreseen by Article 281. However, this has not solved the original problem as, first, those bodies do not have the mandates covering the whole scope of the TSD Title, second, Government representatives are, as mentioned above, among their members (hence, the bodies cannot clam being independent to provide advice to the same Government) and, third, their agendas focus mainly on domestic issues – while the TSD Title and its implementation are not discussed as such. What improved after the Commission's engagement with the Peruvian Government is an interaction between the latter and civil society. Since the joint meeting in Quito in 2018, there has been at least one meeting a year between the civil society and the Peruvian Government to discuss trade agreements and implementation of the TSD Title. However, according to civil society representatives, these meetings require further improvement to become an opportunity for genuine dialogue i.e., they should go beyond information sharing by the Government and envisage time and opportunity for civil society to provide advice in matters related to the TSD Title, which would then be considered by the Government in its actions. The Government has also responded to civil society letters sent in previous years (and then remaining without an answer) regarding concerns related to implementation of the TSD Title.

Against this background and inspired by the Colombian civil society example of setting up an independent DAG in 2016, the Peruvian civil society made an attempt to set up a DAG in 2017. However, this has not been recognised by the Government and has not managed yet to convince business representatives to join (it was formed by trade unions and NGOs, while the invitation extended to business to join remains open). The group has been active in monitoring the TSD Title, holding 2-3 meetings a year, maintaining contacts with Colombian, Ecuadorian, and EU civil society, and participating (to the extent possible) in annual meetings, e.g., in 2020 (in 2019, only those from its members were invited for the meeting who are at the same time members of the formal domestic consultative mechanisms). As regards recommendations for further steps and improvements, the following was shared:[331]

- The Agreement with the EU is the only one out of those signed by Peru which provides space for dialogue between Government and civil society. This mechanism should be strengthened and supported by all Parties to the Agreement including dedicated funding for participation in meetings and fulfilling the mandate.
- Commitments regarding engagement with civil society should be binding for the Parties, including the need to react to civil society's positions and recommendations.

[330] In 2020, one interview was held with a representative of the Peruvian civil society. Interviews with other organisations were requested, but with no response from the addresses. For a list of Peruvian civil society organisations participating in monitoring of the TSD Title, see Maldonado Mujica (2020, Annex I).

[331] Based on the interview with representative of Peruvian civil society.

9.3.5 Joint meetings of civil society representatives

Similar to other EU trade agreements with TSD chapters, the EU and partner countries' DAGs/DCC/members of consultative mechanisms have pursued a practice of DAG-to-DAG meetings. These are additional meetings not envisaged by the text of the Agreement, where members of the DAGs have an opportunity of a structured and in-depth discussion about TSD Title implementation and preparation of a joint text which is meant to be presented to the Parties to the Agreement at the open session. The first such informal meeting took place in Bogota in 2015, followed by a video conference with the civil society representatives from Colombia and Peru who could not travel to Brussels for the annual meeting in 2016. Since then, DAG-to-DAG meetings have been held annually with a broader participation, thanks to support provided by the EU. Based on interviews held, we summarise the following views on the joint meetings:

- The interviewed DAG/DCC members and the EESC EU DAG Secretariat acknowledged that DAG-to-DAG meetings are informal as they are not envisaged in the text of the Agreement. However, they should be recognised by the Parties, similar as requested DAG meetings with members of the TSD Sub-committee (see below), given the DAGs' role in the institutional mechanism and the mandate to monitor the implementation of the TSD Title and to provide advice to the Parties.[332]
- However, many of them expressed dissatisfaction about the conduct and outcome of the meetings, notably the inability of the sub-groups (business representatives on one hand and trade unions and NGOs on the other) to find a compromise in referring to challenges in the Andean countries, which would enable all participants to accept the text and present it as a joint position to the Parties of the Agreement at the open session (e.g., in 2018, the employer representatives from Colombia and Ecuador did not endorse the Joint Declaration, and the document of 2019 also simply summarises the debate). Some also indicated that it would be helpful if the meetings and proposals for joint texts were prepared more in advance, so that there is enough time to express views and seek an agreement. A compromise (although not an ideal solution) was applied in 2020, when the text of the joint conclusions was adopted by as many members of the DAGs/DCC/domestic mechanisms as possible, with a list of those supporting them being attached, and the text being presented on behalf of its signatories.

There are also workshops accompanying annual meetings which support capability building of the civil society and discussion about matters related to the TSD Title's implementation. Funding has been provided by the European Commission, as part of the overall support for civil society participation in the implementation of the TSD Title.

9.3.6 Annual sessions of the TSD Sub-committee with civil society and the public at large

According to Article 282(1) of the Agreement, the TSD Sub-committee shall convene once a year, unless otherwise agreed by the Parties, a session with civil society and the public at large to carry out a dialogue about implementation of the Title. In practice, such sessions have been organised annually, at the occasion of the TSD Sub-committee meetings, usually on the day after the Sub-committee meeting. They start with a statement delivered by the Parties outlining outcomes of their discussions at the TSD Sub-committee meeting, followed by civil society interventions, including a statement delivered jointly by all DAG/ DCC/consultative mechanisms' members, if they have a joint document. Questions and answers follow later, as well as positions expressed by individual participants. In the first

[332] The same request has been included into the EESC Information Report (REX 530) and have been present in joint documents adopted by DAG members at the occasion of annual joint meetings since the meeting in Bogota in 2015 (repeated in 2016, 2017, 2018 and 2020), see e.g. summary outcome of discussion of 2015: https://www.eesc.europa.eu/sites/default/files/resources/docs/en_joint-dags-document_17-june-2015.pdf

few years, the lack of financial support from own governments made it impossible for civil society representatives from Colombia and Peru to participate in the annual meeting if it was held by another Party to the Agreement (e.g., in 2014 in Lima, there was one person from Colombia representing trade unions, in 2015 in Bogota, there were no Peruvian civil society representatives and in 2016, in Brussels, there was one representative from Peru; however, on that occasion, the open session was web-streamed to facilitate participation). In 2018, the Commission launched a support project with a budget of €3 million for three years to facilitate civil society participation in the implementation of TSD Title, including annual joint meetings.[333] Since then, the situation has changed and e.g., in the meeting in Bogota in 2019, civil society representatives from all Parties were present.[334] Civil society representatives shared the following views about the open sessions:

- While there was an appreciation that the quality of dialogue at the open sessions has improved, there was a view that its format did not allow for a more in-depth discussion, notably between DAG/DCC/consultative mechanism members and representatives of the Parties to the Agreement. Moreover, given that the session is open to diverse civil society representatives and the public at large (upon registration), it provides the same footing to all participants and does not offer any particular role or recognition to DAG members that would be related to the mandate they have under the TSD Title.
- Therefore, several DAG members stressed that at the occasion of annual meetings they should have an opportunity of a joint meeting with the TSD Sub-committee members, separate from the open session, to discuss in an in-depth way the implementation of the Title, raise concerns and submit proposals for cooperation. Such a structured discussion should ideally happen before the TSD Sub-committee meeting and provide inputs for it. Such a meeting was organised once in Quito, in 2018; however, as it is not provided for in the Agreement, its organisation depends on willingness of all Parties to take part.
- As an alternative, the EESC Opinion (REX 510, Mazzola, 2019) suggests a solution adopted under the EU-Korea FTA in 2014, i.e., that Chairs of all DAGs/DCC participate in the beginning of the TSD Sub-committee meeting and present to the Parties interests and concerns of the civil society, as an input for a discussion of the Parties.
- Moreover, interviewed DAG members expressed frustration about the lack of follow-up by the Parties of concerns raised by the civil society at the annual meetings and their recommendations to the Parties. In their view, there should be a mechanism by which the Parties would be committed to discuss follow-up to civil society concerns at the TSD Sub-committee meeting, and report at the annual open sessions actions taken in that context. (However, a Party may also give effect to a follow-up by meeting with its own DAG and undertaking actions which are in its remit.) In this context, we note that while the Agreement does not include such a provision, a commitment of follow-up of civil society views by the Parties was agreed e.g., in the TSD chapter with Canada, where Article 22.4, par. 4 b) states that "The Committee on Trade and Sustainable Development shall report annually on the follow-up to those (Civil Society Forum's) communications."[335] Moreover, even though there is no such a provision in the agreement with Central America, the EU and Central American countries have been

[333] See information provided by the European Commission at the TSD Sub-committee meeting in 2018: https://trade.ec.europa.eu/doclib/docs/2019/february/tradoc_157701.pdf

[334] The request to the Parties to support operation of civil society mechanisms under the TSD Title, including participation in joint meetings, has been included into civil society's joint recommendations since the meeting in Bogota in 2015 (repeated in 2016, 2017, 2018, 2019 and 2020). Most recently, the EESC Information Report (REX 530) called on the European Commission to maintain the support for DAG/DCC/consultative mechanism/members from all Parties to the Agreement until the governments of the Andean countries take over the responsibility for providing it to their civil society representatives.

[335] See text of CETA: https://ec.europa.eu/trade/policy/in-focus/ceta/ceta-chapter-by-chapter/

following a practice of discussing follow-up to the civil society recommendations at the meetings of the TSD Board.[336]

9.4 TSD dispute settlement mechanism

Articles 283 to 285 of the Agreement provide for a dedicated dispute resolution mechanism for issues arising in relation to the TSD Title. While formally the dispute settlement mechanism has not been triggered in the analysed period, the Commission has engaged in a dialogue with Peru and Ecuador further to civil society's complaints about situation in both countries. This was also in line with the 15-point Action Plan on implementation and enforcement of TSD chapters published by the Commission in 2018 (European Commission, 2018).

Regarding Peru, in July 2018, Trade Commissioner Malmström sent a letter to the Peruvian Minister for Trade expressing concerns over TSD implementation. These concerns also included issues signalled in the civil society complaint, notably the respect for freedom of association and the right to collective bargaining in sectors involved in trade with the EU, including textiles and agriculture, of the need to eliminate child labour and informality, weak enforcement and capacity of labour inspection, the need to preserve levels of environmental protection and to engage with civil society into a dialogue about the TSD Title. This was followed by an EU mission to Peru in October 2018 and a bilateral discussion at the occasion of the annual meeting of the TSD Subcommittee in Quito in December 2018. Based on the discussions between the parties, Peru presented the policies in place (and in the planning) to address the existing challenges and committed to engage actively in a dialogue with civil society on TSD implementation as per article 281 (European Commission, 2018b). This is included in the public minutes of the TSD Sub-committee of 2018.

Regarding Ecuador, at the Sub-Committee meetings in 2019 and 2020, the Commission referred to the need to address restrictions in setting up and operation of trade unions, including in the banana sector (such restrictions has been highlighted as a concern by the ILO and by the Trade Union Association of Banana Plantation, Agricultural and Rural Workers, ASTAC, and the Institute of Ecuadorian Studies in a complaint submitted to the Commission in 2019 (European Commission, 2020).

In this context, the interviewed DAG members made the following observations:

- There was an overall dissatisfaction with the lack of follow-up by the Parties to civil society's concerns expressed in joint outcomes of discussions and recommendations presented at the annual meetings. According to civil society representatives, these recommendations should be treated as an early warning of incompliance with provisions of the TSD Title by the respective Party or information about a worrisome situation brought to the attention of all Parties by the civil society, with a request to act before the situation aggravates or to address a serious problem. Action taken by the Parties early enough in the follow-up to civil society concerns should help to remedy situation before it worsens to the extent that the dispute settlement mechanisms may be needed.[337]

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[336] See agenda of the TSD Board meeting in 2019: https://trade.ec.europa.eu/doclib/docs/2019/july/tradoc_158097.%20201906%20Agenda%20TSD.pdf and in 2020: https://trade.ec.europa.eu/doclib/docs/2020/december/tradoc_159215.pdf

[337] Dissatisfaction with the lack of follow-up to civil society recommendations was also expressed in the joint document from civil society (DAG members) to the Parties presented at the joint meeting in 2017 in Lima, see: Resumen de la discusión y los mensajes clave de los representantes y participantes de la sociedad civil de la UE, de Colombia, Perú y de Ecuador (Título IX de Comercio y Desarrollo Sostenible del Acuerdo Comercial UE-Colombia, Perú y Ecuador), Lima, Perú – 22 de noviembre de 2017: https://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupMeetingDoc&docid=8784. Moreover, a request for a

- There was an acknowledgment of an improvement of the situation in Peru given that further to the meeting in Quito and engagement with the EU, the Government of Peru started meetings and dialogue with civil society about trade agreements and the TSD Title. However, there was also a clear statement from civil society representatives that the Government of Peru had not recognised the independent DAG, thus prolonging the conflict between the Government and civil society actors about the appropriate mechanism for civil society representation in the country. (In this context it is to note that the Agreement leaves it up to discretion of the Parties if they will use existing mechanisms of domestic consultation with civil society or establish new ones.) Moreover, there was no change in laws related to freedom of association and working conditions in sectors highlighted in the complaint.
- Along the same line, the approach used by the European Parliament (a request in the 2012 resolution for Peru and Colombia to adopt a road map on improving respect for human rights and labour and environmental standards), the US and Canada (a practice of adopting Action Plans with partner countries to address shortcomings in respect for labour standards) was provided as an example for the Commission to follow and to ask partner countries to take actions and to deliver concrete results within a given timeline. Such an approach, according to civil society representatives, would help to hold the Parties to account and would be more likely to bring about tangible results than the approach chosen by the Commission. Trade union members of the Ecuadorian DAG/DCC have been upset by the perceived lack of progress and reaction of the Ecuadorian Government to the ILO recommendation regarding the registration of ASTAC, as well as by measures adopted by the Government lowering levels of working conditions in the banana sector, which were then extended to other sectors. Expressing protest against this and the alleged lack of more decisive action by the Commission, and the ineffectiveness of TSD structures, as noted above the trade union sub-group withdrew from TSD activities in November 2020.
- Some DAG members emphasised that the Commission should use more pro-actively the existing dispute settlement mechanism, building on the lessons learned from the case of Korea, pursuing dialogue and cooperation with the country in question, offering assistance (if needed), helping to strengthen inspection services and engaging with all relevant actors to help achieve compliance with TSD provisions, which is the objective. Sanctions which are often requested in a discussion on a dispute settlement mechanism should be considered as a last resort, given that partner countries may not agree for having them in a TSD chapter or may request in exchange concessions in another part of the agreement or watering down TSD provisions and limiting the scope of the chapter to a detriment of good practices encouraged currently, e.g., on CSR.

follow-up has been included in joint conclusions of DAG / DCC / consultative mechanisms' members adopted at the joint meeting in 2020: https://cdes.org.ec/web/?p=6231

PART C: UPDATE ON THE EVALUATION PROGRESS

10 UPDATE ON CONSULTATIONS

Whereas some parts of the consultations took place as planned (notably electronic communication and consultation activities), physical interviews and meetings could not take place due to the Covid-19 pandemic; these have been replaced with virtual interviews. Also, the start of the online public consultation was delayed; this is currently open with a closing date of 08 April 2021, and accordingly its results will be incorporated into the (draft) final report.

National stakeholder workshops in the three Andean partner countries are planned for the first three weeks of March 2021, with additional interviews also planned to be held to enrich the preliminary analysis presented in this interim report.

11 PLANNING FOR THE REMAINDER OF THE EVALUATION

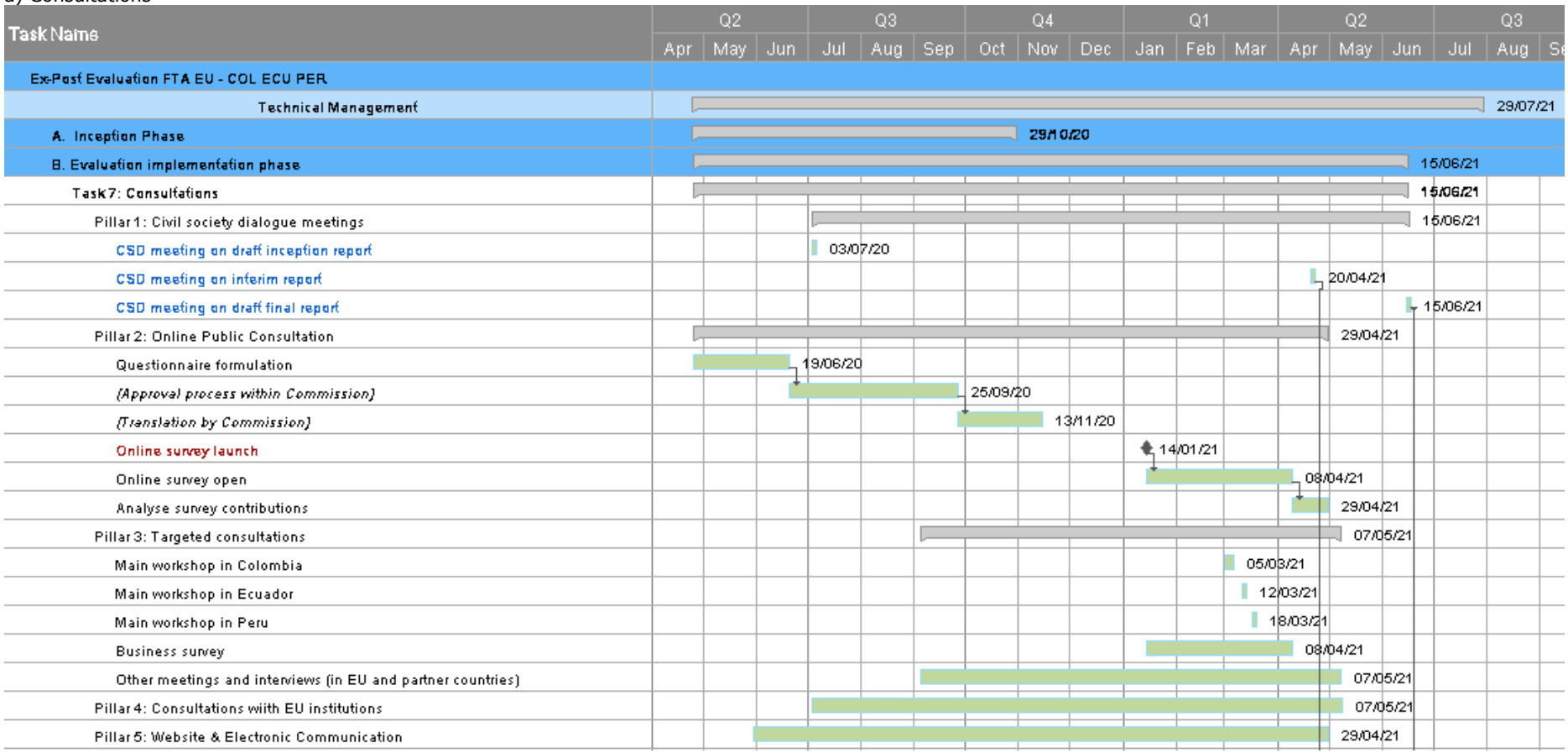
The main upcoming milestones are as follows:

- Stakeholder workshops in Andean countries (Colombia: first week of March 2021; Ecuador: 2nd week of March 2021; Peru: 3rd week of March 2021)
- Closure of online public consultation/survey (08 April 2021);
- CSD Meeting to discuss the interim report (20 April 2021).

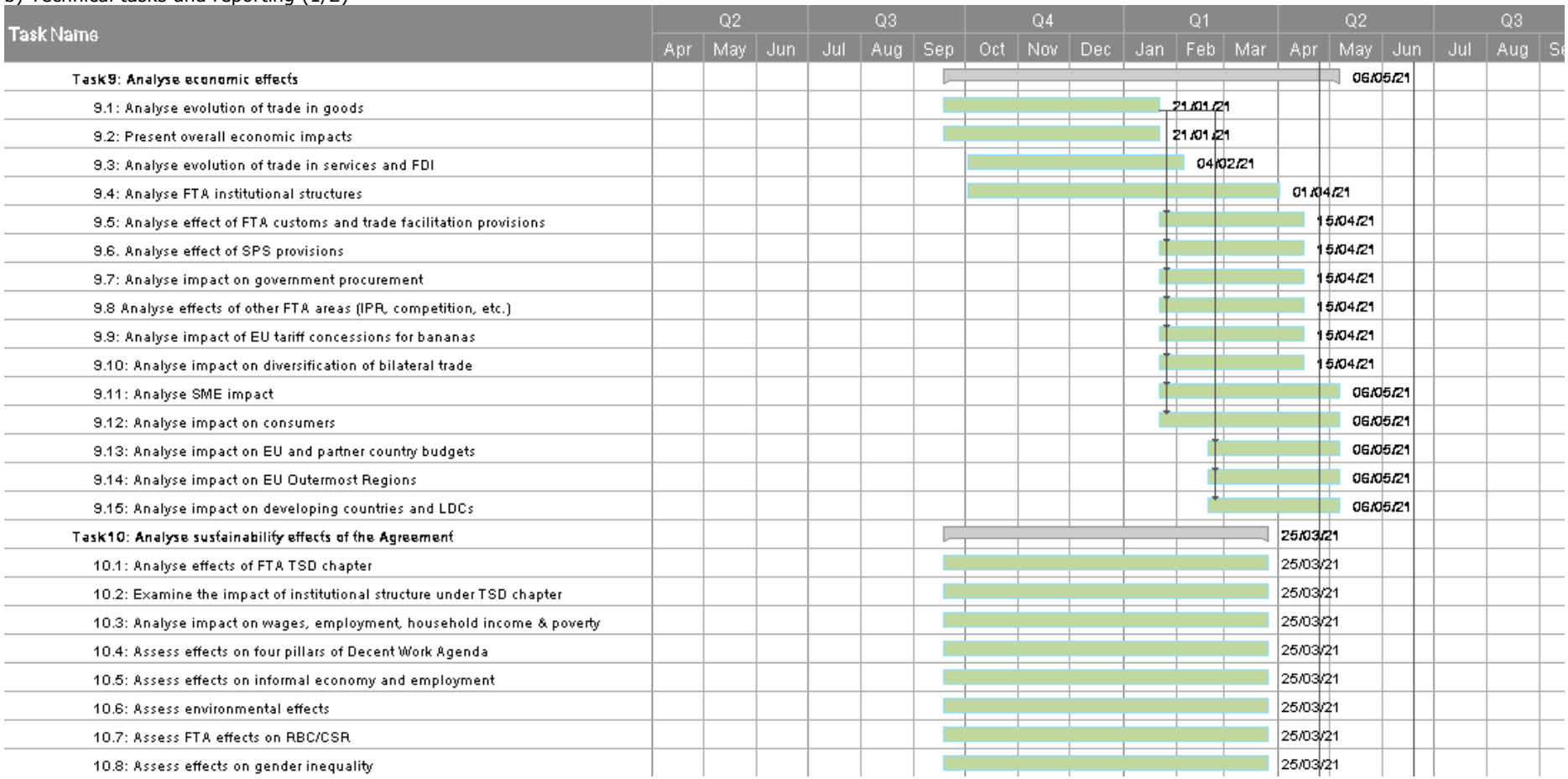
The updated study schedule is presented in Figure 11-1.

Figure 11-1: Evaluation schedule

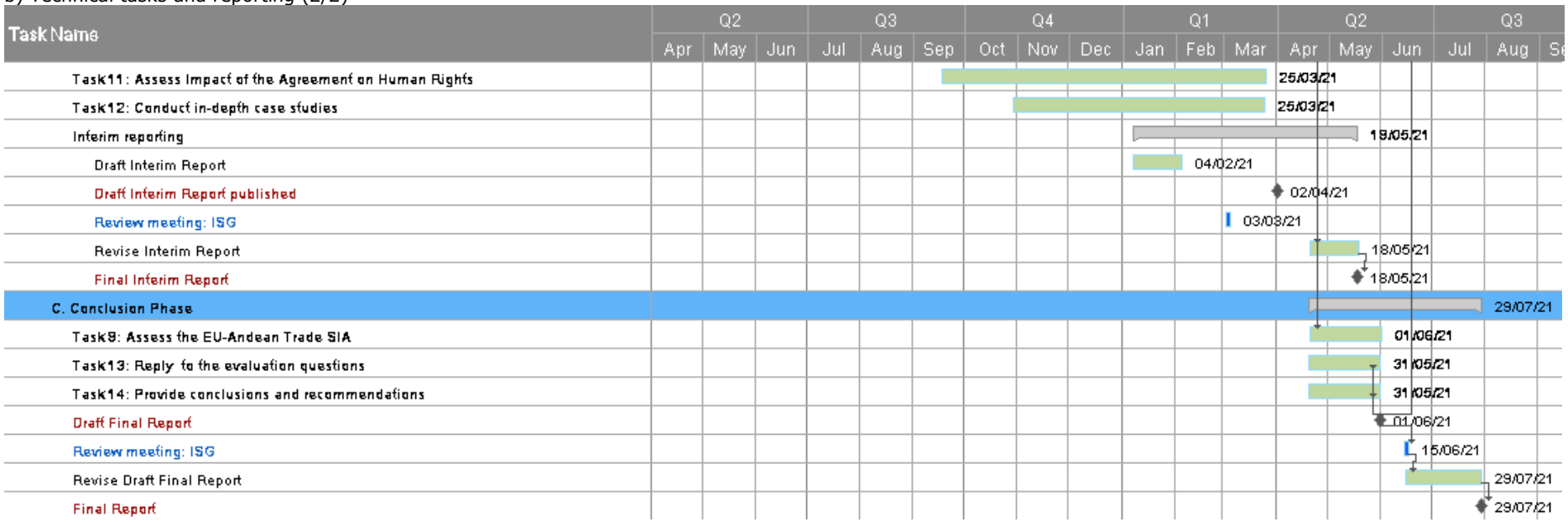
a) Consultations



b) Technical tasks and reporting (1/2)



b) Technical tasks and reporting (2/2)



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