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

Final Report – Vol. I: Main Report

January 2022

Prepared by BKP Economic Advisors

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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 was undertaken over the period April 2020 to January 2022 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 reviews the effectiveness, impact, efficiency, coherence and relevance of the Agreement and its implementation. It also comprises a number of case studies to illustrate or add detail to broader findings. The evaluation concludes that overall the Agreement has had a positive impact on all the Parties, although the magnitude of the impact is limited. Implementation has generally been efficient and effective with room for improvement in some areas, including the implementation of the trade and sustainable development provisions, more efforts to facilitate trade in services, investment and e-commerce/digital trade; enhancements in these areas could also ensure continued relevance and coherence of the Agreement with the global changes and EU policy developments that have taken place since the negotiation of the Agreement.

## TABLE OF CONTENTS

# LIST OF BOXES, TABLES AND FIGURES

## ACRONYMS

| | |
|---|---|
| AEO | Authorised Economic Operator |
| AMR | Antimicrobial Resistance |
| ASTAC | Asociación Sindical de Trabajadores Agricolas Bananeros y Campesinos (Association of Agricultural, Banana and Rural Workers, Ecuador) |
| BATIS | Balanced Trade in Services |
| BIT | Bilateral Investment Treaty |
| BTSF | Better Training for Safer Food |
| CAGR | Compound Annual Growth Rate |
| CAN | Comunidad Andina de Naciones (Andean Community) |
| CBD | Convention on Biological Diversity |
| CCE | Colombia Compra Eficiente (Colombian government procurement agency) |
| 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) |
| CESCR | Committee on Economic, Social and Cultural Rights |
| CGE | Computable General Equilibrium |
| CITES | Convention on International Trade in Endangered Species of Wild Fauna and Flora |
| CO, COL | Colombia |
| COA | Código Orgánico del Ambiente (Organic Code of the Environment) |
| COP | Colombian Pesos |
| CPTPP | Comprehensive and Progressive Agreement for Trans-Pacific Partnership |
| CRC | Convention on the Rights of the Child |
| 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) |
| EC, ECU | Ecuador |
| ECLAC | Economic Commission for Latin America and the Caribbean |
| EESC | European Economic and Social Committee |
| EIDHR | European Instrument for Democracy and Human Rights |
| ENA | Estudio Nacional de Agua (National Water Study) |
| EPR | Extended Producer Responsibility |
| EQ | Evaluation Question |
| EU | European Union |
| EUIPO | European Union Intellectual Property Office |
| EUR | Euro |
| FAO | Food and Agricultural Organisation |
| 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 |
| GHG | Greenhouse gases |
| GIs | Geographical Indications |
| GSP | Generalised Scheme of Preferences |
| GVC | Global Value Chain |
| HHI | Herfindahl-Hirschman Index |
| HS | Harmonised System |
| ICCPR | International Covenant on Civil and Political Rights |
| ICESCR | International Covenant on Economic, Social and Cultural Rights |
| ICT | Information and Communication Technologies |
| 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 Estadística e Informática (National Institute of Statistics and Informatics, Peru) |
| IPR | Intellectual Property Rights |
| IUU | Illegal, Unreported and Unregulated |
| LAIA | Latin American Integration Association |
| LDC | Least Developed Country |
| LULUCF | Land use, land-use change and forestry |
| MEA | Multilateral Environmental Agreement |
| MENA | Middle East and North Africa |
| MERCOSUR | Mercado Común del Sur |
| MFN | Most-Favoured Nation |
| MINAM | Ministerio del Ambiente del Perú (Ministry of the Environment of Peru) |
| 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) |
| MRA | Mutual Recognition Agreement |
| 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 |
| OHCHR | Office of the United Nations High Commissioner for Human Rights |
| OPC | Online Public Consultation |
| OR | Outermost Region |

| | |
|---|---|
| OSCE | Organismo Supervisor de las Contrataciones del Estado (Supervisory Body for State Contracting, Peru) |
| PCDA | Political Cooperation and Dialogue Agreement |
| PE, PER | Peru |
| PEN | Peruvian Sol |
| PM | Particulate Matter |
| RAPEX | Rapid Alert System for dangerous non-food products |
| RASFF | Rapid Alert System for Food and Feed |
| RBC | Responsible Business Conduct |
| RoO | Rules of Origin |
| SDGs | Sustainable Development Goals |
| SDT | Special and Differential Treatment |
| SECOP | Sistema Electrónico para la Contratación Pública (Electronic System for Public Procurement, Colombia) |
| 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 |
| SIMAP | Information System for Public Procurement, EU |
| SME | Small or Medium-sized Enterprise |
| SPS | Sanitary and Phyto-Sanitary |
| SUNAFIL | Superintendencia Nacional de Fiscalización Laboral (National Labour Inspection Authority, Peru) |
| 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 |
| UDHR | Universal Declaration of Human Rights |
| UN | United Nations |
| UNCTAD | United Nations Conference on Trade and Development |
| UNGA | United Nations General Assembly |
| UNICEF | United Nations Children's Fund |
| UNIDO | United Nations Industrial Development Organisation |
| US | United States |
| USD | United States Dollar |
| 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, government procurement, competition, intellectual property rights, as well as trade and sustainable development issues.

2. After several years of implementation, an ex post 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 final report provides the findings of the evaluation as well as conclusions and recommendations in Volume I, additional evidence and background information in Volume II, and a number of case studies in Volume III. Responses to the evaluation questions are presented in the separate synthesis report. The evaluation methodology was described in detail in the evaluation inception report.

**Evaluation findings and conclusions**

3. **The Agreement has been moderately effective with regard to the achievement of operational objectives.** *Tariff liberalisation* has taken place as planned, and has led to more *trade in goods* – both bilaterally and globally – than would have been the case in the absence of the Agreement. Nevertheless, the magnitude of the goods trade increase has been limited; this is also a consequence of the previously existing preferential market access for the Andean partner countries to the EU market under the GSP+ arrangement. Customs and trade facilitation, as well as other non-tariff instruments have not been used by the Parties as a substitute for tariffs. Although a number of issues have been raised by the Parties over the years, these typically concern very specific products with a limited potential impact on bilateral trade.

4. It is difficult to measure the effectiveness of the Agreement in facilitating *trade in services* and *bilateral investment*. In these areas, commitments made by the Parties lock in current levels of openness, and they have also played a limited role in the implementation of the Agreement. The opening of *government procurement* markets also has not led to increased participation of suppliers and providers from the respective other Party.

5. Progress has been made in the registration and enforcement of Geographical Indications (*GIs)*, although this has been sometimes slow, and room for improvement remains regarding enforcement. The Agreement's provisions on *competition* also constitute a sound legal basis for cooperation and consultations between the European Commission and the Andean partner countries' competition authorities.

6. No formal *disputes* have been initiated, and about half of the identified disagreements between the Parties have been solved by the (sub-)committees established. This indicates that by and large the approach taken by the Parties works. The fact that formal disputes are "outsourced" to the World Trade Organisation (WTO) however indicates a high reluctance by the Parties to make use of the formal dispute settlement provisions provided by the Agreement.

7. A tangible impact of the implementation of the *Trade and Sustainable Development* (*TSD) Title* can be identified in areas where assistance projects have been implemented or

where the EU was able to take own actions. In other areas, dialogue with the EU or civil society views provided as part of the TSD Title implementation might have contributed to actions taken as one of several factors. Overall, dialogue under the TSD Title has encouraged the continuation of certain activities or prevented worsening of the situation in the Andean partner countries, but it is difficult to identify concrete actions or changes which could be attributed to the Agreement as the main influencing factor.

8. Finally, *technical assistance* and support has been provided, at varying degrees, in relation to different areas covered by the Agreement, and has overall been effective in addressing a number of weaknesses in the Andean partner countries. But some stakeholders disagree on whether the technical assistance provided has been sufficient.

9. The **impact of the Agreement overall is assessed as positive, although relatively limited.** In *economic* terms, it has led to a small increase in gross domestic product (GDP) in all Parties and globally. Generally, sectors in which the Parties have comparative advantage are the ones that have benefited – in the Andean partner countries, agriculture and food products, but also some (mostly light) industries; and in the EU industrial sectors, led by machinery and the automotive sector. Because of this strengthening of sectors with existing comparative advantage, the Agreement has so far had a limited effect on export diversification in the Andean countries at a wider scale – although diversification within the primary (i.e., a shift from extractives to agriculture) and within the agriculture sector has been observed. Likewise, diversification of exporters has taken place, including an increase in exporting micro, small and medium-sized enterprises (MSMEs). Public revenues have not palpably been affected in any of the Parties except for Colombia, where foregone revenues amount to about 1% of total government revenues.

10. Among the *social* impacts, sectoral employment shifts follow the economic changes. In the EU, effects are negligible; in the Andean partner countries, the strongest positive effects are in the vegetable, fruits and nuts sector, as well as other agri-food sectors, and contractions in a number of industrial sectors. The impact on welfare and poverty, as well as for consumers, is estimated as positive, but rather limited. The same is true for the impact on women, also aided by support programmes, although the gender gap has hardly been affected by the Agreement. In terms of working conditions and labour rights, although the Andean partner country governments have taken measures to improve job quality, also supported by EU funded projects, issues remain in terms of labour inspection, trade union operation, and special labour regimes for selected (agricultural) sectors. Finally, corporate social responsibility (CSR) practices have expanded, a positive trend which was supported by increased trade between the Andean countries and the EU taking place as a result of the Agreement.

11. The *environmental* impact of the Agreement overall is found to be very small, following from the small economic impacts, and mixed. The impact of tariff reductions on global greenhouse gas (GHG) emissions is slightly positive. Overall effects on biodiversity are marginal, but with some likely negative local/regional effects from increased production of specific products such as avocados in Peru and shrimp in Ecuador. No effect on deforestation is found in Ecuador and Peru, and a small contribution to deforestation arising from agricultural activity in Colombia (about 0.5% of total deforestation arising from agricultural activity in the country). Other environmental effects are marginal.

12. The impact of the Agreement on the *human rights* situation in the Andean partner countries likewise has been limited, and no impact could be determined in the EU. An initial screening of human rights effects indicated that only the right to freedom of assembly and association, incl. the right to join and form trade unions, children's rights (including impacts on child labour), and the right to water could potentially be affected palpably by the Agreement. For the first two, we find potential mixed but overall small effects of the Agreement, caused both by the sectoral economic effects and by the implementation of the TSD Title. For the right to water, no significant impact of the Agreement could be

proven in the in-depth analysis, although we cannot exclude the fact that increased production of certain water-intensive/water polluting goods could have had a minor contribution to already existing water stress in certain regions.

13. The Agreement's **efficiency in relation to the objectives is evaluated as high**: preference utilisation is high, trade diversion in line with other free trade agreements (FTAs) – and alternative trade policy instruments were either not available for the EU, would arguably have caused larger distortions or been less targeted.

14. The *institutional efficiency is assessed as mixed*: The Trade Committee and the sub-committees have played their roles as forums for exchange of information and views, but performance with regard to the resolution of trade irritants between the Parties has been mixed, in particular when different interpretations of the Agreement were concerned. Dialogue with civil society representatives, notably dialogue with advisory groups or domestic mechanisms would benefit from better opportunities to contribute to discussions of the Parties by sharing results of the monitoring activities, submitting proposals (e.g., for cooperation activities) and raising concerns. Insufficient follow-up to civil society recommendations by the Parties is another shortcoming – unlike some other EU FTAs, the Agreement does not include a commitment by the parties to follow-up to civil society views. Domestic Advisory Groups (DAGs)/domestic consultative groups have also performed unevenly across the Parties, primarily as a result of differences in the availability of resources and capacities.

15. **Coherence of the Agreement** *with the EU's overall trade policy, with the EU's commitment to the Sustainable Development Goals (SDGs) and the Decent Work agenda, and with the EU's environmental policies at the time of its signing was high*. At that time, for example the inclusion of the TSD Title reflected the prevailing policies and strategies regarding sustainable development. In terms of its effects and impact *the Agreement is also moderately coherent with environmental policy objectives and the EU's commitment to the SDGs and Decent Work agenda, but its positive contributions in these areas are also small. In addition, in some areas the coherence of the Agreement with the EU's environmental policy objectives, which have evolved substantially, has been reduced*: for example, some deforestation has taken place in Colombia because of expanded agricultural production triggered by the Agreement's tariff liberalisation. (Although the extent and severity of this is limited, in the interest of policy coherence, even these observed small developments call for continued monitoring of mitigation measures).

16. In terms of *coherence with EU trade policy objectives and priorities, the Agreement does not conflict with the new priorities (and there is thus no incoherence), but neither does it actively promote them*: Issues such as the development of GVCs, services trade, digital trade and e-commerce, or the green and digital transformation if at all covered in the Agreement are mostly limited to general statements and soft language. They have also not played an important role in the implementation of the Agreement, nor have they been strengthened as a result of the Agreement's implementation. There is thus a lack of "positive coherence" with these new issues.

17. Our conclusion regarding **the Agreement's relevance for the Parties' trade needs and issues** is mixed, and is closely related to the evaluation of coherence: The Agreement has been and remains relevant in the sense of providing a basis for fostering bilateral trade, and trade and development of the Parties more broadly. However, the new challenges, needs and issues that have arisen both for the EU and the Andean partner countries since the signing of the Agreement require heightened attention. The Agreement itself, its implementation and its results address these issues in a limited way.

**Main recommendations**

18. Main **recommendations to further enhance the implementation of the**

**Agreement** are:

- The Parties could consider, in the respective committees under the Agreement, further measures to facilitate trade, including the promotion of the approved exporter scheme, the potential expanded use of digital documents, the necessity of the direct transport requirement to ensure eligibility for preferences, and measures to facilitate e-commerce.
- An increased focus on ways to develop bilateral trade in services and investment is recommended, e.g. by establishing a dedicated sub-committee.
- Consideration should be given to strengthening the strategic role of the Trade Committee as a decision-making and problem-solving body; also, greater preparedness to use the formal dispute settlement mechanisms in the case of protracted disagreements should be considered.
- The role of the TSD Sub-committee in addressing areas of concern could be enhanced by developing road maps outlining actions to be taken by the Party in the area of concern, with related timelines, outputs, and responsible institutions.
- To foster the cooperation between the Parties and civil society, we recommend: (1) strengthened domestic dialogue between the Government and civil society, including consultations before the TSD Sub-committee meetings; and (2) dedicated meetings between all Parties' members of the TSD Sub-committee with all advisory groups or domestic mechanisms as part of the joint annual meeting (or similar mechanism).
- Further cooperation and technical/financial assistance is recommended (1) in technical areas (such as SPS or government procurement systems), (2) to further develop the productive capacity of MSMEs to become involved in value chains and exports, (3) to promote the environmental and social sustainability of the Agreement (e.g., labour inspection, labour formalisation, respect for labour standards and health and safety at work), and (4) to the non-EU DAGs/domestic consultative mechanisms.
- Better systems to collect and monitor trade-related social/labour data disaggregated by sector and gender should be introduced.

19. Main **recommendations regarding the impact, coherence and relevance of the Agreement** are:

- In addition to creating conditions for new jobs, sufficient attention needs to be paid to their quality. The work will need to ensure that conditions already foreseen in the legislation are implemented in practice and enforced by labour inspection. Also, measures to avoid that the Agreement contributes to deforestation should be taken. In addition, it is recommended to support stricter initiatives to lower land use, land-use change and forestry (LULUCF) emissions. Cooperation under the Agreement should be used to contribute to the creation of deforestation free agriculture and agricultural value chains, including through support for improving forest management and due diligence and controls in the forestry sector. To address these issues, the TSD Sub-committee could seek to set concrete targets so that progress towards these targets can be monitored and reflected upon.
- Some of the current trade issues – such as digital trade or the consequences of the European Green Deal and Farm to Fork strategy for trade – are not addressed substantively in the Agreement. The scope of the Agreement and the institutions established under the Agreement do however provide a framework for discussing and addressing them in the implementation of the Agreement. Nevertheless, if a common understanding between the Parties develops on the benefits of addressing these issues more explicitly as part of the Agreement, a modernisation of the Agreement could be contemplated, also to strengthen provisions for the sustainability and inclusivity of bilateral trade.

# 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, government procurement, competition, intellectual property rights, as well as trade and sustainable development issues.

After several years of implementation, this evaluation has been 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 has been 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 researchers associated with the Universidad de Lima and the Institute of Peruvian Studies in Lima.

This report provides the findings, conclusions and derived recommendation of the evaluation. 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 6), social (chapter 7), environmental (chapter 8), human rights (chapter 9), and institutional/procedural (chapter 10), and compared the findings with those of the 2009 sustainability impact assessment of the Agreement (Development Solutions, CEPR, and University of Manchester 2009). Part C summarises the main conclusions and recommendations. The annexes in Volume II provide further details on certain elements of the report, including a summary of consultation process and its results. Case studies are presented in Volume III.

The analysis in this report is structured along the impact dimensions and analyses as defined in the evaluation terms of reference (ToR),[2] the separate synthesis report provides more succinct responses to the evaluation questions in line with the evaluation framework.

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1 Whenever this report refers to human rights, this includes labour rights.
2 Available at https://trade.ec.europa.eu/doclib/html/158743.htm.

# 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,[3] 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.[4]

Although most data to be considered for the evaluation refers to the world pre-covid-19, the pandemic has had 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

[3] 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.
[4] Throughout the report, we refer 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[5]. Based on this criterion – which was indeed included in the final version of the new GSP Regulation adopted in 2012[6] – 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.[7]

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.[8]

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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5 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.

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

7 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.

8 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 the 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[9], 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

[9] 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.[10]

### *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; findings on the institutional performance are presented in chapter 10.

### *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,[11] 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 government procurement (sub-central) reached on 28 April 2020.

[10] OJ L 113, 29.4.2017, page 1

[11] 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",[12] 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."[13] Reflecting the concept of open strategic autonomy, 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[14] 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,[15] 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

12 COM(2015)497 of 14 October 2015.

13 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.

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

15 *Protocolo Adicional al Acuerdo Marco de la Alianza del Pacífico*.

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

**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:*<br>• Pacific Alliance (signed: 2014; entry into force: 2016)<br>• Costa Rica (signed: 2013; entry into force: 2016)<br>• Rep. of Korea (signed: 2013; entry into force: 2016)<br>• United States (signed: 2006; entry into force: 2012)<br>• European Free Trade Association, EFTA (signed: 2008; entry into force: 2011/2014[16])<br>• MERCOSUR (signed: 2017; entry into force: 2017/2018)<br>• Venezuela (signed: 2011; entry into force: 2012)<br>• Israel (signed: 2013; entry into force: 11 Aug 2020)<br><br>*Trade agreements signed but not yet in force:*<br>• United Kingdom (signed: 2019)<br>• Panama (signed: 2013) | *Trade agreements in force:*<br>• Australia (signed: 2018; entry into force: 2020)<br>• Honduras (signed: 2015; entry into force: 2017)<br>• Pacific Alliance (signed: 2014; entry into force: 2016)<br>• Japan (signed: 2011; entry into force: 2012)<br>• Costa Rica (signed: 2011; entry into force: 2013)<br>• Panama (signed: 2011; entry into force: 2012)<br>• Mexico (signed: 2011; entry into force: 2012)<br>• Venezuela (signed: 2012; entry into force: 2013)<br><br>*Trade agreements signed but not yet in force:*<br>• United Kingdom (signed: 2019)<br>• Comprehensive and Progressive Agreement for Trans-Pacific Partnership, CPTPP[17] (signed: 2018)<br>• Brazil (signed: 2016) | *Trade agreements in force:*<br>• Guatemala (signed: 2011; entry into force: 2013)<br>• Nicaragua (signed: 2016; entry into force: 2018)<br>• El Salvador (signed: 2017; entry into force: 2018)<br>• United Kingdom (signed: 2019; entry into force: Jan 2021)<br>• EFTA (signed: 2018; entry into force: Nov 2020)<br><br>*Trade agreements signed but not yet in force:*<br>• None |

## Political dialogue between the Parties

In June 2016, a Joint Proposal for the conclusion of a new Political Dialogue and Cooperation Agreement (PDCA) between the EU and the Andean Community was adopted.[18] It replaced the 2003 Proposal for a PDCA[19] (see section 3.1) which was withdrawn.[20] 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 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). In addition, a "Memorandum of Understanding on an Agenda of enhanced political and sectoral dialogue and cooperation for the next decade" was signed in September 2021, identifying five priorities for bilateral relations: the successful implementation of the peace agreement, the environment and climate

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[16] The FTA came into effect for Switzerland and Liechtenstein in 2011, and for Iceland and Norway in 2014.
[17] The signatory countries are Australia, Brunei Darussalam, Canada, Chile, Malaysia, Mexico, Japan, New Zealand, Peru, Singapore and Viet Nam
[18] 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.
[19] COM(2003) 695.
[20] https://ec.europa.eu/info/sites/info/files/cwp_2018_annex_iv_en.pdf.

change agenda, the economic and social agenda, migration issues (notably in relation to refugees from Venezuela), and cooperation on global and foreign policy issues.[21] 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.

# 4 ECONOMIC AND TRADE CONTEXT

## *4.1 Trade Between the EU and the Andean Partner Countries*

Figure 4-1 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.

It is also 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".[22]

**EU28 imports from partner countries**

As can be seen, EU28 imports from Colombia performed unevenly over time (Figure 4-1a). 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% during most of the period considered until 2018 and then dropping to about 20% in 2019, 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 4-1b 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 EUR 4.2 billion in 2019.

[21] https://eeas.europa.eu/headquarters/headquarters-homepage/104446/node/104446_en

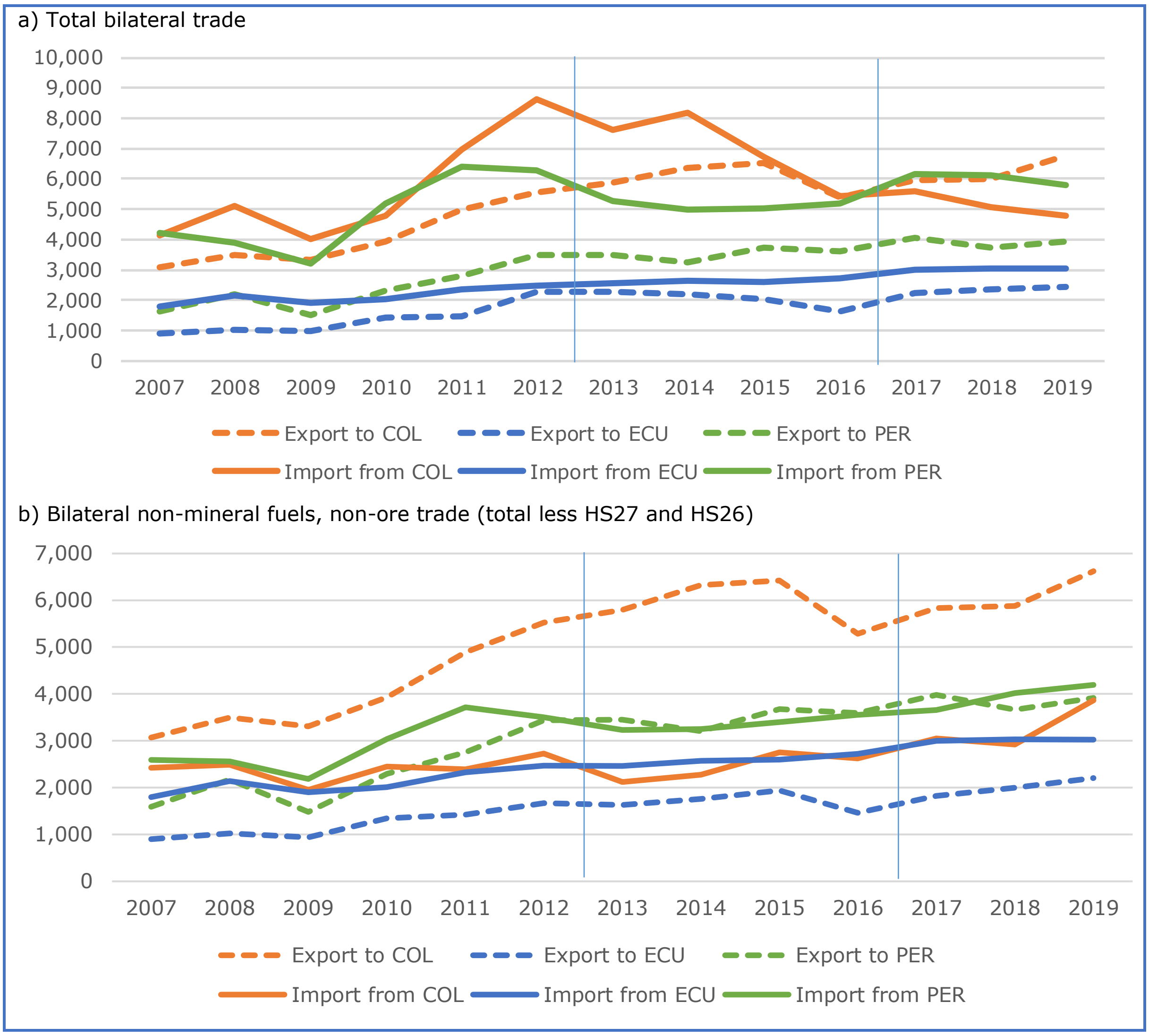
[22] For example, Zegarra and Torres (2020) conclude that the Agreement has had a negative impact on Peruvian exports of Coffee and Cocoa (due to declines in prices). However, with the EU MFN tariffs on these two products being zero, the Agreement does not change market access conditions and hence cannot be the cause of observed impacts related to these two 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 4-1b). 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 4-1: EU28 bilateral trade with partner countries, 2007-2019 (EUR million)**

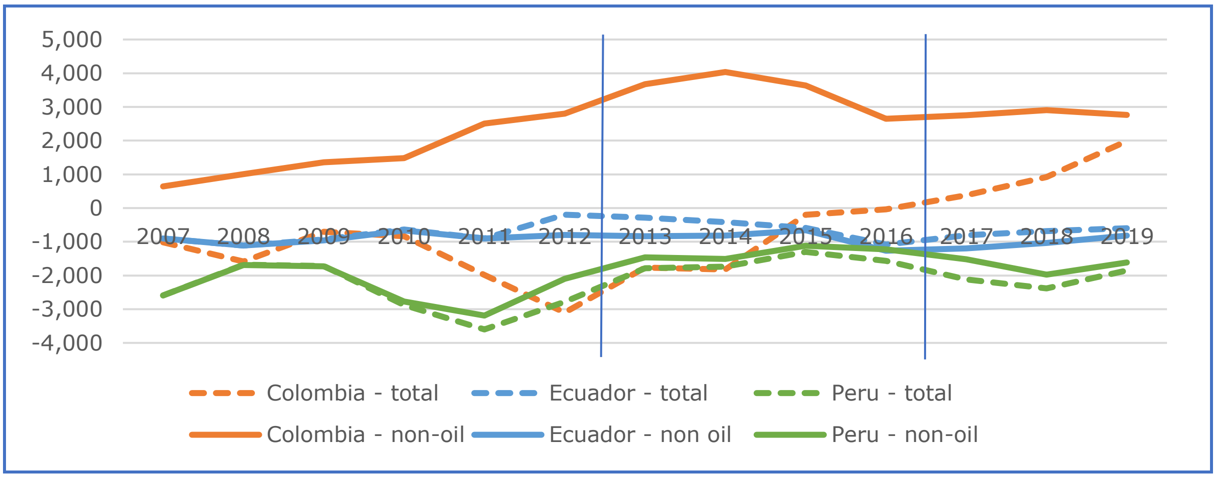



Source: Authors' calculations based on COMEXT database.

### Bilateral trade balances

In terms of bilateral trade balances (Figure 4-2), 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 4-2: EU28 bilateral trade balances with Agreement partners, 2007-2019 (EUR million)**




Source: Authors' calculations based on COMEXT database.

## *4.2 Trade by Sector*

**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.

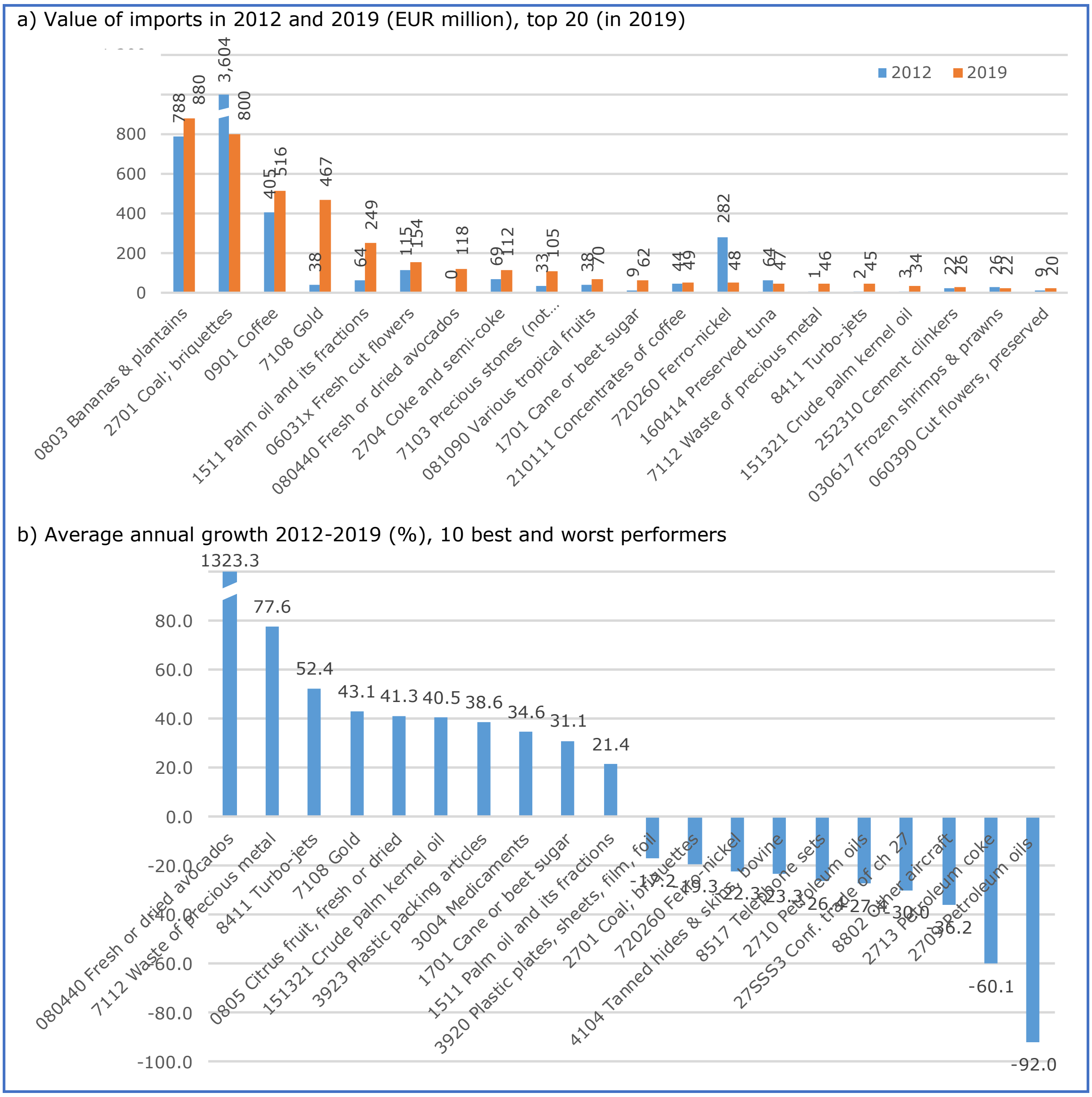
*Imports from Colombia*

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%, 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 4-3a). 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).

These developments are also reflected in the growth rates (Figure 4-3b), 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.

**Figure 4-3: EU imports from Colombia, selected products**




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

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 5 in Annex B).

*Imports from Peru*

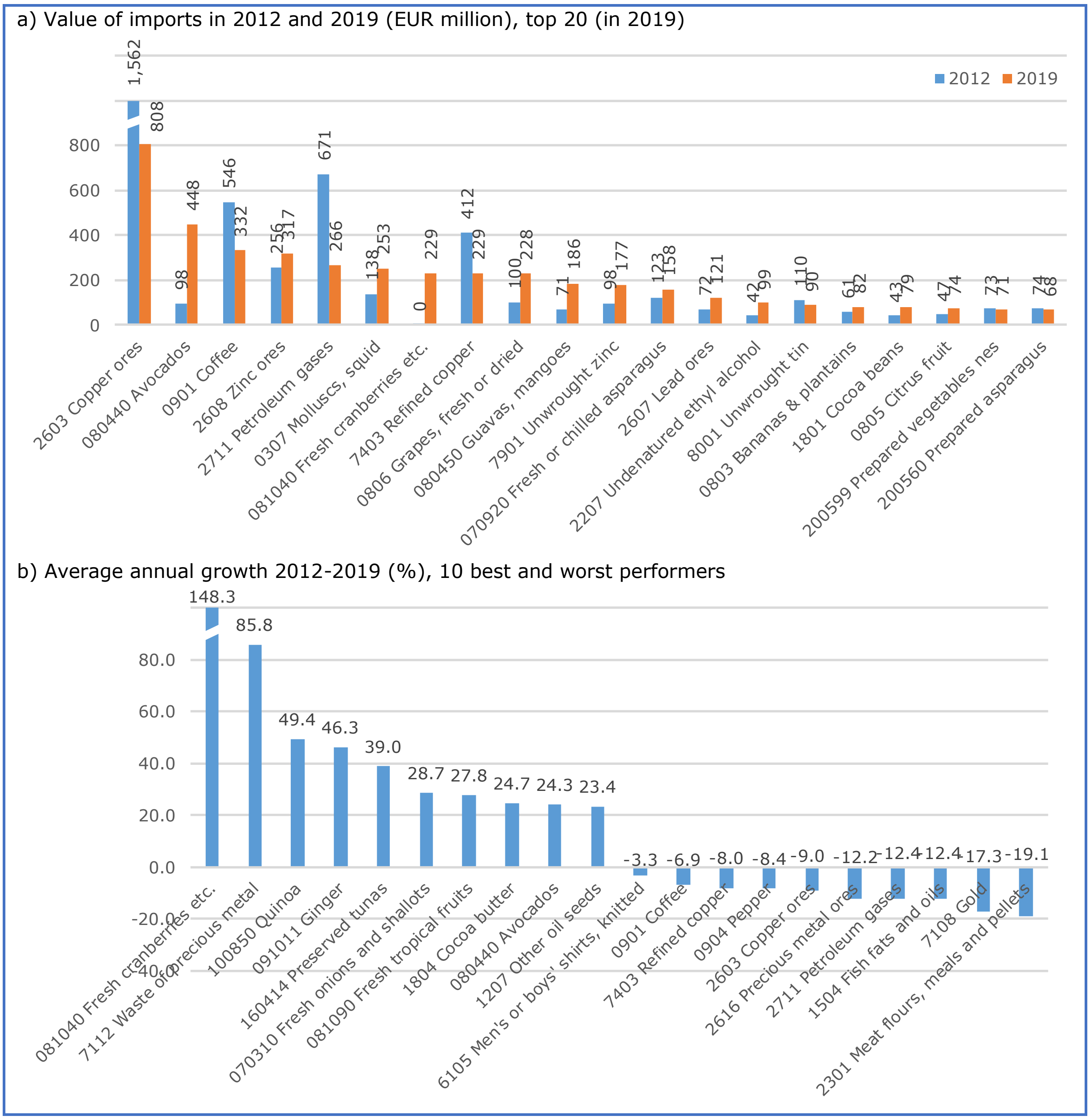
The sectoral composition of EU imports from Peru has changed considerably over the period 2007 to 2019 (Table 1 in Annex B). In the pre-Agreement period, they were dominated by ores (ch. 26; accounting for EUR 2 billion in 2012, or a third of total EU imports from Peru in 2012 and 2013) and rapidly increasing 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 4-4). 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 4-4b), 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.

*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.

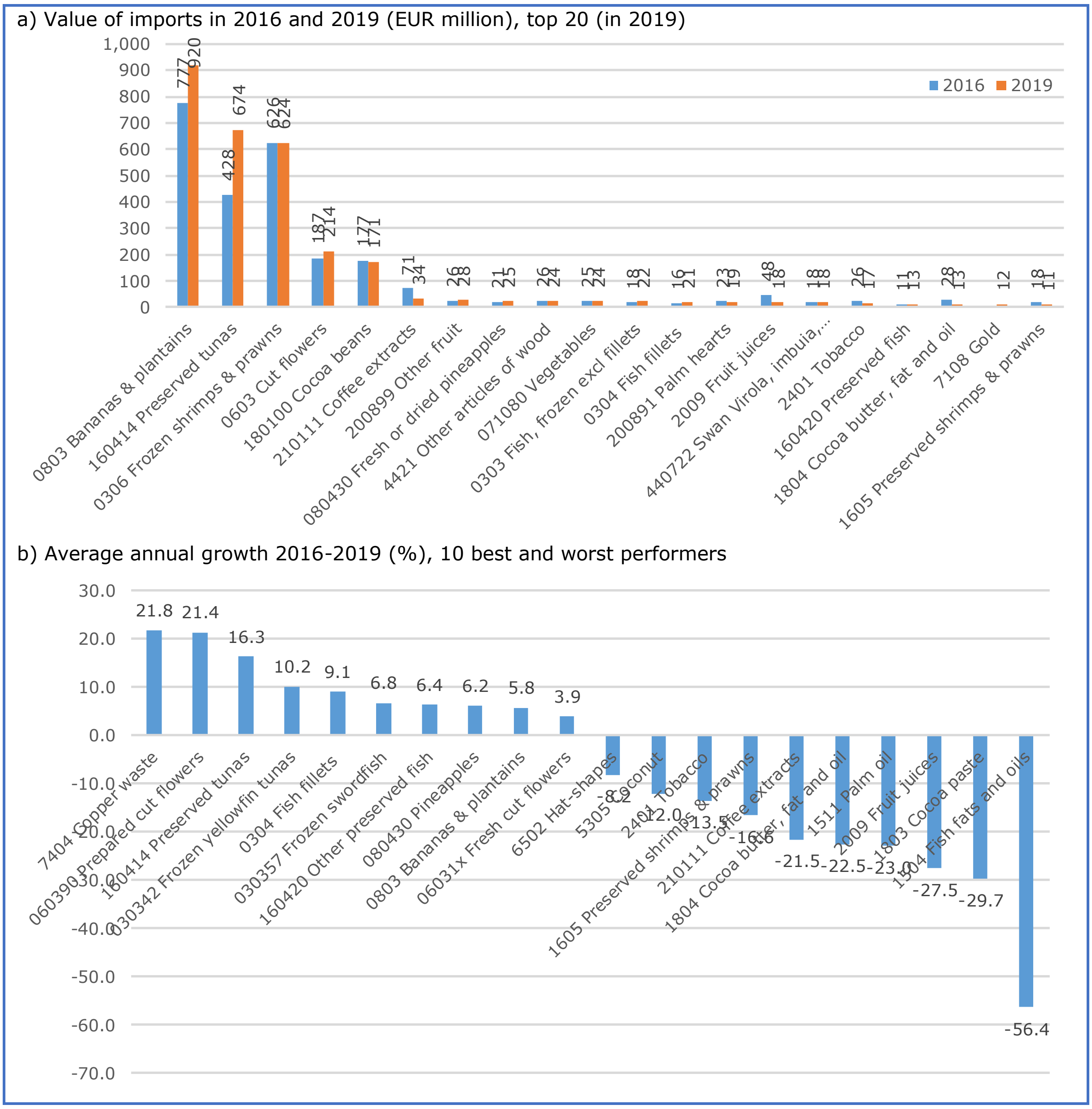
**Figure 4-4: EU imports from Peru, selected products**




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

Looking at a more detailed product composition of EU imports from Ecuador shows a high, and increasing concentration (Figure 4-5): 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 4-5: 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,

[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.

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 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 EVALUATION METHODOLOGY

The evaluation provides responses to a number of evaluation questions identified in the ToR (Box 5-1). 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. In the following chapters, the evaluation findings, conclusions and recommendations are presented in line with these five dimensions of impact and analysis. The separate synthesis report provides the responses to the individual evaluation questions.

**Box 5-1: Evaluation questions**

**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**

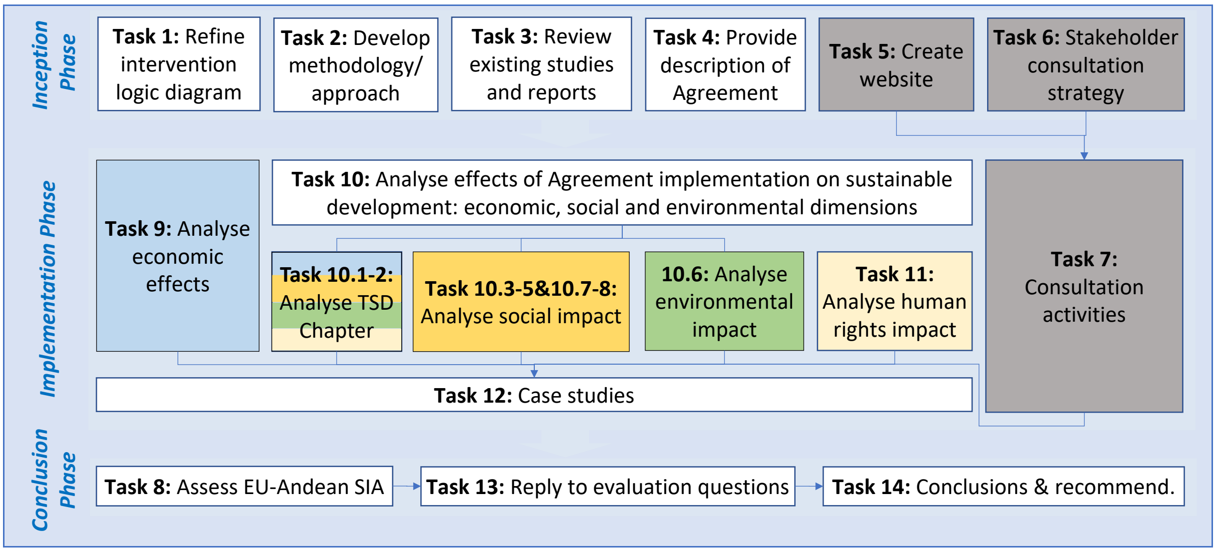
- EQ 8: To what extent do the provisions of the Agreement continue to be relevant in order to address the current trade needs and issues of the EU, Colombia, Peru and Ecuador?

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 difference 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.

Figure 5-1 provides an overview of the evaluation approach. For details, we refer to the evaluation inception report.[24]

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

**Figure 5-1: Overall evaluation approach**



# PART B: EVALUATION FINDINGS

# 6 RESULTS OF THE ECONOMIC ANALYSIS

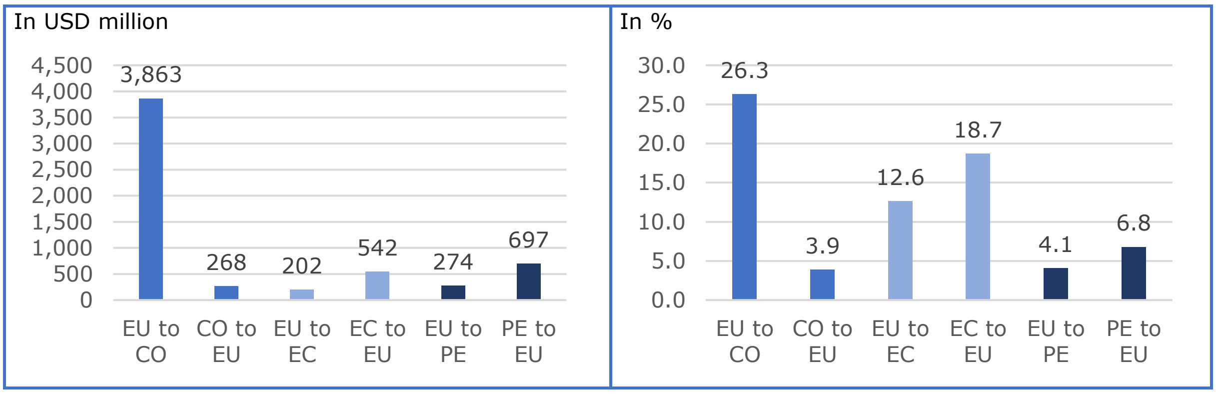
## *6.1 Agreement impacts on trade in goods*

### *6.1.1 Total merchandise trade*

Unlike the descriptive statistical analysis in chapter 4, 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 6-1). 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.

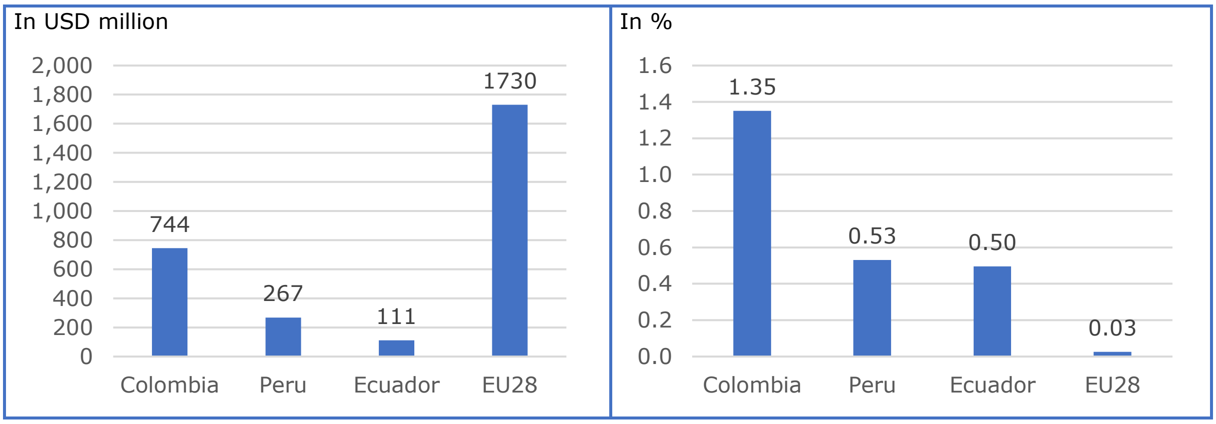
**Figure 6-1: Changes in volume of bilateral exports between the EU and Partner countries caused by the Agreement, compared to no Agreement (year 2020)**




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 6-2): In absolute terms, EU exports increased most as a result of the Agreement, by USD 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 6-2: 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.

### 6.1.2 Trade creation and trade diversion

Any FTA makes trade between the 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,[25] 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.

[25] 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 6.14.

### *6.1.3 Trade by sector and product*

In addition to aggregate impacts, the computable general equilibrium (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 6-1). 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.
- 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.

**Table 6-1: 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.

- 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 6-2). 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 6.1.2 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.

**Table 6-2: 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.

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 6.2.2 on sector output effects).

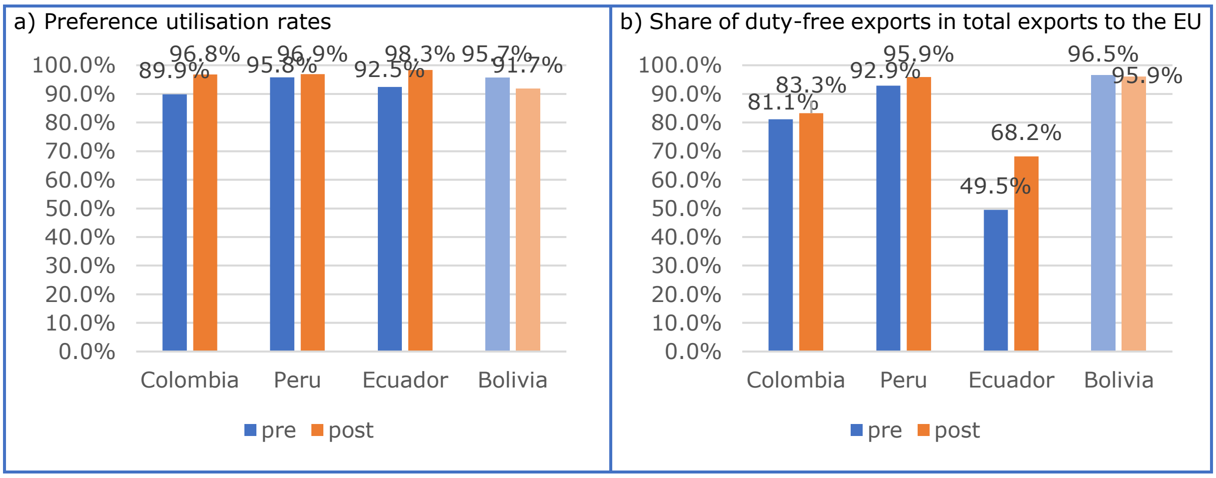
### *6.1.4 Preference utilisation*

The analysis of the degree to which the tariff preferences granted by the Agreement are actually used by traders is an indicator for the Agreement's efficiency.

**Preference utilisation of Andean partner country exports to the EU**

Preference utilisation in the EU by Andean exports has been high for all partner countries. On average over the period since the start of application of the Agreement, utilisation rates were about 97% for Colombia and Peru, and 98% for Ecuador, which is (slightly) higher than both utilisation under the GSP prior to the start of the Agreement and also (slightly) higher than preference utilisation by Bolivia under the GSP+ (Figure 6-3a). The share of partner country exports entering the EU at zero tariffs has also increased since the Agreement started to be applied (Figure 6-3b), and still continues to increase as tariffs continue to be reduced for sensitive goods.

**Figure 6-3: Preference utilisation of Andean partner country exports to the EU**

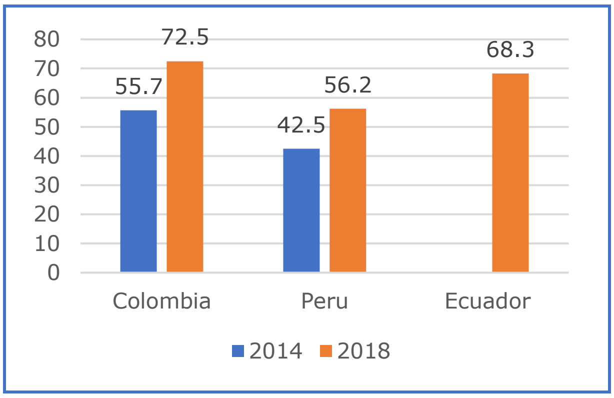



Note: pre-Agreement values refer to averages for 2008-2012 for Colombia and Peru, and 2012-2016 for Ecuador and Bolivia; post-Agreement values refer to averages for 2014-2020 for Colombia and Peru, and 2017-2020 for Ecuador and Bolivia.
Source: Own calculations based on Eurostat COMEXT data.

**Preference utilisation of EU exports to Andean partner countries**[26]

Preference utilisation of EU exports to the Andean countries were lower than in the other direction, ranging in 2018, the last year for which data are available from 56% in Peru to 68% in Ecuador and 72% in Colombia.[27] These rates have improved since the start of the Agreement, from 42% in Peru, and 56% in Colombia (2014). Although there is room for improvement, the development has been positive.

**Figure 6-4: Preference utilisation rates of EU exports to Andean partner countries, 2014 vs 2018 (%)**




Source: Illescas et al. (2021)

The sectors accounting for the lowest preference utilisation rates and largest shares in unused preferences by volume (in 2018) were pharmaceutical products (ch. 30) and machinery and mechanical appliances (ch. 84) in all three partner countries, in addition to optical, measuring and medical equipment (ch. 90) in Colombia and Ecuador, electrical equipment (ch. 85) in Ecuador, and essential oils (ch. 33), plastics (ch. 39), paper (ch. 48), and articles of iron or steel (ch. 73) in Peru.

With respect to the reasons for the comparatively limited use of preferences granted to imports from the EU in the Latin American partner countries (Chile and Mexico, in addition to the three Andean partner countries), Illescas et al. (2021) identified the following ones:

- Lack of knowledge about the possibility of using preferences;
- Lack of information and guidance on how to apply for preferences;
- The product already had an MFN tariff of 0% or importers used a tariff exemption regime (in Colombia and Ecuador);
- Low preference margins, and therefore a low or no benefit of applying for preferences in relation to the administrative costs of doing so;
- Non-issuance of the certificate of origin by the EU exporter;
- Knowledge of the importer or exporter that the merchandise to be imported from an EU country does not comply with the RoO;
- Lack of sufficient and timely documentation to support origin, for example incorrect completion of the EUR.1 certificate leading to the denial of preferences;
- Difficulties in supporting the compliance of direct transit of imported goods (in Ecuador and Peru) leading to the denial of preferences.

The relative importance of these various factors could not be established; in any case, the only actionable factor is the limited awareness or knowledge about RoO and their use.

### *6.1.5 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 6-3 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

[26] This analysis is based on Illescas et al. (2021).
[27] These rates are not directly comparable to those for preference utilisation of Andean exports to the EU, as zero-rated MFN imports that are also covered by the Agreement appear as non-utilised preferences.

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 6.5.3.

**Table 6-3: 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.

### 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 6-4). 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.[28]

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 it started to be applied – 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.

The starting point is 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 Agreement started to be applied 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, indicating that exports are sufficiently large 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 6-4), indicates either supply side constraints for expanding production and export or the presence of other, more attractive markets. Some stakeholders have also noted that the stagnation or decline of fill rates in 2020 for some products are the consequence of disruptions caused by covid-19.

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 have exports in such product categories begun to flow, and the bets have therefore been unfulfilled as of the present. This points to the need for more efforts 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

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

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 6-4). 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 6.13.
- 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.

**Table 6-4: 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 prepara | 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.

### 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 (Table 6-5). 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[29] – 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.

**Table 6-5: Utilisation rates by EU exporters of TRQs granted by partner countries, 2013-2019**

| Category | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 |
|---|---|---|---|---|---|---|---|
| **Exports to Colombia** | | | | | | | |
| Raw sugar (AZ) | | | | | | 0% | 0% |
| Bovine meat (DB) | | | | | | 0% | 0% |
| Ice cream (HE) | 5% | 13% | 7% | 26% | 46% | 87% | 99% |
| Mushrooms (HO) | 2% | 5% | 100% | 100% | 100% | 100% | 100% |
| Condensed milk (LC) | | | | | | | 0% |
| Infant formula (LM) | 40% | 68% | 99% | 100% | 100% | 99% | 100% |
| Milk and cream in powder (LP1) | 0% | 35% | 100% | 100% | 83% | 100% | 100% |
| Milk and cream in powder (LP2) | | | | | | | |
| Whey (LS) | 58% | 50% | 93% | | | | |
| Sweetcorn (MA) | 0% | 54% | 100% | 100% | 100% | 100% | 100% |
| Sugar confectionery (PA) | 2% | 3% | 3% | 4% | 4% | 5% | 3% |
| Cheese (Q) | 9% | 8% | 8% | 8% | 3% | 13% | 17% |
| Textured protein substances (TX) | | | | | | 0% | 1% |
| Yoghurt (YG) | 0% | 1% | 1% | 100% | 99% | 17% | 0% |
| **Exports to Peru** | | | | | | | |
| Bovine meat (BF) | | | | | | | |
| Butter and dairy spread (BR) | 0% | 0% | 96% | 100% | 82% | 100% | 0% |
| Cheese (CE) | 0% | 0% | 0% | 4% | 5% | 5% | 0% |
| Infant formula (FP) | 0% | 0% | 0% | 30% | 0% | 0% | 0% |
| Garlic (GC) | | | | | | | |
| Ice cream (IE) | 59% | 90% | 99% | 96% | 94% | 100% | 86% |
| Maize (ME) | | | | | | | |
| Mushrooms Agaricus (MM) | | | | | | | |
| Milk and cream in powder (MP) | 0% | 4% | 100% | 100% | 100% | 100% | 52% |
| Pig meat (PK) | | | | | | | |
| Poultry meat (PY) | | | | | | | |
| Rice (RE) | | | | | | | |
| Rum (RM) | 4% | 0% | 4% | 6% | 4% | 27% | 100% |
| Sweetcorn (SC) | | | | | | | |
| Products with high sugar content (SP) | 0% | 0% | 0% | 2% | 3% | 2% | 0% |
| Bananas and plantains (SP1) | | | | | | | |
| Sugar (SR) | 0% | 0% | 0% | 0% | 0% | 0% | 0% |
| **Exports to Ecuador** | | | | | | | |
| Preparations for animal feeding (B) | | | | | 6% | 8% | 18% |
| Preparations for animal feeding (B1) | | | | | 0% | 3% | 93% |
| Bovine guts (D) | | | | | 0% | 0% | 0% |
| Dairy products: Powder milk, butter milk serum, whe | | | | | 13% | 36% | 49% |
| Dairy products: Evaporated milk, condensed milk (L2 | | | | | 1% | 3% | 3% |
| Dairy products: Yoghurt, cheeses: grated or powdere | | | | | 3% | 19% | 15% |
| Dairy products: Blue-veined cheese, mature cheese | | | | | 4% | 7% | 13% |
| Fresh sweet corn: Sweet corn, fresh, refrigerated (M) | | | | | 0% | 0% | 0% |
| Processed sweet corn: Sweet corn: frozen, canned ( | | | | | 22% | 33% | 63% |
| Pork products: cured ham, bellies (streaky) sausages | | | | | 6% | 19% | 19% |
| Frozen potatoes (PA) | | | | | 0% | 2% | 0% |
| Confectionary product (high sugar content): Juices, c | | | | | 1% | 0% | 1% |

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

29 EU whey exports to Colombia have been duty-free quota-free since 2016.

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, which would seem to indicate a limited effectiveness of TRQs granted by Peru.

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;[30] 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 6.5.3), 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.

### *6.1.6 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 6-1. Other potentially trade-depressing measures are also discussed in other sections of this report (e.g. customs issues in section 6.5, SPS issues in section 6.6, or miscellaneous trade related measures in section 6.8).

**Box 6-1: 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).[31] 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.

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30 See Table 17 in Annex B for data up to including 2020.

31 See https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds502_e.htm.

Most stakeholders interviewed by the evaluation team, 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 6-6). Overall, therefore, any potential (non-tariff) market access barriers for these goods have not been so severe as to depress bilateral trade.

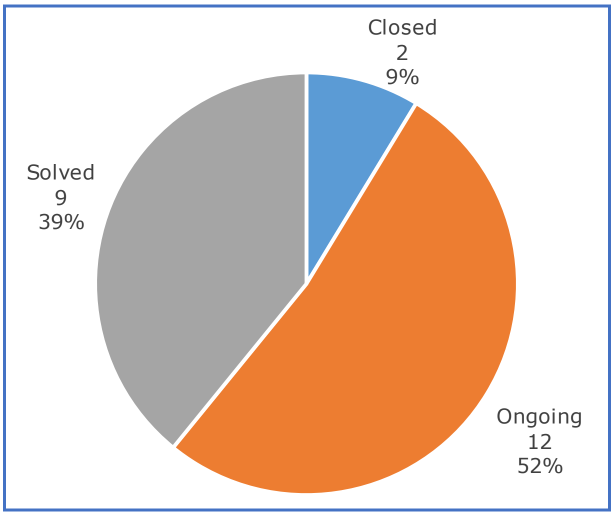
**Table 6-6: EU28 exports of beer and spirits to Andean partner countries, 2007-2019 (EUR million)**

| | 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.

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 despite 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 6-5). 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[32]) – indicating that all Parties value the technical

**Figure 6-5: 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.

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

discussion that take place with the objective of improving market access conditions.

### *6.1.7 Conclusions*

The CGE model simulations show a positive impact of the Agreement for all Parties' overall exports, both bilateral and overall. The impact is small partly due 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.

Some of the CGE simulation results might seem surprising when compared to the observed trade data in the descriptive statistical analysis presented in chapter 4 and Annex B. 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 of the other partners to the EU. Here, the massive demand from China – excluded 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.[33]

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 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

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[33] 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.

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 6.5.3.

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 over 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.

## *6.2 Wider economic impacts*

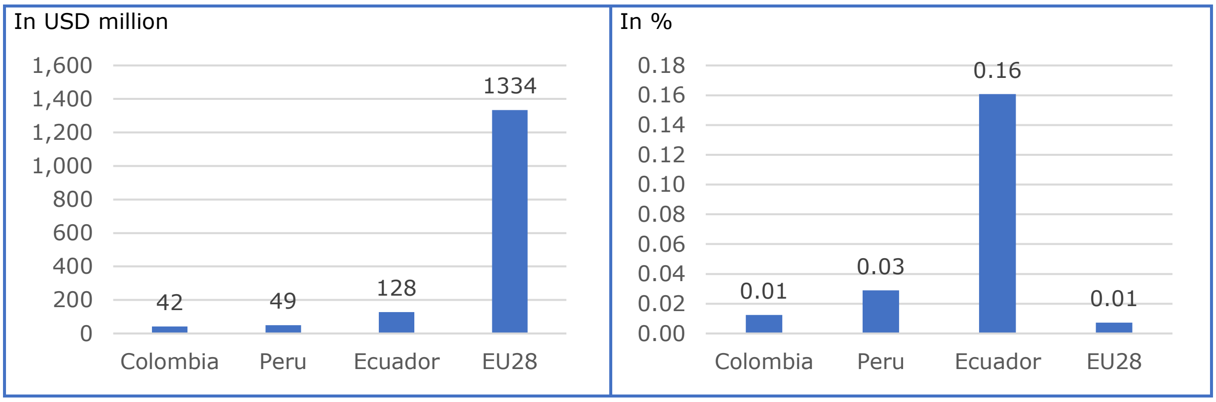
Changes in trade flows caused by the Agreement also lead to changes in other economic domains. The CGE model allows quantifying effects in particular on sectoral output (which in turn has implications on employment) as well as overall economic growth (GDP). The following sections analyse these impacts. Case study 5 in Volume III in addition provides an analysis of the Agreement's impact at subnational level, taking the example of Nariño in Colombia.

### *6.2.1 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) (Table 18 in Annex B).

All of the four Parties to the Agreement benefit from an increase in their GDP (Figure 6-6), although the impact is modest. In absolute terms, 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 USD 42 million and USD 49 million respectively; and Ecuador's GDP is higher by 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 6-6: 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.

### *6.2.2 Impacts at sector level: output*

The Agreement's impact on sectoral production/output and, accordingly, employment (as addressed in section 7.1) are the result of the combined effects on total exports and total imports (as well as domestic demand), as already discussed in section 6.1.3 above. Table 6-7 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 GDP.
- 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 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 million or -0.7%) and basic pharmaceuticals (USD -16 million 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).

**Table 6-7: Changes in output by sector caused by the Agreement in EU and partner countries (year 2020)**

| Sector | 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 |
| **Total** | **5726** | **0.01** | **422** | **0.06** | **236** | **0.17** | **672** | **0.14** |

Source: European Commission DG TRADE CGE modelling results.

- 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).

### *6.2.3 Conclusions*

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.

## *6.3 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.[34] These differences in data are an indication of the general paucity of services

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

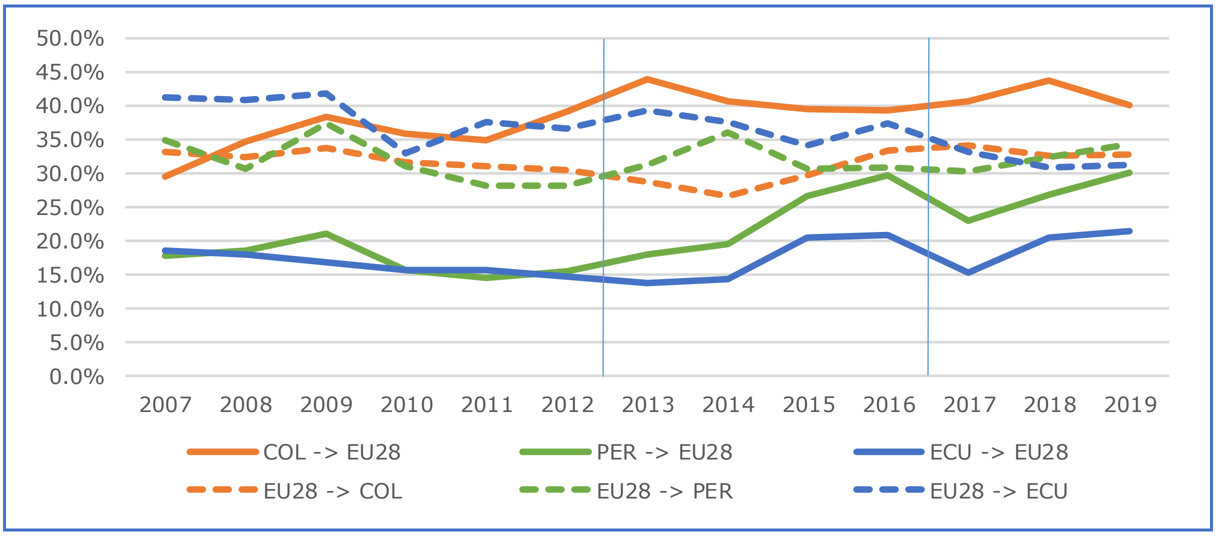
trade statistics. We use BaTIS throughout the study as it is the only database providing bilateral services trade data by sector that covers all countries of interest.

### *6.3.1 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 6-7). The importance varies across the three bilateral relationships, and by direction of trade: Colombia's services exports to the EU amount to between 40% and 45% of Colombia's overall (i.e. combined goods and services) 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 6-8 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.

**Figure 6-7: Share of bilateral commercial services exports in total bilateral exports, 2007-2019 (%)**

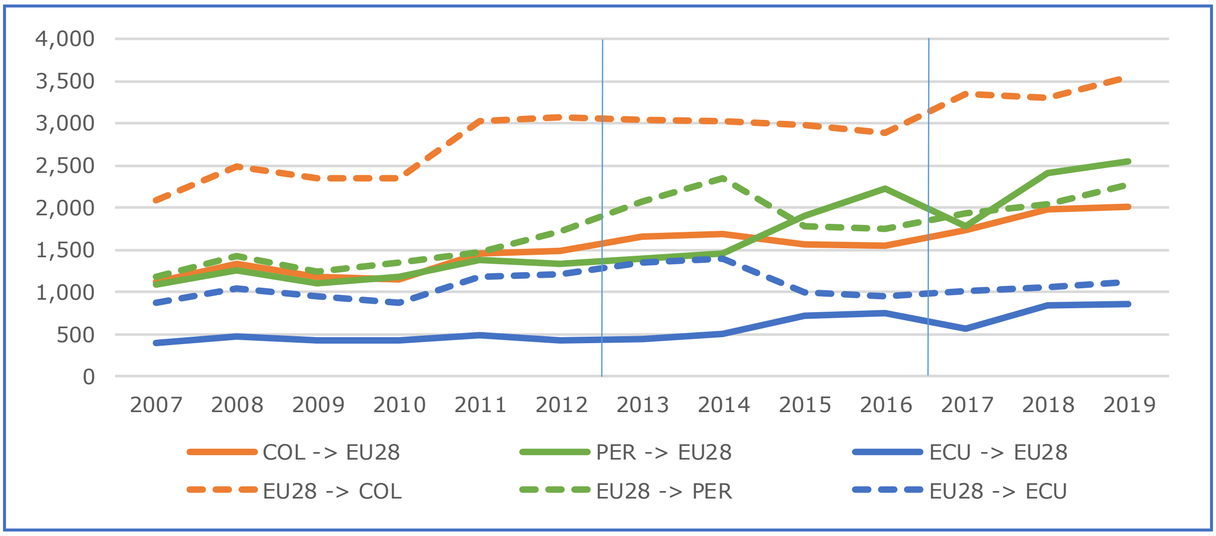



Note: Among goods trade, HS chapter 27 is excluded.
Source: Authors' calculations based on BaTIS database (services) and UN COMTRADE (goods).

**Partner countries' exports to the EU**

Services exports to the EU28 from Colombia and Peru (solid lines in Figure 6-8) 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 6-8: EU28 bilateral services trade with partner countries, 2007-2019 (USD million)**

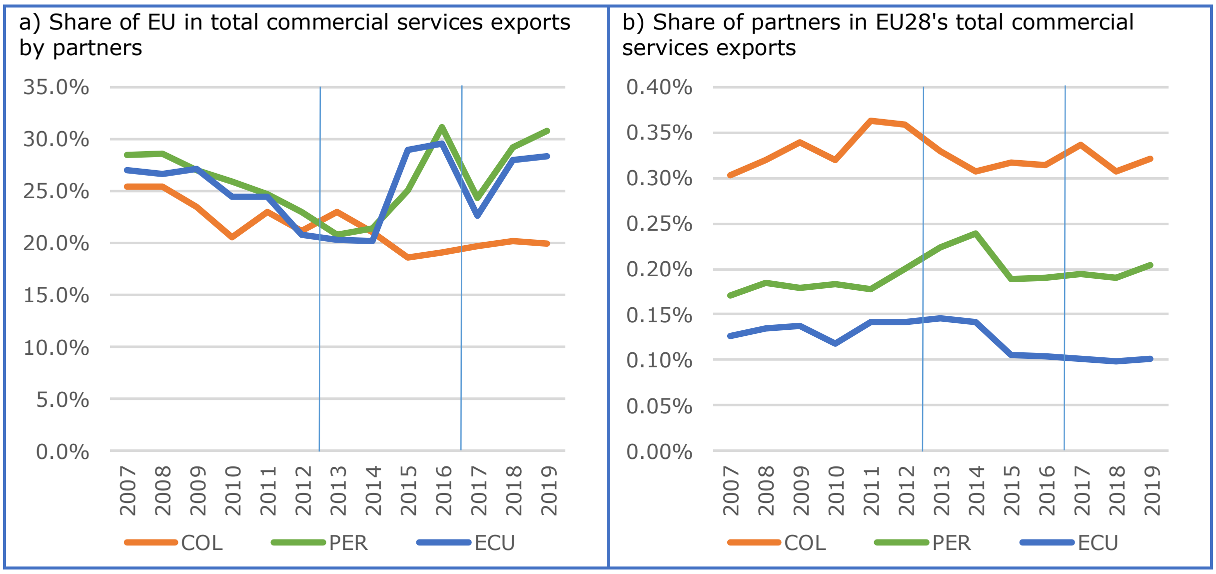



Source: Authors' calculations based on BaTIS database, see Tables 25 and 26 in Annex B.

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 6-9a) – these shares are higher than for goods trade (see Table 2 in Annex B). 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%.

**Figure 6-9: 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.

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.

**EU28 exports to partner countries**

EU services exports (dotted lines in Figure 6-8 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 6-9b 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.

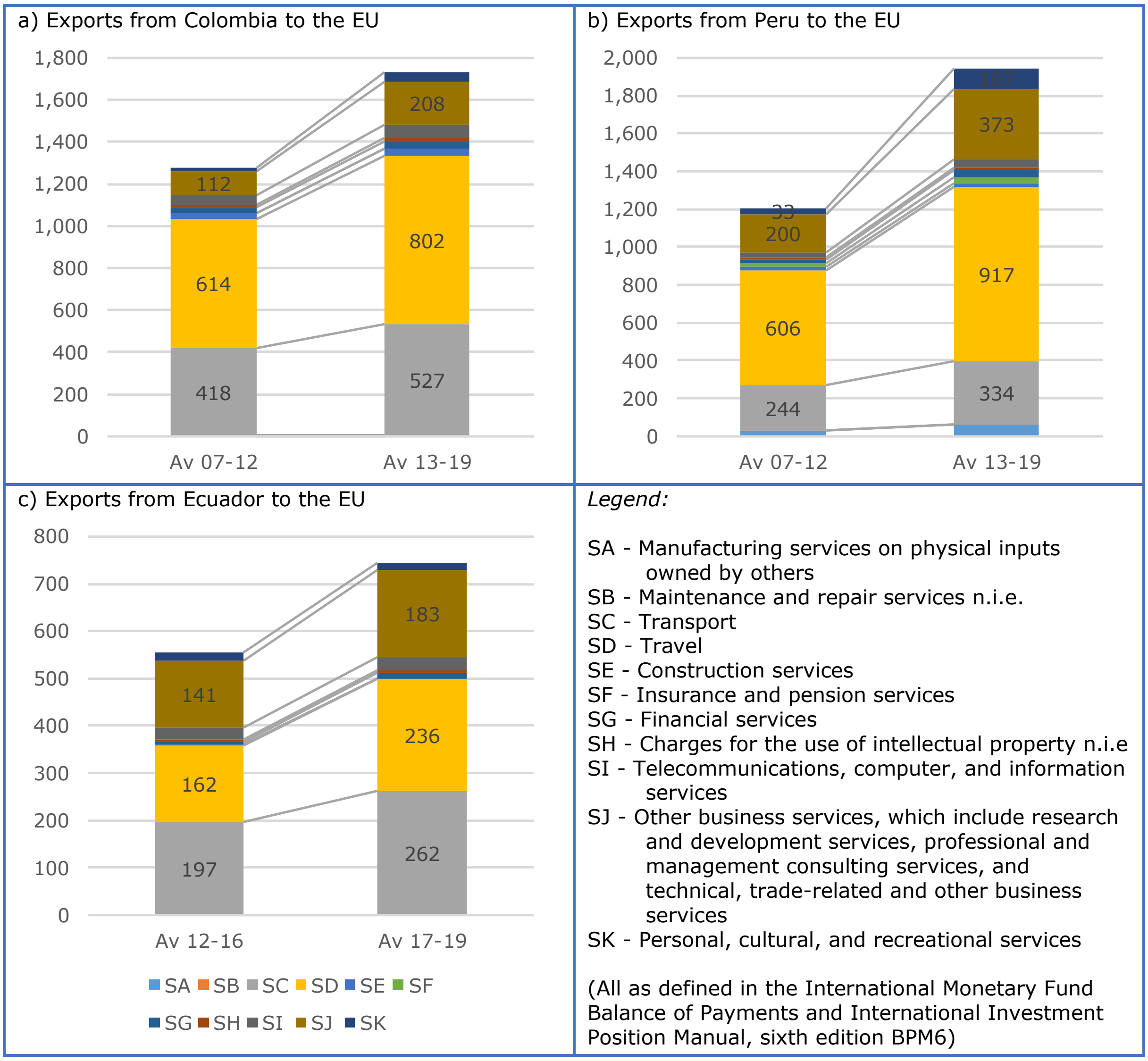
### *6.3.2 Services trade by sector*

**Partner country services exports to the EU28**

The largest three services export sectors to the EU by any of the partner countries are travel, transport, and business services (Figure 6-10); 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 (also see case study 1 in Vol. III). 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 thus increased their share from 9% to 12% in Colombian services exports, and from 16% to 19% in Peru, overtaking transport services. Other services account for small shares, which have hardly changed over time, with the exception of personal, cultural & 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 smaller export sectors, such as telecommunications, and personal, cultural & recreational services.

**Figure 6-10: 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.

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

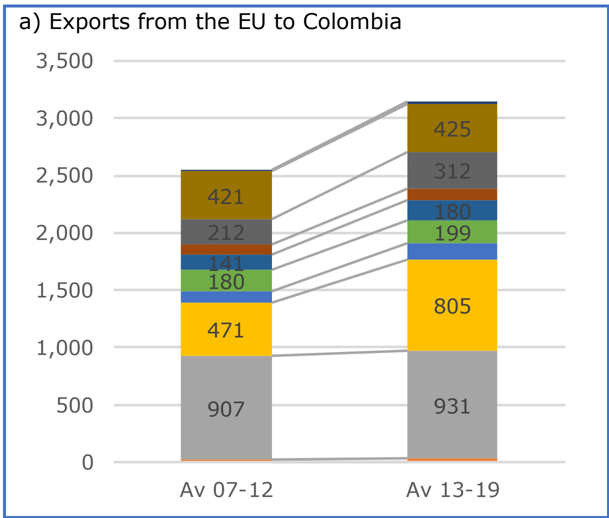
The EU's services exports to the Andean partner countries are more diversified across sectors, but also here, transport and travel services are the most important exports in all cases, and over time, accounting for about half of the services exports (Figure 6-11).

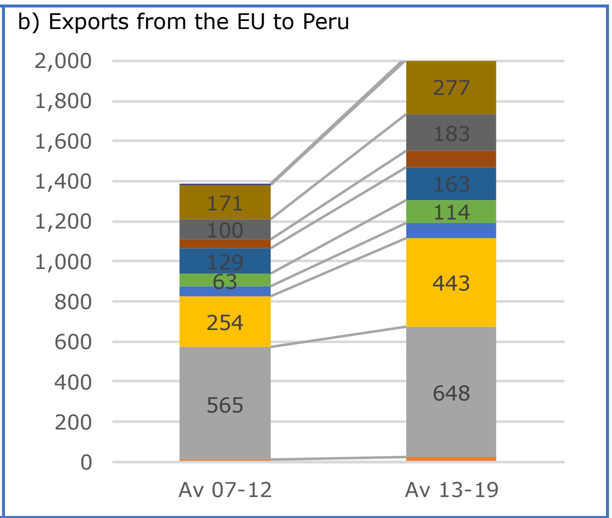
Comparing the changes in sectoral exports before and after the Agreement started to be applied shows the following:

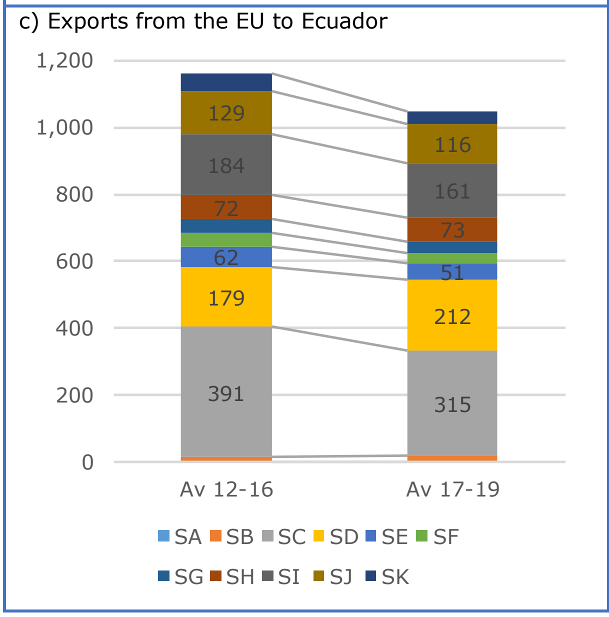
- Exports to **Colombia**: although transport services remain the largest export sector, they have hardly increased, and their share has dropped from 35.4% to 29.5%. Conversely, travel services have almost doubled, and their share increased from 18.4% to 25.4%. Business services have also lost importance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

- 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 6-11: Commercial services exports from the EU28 to partner countries, by services sector, before and after the start of application of the Agreement (USD million)**




*Legend:*

SA - Manufacturing services on physical inputs owned by others
SB - Maintenance and repair services n.i.e.
SC - Transport
SD - Travel
SE – Construction services
SF - Insurance and pension services
SG - Financial services
SH - Charges for the use of intellectual property n.i.e
SI - Telecommunications, computer, and information services
SJ - Other business services, which include research and development services, professional and management consulting services, and technical, trade-related & other business services
SK - Personal, cultural, and recreational services

(All as defined in the International Monetary Fund Balance of Payments and International Investment Position Manual, sixth edition BPM6)

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 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.

### 6.3.3 Conclusions and recommendations

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 sub-committee 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 (MRAs) for services suppliers (under Article 129) could be identified by the evaluation team: a corresponding request made by Colombia in 2015 does not seem to have been successful.[35] 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.

Nevertheless, considering the Agreement's objective to progressively liberalise trade in services (Art. 4(c)), an increased focus on ways to develop bilateral trade in services is recommended, e.g. by establishing a dedicated sub-committee that could also follow-up on the negotiation of MRAs.

## *6.4 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 foreign direct investment (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 6.3 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 complicated 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. Case study 1 (Volume III) provides a more in-depth review of the Agreement's potential impact on EU investment in the tourism sector of the partner countries.

### 6.4.1 Performance of overall bilateral FDI

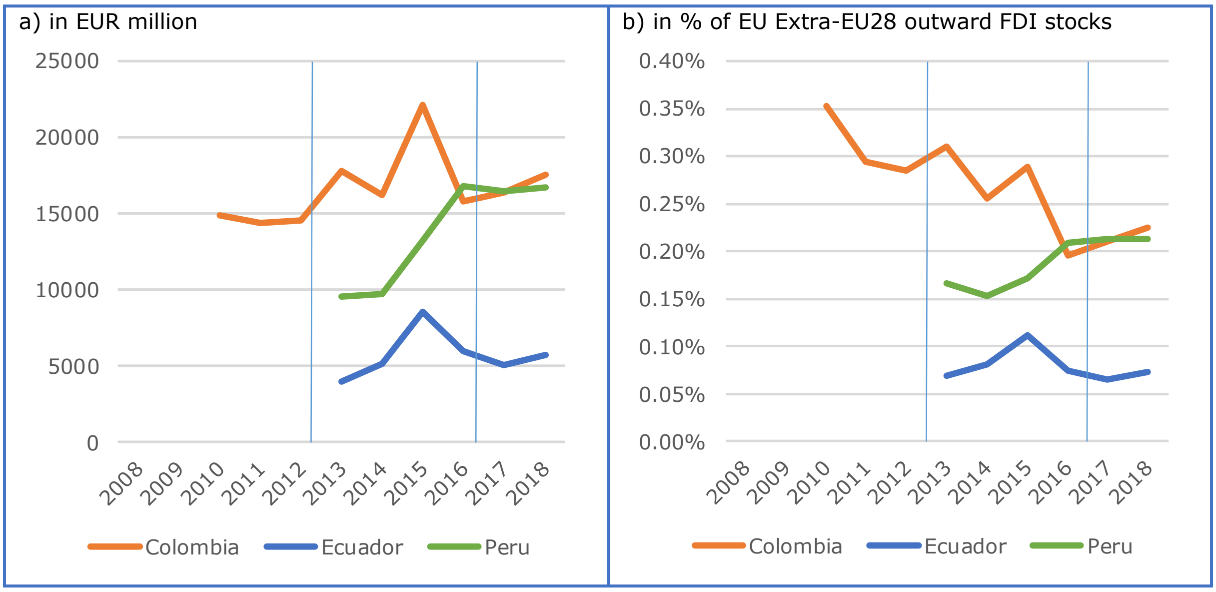
**EU investment in the Andean partner countries**

EU investment in the three partner countries has shown (as is quite usual for FDI) a high degree of volatility (Figure 6-12). 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

35 See minutes of the 2015 meeting of the Sub-committee on Market Access.

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%.

**Figure 6-12: 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])

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.[36]

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 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.[37] Moreover, Article 422 of the Constitution, which does not authorise extra-regional arbitrage between foreign investors and the State, constitutes another risk for foreign investors and hence another factor explaining low levels of FDI into Ecuador.

Seen from the Andean partner country perspective, EU investment is sizable, with the EU accounting for up to half of total foreign investment (Table 6-8), and being the largest

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[36] 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.

[37] "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].

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 6-8: EU FDI in partner countries, 2007-2019, in USD million (national statistics)**

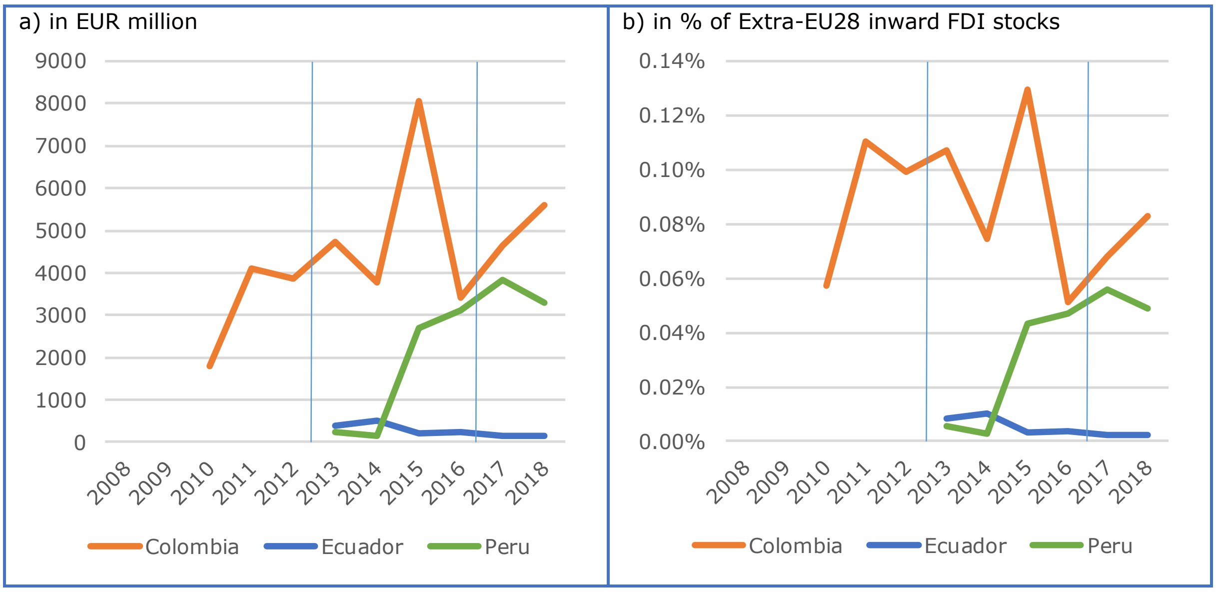
| | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | *Av pre* | *Av post* |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Colombia** | | | | | | | | | | | | | | | |
| Inflows from EU | 1,869 | 3,101 | 2,770 | 1,286 | 3,819 | 1,708 | 3,983 | 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)[38], 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 6-13). Colombia is the largest investor 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 6-13: 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])

[38] Data provided by PROINVERSIÓN comprise only voluntarily declared investment. Whereas EU investors tend to declare their investments, the same is not necessarily the case for investors from other countries (e.g. Chinese FDI stocks are estimated as reaching almost USD 30 billion). As a result, the share of EU FDI in total FDI stocks in Peru is likely to be inflated.

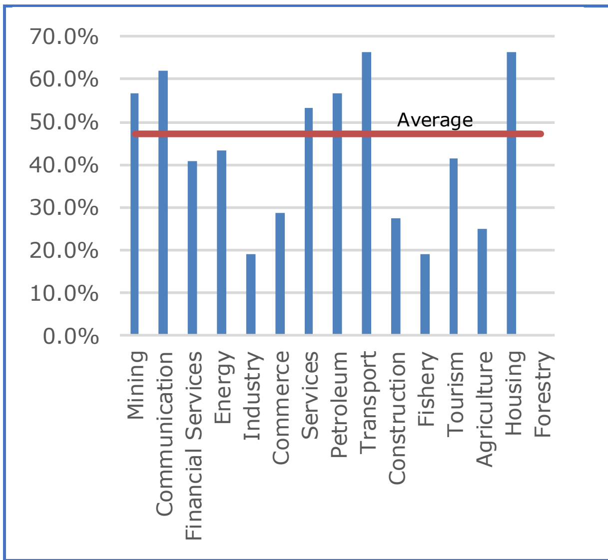
Anecdotal evidence provided by stakeholders interviewed for the evaluation points to a negligible impact of the Agreement on FDI (also see case study 1 in Volume III). Generally, stakeholders in Andean countries noted that their offensive interests, i.e. outward investment to the EU, was rather limited, and that they were not seeing much impact in this regard from the Agreement.

### *6.4.2 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,[39] and for Colombia not at all.

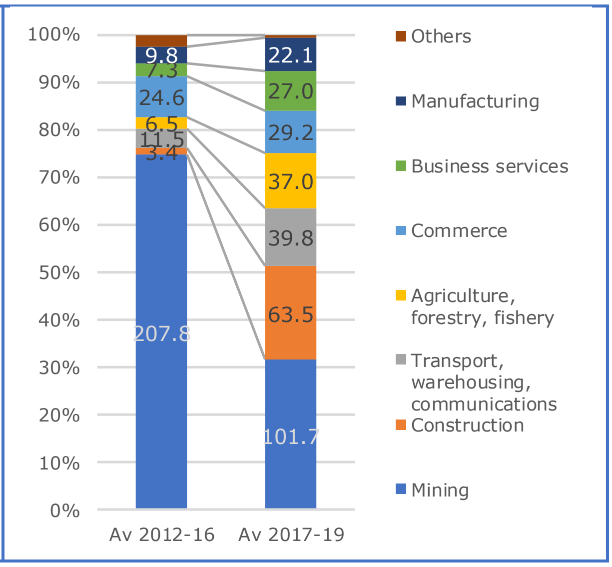
The data for **Peru** show that EU investment in the country is particularly important in the housing, transport, communication, mining, petroleum, and services sectors, whereas it is under-represented in forestry, manufacturing, fishery, agriculture, construction and commerce (Figure 6-14). Although 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 6.1.3 and 6.2.2 above), the lack of data showing the evolution over time does not permit any proper analysis of the Agreement's impact.[40]

**Figure 6-14: EU FDI in Peru by sector, 2019 (% of total FDI stocks per sector)**




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

**Figure 6-15: 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.

For **Ecuador**, EU FDI inflows since the start of application of the Agreement have altered substantially across sectors (Figure 6-15). Investment in mining, dominant at 75% of total EU investment in Ecuador prior to the Agreement, declined to just above 30%. Conversely, 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;

[39] 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.

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

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.

### *6.4.3 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.[41] 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.

### *6.4.4 Conclusions and recommendations*

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

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

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.

The recommendation made above regarding trade in service also applies to investment issues: An increased focus on ways to develop bilateral investment is recommended, e.g. by establishing a dedicated sub-committee (or a joint Services and Investment Sub-committee).

## *6.5 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.

### *6.5.1 Business awareness of the functioning of the Agreement, including functioning of administrative cooperation*

Most private sector stakeholders consulted 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 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 of 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. In Ecuador, Expo Europa 2018 was a joint initiative of all Eurocámaras and the EU Delegation aimed at stimulating trade between Ecuador and the EU (a second edition of Expo Europa is planned for October 2021, in virtual format).

### *6.5.2 Rules of origin*

Rules of origin (RoO) 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, the level of non-compliance with rules of origin in trade between the Parties has been low. This refers both to the respect of RoO by traders, and the administration of RoO by the authorities.[42]

Requests for verifications of origin by customs authorities[43] 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 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 RoO 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 from Colombia are not available, as these are not reported on separately by the customs authorities. In Ecuador, invoice declarations of approved exporters are not yet accepted.[44] In Peru, statistics on invoice declaration by approved exporters have been collected only

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[42] A recent study commissioned by the EU on preference utilisation by EU exporters in five Latin American countries (Colombia, Ecuador and Peru, as well as Chile and Mexico) also concludes that the number of cases of denial of preferences is low (Illescas et al. 2021, 80).

[43] In Peru, origin verification is the responsibility of the Ministry of Foreign Trade and Tourism.

[44] A draft Ministerial Agreement to allow for approved exporters to provide invoice declarations was prepared in October 2021.

since August 2020: in the period August 2020 to February 2021, 6,540 such declarations were recorded.[45] Based on consultations, 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 approved exporters were not accepted by some EU importers, reducing the attractiveness of obtaining the status; the Peruvian authorities reported, however, that no problems were encountered.

**"Strictness" of RoO and their implementation**

In general terms, according to stakeholders interviewed, the **implementation of RoO** (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 implementation by the EU of a RoO Self-Assessment tool for exporters (ROSA)[46] – which also comprises the RoO under the Agreement, among other EU FTAs – is expected to further facilitate traders' understanding of, and compliance with, RoOs.

The same is true, overall, regarding the **RoO 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. Several members of the trading community representing both EU and partner country exporters stated that the direct transport requirement and its current application constitutes an impediment to the use of preferences and affects also smaller traders that ship full containers for deconsolidation at transit hubs.

*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

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[45] Information provided by the Government of Peru.
[46] See https://trade.ec.europa.eu/access-to-markets/en/content/presenting-rosa

cumulation of origin for the benefit of exported products. No requests for cumulation from other Latin American or Caribbean countries have however been received. The Government of **Peru** stated that cumulation of origin with the EU, the Andean partner countries and Group 2 is very important and used in practice. For **Colombia**, no information on the use or importance of origin cumulation could be obtained.

*Digital movement certificates:* To simplify the paperwork, Colombia and Ecuador suggested at the 2020 meeting of the Sub-committee to contemplate using digital certificates of origin.[47] 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.[48] 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 6.5.5 provides more detail.

### *6.5.3 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[49], 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 6.1.5 above support this argument.

At the same time, the increasing TRQ utilisation rates (see section 6.1.5 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.

### *6.5.4 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,

[47] Subsequently, the Andean partner countries agreed that any future proposal regarding digital movement certificate should be analysed to determine if there is a legal basis for it in the Agreement.

[48] Other certificates have also started to be issued in electronic form since the outbreak of covid-19. For example, the Peruvian National Fisheries Health Agency (SANIPES) took steps with DG SANTE for the issuance of certificates and acceptance of the use of electronic signatures through the TRACES NT platform and since February 2021, has been issuing sanitary certificates with an electronic signature.

[49] In a recent letter, the Ecuadorian Ministry of Trade stated the intention to bring the TRQ system and non-automatic import licensing in line with the Agreement and WTO rules.

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 6.9.

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 the 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 6.9 for bananas; section 6.13 for sugar; for dairy, see Box 6-2), we have found no reason to believe that agricultural safeguards should have been triggered.

### *6.5.5 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 the Colombian tax and customs authority (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 yet played a major role in the implementation of the Agreement.

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 6.10 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.

### *6.5.6 Conclusions and recommendations*

Overall, based on the analysis undertaken, 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;

- Addressing the current implementation of direct transit rules (or a change in the rules themselves) would facilitate bilateral exports, including for smaller traders;
- 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.

**Box 6-2: Impact of EU dairy exports to the Andean partner countries**

The impact of increased EU dairy exports to the partner countries under the Agreement's preferences on the domestic dairy sectors has been one of the more controversial issues.

In the literature, some authors have argued that in **Colombia** "the dairy sector, traditionally associated with small-holder farms, has been significantly affected. From the first year of this FTA, on average, for every one tonne of dairy products exported, 7 tonnes enter Colombia" (Hawkins 2020). However, comparing import and export values and deducing a significant impact from this provides no evidence for the impact of the Agreement and suffers from methodological shortcomings. First, instead of bilateral trade flows, changes in the share of (EU) dairy imports on the Colombian market should be considered, as only this could indicate an impact on domestic dairy production. More importantly, a comparison of trends over time fails to acknowledge other factors influencing output and the economic condition of a sector. Therefore, the conclusion drawn that "the importation of agricultural and food and beverage products […] has created significant difficulty in offering Colombia the chance of having food sovereignty" (Hawkins 2020) is not sufficiently supported by evidence.

Considering the sensitive nature of the sector, imports from the EU in Colombia are subjected to TRQs. Furthermore, in response to the country's sensitivities and the request for support for the development of the sector, the EU provided budget support to the dairy sector over the period 2013 to 2018 (EUR 30 million), aimed at small farmers and MSMEs, and national authorities.

An analysis of the Agreement's impact on the dairy sector in **Peru** undertaken by Zegarra and Torres (2020) also creates causal links where these are not borne by the data: after showing that Peruvian imports of milk powder from the EU have **not** increased since 2013 (whereas imports from the USA and New Zealand have done so substantially), the authors later conclude that "a reduction in the average import price of powdered milk from the EU […] has a potential negative impact on national milk producers, which are mostly family farmers" (Zegarra M and Torres 2020, 69). However, given the limited share of EU imports on the market, the lower import prices from the EU would rather be a response to increased imports from other sources, or indeed increased domestic production. While it is clear that the lower prices have a negative impact on small-scale producers, it is not the Agreement or the EU imports that are to blame for this. This may indeed be different for cheeses, where a significant increase in imports from the EU was associated with a price decline (Zegarra M and Torres 2020, 71) – which would indeed impact negatively on producers, provided that artisanal cheeses produced by them directly compete with EU cheeses, and that the share of imports from the EU compared to domestic production of cheese is sufficiently high.

The economic modelling undertaken for the evaluation shows that Agreement's impact on EU dairy exports to the Andean partner countries was limited in terms of absolute changes. Actual observed exports do show a clear increase (see Figure A and B below) – but the overall values are small compared to the size of the markets, and TRQs for at least some dairy products have been fully used (see section 6.1.5) – showing that they have been effective in providing for a controlled market opening, while shielding domestic producers against "excessive" competition. Considering the still (and limited by TRQs) market shares of EU dairy imports, no distorting effect on the domestic markets in Colombia and Peru can be found.

**Figure A: EU dairy exports to Colombia, 2007-2019 (€ million)**

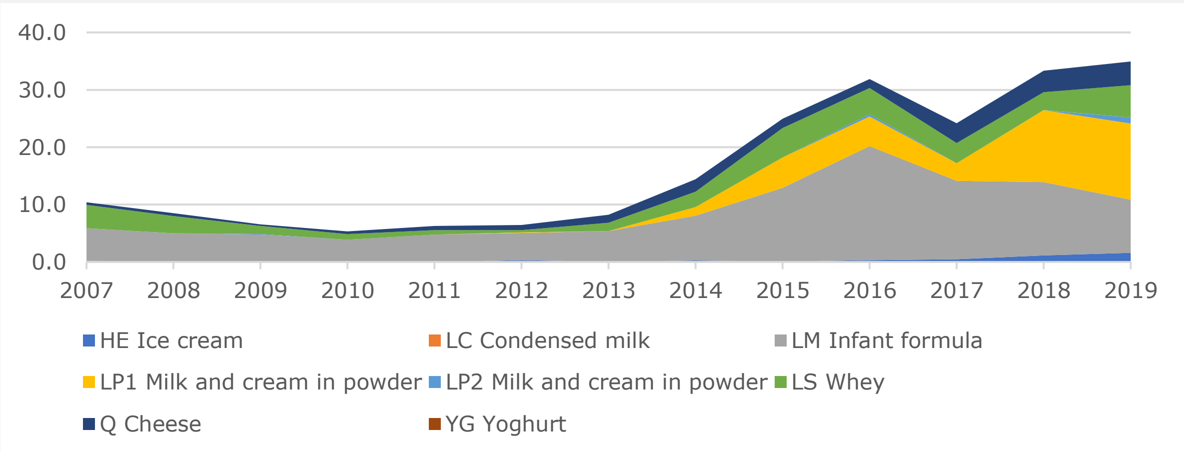
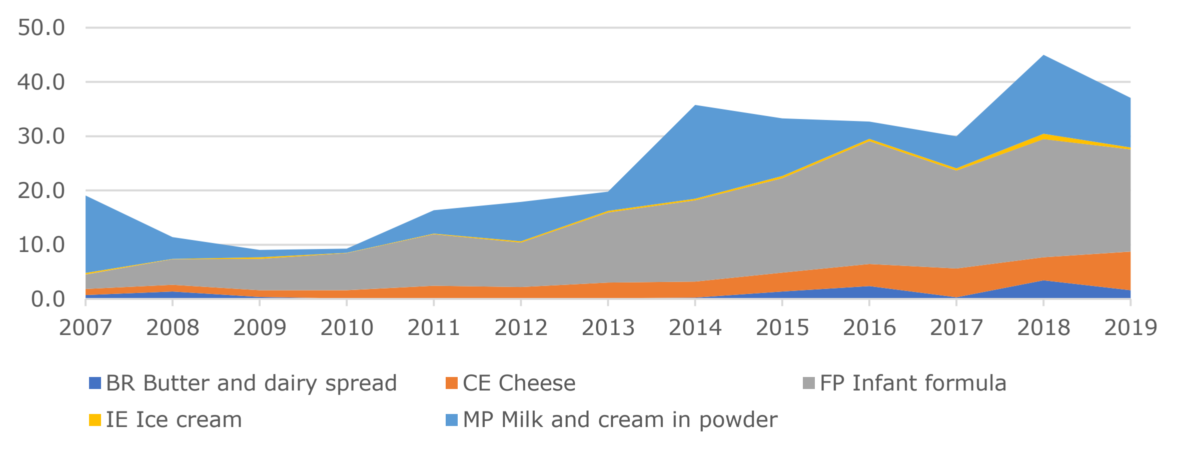


**Figure B: EU dairy exports to Peru, 2007-2019 (€ million)**




Source: Author calculations based on Eurostat COMEXT database, Agreement text, and information provided by Partner country governments.

## *6.6 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)?

### *6.6.1 Effect of SPS measures on trade between the Parties*

As analysed in section 6.1 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.[50] They were particularly concerned that recent EU policies, such as the Green Deal[51] or especially the Farm to Fork Strategy,[52] 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 6.8.3 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.

#### *6.6.2 Effectiveness of collaboration between Parties regarding SPS and related measures*

SPS measures applied by the Parties as well as upcoming changes are discussed in the annual meetings of the SPS and Agriculture Sub-committees 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[53]; 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

[50] Also see the minutes of the various annual SPS Sub-Committee meetings.

[51] 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.

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

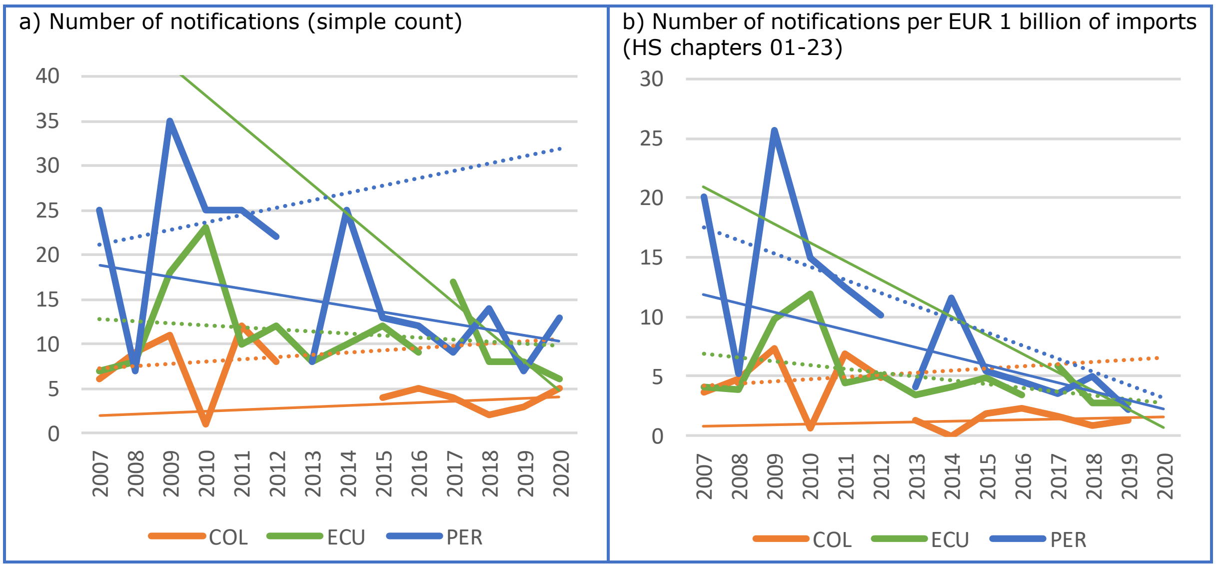
[53] This topic, raised in several meetings of the Sub-committee on Agriculture, is outside of the scope of the Agreement and therefore not included in the commitments negotiated.

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.[54]

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 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.[55]

This is indeed the case. Both the absolute number of notifications (Figure 6-16a) and the incidence of notification in relation to import value (Figure 6-16b) 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 6-16: 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; the evidence rather

54 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).

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

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, related to animal health, 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.

#### *6.6.3 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 MRLs for pesticides 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.

### *6.6.4 Conclusions and recommendations*

Overall, SPS measures do not appear to have created an undue barrier to bilateral exports of products concerned by such measures: exports of these products by all Parties strongly increased (section 4.2), and the estimated impact of the Agreement on trade in agricultural and food products is positive (section 6.1.3).

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, we recommend that continued technical assistance is provided to ensure that exporters of products covered by SPS requirements can keep benefitting from the preferences offered by the Agreement.

## *6.7 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 6.7.1) and, second, the extent to which the provisions on government procurement in the Agreement have been implemented (section 6.7.2).

### *6.7.1 Participation by economic actors of the Parties in government procurement markets*

**Colombia**[56]

Detailed data on the government procurement market in Colombia are available only from 2017. The market is sizable, with government procurement accounting for an increasing share in GDP: 12.3% in 2017, and 14.9% in 2019.[57] The total value of the market reached a high of COP 158.3 trillion (EUR 43.4 billion) in 2019, before contracting in 2020, to COP 144.4 trillion (EUR 34.2 billion) (Figure 6-17a). At the same time the number of contracts

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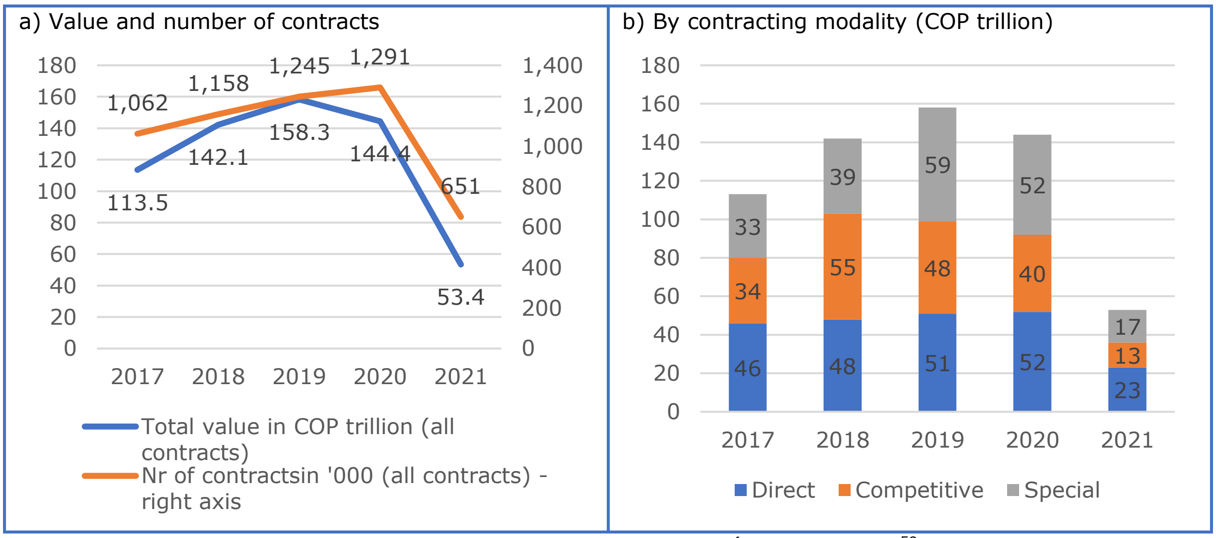
[56] For details, see case study 2 in Volume III.

[57] Own calculations based on Colombia Compra Eficiente (procurement) and World Development Indicators (GDP)

increased steadily from 2017 to 2020, reaching 1.29 million in 2020.

Among the three main contracting modalities (direct contracting and competitive contracting under the general procurement laws, as well as the special regime), each account for roughly one third (Figure 6-17b). However, the share of competitive contracting, which reached COP 55 trillion, 38.7% of the total, in 2018, decreased to 27.8% in 2020.

**Figure 6-17: Government procurement market in Colombia, 2017-2021**




Source: Own calculations based on Colombia Compra Eficiente, "Análisis de Oferta"[58].

Because the Agreement only liberalises the Colombian procurement market for EU firms only above certain contract threshold levels, the contestable market for them is smaller than the total market (Figure 6-18a). For simplicity reasons, we take a contract value of COP 600 million for all procedures as the threshold, this reflects the lowest threshold set in the Agreement (for goods and services at the central level) and therefore slightly overestimates the actual market size that is contestable for EU businesses.

The vast majority of contracts in Colombia are awarded to domestic providers: with the exception of 2020, in each year between 2017 and 2021 the share of national providers in total contracts awarded clearly exceeded 99%; in 2020 it was 98.9%. While the participation of foreign providers overall is very low, the participation of EU providers is even lower, although it increased in 2020 and 2021: the value of contracts awarded to EU providers stayed below EUR 20 million during 2017 to 2019, then jumped to EUR 160 million – largely driven by procurements related to covid-19 – with initial data for 2021 showing a decline again, although still above the pre-2020 levels (Figure 6-18b). In relative terms, the share of EU providers in the total contestable contract value was between 0.06% and 0.07% in 2017 to 2019, then jumped to 0.8% in 2020 and declined again to 0.34% in 2021 so far. Compared to other foreign competitors, the EU share was in the range of 20% from 2017 to 2019, increased to almost 70% in 2020 and fell again to 50% in 2021 so far.

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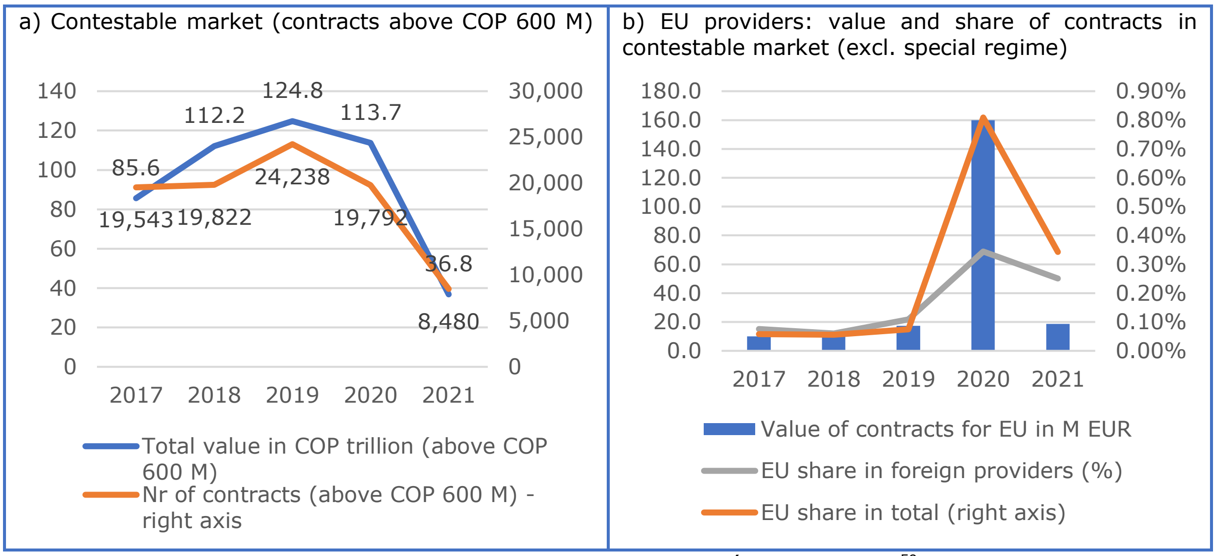
[58] https://app.powerbi.com/view?r=eyJrIjoiZTZlYjRmMzgtOTJlYS00ZDBkLTgxZDUtZGYzYTI5ZGMyNDgyIiwidCI6IjdiMDkwNDFlLTI0NTEtNDlkMC04Y2IxLTc5ZDVlM2Q4YzFiZSIsImMiOjR9 [accessed 21 June 2021]

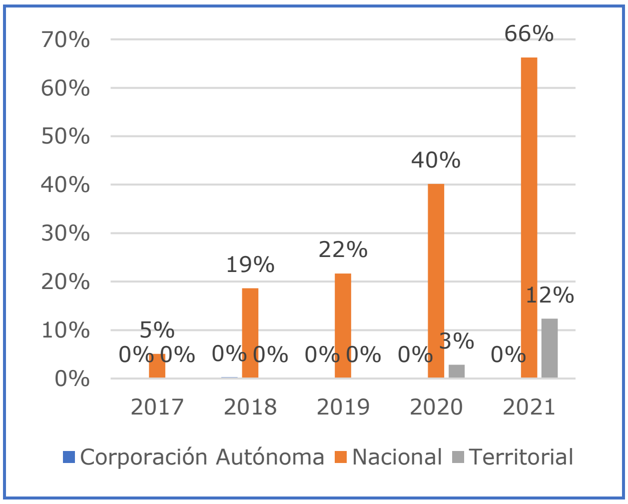
**Figure 6-18: EU role in Colombia's government procurement market, 2017-2021**




Source: Own calculations based on Colombia Compra Eficiente, "Análisis de Oferta"[59].

Finally, some more disaggregated data are available under Colombia's Open Data initiative. These show that the EU's share in contracts awarded by central procuring entities to foreign services providers under SECOP II[60] have consistently increased since 2017, from 5% to 66% so far in 2021 (Figure 6-19). Sub-central procuring entities – which account for 95% of the contract value awarded in 2017 to 2021 – have awarded their first contracts to EU providers in 2020 (3% of contract value awarded to foreign providers by sub-central entities) and 2021 (12%). This shows that (a) the share of contracts awarded to EU providers through SECOP II is higher than average; and (b) that EU participation in sub-central procurement is still very limited – even within the small share of contracts that are awarded to non-Colombian providers.

**Figure 6-19: Share of contracts awarded to EU providers in total value of contract awarded to foreign providers, by level of procuring entity (SECOP II only)**




Source: Own calculations based on https://www.datos.gov.co/Gastos-Gubernamentales/SECOPII-Proveedores-Extranjeros/792g-xj47/data [accessed 17 June 2021]

## Peru

Aggregated statistical data on Peru's government procurement market could be obtained only until 2017,[61] and shows a volatile performance, with the trend generally declining since 2013, the year in which the Agreement started to be applied (Figure 6-20): 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,

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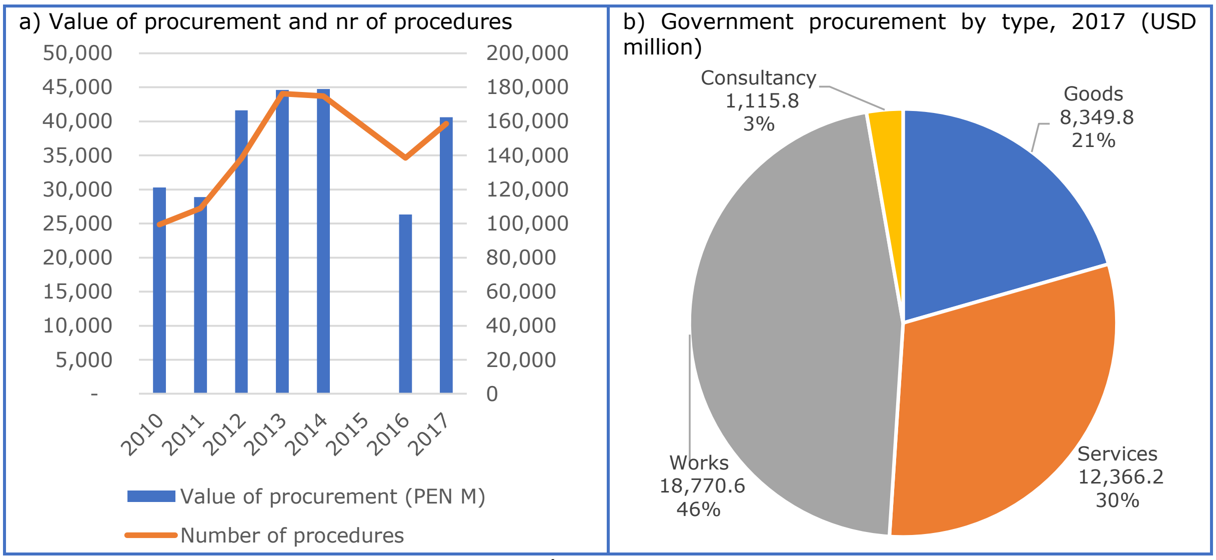
[59] https://app.powerbi.com/view?r=eyJrIjoiZTZlYjRmMzgtOTJlYS00ZDBkLTgxZDUtZGYzYTI5ZGMyNDgyIiwidCI6IjdiMDkwNDFlLTI0NTEtNDlkMC04Y2IxLTc5ZDVlM2Q4YzFiZSIsImMiOjR9 [accessed 21 June 2021]

[60] Due to the manner in which data are provided in datos.gov.co, the calculation of EU shares in total contracts awarded is a complex exercise that would beyond the scope of the present study.

[61] While SEACE provides detailed information about tenders and contracts at the level of individual procedures, it is not conducive to an aggregated statistical analysis.

accounting for 46% of total government procurement, followed by services (30%) and goods (21%).

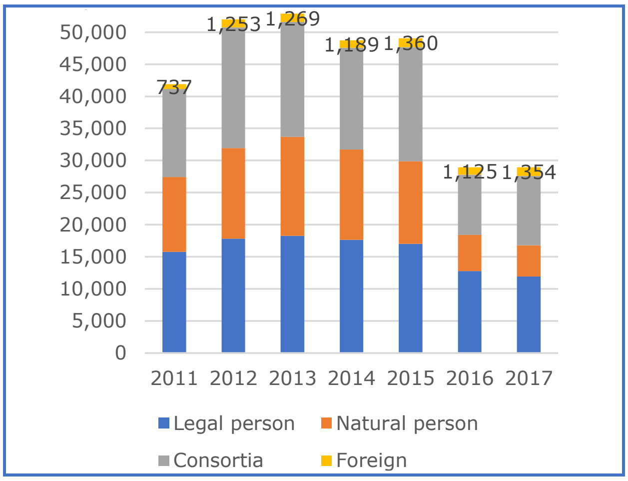
**Figure 6-20: Government procurement market in Peru, 2010-2017**




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

Information by nationality of service providers/suppliers is not available, but the number of foreign/non-domiciled contractors is available (Figure 6-21). 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 government procurement market** either.

**Figure 6-21: Number of contractors in Peru's government procurement by type, 2011-17**




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

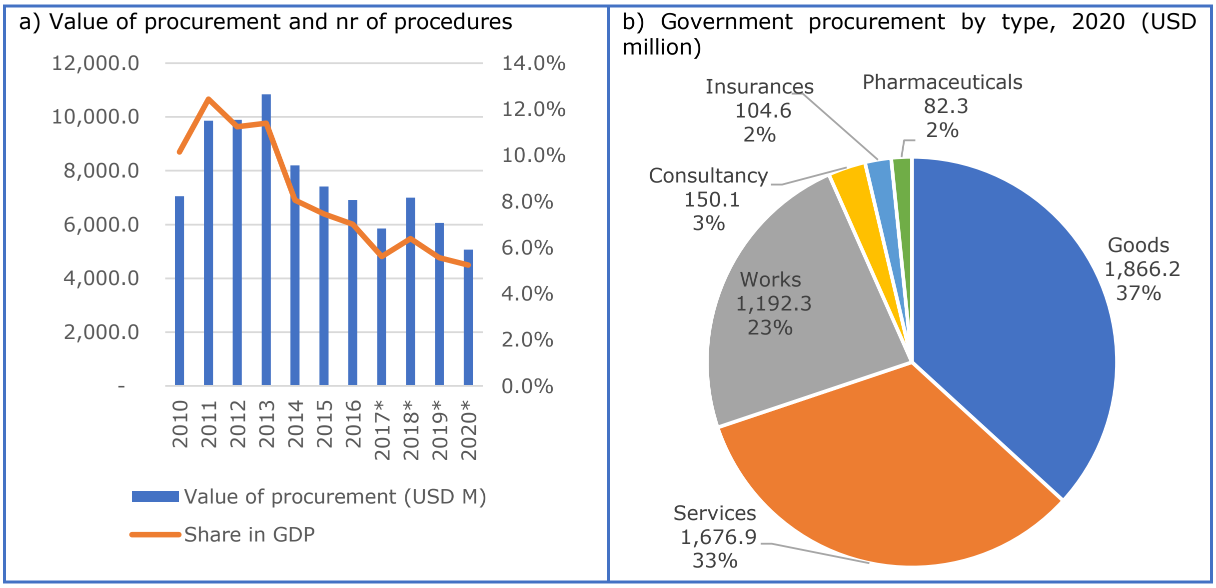
## Ecuador

The size of Ecuador's government procurement market has substantially decreased in recent year, primarily as a result of the fiscal debt levels and the corresponding expenditure cuts Figure 6-22. 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%).

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

**Figure 6-22: Government procurement market in Ecuador, 2010-2020**

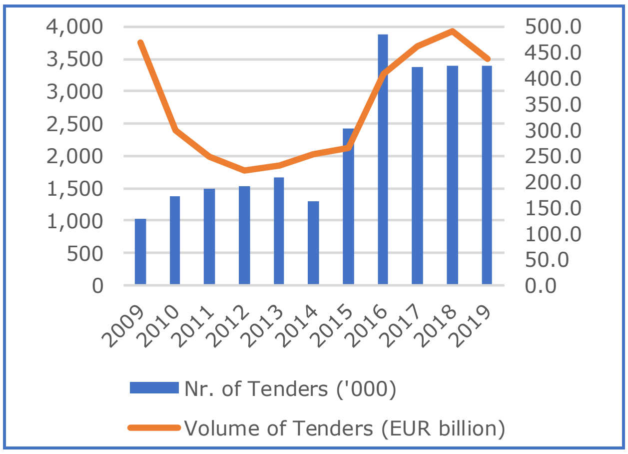



Source: SERCOP, https://portal.compraspublicas.gob.ec/sercop/cifras-de-la-contratacion-publica-diciembre/ [accessed 30 January 2021].

## EU

Government procurement in the EU amounts to more than 14% of GDP.[62] 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 6-23), both substantially higher than in the first half of the decade.[63] 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 6-24).

**Figure 6-23: 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].

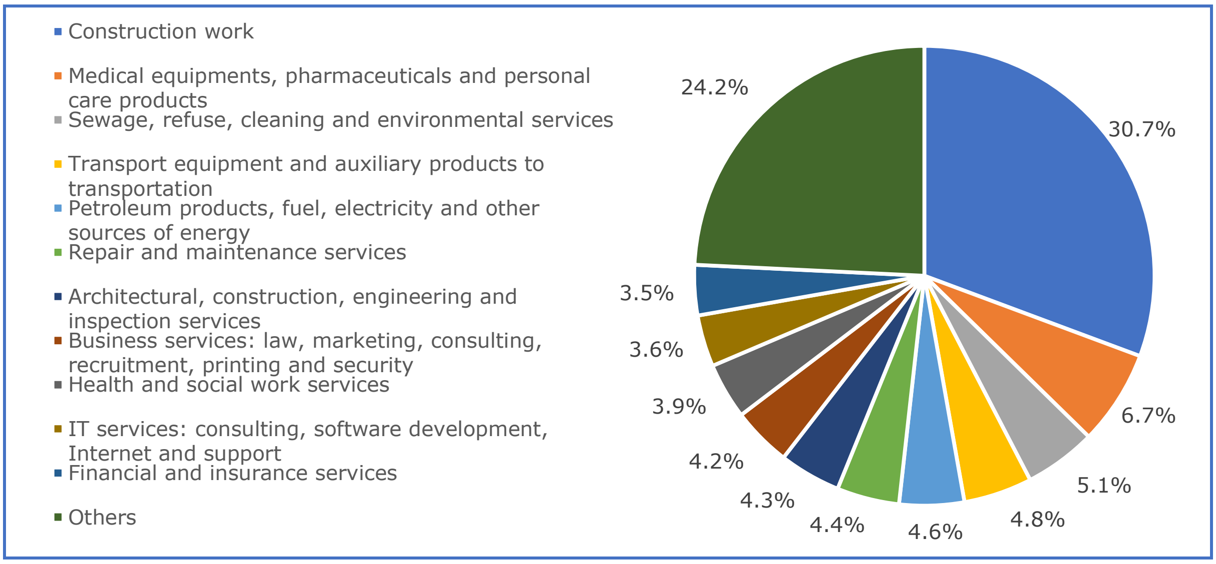
Despite this significant size of the EU government procurement market,

[62] 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.

[63] 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

according to the EU's TED database on contract awards,[64] over the period 2009 to 2019 no contract was awarded to a company from Colombia, Ecuador or Peru. However, as noted by ProColombia, this does not necessarily mean that partner country companies have not participated in the EU government procurement markets at all; rather, they participate as sub-contractors to (usually EU) bidders. Unfortunately, no data are available to assess the extent to which such indirect participation in the EU procurement market takes place.

**Figure 6-24: 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].

### *6.7.2 Implementation issues of the Agreement in relation to government 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."[65]

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 government procuring entities, not having an industrial or commercial character.[66] Nevertheless, at subsequent meetings of the Sub-committee 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

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.

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

65 "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.

66 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 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).

industrial companies, the Decision is being ignored."[67] Meanwhile, the Government of Colombia considers that entities that have 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 government procurement system. 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 government procurement markets in consortia led by, or as sub-contractors of, domestic companies. Case study 2 in Volume III provides more details.

In **Peru** and **Ecuador**, government 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)); these issues and others have also been raised repeatedly by the EU in the meetings of the Government procurement Sub-committee. In Ecuador, according to some EU stakeholders the level of awareness for the Agreement's provisions on government 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 the **EU**, Colombian stakeholders interviewed for the evaluation acknowledged that the procurement systems in the EU and its Member States were open and transparent – although somewhat complex and difficult to manage for foreign companies even from other EU countries, and certainly Colombian companies – but even so the vast majority of contracts were won by domestic firms. Colombian companies would be at a disadvantage not only because they lacked the experience in managing the complex EU procurement tools but also because the lacked the "insider information" and competitive edge required to win government contracts. It was also noted that forecasts in TED would often not accord sufficient time for Colombian firms to prepare for a tender, and that the publication of annual procurement plans was advisable.

Regarding *transparency* issues, in **Ecuador**, the National Procurement Service (Servicio Nacional de Contratación Pública, SERCOP) maintains a website with announcements of intended and planned government procurement procedures (in line with Article 177)[68] and has also prepared a manual for procurement entities on how to apply the provisions of the Agreement.[69] In **Colombia**, Colombia Compra Eficiente also maintains a website with information about the Agreement including a manual for procuring entities.[70] Announcements of forthcoming procurements for which EU companies are eligible can be configured under the SECOP II system by registered businesses.[71] 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

[67] "[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.

[68] https://portal.compraspublicas.gob.ec/sercop/aviso-de-contratacion-publica-prevista-2021/.

[69] https://portal.compraspublicas.gob.ec/sercop/manual-de-aplicacion-del-acuerdo-comercial-con-ue/.

[70] https://www.colombiacompra.gov.co/compradores/acuerdos-comerciales-y-trato-nacional-por-reciprocidad.

[71] See manual "Pasos previos:Configuración de la cuentaen el SECOP II," https://www.colombiacompra.gov.co/sites/cce_public/files/cce_step/cce-sec-gi-05provppconfiguracioncuenta07-09-2020.pdf

Agreement or procurement opportunities covered by it.[72] The same applies to the **EU**'s information system for public procurement (SIMAP).[73]

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 2020 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; the EU asked for a request detailing the training needs in the Andean partner countries.

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 government procurement markets, the partners have not raised specific issues about access to EU government 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.[74]

### *6.7.3 Conclusions and recommendations*

Based on the analysis undertaken, we conclude that the Agreement's effectiveness in terms of increasing bilateral participation of firms in the partners' government procurement markets has so far been limited – EU companies continue to account for a fraction of suppliers and service providers in the Andean partner countries, and vice-versa.

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 government procurement markets. Although all Parties provide information about the eligibility of tenderers for the other Parties' bidders in the context of specific procedures, only Ecuador currently provides easily accessible information about upcoming tenders covered by the Agreement. The complexity of e-procurement systems in itself constitutes a challenge for accessing 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,[75] access to opportunities could be facilitated. For Andean companies to 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

[72] https://www.gob.pe/osce. Information about the coverage of procurement opportunities being covered by the Agreement is provided in the electronic procurement system (SEACE) at the level of individual procedures; see http://opnegocio.seace.gob.pe/busqueda/#/georeferenciacion

[73] https://simap.ted.europa.eu/

[74] 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.

[75] For the sake of clarity, it should be noted that these are corporate decisions in view of their perceived chances and risk to accede to partner country procurement markets; procurement rules do not require any association of EU bidders with domestic companies.

- 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.

Specifically regarding government procurement in Colombia, the following measures could help to further open the market to EU providers (see case study 2 in Volume III):

- The Sub-committee on Government procurement could prepare indicative lists of procuring entities at the sub-central level. The aim of this exercise would be to reduce uncertainty over the scope of covered procurement under the Agreement;
- MinCIT and Colombia Compra Eficiente (CCE) should continue to provide training to procuring entities on the obligations under the Agreement, as well as encourage an even more extended use of SECOP II;
- More user-friendly guides on the Colombian procurement systems, as well as the administrative measures in place for addressing and resolving disputes should also be provided for the benefit of EU providers;
- The CCE and the Commission should foresee more experience-sharing and mutual training on the respective procurement systems (TED and SECOP, respectively); and
- Finally, thresholds in the Agreement regarding procurement of goods and services at the central level are substantially higher than those in Colombia’s FTAs with some of the EU’s main competitors (e.g. the USA), which could be addressed through bilateral negotiations in line with Article 191(5) of the Agreement.

## *6.8 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.

### *6.8.1 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 6-3.

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.

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.

**Box 6-3: 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,[76] 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).[77]
- 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.

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 6.1 above) would seem to indicate that the EU's measures do not constitute a TBT.

### *6.8.2 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

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[76] 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].

[77] 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.

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 patent protection was extended under the Agreement: "'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 not find any indication that this has happened.

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 was quite limited as the final Agreement only provides for limited patent extension, and the majority of essential medicines are off-patent.[78] No issues have been raised by interviewed stakeholders from other countries. The human rights analysis (chapter 9) 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 6-9). 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, including the Government of Peru, noted that the GI approval process in the EU was extremely slow. For example, 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 than 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.

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.

[78] 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.

**Table 6-9: 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)<br>106 (in PER)<br>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.

In the consultations, the Government of Colombia highlighted the high importance of the protection of Colombian GIs in the EU under the Agreement, as 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 felt 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.[79] At the same time, it should be noted that the Agreement does not provide for an equal treatment between GIs registered under the Agreement and GIs directly registered in the EU. Finally, regarding the scope of GI protection, the Peruvian and Colombian governments are interested in advancing protection in the EU of non-agricultural GIs (as foreseen in Article 207(d) of the Agreement), as 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 in 2021 showed that a large majority of respondents see the need for an EU-wide initiative to improve the protection of geographical names or indications for non-agricultural products.[80]

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.[81] 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 requests from third parties for registration of trademarks using the denomination "Café de Colombia," as raised in the 2020 Sub-committee meeting. The same applied to the registration of trademarks in the EU including "Pisco".

Information about the value of trade in products covered by GIs is not available, with the exception of Pisco exports from Peru to the EU: these increased from USD 1.5 million in 2015 to USD 2.2 million in 2019 (and then decreased to USD 1.2 million in the 2020

[79] See https://ec.europa.eu/info/food-farming-fisheries/food-safety-and-quality/certification/quality-labels/geographical-indications-register/#; the database only list GIs registered 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, namely GIView, also includes GIs protected under trade agreements; see https://www.tmdn.org/giview/.

[80] See the summary report on the consultation available at https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12778-Geographical-indication-protection-at-EU-level-for-non-agricultural-products/public-consultation_en.

[81] Active monitoring is not required under the Agreement.

pandemic year; at the same time the EU share in total Pisco exports increased from 19% in 2015 to 36% in 2020 (32% in 2019).[82] No statistics are available about the frequency or scale of infringements. In addition, a recent study of the value of EU GI covered exports to non-EU countries shows however a sizeable value of EUR 16.9 billion in 2017 (AND International 2019, 18). 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 cooperation and awareness raising in the Andean partner countries in relation to IPR has taken place both at a regional and country-specific level, including seminars, workshops and training. 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,[83] which has implemented a number of seminars specifically aimed at stakeholders, both companies and relevant public sector bodies, in the three countries concerned, in addition to activities covering other Latin American countries. Moreover, a number of seminars for exchange of best practice were held in the Andean partner countries on the EU GI system.[84]

### *6.8.3 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 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.[85]

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,

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[82] Calculated by the authors based on data provided by the Government of Peru.
[83] See https://ipkey.eu/en/latin-america/activities for a list of activities since 2018.
[84] For example, in Peru a Seminar on European Regulatory Boards of GIs: Training and Management Experiences (2019).
[85] 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."

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 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.

#### *6.8.4 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, except for the use of digital movement certificates during the covid-19 period (see section 6.5.2). Minutes of the Trade Committee and Sub-committee meetings[86] do not refer to e-commerce, and stakeholders interviewed have also not provided any views on this chapter. Statistics on bilateral trade between the Parties using e-commerce are not available.

#### *6.8.5 Conclusions and recommendations*

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 to a greater degree of predictability of these issues for traders and 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. In protracted disagreements a more assertive stance by the Parties to actually use the Agreement's dispute settlement mechanisms might be recommendable.

With regard to the substantive issues addressed in this section, we conclude the following:

- 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

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

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 role in implementation, and no effects on trade between the Parties is visible.

Considering the technical nature of several of these areas, continued technical assistance and support by the EU to the Andean partner countries is recommended.

## *6.9 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.[87] The Agreement also foresees that the Parties would in 2019 "examine the improvement of tariff liberalisation" for bananas. This was indeed discussed between the Parties at the 2019 Trade Committee meeting, with the conclusion that no further reduction of tariffs on bananas was desirable and acceptable to the EU.[88]

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.[89]

Considering that the banana stabilisation mechanism was criticised, e.g. in the European Parliament, to be "inefficient" and lacking "flexibility, hampering its effectiveness,"[90] the evaluation assesses the impact of tariff concessions for bananas on trade in bananas between the Parties, on the exporting Andean countries as well as on other banana producing regions, including the EU, and the effectiveness of the mechanism as an instrument to protect EU producers.

### *6.9.1 Evolution of trade in bananas between the Parties*

In Annex B-2, we provide an analysis of the EU28 banana imports from the Andean partner countries and selected aggregated regions. It shows that there was no marked difference in performance since the Agreement started to be applied. Thus, the shares of EU banana imports from the partner countries in total extra-EU banana imports remained stable for

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[87] 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.

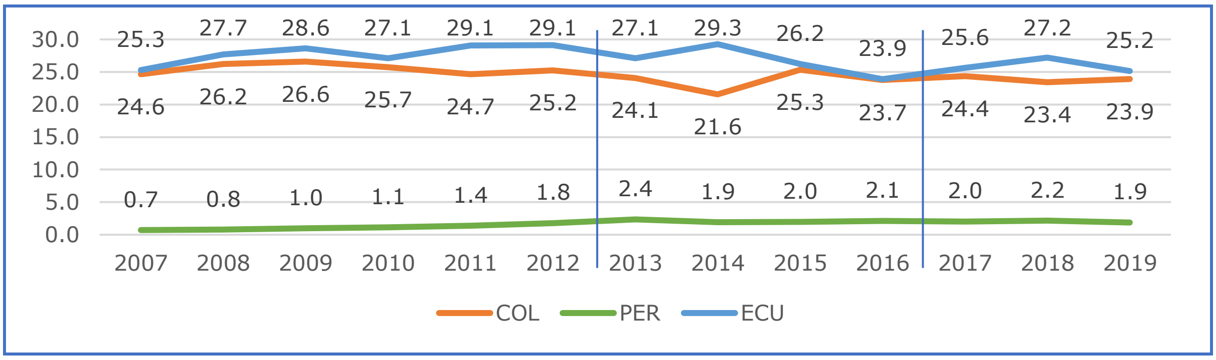
[88] See section 3.5 of the Trade Committee meeting minutes, available at [https://trade.ec.europa.eu/doclib/docs/2019/november/tradoc_158430.pdf](https://trade.ec.europa.eu/doclib/docs/2019/november/tradoc_158430.pdf)

[89] See the Agreement's sections referred to in footnote 87. 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.

[90] 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.

all three partner countries (Figure 6-25), averaging 25% for Colombia, 27% for Ecuador, and 2% for Peru; no impact of the Agreement is evident.

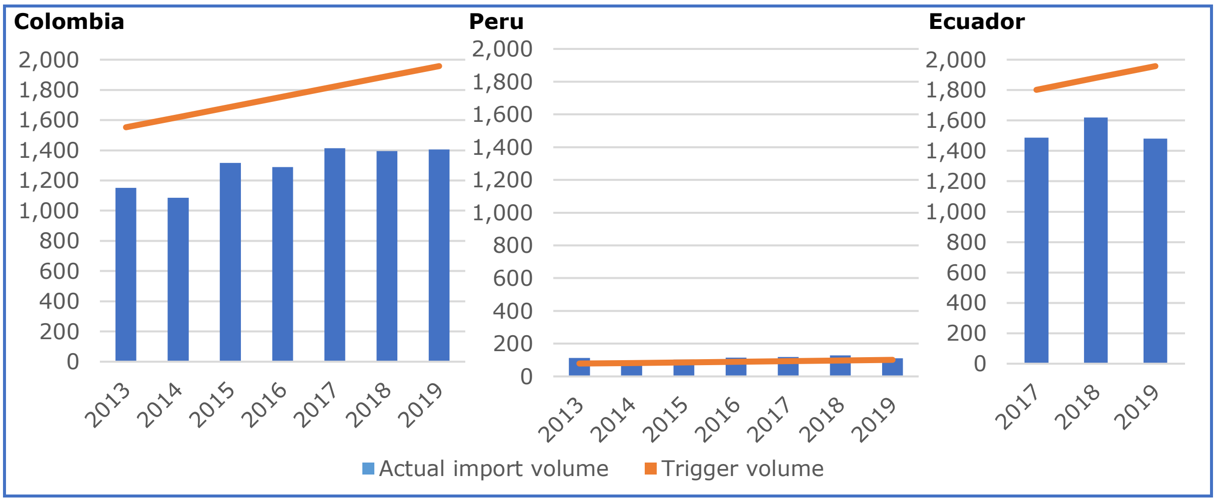
**Figure 6-25: Share of EU imports of fresh bananas from partners in total extra-EU imports (in tonnes), 2007-2019 (%)**




Source: Authors' calculations based on COMEXT database.

An important issue to address is the extent to which imports were in line with the stabilisation mechanism. Figure 6-26 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.[91] Indeed, considering that the share of banana imports from Peru remained stable at about 2% of total EU28 banana imports (Figure 6-25 above) the evaluation team agrees with the Commission's assessment.

**Figure 6-26: Triggers and actual import volumes ('000 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.

91 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.

### *6.9.2 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.

Table 6-10 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 6-10: 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 6-11 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.

**Table 6-11: 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.

### *6.9.3 Conclusions*

The analysis shows that the EU's tariff concessions for banana imports from the Andean partner countries 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.

## *6.10 Impact of the Agreement on diversification of bilateral trade*

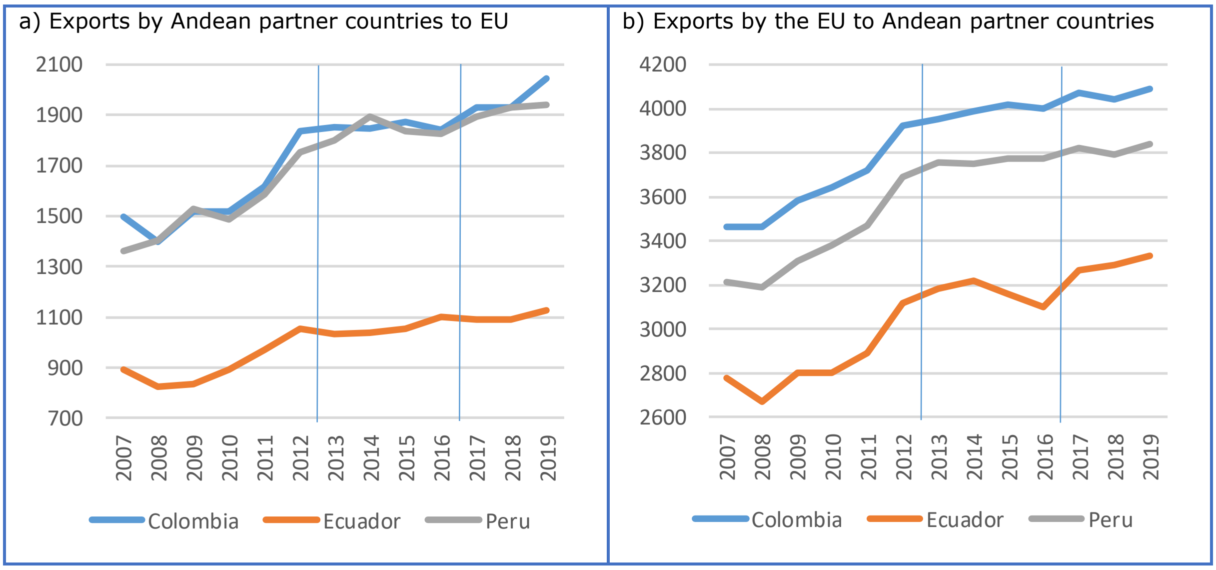
Although the Agreement does not explicitly include the diversification of trade between the Parties among its objectives, such diversification is important considering the prevailing trade patterns, which are characterised by high concentration of exports at least of the three Andean partner countries, 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.

### *6.10.1 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 6-27a): 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 6-27b). These data indicate a rather low effect of the Agreement on the composition of bilateral exports.

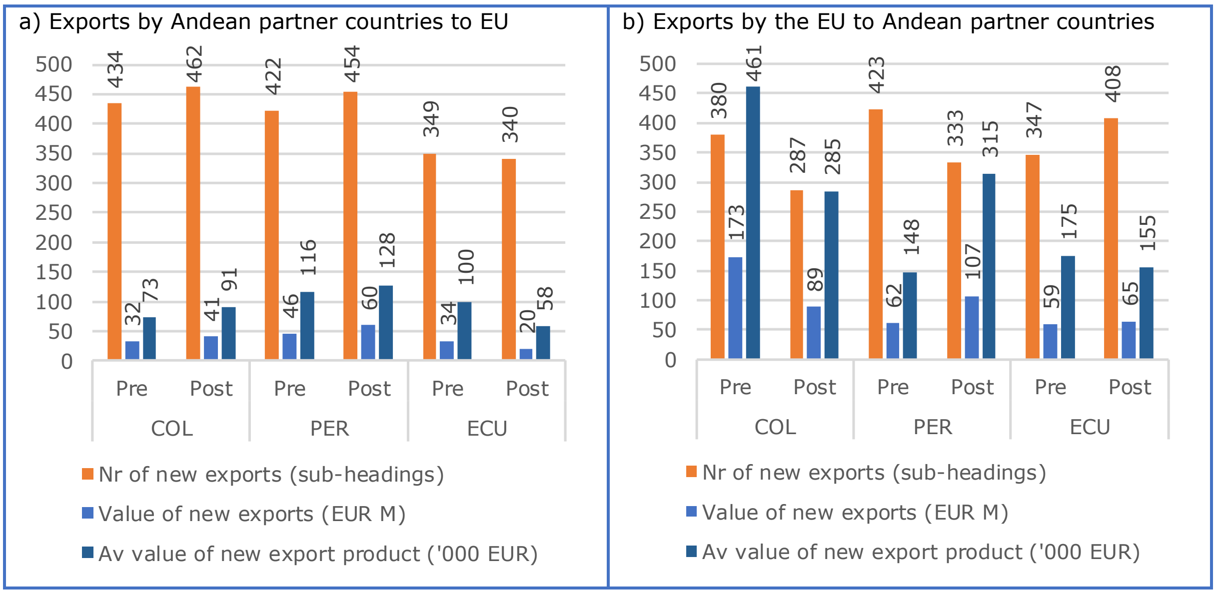
**Figure 6-27: Number of products exported to Agreement partners, 2007-2019**




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 6-28 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.

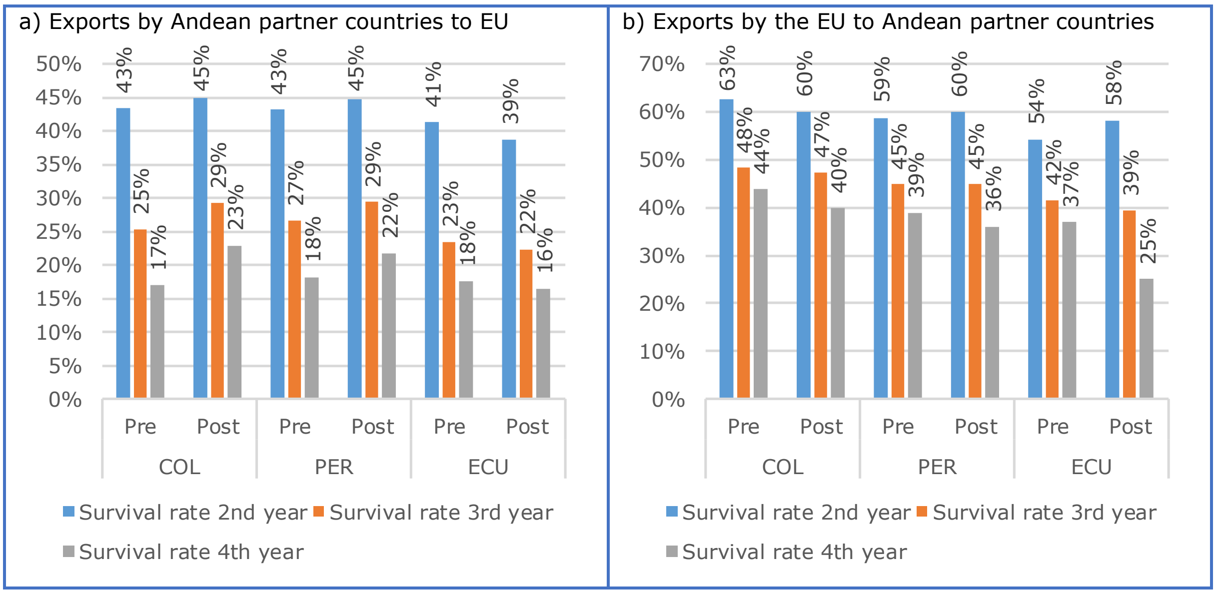
**Figure 6-28: New export characteristics before and after Agreement's start of application**




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 6-29, 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 6-29: 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 6-29a), 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 6-28 above).

For new exports from the EU (Figure 6-29b), 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.

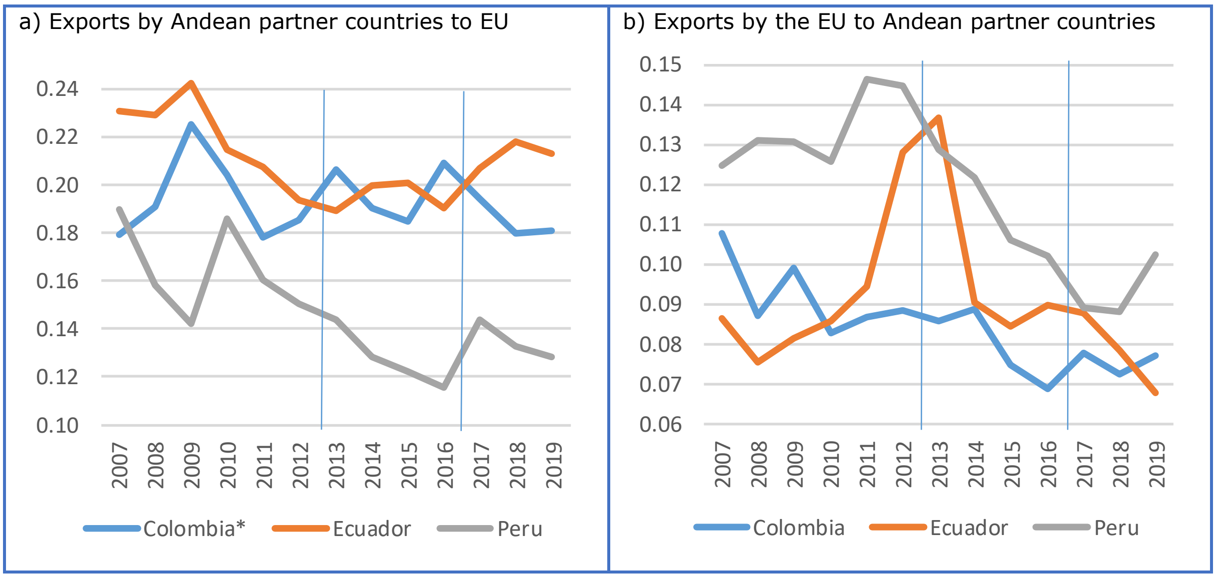
Another measure of the level of export diversification (or concentration) is through an index that measures the degree of export concentration in value terms. This takes into account differences in values of products being exported. We use the Herfindahl-Hirschman Index (HHI), applied at the HS chapter level.[92] Figure 6-30 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 6-30b). 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.

[92] 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 6-30: 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 that 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.

Another type of bilateral trade diversification concerns the regional dimension. 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 6-12 provides some examples.

**Table 6-12: 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

### *6.10.2 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 6-13).[93] 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).[94] 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 from the two countries for any given year. **Peru** reports the highest number of new

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

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 6-13: 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 6-13). 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.

### *6.10.3 Conclusions and recommendations*

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 the 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. We therefore conclude that the Agreement has had a limited effect on bilateral export diversification.

To foster the Agreement's role in this 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.

## *6.11 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 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 6.11.1), but also the implementation of the SME-related provisions in the Agreement (section 6.11.2). Case study 6 in Volume III provides more detail, especially the experience and views of selected SMEs in the Parties.

### *6.11.1 SME trade performance*

**Colombia**

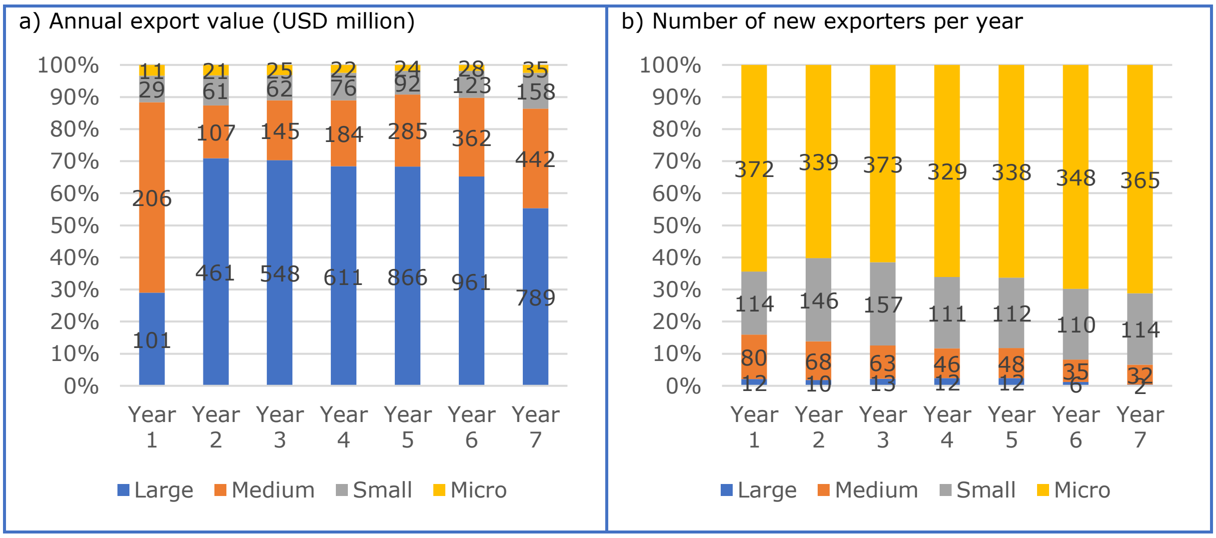
Statistics on the distribution of exporters and importers by size could not be obtained, and therefore no detailed analysis can be provided. However, the Government has indicated that the majority of new exporters are SMEs. The experiences of selected Colombian SMEs as well as other stakeholder contributions indicate that SMEs have benefitted both from the tariff preferences granted by the EU to Colombian exports, the comparatively (compared to other Colombian FTAs) generous RoO, and also the tariff preferences granted by Colombia to imports from the EU, which has allowed Colombian producers using inputs from the EU to become more competitive expand sales domestically and start exporting to third countries. More details are provided in case study 6 (Volume III).

**Peru**

As mentioned above (section 6.10.2), 89% of new exporters since the start of application of the Agreement were micro and small businesses. Figure 6-31 provides information about the evolution over time. It shows that, in terms of export value (Figure 6-31a), MSMEs account for a minority (37%, since the start of application of the Agreement) of new Peruvian exports to the EU SMEs, with medium sized enterprises being most important (25% of total), followed by small exporters (9%) and micro ones (2%). Leaving aside the first year, the share of MSMEs exports constantly increased over the years, with medium-sized and small businesses increasing their shares (from 16% to 32%, and 9% to 11%, respectively), but micro-enterprises keeping a constant share of about 2%. This indicates 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, and case study 6 in Volume III).

In terms of the number of exporters, (Figure 6-31b), micro-exporters constituted 64% of all exporters in the first year of the Agreement, a share that increased to 71% in year 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.

**Figure 6-31: 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.
Source: Data provided by the Ministerio de Comercio Exterior y Turismo.

**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.

*6.11.2 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.[95] 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 government 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' government 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[96] (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 there has not been any need to used the provision in Article 59, and that customs measures do not pose a barrier for MSMEs to benefit from the preferences granted under the Agreement (also see section 6.5 above).

Information available for **Ecuador** also indicates that the use of invoice declarations has been instrumental to ensure the participation of micro and small enterprises in bilateral

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[95] 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')".

[96] Authorised exporters can also use invoice declarations, including for shipments above EUR 6,000. It goes without saying that both authorised exporters and exporters of shipments with a value of up to EUR 6,000 must comply with the rules of origin in order to be eligible for the tariff preferences; it is only the proof of origin which is simplified in the form of the invoice declaration.

trade. 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 6-14). 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 did not mention any issues with invoice declarations, such as rejections by importing EU customs authorities.

**Table 6-14: 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 6.8.4) 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 government procurement shows (section 6.7), in general the Agreement appears to have had a limited effect on the participation of businesses in the EU in the Andean government 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 government procurement markets is in consortia and as subcontractors. This, as analysed in section 6.7, 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 the Parties would provide information for MSMEs to allow for a better understanding of their government procurement markets, this has happened only to a limited extent. In this regard, the recommendations made in section 6.7 – 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 6-4 provides some examples of the support initiatives. Interviewed MSMEs and business organisations highlighted the importance of this support but also noted that further support continues to be needed.

### *6.11.3 Conclusions and recommendations*

Based on the analysis undertaken, 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, including the use of invoice declarations on origin, as well as of technical assistance that has been provided to MSMEs, helping them to start exporting.

**Box 6-4: 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.[97]
- 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.

Some stakeholders in **the partner countries**, 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 or 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.

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.

Although MSMEs have clearly benefited from the Agreement, continued support to MSMEs

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

seems recommendable in order to help them identify market and sales opportunities and navigate the administrative and procedural requirements for trading under the Agreement, which are substantial especially for companies upon market entry and those not trading regularly. Providing such support is first and foremost the responsibility of the respective business support organisations (public and private) in the parties. However, support in networking between these organisations in order to develop bilateral (i.e. EU-partner country, or EU Member State-partner country) market entry programmes for MSMEs is recommended.

In addition, considering the limited role that MSME-focused provisions have played so far in the implementation of the Agreement, the organisation of a round-table to activate these – in particular means to facilitate e-commerce – is recommended.

### *6.12 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 6-15: 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).

Table 6-15 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%.

### *6.13 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 6-16 shows the values of exports and imports to/from the EU and the three Andean partner countries for eight ORs[98]. 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.[99] 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.

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

[99] 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.

**Table 6-16: 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 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 6-17 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 6.1 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, La Réunion, Canary Islands, Azores, and Madeira – could be (negatively) affected by the Agreement.

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 6-5. 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.

**Table 6-17**: **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.

- **La Réunion:** The potential impact of the Agreement on the sugar sector in La Réunion is discussed in Box 6-5. 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 EUR 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; however, no indication could be found that the Agreement contributed to this.

- **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.

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.

**Box 6-5: 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).

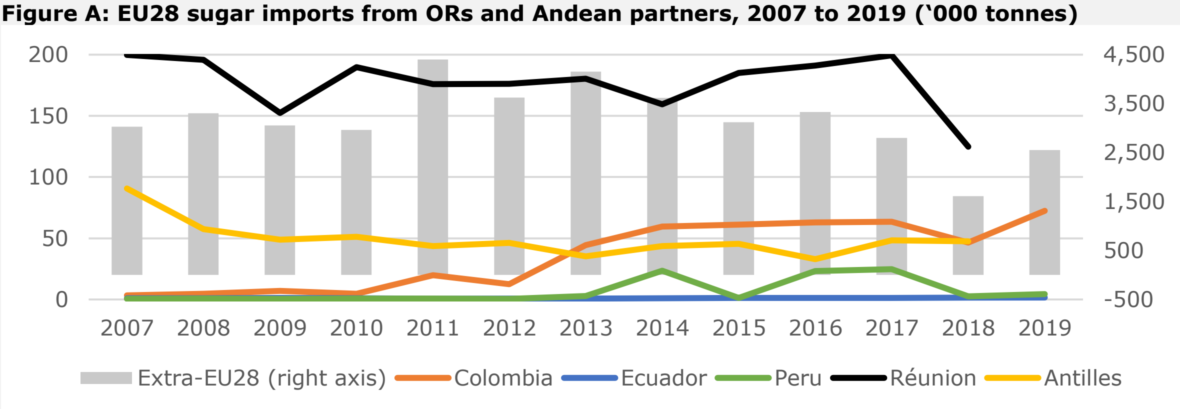
Stakeholders from the ORs are concerned that preferential Andean sugar exports actors became a threat to the European cane sugar industry and sugarcane growers in La Réunion and Guadeloupe, and that this threat was further accentuated by the abolishment of the EU sugar quota in 2017. The brief analysis 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 tonnes 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.

Cane sugar (HS 1701) is covered by the EU TRQs for the Andean countries.[100] As the TRQ analysis in section 6.1.5 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,[101] 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 A: EU28 sugar imports from ORs and Andean partners, 2007 to 2019 ('000 tonnes)**



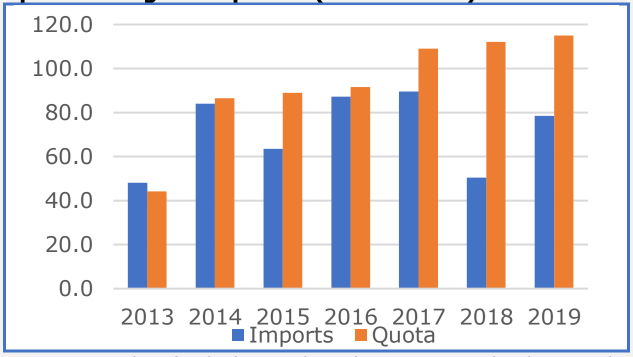

Source: Authors' calculations based on COMEXT database (COL, ECU, PER, and Extra-EU28) and FranceAgriMer (2020, 41) (La Réunion and Antilles); the latter are reported total exports (including to France; exports from ORs to non-EU destinations are negligible).

[100] 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".

[101] 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.

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 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 B: EU28 sugar imports from Andean partners against quotas ('000 tonnes)**

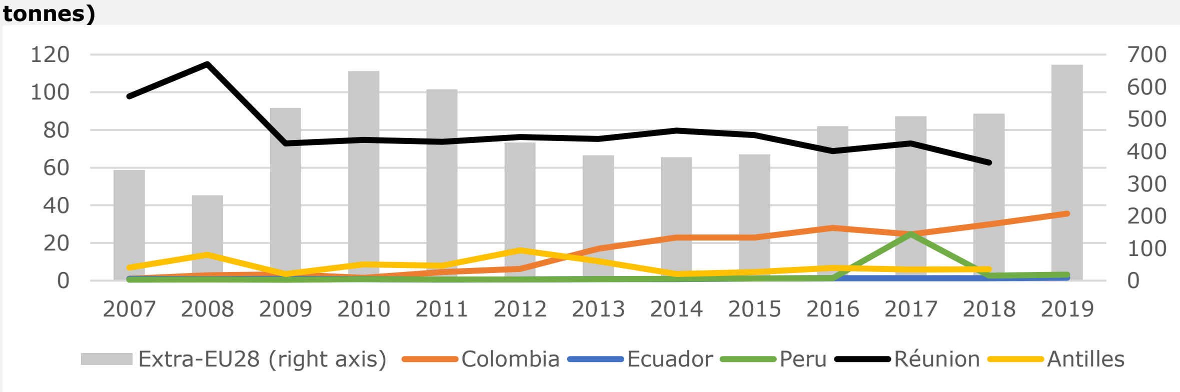



Source: Authors' calculations based on COMEXT database and CIRCABC TRQ database.

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.

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.

**Figure C: EU28 speciality sugar[102] 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) (La Réunion and Antilles); the latter are reported total exports (including to France; exports from ORs to non-EU destinations are negligible).

## *6.14 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%).

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

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 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.

# 7 RESULTS OF THE SOCIAL ANALYSIS

## *7.1 Employment impacts[103]*

The analysis of the Agreement's employment effects is guided by the results of the economic modelling, which estimates the impact of tariff 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 answer the question if employment changes triggered by the Agreement supported attainments of SDG No. 1 (no poverty).

### *7.1.1 Quantitative impact analysis*

The economic modelling results estimate the sectoral impact of the Agreement on employment in terms of shift between sectors assuming that total employment as well as wage differences between sectors do not change. The relative (percentage) shifts in employment can therefore not be translated into number of jobs created or lost, but rather provide an indication of the magnitude of the Agreement effects on employment. Having said this, based on the modelling estimates outlined in Table 7-1 and available information on sectoral employment, the following sections provide an indication of the impact of the Agreement on jobs across sectors. More information about the sectoral employment in the Parties is provided in Annex C-1.

#### 7.1.1.1 Primary sector

Employment effects of the Agreement in **the EU** are very limited or negligible in relative terms for most sectors. The strongest impact is found for the vegetables, fruit and nuts sector, with a decline of -0.2% (compared to the situation without the Agreement). This small relative contraction should however be seen in comparison with the total employment in the sector in the EU, which in 2016 amounted to 873,000 full-time equivalent jobs (i.e., 9% out of 9.7 million employed in total in agriculture in the EU) (EUROSTAT 2018a), 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).[104] Considering this, the number of jobs in the sector in the EU is less than 2,000 persons

[103] Impacts related to income (including wages), welfare, poverty and inequality are addressed in section 7.5.

[104] The numbers may be underestimated as statistical methods, including surveys, might not capture workers such as those employed in small producing units or carrying out short-term undeclared work.

lower as a result of the Agreement, however in the context of an overall trend of decreasing employment in the EU agriculture since 2008.

**Table 7-1: 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.

In **Colombia**, the fruit and vegetables sector directly employed 558,000 persons in 2012[105] (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 thus 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). The Agreement contributed to the growth of the sector – the economic modelling results estimate that employment is 1.1% higher with the Agreement than without it; considering the size of the sector, this would mean several thousand jobs. According to the economic modelling, in the primary sector, Colombia records also job growth in crops (0.7%) and metals (1.6%).

Some authors suggest that the Colombian dairy sector, notably small farm holders, have been negatively affected by EU exports of powder milk and cream competing with local milk production (e.g. Hawkins 2020). This is not confirmed by the modelling results, which estimate a small increase in employment; however, these do not disaggregate effects by size of the economic operator or the stage in production, and hence may reflect changes on bigger farms or in the processing industry. Nevertheless, it is unlikely that dairy imports from the EU had a major impact on the dairy sector in Colombia, as analysed in Box 6-2 in section 6.5.4 above. In any case, the EU provided 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, etc.

In **Ecuador's** primary sector, the economic modelling suggests employment growth in the vegetables, fruit and nuts (1.2% for skilled and unskilled workers), cereals (2.7%), and fishing (2.0%) sectors. It is estimated that the latter employs in Ecuador in total, directly and indirectly, 100,000 persons (Publicayo, August 2019). On the other hand, there are a few sectors with estimated employment reductions of 1.0% and more: 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 (AITE, Historia y actualidad).[106]

According to some authors, 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 the milk price. Moreover, the use of substitute products, such as cheap buttermilk serum instead of local milk in milk-drinks could have exacerbated these effects. 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 milk powder from Colombia, some of which, according to the literature, is smuggled across the border (Universidad Politécnica Salesiana 2019).[107] 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 entered into force. Moreover, milk prices offered to farmers by intermediaries and processors have been set below the official price level,[108]

[105] No similar data could be obtained for Peru or Ecuador.
[106] Employment figures for the other sectors have not been found.
[107] Daza et al. (2020) speak about liquid milk, not milk powder 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 6.1.5; also see Daza et al. 2020; European Commission 2020b).
[108] In 2019, the President of Ecuador issued a Decree restricting the use of buttermilk. This had a positive impact on milk prices (Daza et al. 2020).

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 the sector of vegetables, fruit 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%). 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 promotion of agriculture increased from 182,552 in 2008 to 276,403 in 2017 (literature also speaks of 333,368) (Maldonado Mujica 2020).

#### 7.1.1.2 Industry

The only sector in the **EU** estimated to record an employment change of at least 0.1% because of the Agreement is the motor vehicles and parts sector (see Table 7-1 above). Nevertheless, considering the size of the sector in the EU – which employed 14.7 million persons in 2018 (European Automobile Manufacturers Association) – this small relative change could amount to about 3,000 additional jobs.

In **Colombia**, changes in industry employment due to the Agreement are limited and include an employment increase in the metals (1.6%), transport equipment (1.2%), chemical products (0.8%), textiles (0.6%), other food products (0.3%) and rubber and plastics (0.3%) sectors. Conversely, 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. Given the number of workers in the above-mentioned sectors, the estimated relative changes would mean marginal changes in absolute terms.

In **Peru**, employment growth has been indicated in other food products (1.8%), 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, electrical, and optic equipment (-0.4% for unskilled workers and -0.5% for skilled ones), machinery and equipment (-0.4%), manufactured products (-0.3%), motor vehicles, and transport and equipment (-0.2% for unskilled workers and -0.3% for skilled ones, in both sectors). For illustrative purposes, we note that the 0.3% employment increase in the garment and textile sector, which in 2019 provided direct jobs to 400,000 persons (IESS 2021), would mean some additional 1,200 jobs due to the Agreement.

In **Ecuador**, employment growth has been indicated for other food products (3.9% for unskilled workers; 3.8% for skilled ones), apparel and metal products (0.4% and 0.3% in both sectors). 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 and rubber and plastics (-1.6%), electrical equipment (-1.3%), paper (-1.1%), computer, electronic and optic equipment (-1.0%), wood products (-0.9%), and ferrous metals (-0.7%).[109]

#### 7.1.1.3 Services sectors

Regarding services, the modelled effects should be treated with additional 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

[109] Some sectoral employment data for Ecuador could be found for 2011: other food products (76,266), rubber and plastics (15,677), paper (14,688), apparel (15,752), chemicals (9,266) (INEC 2011).

are also very limited or negligible, except for 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,[110] 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 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, but contraction in most other sub-sectors: gas distribution (-1.0%), warehousing and support activities (-0.8% for unskilled and -0.9% for skilled workers), water transport (-0.5% and -0.6%), air transport, insurance, and communication (-0.3% and -0.4% in each), 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 corresponds to a slower growth of employment rather than a job reduction as such.

### *7.1.2 Stakeholder views*

In the consultations, some stakeholders emphasised that while jobs have been created in exporting sectors, such as agriculture or textiles, this trend has not been accompanied for a long time by improvement in working conditions in these sectors. They also stressed that exports to the EU, e.g. from Peru, involve to a large extent large enterprises, while smaller family undertakings do not benefit from them – according to the literature, 97% of farm entities in Peru belong to family farming employing 83% of workers and providing 70% of food consumed in the country) (CEPES, December 2020); note, however, that the SME impact analysis does not support this alleged pattern of the Agreement only benefitting large firms, as also supported by other stakeholders in the consultations. Moreover, low prices (either set globally or by European buyers) for certain products, such as coffee, cocoa, or bananas, to name a few, limit positive effects for income generation and poverty reduction in the Andean countries, notably for small family farms.

In terms of effects of the Agreement for sectors, including for employment, positive impacts have been indicated for agriculture in the Andean countries (while stakeholders highlighted precarious working conditions in the sector), as well as for fisheries (Ecuador), while negative impacts have been flagged for the dairy sector (mainly in Colombia), and for manufacturing industry, and mixed effects for mining and gas. Regarding effects for the EU, negative ones have been indicated for agriculture, including the banana sector. Other stakeholders pointed to positive effects of imports in capital goods from the EU, e.g. machinery, saying that while these may have contributed to a reduced trade surplus in relations with the EU in the case of Ecuador, they have also enabled cost reduction and improved competitiveness of sectors exporting goods to the EU.

### *7.1.3 Conclusions and recommendations*

Overall, the estimated effects of the Agreement on employment across sectors follow the pattern of trade flows and output and are most positive in the Andean countries in the vegetables, fruit and nuts sector, and in fisheries, notably in Ecuador. In industry, sectors such as food products, chemicals or textiles (the latter in Colombia and Peru) are also estimated as beneficiaries of tariff reductions and trade, while sectors such as motor vehicles, machinery, and equipment contract (these in turn drive EU exports). However,

[110] 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

some stakeholders admit that imports of machinery from the EU contribute to increased competitiveness of certain sectors (such as food products) in the Andean countries and support exports in these as well. In the EU, the sectoral employment effects are the mirror image of those in the Andean partner countries, but their scale is very limited.

Whether the Agreement and the employment effects it has generated have contributed to poverty reduction, the answer is likely positive, although it is not possible to draw very precise conclusions based on available data.[111] While the overall effects, also for poverty reduction, are likely to be limited, it is to note that thanks to the Agreement and exports to the EU, jobs have been created in the Andean countries mainly in agriculture, in rural areas which had poverty levels much higher than in urban areas and where, e.g. in Colombia, the labour participation rate was lower than in urban areas. Therefore, additional jobs and income opportunities may have benefitted people who previously had been inactive or had incomes not satisfying their needs, thus contributing to poverty reduction.

To further strengthen positive employment effects of the Agreement, we recommend the following:

- Moving forward, the governments of the Andean countries and the EU should continue to support job generation in the exporting and accompanying sectors, including through technical assistance (related e.g. to meeting standards of the destination market), ensuring access to finance also for MSMEs, and support for export diversification especially towards higher-value products.

- Equally important will be for the governments of the Andean countries to ensure that the quality of jobs in the exporting sectors is improved – including the respect for minimum wages, social security cover and other legally foreseen benefits, formal contracts, and for health and safety at work – as otherwise the nexus between job creation and poverty alleviation, respectively welfare creation, is broken; this is addressed in more detail in section 7.4.

## *7.2 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.[112] Trends in the informal sector in the period 2007 to 2019 are discussed in Annex C-1. The analysis is based on the results of the economic modelling (to identify sectors affected by the Agreement) and compares the outcomes of that analysis with the map of sectors and regions and their informality levels over time to conclude if exposure to trade may have influenced informal activity and employment. In addition, case study 4 (Volume III) analyses changes in employment levels in selected sectors in the partner countries involved in exports to the EU and the types of jobs created over time to conclude whether

[111] The economic modelling assumes full employment and perfect mobility of workers, i.e., that workers from contracting sectors move to the growing ones, which is not always the case in the real life due to geographic constraints (jobs may be lost in one region of the country while job creation may take place in another one), as well as those related to skills required in sectors where jobs are created (i.e., whether workers have transferable skills or may receive adequate training). Moreover, in this study, we didn't manage to identify data regarding the number of workers in some of the affected sectors, therefore, it was not possible to estimate precisely, how many workers and in which sectors have been likely to lose their jobs due to the Agreement and how many jobs may have been created in other sectors.

[112] According to a definition used by the ILO, informal economy is understood as enterprises and workers not covered or insufficiently covered by formal arrangements and includes also self-employed. Informal sector means enterprises which have not been registered and usually do not comply with the domestic legislation related to payment of taxes, and social security contributions, and working conditions, e.g., minimum wages or health and safety at work. Informal employment relates to situations where a person is not offered a written contract, social security contributions (e.g., to a pension scheme or health care) are not paid, wages are usually low and there are no protections related, e.g., to unemployment, illness, or accidents at work (ILO 2015a).

the Agreement might have contributed to the creation of formal or informal jobs in those sectors.

### *7.2.1 Summary of impact*

As discussed in section 7.1, 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 (as these would have faced higher tariffs after the expiry of the GSP for the two countries). The analysis of geographic coverage of certain economic activities, including agriculture and industrial sectors, in Colombia and Peru suggests that in both countries sectors benefitting from the Agreement are the same as those located in departments with low levels of informality already prior to the Agreement's entry into force and decreasing over the analysed period. They have a more diversified economy, are more competitive, better connected to the world and more exposed to international trade than the rest of the country (see Annex C-1).

In the analysed period, partner countries took several initiatives to reduce the informality levels through facilitation of formalisation of enterprises. Thanks to these, the level of informality in employment in **Colombia** decreased from 68.5% in 2010 to 59.9% in 2020 (data provided by the Ministry of Labour).

Among the sectors benefitting from increased exports to the EU because of the Agreement, the banana sector provides employment to some 150,000 people in 2021 (Augura 2021), 3,200 more than in 2007 (Viloria de la Hoz 2008). It has high levels of formal jobs, as also shown by an ILO survey, in which 90% of workers declared to have a contract for an indefinite period and being a member of a trade union, which suggests a formal employment (ILO 2020a). According to the economic modelling, the Agreement has contributed to a job increase by 1.2% in the vegetables, fruit and nuts sector. One may therefore conclude that the Agreement has contributed to preserving the existing formal jobs and to further increase formal employment in the sector.

Conversely, in the palm oil sector, 80% of workers are subcontracted (with diverging opinions as to whether those jobs are formal or not) and 20% are informal (Quiroz, Achterberg and Arnould 2021). In 2018, the sector employed 170,794 persons directly and indirectly (Gallo et al. 2020), 35,443 more than in 2007 (Viloria de la Hoz 2008). The economic model estimates that with the Agreement, employment in the sector is 0.1% lower than it would have been without it. It is however impossible to say whether this means that the Agreement prevented a further increase in informal employment by creating formal jobs. In any case, both subcontracted and informal workers usually belong to vulnerable employment. More sectoral examples are provided in case study 4 (Volume III).

In **Peru**, the rate of informal employment in total employment decreased over the analysed period, from 80% in 2007 to 72.7% in 2019 (AA, November 2020; INEI 2020b). Regarding sectors analysed in case study 4, the number of people working in agriculture increased from 3,970,673 in 2008 to 4,080,009 in 2017, i.e., by 109,336 persons and the number of workers covered by the special regime for agro-industry and promotion of agriculture employed by exporting enterprises increased from 182,552 in 2008 to 276,403 in 2017, i.e., by 93,851 persons (Maldonado Mujica 2020). While jobs under the special regime are formal, for most of the analysed period (until legislative changes of 2019-2020) they had less favourable terms than the rest of the economy. Based on the economic modelling, the Agreement is likely to have contributed to a 1.3% increase in employment in the vegetables, fruit and nuts sector, which also means a growth in the number of formal jobs.

The textile and garment sector provided over 400,000 direct jobs in the last few years, and 900,000 indirect ones, with a trend to decreasing employment. Informality was at

78.1% in 2019 (increasing from 72% in 2015), while in microenterprises accounting for 80% of jobs in the sector, the level of informality was at 88.7% (IESS 2021). The economic modelling suggests a 0.3% employment increase in the sector due to the Agreement, which means a likelihood of creation of both formal and informal jobs (given the high level of informality in the sector and its value chain).

In the mining sector in Peru, the number of direct jobs increased from 159,879 in 2010 to 208,716 in 2019. Most workers (67.9% in 2019) were subcontracted and although jobs were formal, were considered to be of lower quality than those of direct employees (Ministerio de Energía y Minas 2019; CNV Internationaal 2021). According to the economic modelling, the Agreement contributed to lower employment in mining ranging from 0.1% in minerals to 0.8% in metals, which may mean a limited employment reduction (or slower growth) in formal jobs or a shift of workers to other sectors, with either no change (if new jobs were formal) or a limited increase in informality.

In the context of the above, we note that labour inspection services in Peru (SUNAFIL) have developed and are implementing a legal framework that enables inspections with a view to facilitate the formalisation of work, with dedicated protocols for urban and rural areas. According to data provided by SUNAFIL, as a result of activities undertaken in 2020-2021, SUNAFIL inspectors managed to formalise 202,623 workers in Peru, including 71,022 in agriculture, 46,127 in the real estate and business services sector, 27,605 in manufacturing, 14,533 in construction and 13,802 in the wholesale and retail trade. Regionally, the highest number of formalised workers was recorded in metropolitan Lima (112,669).

The economic modelling results find an increase in **Ecuador**’s exports to the EU and jobs mainly in the vegetables, fruit and nuts sector, but also for vegetable oils and fats, crops, fisheries, and other food products, apparel, and metal products, while other sectors may have experienced output and employment reduction due to the Agreement or a slower increase, in case of growing sectors. As there is no clear pattern between the trade impacts of the Agreement and provincial or sectoral informality levels, the relation between the Agreement and informality is indeterminate.

The informal employment rate fell from 81.1% in 2007 to 72.9% in 2018 (CEPAL 2020). Sectorally, the tuna sector employs directly some 20,000 and indirectly 80,000 persons, according to data shared with the study team by the sector representatives. These jobs are predominantly formal, although data provided by trade unions suggest that in 2019, 68% of surveyed workers did not have a formal contract (ASTAC 2019).[113] Given that according to the economic modelling the sector benefitted from job creation under the Agreement, one may assume that these were formal. In the banana sector, directly employing 200,000 workers and up to 2 million indirectly, the special employment regime was set up to contribute to formalisation of labour relations, according to the Government. The Agreement’s estimated positive impact on jobs in the sector – up by 1.2% according to the economic modelling – is therefore likely to have contributed to growth of both formal and informal jobs; it is not possible to draw a precise conclusion as to which types of jobs may have been benefitted more.

### *7.2.2 Conclusions and recommendations*

Sectors that contribute most to exports from Colombia and Peru to the EU are in departments that had lower levels of informality already prior to the Agreement’s entry

[113] The mentioned share is based on a sample of 117 surveyed workers of the banana sector; this was considered as representative by the survey authors for the province of Los Ríos and as a reference for the provinces of Guayas and El Oro. In contrast, the Government indicated that while it had not been possible to ensure an entire formalisation of the sector, the figure suggested by the survey seemed to be too high and unreliable, given a small size of the sample and adopted research methods.

into force and reduced 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 international trade than the rest of the country. In addition, the analysis of types of jobs created in the reporting period in selected exporting sectors in Colombia and Peru (agriculture, agro-industry and mining in Peru and banana, palm oil sector and mining in Colombia) suggests that the Agreement with the EU may have contributed to creation or maintenance of formal jobs in these sectors, although their quality may require improvement. This is in particular the case in mining and in the palm oil sector (where workers are sub-contracted and enjoy fewer rights than direct employees) in Colombia and Peru and agriculture in Peru, where only the recent legislative changes have brought about improvement of rights of workers covered by the special regime.

In Ecuador, results are mixed. While also here it is true that provinces with a 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, fruit and nuts, and fisheries, operate in provinces with both high and low informality levels. Moreover, as identified in the baseline analysis (Annex C-1), informality levels in Ecuador are strongly linked to the macroeconomic situation in the country and have been increasing since 2014 due to the economic slowdown. Regarding jobs that may have been created thanks to exports to the EU, based on the available information, one can conclude that those in the tuna sector were probably formal, while those in the banana sector may not have been formal (due to the lack of written contracts), and there is quite a high probability that they have deficiencies in terms of quality.

While job creation thanks to a trade agreement is in general a positive development and is likely to contribute to poverty reduction, the nature of those jobs (formal or not) and their quality also play a role in the economic situation of the worker and their family, and are important for worker's health and life, in particular in high-risk sectors, such as mining or certain activities in agriculture. Therefore, it will be important in all Andean countries that in addition to creating conditions for job creation, sufficient attention will be paid to their quality. The work will need to start from ensuring that the conditions already foreseen in the legislation are implemented in practice and enforced by labour inspection. These include the right to a written contract, payment of salaries according to the law, payment for overtime and social security contributions, and other benefits, provision of training in health and safety at work and appropriate personal protective equipment. In this context, it is worth mentioning that Article 277(2) of the Agreement states that 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." While direct effects on trade may be more difficult to prove, the Parties should nevertheless demonstrate a commitment to implement and enforce their domestic laws.

## *7.3 Impacts on women – employment, entrepreneurship and participation in international trade*

This section analyses the effects of the Agreement on women 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, as well as their entrepreneurship in the analysed period are discussed in detail in Annex C-1.

### *7.3.1 Women as workers*

In **Colombia**, the number of working women increased from 7.7 million in 2007 to 9.2 million in 2019, with around 75% working in services, 13% in manufacturing industry and 7% in agriculture (DANE 2007 and 2019).

In services, the economic modelling estimates negligible changes in most of the sectors, with a more pronounced employment decrease in hospitality (-0.2%) and a growth in air transport (0.2%). However, given the increasing employment in the combined trade and hospitality sector from around 4.5 million in 2007 to 6.3 million in 2019,[114] and an increasing share of the sector in female employment, any negative effect of the 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.

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 the vegetables, fruit and nuts sector (1.2%), crops (0.7%) and other food products (0.3%). The exact impacts for women will therefore be determined by the sub-sector of their employment, its size, importance in female overall employment, and the share of women among all workers in the sector. For example, in the banana sector, which provides 25,000 direct and 125,000 indirect jobs (Augura 2021), a survey carried out in 2017 in the Urabá region showed that 93% of workers were men and only 7% were women (Penagos Gaviria 2017). The employment gains caused the Agreement thus primarily accrue to men, while the impact on women employment has been negligible. In the flower sector, which provides 130,000 jobs, women represent 64% of workers (Morales Rubiano et al. 2020), and hence the employment gains of the Agreement benefit more women than men. Employment effects in mining are limited, and negligible for women, due to their low share in employment of 12.5% (20,000 out of 160,000 workers; Portafolio, March 2021). In all the above sectors women benefit, as jobs are created or preserved thanks to the Agreement, although the scale of benefits for women compared to men varies across sectors. Overall, given that a smaller share or number of women (7%) compared to men (23.7%) works in agriculture and the same is true for mining and industry, we estimate that the overall effects for women, both positive and negative, have also been of a smaller, if not negligible magnitude.

In **Peru**, the number of employed women increased from 6.2 million in 2007 to 7.4 million in 2018 and the number of employed men increased from 7.9 million in 2007 to 9.3 million (INEI 2019). In 2008, 29.2% of women worked in agriculture, forestry, fisheries, and mining (21.1% in 2018), 36% in all services sectors except trade (44.2% in 2018), 24.5% in retail and wholesale trade (25.8% in 2018), and 10% in manufacturing industry (8.4% 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 have benefitted from employment increases, with animal-related sub-sectors recording lower growth rates (of 0.4% and less) than plant-related ones (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, although the sectorial employment share of agriculture, forestry and fisheries in total employment decreased for both men and women between 2008 and 2018, for men that share and the absolute number of workers was higher, and gains resulting from the Agreement have benefitted men more than women, given the higher employment growth rates in sub-sectors employing men.[115] However, in some sub-sectors, the gains are more balanced. For example, in the cultivation of blueberries, 52% (out of 100,000 jobs in the

[114] 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

[115] For a detailed analysis, one should also compare the share of the respective sub-sectors in 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.

2020-2021 season) are occupied by women (AgroNoticias, October 2020). In illustrative terms, this means that of the 1,300 jobs created by the Agreement (1.3% according to the modelling results) half would have been taken by women.

In industry, slightly negative impacts (-0.1% to -0.8%) are estimated for mining, affecting more men than women. On the other hand, e.g. in the cotton, textile and apparel industry, women occupied 61.5% of about 400,000 jobs in 2019 (IESS 2021). The economic modelling estimates a job creation of 0.3% for textiles and 0.4% for garment.[116] In illustrative terms, this would mean that because of the Agreement the number of jobs in the sector is higher by about 300 in the textiles (which provides 23.7% out of 400,000 jobs) and by about 1,200 in garments (76.3% of the total), the majority of them being occupied by women. For the remaining industry sectors, sex-disaggregated employment data are not available. 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. 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 almost 4,000 jobs may have been created for them).

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).

The coverage of sex-disaggregated employment data in Ecuador is patchy,[117] and therefore only rough estimates for employment effects for women can be made. Thus, the wholesale and retail trade, which has above-average women employment, is estimated to have benefitted from a modest increase (up to 0.1%); conversely, the employment increase of 0.4% in construction mainly benefits men. The hotels and restaurants sector provides -0.5% fewer jobs due to the Agreement. However, as the sector's share in the total employment (of men and women jointly) increased from 4.5% in 2009 (274,500 jobs) to 6.3% in 2018 (485,100 jobs) (INEC 2018f), the estimated negative effect of the Agreement in practice means a more limited growth of the sector (than without the Agreement). Among industry sectors, the apparel sector is one of the few in which the Agreement has led to more jobs (up to 0.4% for unskilled workers). This could mean positive results for women, given that usually women represent the majority of workers in that sector; the whole textile and garment sector employs 158,000 persons (AITE, Historia y actualidad).

For the **EU**, as mentioned in section 7.1, the effects are limited to three sectors, with the job creation estimated for 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 have meaning for women depending on the Member State involved in trade with the

[116] 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 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

[117] Data are available from different sources for selected sub-sectors only, e.g., women account for 51% of workers in the flower sector, which provides 78,000 jobs, including 51,000 direct one) (Fairtrade).

Andean countries. The same would apply to the machinery industry, which has also benefited by a 0.1% employment growth, and the vegetables, fruit and nuts sector, where the Agreement led to a -0.2% decrease in jobs. In sum, as the effects depend on the specific sub-sectors and regions concerned in the EU, and their respective distribution of employment between men and women, a quantitative estimate cannot be provided; but in any case, the magnitude of the impact on women employment is expected to be low.

#### *7.3.2 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.

In **Colombia**, in 2018-2019 almost half of all women-led enterprises operated in wholesale and retail trade, followed by manufacturing (17%), with health care, education and social services taking 16% and financial, professional, administrative and consumer services 12.8%. 6.9% were active in mining and agriculture, and 1.6% in ICT (Table 2 in Annex C-1). Aggregated to the six sectors, the CGE modelling results suggest a marginal impact on output, ranging from -0.02% for health care, education, and social services to 0.13% for manufacturing. At the same time, within sectors, the range of output impacts is higher, 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, and more detailed data would be needed to draw precise conclusions. Based on the available data, we note that the small increase in output for wholesale and retail trade in Colombia may have also benefitted women-led enterprises. However, given 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 and 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 the men-led ones (16% compared to 7.8%).

In **Peru**, the concentration of women-led enterprises in the retail and wholesale trade in 2018-19 was even stronger than in Colombia (68.1%). Manufacturing ranked second (13.8%), followed by health services, education, and social services (10%), and financial, professional, administrative and consumer services (4.8%), with mining and agriculture (1.9%) and ICT (1.6%) closing the list (Table 3 in Annex C-1).[118] 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 (0.2%) and agriculture (0.3%) on average would also benefit women businesses, whereas those 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 available data, 25% of the enterprises in the textile and apparel sector in Peru are led by women (Fashion Network, July 2019), a sector for which the modelling estimates growth by 0.3% to 0.45%, stronger than the manufacturing average (0.2%).

In **Ecuador**, the sectoral breakdown of women-led enterprises is also characterised by a large share in wholesale and retail trade (69.5%), with manufacturing and health services,

[118] 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/

education, and social services, each having around 10%, 6.4% being active in financial, professional, administrative and consumer services, 8.5% in agriculture and mining and 2.5% in ICT (Table 4 in Annex C-1). The wholesale and retail trade sector has benefitted from the Agreement, with an increase in output by 0.34%. On the other hand, for women-led business in manufacturing, on average the effect has been negative, although much depends on the sub-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.

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 up 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). For the hospitality, wholesale and retail trade, and communication services, the estimated output increase is of less than 0.1%, while for financial and insurance services, effects are mixed (marginally positive for the former and marginally negative for the latter). In agriculture and food processing, the estimated effects of the Agreement are overall very limited, except two sectors: vegetables, fruit and nuts (output reduction of -0.2%) and other food products (output reduction of -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 have benefitted from the estimated growth, with the scale depending on the sub-sector.

### *7.3.3 Women as traders*

Regarding women as traders (exporters), few data are available.[119] 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, in 2016, 291 women-led enterprises exported goods worth in total USD 1.5 billion, incl. manufactured products (58%), agricultural products (17%), apparel (16%), fisheries (6%) and mining products (3%) (Frohmann 2018). According to the World Bank Enterprise Survey, 11.4% of surveyed women-led enterprises in Peru exported directly or indirectly in 2017.[120]

The economic modelling results estimate for mining and industry an export increase to the EU for chemical products (USD 218 million, 103%), apparel (USD 75 million, 124%), metals (USD 55 million, 3.4%), 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 6-1 in section 6.1.3). This means that women-led companies exporting apparel, mining products and other manufactured products have also benefitted from this trend, although the exact scale of gains would depend on the sub-sector of their operation. In agriculture and food processing, exports increased in other food products (USD 234 million, 48.5%), vegetables, fruit and nuts (USD 74 million, 32.2%), vegetables oils and fats (USD 39 million, 41.2%), with a 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

[119] No export-related data for women-led enterprises in Colombia and Ecuador could be identified.
[120] World Bank (2017), Enterprise Surveys, Peru: https://espanol.enterprisesurveys.org/es/data/exploreeconomies/2017/peru#biggest-obstacle

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.

Regarding the **EU**, a joint study of the European Commission and the International Trade Centre (2019) reveals that compared to the total 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. 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 EU women-led enterprises participate in trade with the Andean countries, they have also benefitted from the Agreement.

#### *7.3.4 Conclusions and recommendations*

Economic modelling estimates suggest that for 70%-75% of women in Colombia and Peru and a large proportion in Ecuador employed in services sectors, the effects of the Agreement will be very limited or negligible, with some positive impacts for jobs in wholesale and retail trade, and less positive in the hospitality sector. However, these are likely to have been cushioned by the overall growth of the sector in the analysed period.

Impacts for female workers in agriculture and manufacturing are likely to be mixed and depend on the sub-sector of their employment and their share in the total number of workers, with the overall effects for women estimated to be smaller than for men. The shares of women in sectors benefitting from exports to the EU vary from 7% in the banana sector, over 12.5% in mining to 64% in the flower sector (all in Colombia), to more equal shares in some sectors in Peru (e.g., 52% in blueberries and 61.5% in the textile and garment sector) and Ecuador (51% in the flower sector).

Jobs created or preserved thanks to the Agreement, notably in rural areas are likely to have contributed to poverty reduction (even if on a limited scale) and gender equality in cases where they opened income generation opportunities for women. However, as many of these jobs are in low-skills and low-pay categories, they will not change the overall disadvantaged position of women in the labour market.

In terms of recommendations, we put forward the following:

- Considering the limited availability of data on female employment, we recommend a more frequent and more systematic collection of sex-disaggregated employment data, starting with sub-sectors participating in international trade and thus likely to be affected by FTAs. Such data could be collected by national institutes of statistics, sectoral business associations, civil society, or research institutes, depending on the available capacities and specificity of the sector. Their availability will enable a closer monitoring of impacts of the Agreement for women and guide policy decisions actions which may need to be taken to ensure that trade and gender equality reinforce each other.

Conclusions related to the Agreement’s impact on women-led enterprises show limited effects for the majority (as they operate in services sectors) and mixed ones for those active in industry and agriculture, with actual effects depending on the sub-sector. However, it is difficult to draw precise conclusions without detailed data.

Evidence provided in Annex C-1 and the existing literature acknowledge measures taken by the Andean countries and the EU to support female entrepreneurs and traders, which contributes to economic and social development, poverty reduction and women’s economic empowerment. However, there are also challenges which disproportionally affect women due to the 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 where high entry barriers or 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 online platforms (Banco Interamericano de Desarrollo 2020; ITC 2015).

In this context, we propose the following:

- We note the importance of initiatives undertaken by the Andean countries, e.g. the 2020 Law on Entrepreneurship adopted in Colombia whose objectives include support for setting up and managing enterprises by women. The Law envisages e.g. the establishment of a fund which will support women-led enterprises, and associations of women, with a special focus on agriculture, and will facilitate female entrepreneurship in this sector. Moreover, women-led enterprises participating in tenders for government procurement contracts may expect additional points being allocated to their bids (El Tiempo, March 2021). Such measures should be effectively implemented and become subject to best practice sharing in the context of the Agreement. In Peru, the programmes "Mujer Produce" (woman produces) and "Ella exporta" (she exports) aim at supporting female entrepreneurs and traders. In Ecuador, the EU provides support for new and existing exporters, including women (for details, see Annex C-1).

- Moreover, while progress has been achieved, further efforts are needed to support access to digital solutions. This includes access to the Internet and lowering costs of its use, access to smart devices and tools for online payment, training to develop digital skills, including marketing of products and services, and handling documents and procedures in international trade (e.g., customs declarations), online business management, incl. the possibility to set up and register an enterprise online, to pay online taxes and social security contributions, as well as access to market information, business networks, data protection and commercial platforms (UNCTAD 2020). The importance of digital solutions has increased during the covid-19 pandemic, strengthening the business case for closing gender-based gaps in this area, given a lesser access to Internet and smart devices by women compared to men (Banco Interamericano de Desarrollo 2020; ITC 2015). In Peru, access to the Internet increased from 25.5% in 2007 to 51.4% in 2018 for women and from 30.3% to 56% for men (INEI 2019). In Colombia, in 2020, a record of 222 million online transactions were registered helping to overcome the economic crisis. In 2021, a new target of 290 million transactions was set (El Tiempo, March 2021a).

- Likewise, further work is needed to encourage the formalisation of enterprises. While informal businesses may cushion effects of unemployment and poverty, they face growth constraints and due to non-payment of taxes and social security contributions, low wages, and lack of respect for labour standards represent an unfair competition for formal enterprises. As reported in the World Bank Enterprise Survey, 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 (World Bank 2017, 2017a, 2017b). 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).

Finally, the Agreement – through jobs creation, poverty reduction and opening opportunities for private sector enterprises – has provided income generation possibilities for women. However, the overall effects have been limited and mixed. Moreover, due to lack of detailed data it is not possible to say precisely whether the Agreement has contributed to closing gender-based gaps, and attaining SDG No. 5 (gender equality). We recommend the following:

- Although the Agreement's impact on gender equality has been limited, considering suggestions made by stakeholders and international trends related to gender and trade, we suggest that the Parties include into their policy dialogue, either under the TSD Title or other relevant chapters, elements related to participation of women and women-led enterprises in trade between the Parties. This could include the exchange of information and examples of best practice in the collection and processing of sex-disaggregated data, examples of support activities provided to women and effects, and engagement with women entrepreneurs to note success stories and remaining challenges. Such cooperation and capacity building should be driven by the identified needs, and be complementary to activities undertaken in other forums, including in WTO, in the follow-up of the Buenos Aires Declaration.

## *7.4 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, including respect for ILO 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.

### *7.4.1 Labour standards – Child labour*[121]

In this section, we analyse the situation in the Andean countries in sectors exporting to the EU 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 other factors play a role as well. By doing so, we also consider policy dialogue between the Parties, including under the TSD Title, as well as technical and financial assistance, when relevant. Further analysis is provided as part of the human rights impact assessment in section 9.2.2, in Annex C-1, as well as in case study 7 (Volume III).

#### 7.4.1.1 Review

As outlined in Annex C-1, the **Colombia**n authorities, employer associations and civil society organisations have taken several actions to reduce the incidence of child labour, and the share of working children in the age group of 5-17 years has decreased from 13% in 2011 to 4.9% in 2020, in absolute terms from 787,000 in 2007 to 523,000 in 2020 (DANE 2001-2018; 2021). Agriculture remains the main sector of activity, with a 44.1% share in total child labour in 2020 (DANE 2021). Overall, during the analysed period, low rates of child labour have been identified in departments with a more diversified and better developed economy and lower levels of informal adult employment, and vice versa. For example, the highest levels of informality were registered in Cúcuta (74.4% in 2007 and 73.1% in 2019), which also had the third highest level of child labour in 2015 (12.5%) (DANE 2007b; 2019a) and the highest level in 2020 (3.6% in the city, without the rural areas) (DANE 2021). Moreover, departments in the northern part of the country and Nariño in the south-west had both high levels of child labour and elevated poverty levels.

[121] 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 for children and young persons under the age of 18 years, and these include work in conditions having a negative impact on health and development, e.g., handling chemicals, working with dangerous tools and machines, carrying heavy loads.

In **Peru**, the authorities have taken several actions to reduce the incidence of child labour; this includes also activities of the labour inspection (SUNAFIL) and its specialised group to address child labour and forced labour (for details, see Annex C-1). While in 2007, 3.3 million children aged 5 to 17 years were economically active in the country (ILO, IPEC and INEI 2009), by 2015 their number decreased to 2 million (i.e., 26.1% of this age group[122] and 47.6% among indigenous peoples). However, it was at the time the highest rate of child labour in Latin America (INEI 2016; Peru21, 2018). In 2015, the rate equalled 52.3% in rural areas and 16.2% in urban areas, with higher rates for children of indigenous peoples (73.4% in rural areas) (INEI 2017). According to data shared by the Government of Peru, the labour rate for children aged 5-17 years decreased from 14.8% in 2012 to 10.4% in 2019 and 12.0% in 2020, with the rate for boys (13.1%) being higher than for girls (10.8%). This means that between 2012 and 2019/2020, around 205,000 children and adolescents withdrew from child labour. The rate for rural areas (32.1%) was around six times higher than for urban ones (5.2%). Moreover, across the three big regions, the child labour rate for the mountain regions was 23.0%, in the selva regions 16.3% and in the coastal regions 3.7%. Also, the child labour rate was higher in poor families (14.9%) compared to the rest (10.6%). Finally, the primary sector, i.e., agriculture, fisheries and mining, accounted for the largest share of child labour, i.e., 73.5%, followed by trade (14.5%), other services (7.6%) and manufacturing (2.1%).[123]

The UN Human Rights Council reports that in 2015, 16.8% (1.25 million) of children aged 5-17 years in Peru was involved in hazardous work (UN Human Rights Council 2018). According to data shared by the Ministry of Labour, the rate of children of 5-17 years engaged in hazardous work decreased from 6.3% in 2012 to 3.4% in 2019 and 4.2% in 2020, which means that 160,000 persons withdrew from this type of work over the analysed period. In 2020, more boys than girls were involved in this type of work (4.8% and 3.5% respectively). The rate was also higher in rural areas (10.3%) than in urban ones (2.2%), and in poor families (4.5%) than in the rest of the population (4.0%). The primary sector, i.e., agriculture, fisheries and mining accounted for the largest share, at 63.3%, followed by trade (17.3%) and other services (11.5%).

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, 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 and ILO 2016).

In **Ecuador**, including in response to Government policies and programmes (see Annex C-1 for details)[124] the child labour rate among children aged 5-17 years decreased from 17% in 2006 (INEC and UNICEF 2015) to 8.4% in 2017 (375,342 persons) (El Comercio, June 2019; Plan V, June 2020). It is however estimated that due to covid-19 and the increasing unemployment among adults and family poverty, child labour may increase again (UNICEF, June 2020). According to a focused national survey carried out in 2012 (INEC 2012a), 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 (Plan V, June 2020).

[122] This rate refers to all economically active persons aged 5 to 17 years, which also includes those adolescents with a permit to work under certain conditions and in certain occupations, as envisaged by the law.

[123] The Government of Peru (Ministry of Labour) provided two data sets. While the above refers to child labour not authorised by the Government, data are also available for minors involved in economic activity more broadly; for more information, see case study 7 in Volume III.

[124] In 2020, Ecuador, together with six other countries of the region, was highlighted in the US Department of Labor annual report for making significant advancements in efforts to eliminate the worst forms of child labour; see US Department of Labor (2020), Findings on the Worst Forms of Child Labor, https://www.dol.gov/agencies/ilab/resources/reports/child-labor/ecuador.

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).

The potential impact of the Agreement on child labour in the Andean partner countries is complex, as discussed in more detail in case study 7 (Volume III).

In **Colombia**, surveys in the banana sector suggest formal employment of only adult workers (Penagos Gaviria 2017; ILO 2020a). Likewise, in sugar cane (one of the priority sectors for employment formalisation), rice and cotton, formal jobs and trade union monitoring facilitate work of adults with no evidence of regular child labour (Torres-Tovar et al. 2018; Torres Tovar and Helo Molina, July 2020). On the other hand, while in subsistence farming and some sectors, such as coffee, there have been cases of child labour, their incidence has been decreasing and school attendance has been improving. Activities of the Colombian Government, the National Federation of Coffee Producers and civil society (including those funded by the EU) have been supporting the trend to eliminate child labour from the sector while securing the sustainable development of coffee cultivating regions and livelihoods of involved families (Semana Sostenible, Oct. 2019; ILO, June 2021; ILO 2019g; information provided by the National Federation of Coffee Producers). In the flower sector, expectations of international customers (also from the EU) and increasing awareness in the sector led to development and implementation of CSR policies promoting adult employment and elimination of child labour (with encouragement for children to attend school). Moreover, a certification scheme requires that participating companies do not use child labour (Portafolio 2015; Morales Rubiano et al. 2020; ILO 2017c).

In **Peru**, there is evidence of child labour in agriculture, e.g., in cultivation of coffee, cocoa, blueberries, asparagus and avocado (Desarrollo y autogestion, Perú) mainly in small-scale family farming and among migrating families of seasonal workers. Poverty, as well as low global prices set for some commodities, such as cocoa and the inability to hire adult workers are quoted among reasons for child labour incidence. On the other hand, there are also initiatives aimed at elimination of child labour, such as awareness raising campaign and "Seal of products free from child labour" launched in 2019 and granted to farmers who can demonstrate the lack of child labour use in their practice (Ojo público, August 2020).[125] In the blueberries sector, 25% of which are exported to the EU (Peru Retail, February 2021), child labour is planned to be addressed by the use and promotion of the above-mentioned seal (Gestión Perú, August 2019) and cooperation projects, including exchange of best practice with other countries in the region, such as Argentina. Trade with the EU and favourable export prices have helped to increase formal employment in the sector and may have contributed to poverty reduction (even if on a limited scale), thus potentially reducing the economic reasons for the use of child labour. In the textile and garment sector, incl. cotton cultivation, child labour is present mainly at the harvest and includes children of seasonal workers (ILO, Agencia Brasileña de Cooperación, 2016). In 2018, Peru signed a cooperation agreement with Brazil aimed at exchange of good practice to learn from Brazilian experience in promoting decent work in cotton value chain, poverty reduction, and prevention and elimination of child labour among others (El Comercio, Dec 2018). The exchange of experience also involved representatives of Argentina and Mexico, and in all three cases (incl. Brazil) information campaigns and materials have been

[125] The seal "Free from child labour" (Sello Libre de Trabajo Infantil – SELTI) is awarded to legal persons who can prove compliance with requirements related to prevention and elimination of child labour from their chains of production or supply of services. Each such company needs to develop a plan of Corporate Social Responsibility outlining how child labour will be prevented and eliminated from their operations and how school attendance of children will be supported in the areas of their activity and influence. In the first round, the award was granted to seven entities with legal personality operating in agriculture who proved the lack of child labour in their work, in supply chains of cacao, coffee, curcuma, and ginger. These represented 924 agricultural families, 1240 small producers and 283 agriculture workers trained in or being made aware of aspects related to child labour.

developed to raise awareness of producing families, employers, and public officials about the problem of child labour and its worst forms. Moreover, the EU has supported elimination of child labour from cotton cultivation in Peru through the "Clean cotton" project implemented with the ILO aiming at ensuring decent work conditions for working adults, awareness raising among families of working children, capacity building of state institutions and trade unions to reduce and eliminate child labour and an improved access to education for children from rural areas (El Confidencial, November 2018). The project covered the whole value chain and cooperation with all actors involved at each stage, as well as relevant state institutions. In addition, economic modelling suggests that exports to the EU contributed to creation of (adult) employment in the sector, which in turn may have contributed to poverty reduction and a lesser need for child labour. In small-scale mining, child labour is also addressed by projects and community initiatives encouraging children to attend school.

Regarding sectors benefitting from exports to the EU in **Ecuador**, in agriculture child labour has been identified in banana and palm oil plantations, flowers and abacá sector, moreover, in fishing. In industry, child labour has been reported in small-scale mining, gold mining and production of bricks, and in services in construction, as well as in other services, which may not be impacted by the Agreement, e.g., 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 the palm oil sector (US Department of Labour 2019a). Poverty rates and job opportunities for adults have been closely related to child labour incidence (Consejo Nacional para la Igualdad Intergeneracional 2018). In the flower sector, where 21% of exports were destined to the EU market in 2019, projects have been implemented, including financed by EU Member States, to raise awareness of employers, workers and local communities, and to facilitate access to education and leisure activities for children. This also includes cooperation with the EU, which under the Socieux+ programme provides support for developing institutional capacity to address child labour, including for labour inspection services and representatives of the private sector. Under another programme financed by the EU (Eurosocial+), instruments of public policy to prevent, address and eliminate child labour have been developed.

Moreover, a certification scheme "Flor Ecuador" has been set up to ensure compliance with labour and environmental standards, including elimination of child labour, and has been made obligatory for members of Expoflores, an association of flower growers and exporters (Expoflores, 2019). Regarding the banana sector, information provided by ASTAC does not mention cases of child labour, which may suggest that these are not too frequent, at least in areas covered by the survey and by ASTAC operation (ASTAC 2019). At the same time, exports to the EU are likely to have contributed to job creation for adults. According to information provided by the Ministry of Labour, there has been cooperation with the Association of Banana Exporters of Ecuador, the Association of Banana Producers and with medium and small banana producers to raise awareness related to child labour, and work towards elimination of child labour and restitution of rights of children removed from work in the sector. There has been a substantial decrease in work of children under 15 years of age in the last few years in the sector. In the fisheries sector, inspections were carried out. Moreover, technical assistance has been provided by the Government to local authorities to enable them to exercise monitoring of compliance with the national legislation by enterprises in the sector. In addition, the National Chamber of Fisheries is introducing a policy of zero tolerance for child labour in the sector.

#### 7.4.1.2 Conclusions and recommendations

The child labour incidence in the three Andean partner countries is typically related to rural areas, poverty and informal economic activities. However, governments have taken many initiatives, including in cooperation with the private sector, international organisations, the EU, NGOs, and other Latin American countries to prevent and eliminate child labour through awareness raising campaigns, providing jobs for adult household members, improving labour inspection's capacity, encouraging better school attendance, and promoting certification schemes. In this context, the Agreement may have contributed to reduced child labour incidence through creating job opportunities for adults, mainly in agriculture, but also in textiles, garment, and mining sectors.

Examples of some of the analysed sectors, such as rice, cotton, sugar cane and banana cultivation in Colombia suggest that the availability of formal jobs for adults, ideally with overall high formality levels in the sector, as well as trade union presence with high membership rates (like in the banana sector) support the elimination of child labour. Moreover, the commitment of private sector representatives and their cooperation with small-scale producers (such as family run plantations or farms) and other partners also bring effects. Hence, the importance of job quality and social dialogue.

In this context, the following recommendations are proposed:

- Measures such as the use of certification schemes, e.g. the "free from child labour" seal in Peru or "Flor Ecuador", and expectations of international customers may encourage producers to eliminate child labour from their operations and supply chains, as was demonstrated by the Colombian and Ecuadorian flower sectors. The same effect can be created by the private sector's drive to have a high quality brand (as in the case of the coffee sector in Colombia). However, in this context it is also important that international customers (including retail chains or individual buyers) are ready to pay decent (i.e., reasonably higher) prices to reward efforts invested in the respect for labour standards, and to cover the related higher labour costs. The EU could consider, in cooperation with the Andean countries, technical assistance or export promotion and awareness raising activities to promote certified "free from child labour" products in the EU market to help further reduce child labour in the Andean countries and create decent work opportunities for adults. The currently considered EU obligatory due diligence could have a similar effect.
- The Parties should also continue policy dialogue under the TSD Title and consider further technical assistance and financial support aimed at formalising jobs and MSMEs and facilitating their inclusion into international value chains. The recent initiatives of Ecuador to help find formal jobs for parents of children being at risk of child labour and other similar initiatives of the Andean countries go into that direction. Support to more sustainable income generation for adults may help to further reduce the child labour incidence.

### *7.4.2 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.

#### 7.4.2.1 Review

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 (Ministerio de Salud y Protección Social 2015). 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, no data on employment by sector could be found. 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 the hospitality sector, 6.4% in transport and storage and 5.8% in scientific, professional, technical, and other activities (DANE 2020b).

As discussed in section 7.1, impacts of the Agreement on the services sector in Colombia are very limited (0.1% or less), except in 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 around 4.5 million in 2007 to 6.3 million in 2019,[126] any negative effect of the Agreement would mean a more limited job creation than an actual employment reduction. Therefore, the Agreement is likely to have had no or very limited effects for most people with disabilities and youth as they work in services (25% and 30% from each group respectively work in agriculture and industry). An estimation of the possible effects of the Agreement on the employment of migrants and indigenous peoples by sector is not possible due to lack of data. In agriculture (20.6% employed disabled persons and 18.5% among youth), the exact impact on 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 7.1).

In **Peru**, changes in employment levels in services sectors caused by the Agreement are also estimated as very limited. Given that migrant workers, 62.1% of persons with disabilities and 61.8% of young people are mainly employed in services (Table 5 in Annex C-1), 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 jobs and income generation opportunities. In the latter case, however, it is to note that indigenous peoples may work on small subsistence farms forming the majority of production units in the mountain regions (64%) and not involved in international trade or affected by competition of imported inputs or products. 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 garments (around 0.3%). For the other sub-sectors, the Agreement has led to lower employment of between -0.2% and -1.0% (compared to the situation without Agreement). 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) (ILO, Migración laboral, Ecuador). 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 2018). Sectoral data for employment of

[126] 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

Venezuelan migrants, disabled persons or indigenous peoples in Ecuador could not be identified. As discussed in section 7.1, job increases are concentrated in relatively few but large sectors, such as vegetables, fruit and nuts, fishing, and other food products, which draw employment from all other sectors. This means mixed results for groups of workers in Ecuador depending on the sector they work in.

Given the lack of detailed data related to the number of workers 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.

##### 7.4.2.2 Conclusions and recommendations

Based on available data and considering that a large share of vulnerable population groups (especially migrant workers, disabled persons and youth) work in services sectors, which according to the economic modelling results have hardly been impacted by the Agreement, we estimate the Agreement's impact for these groups to be negligible in Colombia and Peru, with slightly more pronounced and mixed impacts in Ecuador.

Moreover, positive results are estimated 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 for disabled persons in Peru working in industry (30.8% in 2018). In addition, the lack of detailed data disaggregated by sector in Ecuador and the lack of data related to the number of workers in the analysed groups by sub-sector make it impossible to estimate more precisely the magnitude or the overall direction (positive or negative) of changes in employment levels which may be attributed to the Agreement.

In response to the conclusions, the following recommendations are made:

- While data collection and processing require time and resources and therefore should be well thought through, the Parties should identify and use the best ways of collection of additional data which would support monitoring effects of the Agreement and trade policy measures more in general. The most needed would be data on the number of workers in sub-sectors affected positively or negatively by trade and changes in those figures over time. Such data could be collected and published by sector associations or relevant research institutes in their (regular) publications related to the sector or by statistical institutes and relevant ministries. This is e.g. the case of the mining sector in Peru (publication of the Ministry of Mining and Energy), vegetables and fruit sector in Colombia (publications of Asohofrucol) and the textile and garment sector in Peru (publication of the Institute of Economic and Social Studies). Ideally, data would also be presented in a break-down by sub-sectors, e.g. the banana or coffee sector in Colombia. Currently, most of this type of data comes from one-off research studies.

- Similarly, to the extent possible, more data should be collected about vulnerable groups of workers and their situation (disabled persons, indigenous peoples, migrants, youth). In this case, such data could be collected annually or every few years to reduce costs, but to also ensure consistent methodology and capturing of trends. Otherwise, as stated in the analysis above, it is difficult or impossible to carry out a detailed analysis or to draw precise conclusions.

### *7.4.3 Labour standards - Forced labour*

In this section, we analyse information about forced labour in Colombia, Ecuador, and Peru, and – to the extent data is available – we assess whether the Agreement might have had any impact on this phenomenon. For more details, see Annex C-1.

#### 7.4.3.1 Review

Information about forced labour cases in **Colombia** has been limited until recently. In 2021, the Government of Colombia, in cooperation with international partners, launched a campaign to collect more information about vulnerable persons (potential victims of human trafficking and forced labour) and to share with a broad audience information about methods applied by criminal groups to attract people into false job adverts which are in fact traps leading to forced labour. The campaign aimed to raise awareness, prevent people from falling into forced labour and to protect vulnerable groups, incl. migrant workers from Venezuela. Trafficking in persons has been recorded *inter alia* in Valle del Cauca, Antioquia, Risaralda, and Cundinamarca (Prevencionar.com, August 2019; Ministerio del Trabajo, Colombia, 2017). According to the ILO Committee of Experts' Report published in 2019, forced labour has been identified in illegal gold mining (CEACR 2019). In addition, cases have been detected in agriculture, including the flower sector, coffee cultivation, crop picking in the coca fields (Reuters, July 2019) and forced recruitment to illegal armed groups and criminal organisations (US Department of State 2020).

As discussed in section 7.1, the economic modelling suggests employment growth thanks to the Agreement in several sectors in Colombia, incl. metals (1.6%), vegetables, fruit and nuts (1.2%), and crops (0.7%). A literature review of working conditions in the flower and coffee sectors reveals a number of concerns but no indication of forced labour (AIL, September 2015). This suggests that the detected cases of forced labour in the sector mentioned above have been limited to individual cases, as otherwise either trade unions or research would have mentioned them (Parra González and Benavides Giraldo 2017; PCC, February 2020; AIL, September 2015; December 2020). In addition, certification schemes and CSR practices applied at flower farms should help to eradicate forced and child labour. For example, in 2020, the scheme Florverde has certified 105 out of 400 flower farms (3,548 out of 8,433 hectares of flower cultivation, i.e., 42%) employing 36,882 out of 90,000 workers, i.e., 41%. It has covered 53% of Colombian exports from the sector (PCC, February 2020, AIL, December 2020; Florverde Sustainable Flowers). Based on this information, there is no visible link between the Agreement and forced labour.

In **Peru**, identified types of forced labour discussed in the Second National Plan to Combat Forced Labour (Ministerio de Trabajo y Promoción del Empleo 2013a; ILO 2018e) include wood extraction in the Amazon regions involving indigenous peoples, illegal mining activities, notably in the department of Madre De Dios (affecting migrants from other Andean countries and Brazil) and domestic work (involving mainly women migrating from other Peruvian regions due to poverty or violence at home).

According to the economic modelling, the Agreement has led to employment and output reductions in extractive industries, metal and mineral products, wood, and paper, i.e. all sectors where forced labour cases have been identified. As indicated in section 7.2, about two thirds of the workers (67.9% in 2019) in legal mining activities involved in exports to the EU are sub-contracted (Ministerio de Energía y Minas, 2019). Although there are reports about low quality working conditions in the sector, notably for sub-contracted workers, there are no reports, even from trade unions, about cases of forced labour. Hence, it is probable that forced labour has been detected only or mostly in illegal mining (as mentioned above) and therefore it is difficult to estimate its links to legal exports, incl. to the EU market.

Regarding wood extraction, before the Agreement's entry into force (in 2012), the World Bank estimated that around 80% of timber exported from Peru came from illegal sources and thanks to operations known as "wood laundering" was integrated into legal commercial channels and exports, mainly to the US, China, and Mexico. In a survey carried out in 2014 among 169 wood workers in the Amazon region Ucayali, the responses indicated a probability that 6.1% of adult workers and 9.1% of workers under 18 years of age were in conditions of forced labour (Mujica 2015). Another study carried out in 2017 in the border region between Colombia, Peru and Brazil also identified workers in timber logging as probably being in forced labour. The area has been identified as lacking effective control by police and enforcement agencies and attracting illegal activities, as well as temporary workers for timber logging looking for a job, often being misled by recruiters and transported to distant places in the Amazon forests (ILO 2018f). However, the report from the survey stressed that outcomes should not be extrapolated to the whole region or sector given specificity of places where it was carried out. In 2019, 19% of the timber exported by Peru was placed on the EU market. This was an increase from 9% in 2014, however, with total Peruvian wood exports falling over the analysed period. Without access to detailed due diligence, it is not possible to say whether timber being logged illegally and subject to "laundering" is exported to the EU[127] and therefore, whether exports to the EU may involve forced labour. However, there are actions which can be pursued to decrease the probability of this happening. They include provisions of Article 273 of the TSD Title, i.e. the development of due diligence mechanisms enabling the verification of timber origin and the promotion of certification schemes. In that context we note that the EU has been funding a project to strengthen capacities of civil society organisations in cooperation with authorities from Peru and the neighbouring countries in securing law enforcement and combating timber and wildlife trafficking. Moreover, the ratification by Peru of the Protocol to ILO Convention No. 29 on forced labour in April 2021 and its entry into force in June 2022 should contribute to strengthening cooperation among ministries, as well as with other governments, employers and workers in the fight against forced labour. The Protocol requires taking measures to prevent forced labour and to ensure that judicial actions are taken against perpetrators, to protect victims and to ensure that support is provided to them and their rights are reinstated. Moreover, as mentioned in the literature, strengthening capacities of the special unit of labour inspection to combat child labour and forced labour, promoting CSR practices in companies (Parthenon.pe, June 2018), and awareness raising actions among potential workers looking for a job in timber logging may also help to address the problem.

**Ecuador** is considered as a transit route and a destination in human trafficking, affecting migrants from Venezuela, South and Central America, the Caribbean, and Ecuadorian citizens. 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 (UNHCR 2018). However, due to the lack of more precise information it is not possible to draw conclusions whether products involving forced labour might have been integrated into value chains and exported to the EU.

Regarding the banana sector, information provided by ASTAC, a trade union, mentions a number of issues related to labour rights, working conditions and job quality in the sector, but no cases of forced labour (ASTAC, 2019). This suggests that cases of forced labour are infrequent, at least in areas covered by ASTAC operation.

#### 7.4.3.2 Conclusions and recommendations

The lack of detailed data regarding forced labour in sectors exporting to the EU does not allow drawing precise conclusions whether products involving forced labour might have been integrated into value chains and placed on the EU market. The analysis of the flower and coffee sectors in Colombia, the mining sector in Peru and the banana sector in Ecuador suggests that forced labour occurrence may be limited in general or restricted to illegal

[127] The USA and Peru have adopted a Forest Annex to their trade agreement which includes a requirement for Peru to conduct audits of particular timber producers and exporters, and upon request from the US, perform verifications of particular shipments of wood products. As a consequence, shipments that do not comply with the requirements are banned from entering the US market and the ban is extended to all imports from non-complying producers / exporters (USTR, October 2020).

activities, given that trade union reports and research articles do not mention it and speak rather about low jobs quality in those sectors.

In other cases, like timber logging in Peru, there is evidence of forced labour. However, also in this case, it is difficult to conclude if timber from illegal logging involving forced labour might have been exported to the EU. In this context it is to note that activities such as the EU assistance projects supporting capacity building and cooperation of civil society with relevant authorities in monitoring trade and securing law enforcement in timber and wildlife trafficking may help to estimate the magnitude of related illegal activities, and to address them.

The Agreement could provide opportunities for addressing forced labour by creating legal and formal jobs in agriculture attracting low skilled workers from rural areas. In addition, further measures could be taken:

- The Parties should pursue actions, such as promotion of due diligence mechanisms, voluntary certification schemes and CSR practices in timber logging and other sectors promoting legal economic activities, formal jobs creation and elimination of forced labour from value chains.

- The Parties should also continue cooperation aimed at capacity building of labour inspection services, including inspection in rural areas and special units for combating child labour and forced labour.

- The Andean countries should also continue and enhance awareness raising activities among potential workers looking for a job in sectors with presence of forced labour to inform them about the related risks. Equally important will be actions targeting potentially vulnerable workers, such as migrants from Venezuela, who – as the recent campaign run in Colombia in 2021 shows – may become victims of groups attracting people to jobs that are in fact forms of modern slavery.

### *7.4.4 Labour standards - Freedom of association and the right to collective bargaining*

In this section, we analyse the potential impact of the Agreement on trade unions and their activities. Further analysis is provided as part of the human rights impact assessment in section 9.2.1, in Annex C-1, and in case study 8 (Volume III).

#### 7.4.4.1 Review

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 in Annex C-1, over the whole analysed period, in all sectors the number of trade unions has increased, as has the absolute number of their members.[128] In some cases, there were also minor reductions in 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

[128] 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.

are no trade unions in an enterprise). This 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-organised workers can be used to undermine the exercise of freedom of association and weaken the existence of workers' organisations. In the Reports published in 2020 and 2021, the ILO Committee of Experts expressed deep concern about persisting violence against trade union leaders and the heavy impact it has, notably in the agriculture, education, transport, mining, and energy sectors and in rural areas (CEACR 2020; 2021).

- Regarding sectors benefitting from exports to the EU, in the banana sector, workers in the Urabá region are covered by a collective agreement, renewed every two years, with the latest one signed in 2019 by employers supported by AUGURA (Banana Association of Colombia) and the agricultural workers' union SINTRAINAGRO. The agreement applies to 22,000 workers out of the total of 25,000 direct jobs in the sector. Trade union affiliation in the banana sector in the Urabá region is 98%, and most workers are contracted directly by employers (Cooper, Quesada; Augura, 2021; COLSIBA, Sept. 2019). While trade union activity in the Urabá region and the banana sector started well before the Agreement, the export opportunities it has created are favourable for the sector and therefore it has benefitted both workers and employers and their relations, as well as trade union operation.
- In the palm oil sector, trade unions have been present and active, however, represent only 5% of direct workers in the sector. Most of the indirect workers (representing 80% of workforce) are not covered by collective agreements. European trade unions (e.g., from Denmark and the Netherlands) have been supporting social dialogue in the sector, where sub-contracting is the main issue (Quiroz, Achterberg and Arnould 2021). In this case, the Agreement is estimated to contribute to job reduction, or a slower job increase in the growing sector, however, not the economic effects, but sub-contracting seems to be the main obstacle in trade unions' activity affecting negatively also job quality.
- In the sugar cane sector, prior to the Agreement's entry into force, based on the Action Plan with the US, work in most of plantations has been formalised, workers have been contracted directly by the enterprises and their right to form and join trade unions has been recognised. Changes continued after 2013 (AIL, January 2013). Workers from the sector admitted in 2020 substantial changes in their situation thanks to formalisation of work and trade union membership which provides protection of their rights and stability, while there are still cases of discrimination for trade union activity (AIL, October 2020).
- In the mining sector, trade unions represent direct employees but not sub-contracted workers (CNV Internationaal 2021). Trade union representatives acknowledge that thanks to the Labour Action Plan with the US, the situation in the sector has improved over the last ten years regarding respect for workers' rights. They emphasise a greater respect for trade unions, however, see room for further improvement, including a move from sub-contracting to direct employment of workers, at least those carrying out tasks classified as core activities (AIL, April 2021). While the Agreement supports job creation in the sector, it has played a limited role (compared to Colombia's FTA with the US and the Labour Action Plan). However, European trade unions, e.g., from Finland, support capability building of their Colombian counterparts (Asociación Minga, April 2019; Industriall October 2013; November 2019), the EU helps in improving working conditions (e.g., through a project on sustainable mining free from mercury) and policy dialogue under the TSD Title emphasises the importance of freedom of association and respect for workers' and trade unions' rights.

The above analysis indicates that over the last decade, the situation of trade unions in Colombia was mainly shaped by the security situation in the country, the Labour Action Plan adopted with the US and the macroeconomic developments which influenced creation of formal jobs on one hand and preserved structures with sub-contracted workers in some sectors (e.g., in mining) on the other, to cut costs in international competition. The Agreement with the EU is likely to have had a more limited impact, incl. through assistance projects (e.g., mining free from mercury), dialogue under the TSD Title between

Governments, and civil society engagement. In addition, technical assistance provided by EU Member States and European trade unions may have contributed to capacity building.

In **Peru**, the number of trade union members in the private sector increased from 100,636 (out of 3.1 million, i.e., 3.2%) in 2007 to 203,169 (5.3% out of 3.8 million workers) in 2019 (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, as the number of trade union members reflects the situation in the sector influenced by different factors. In the public sector, between 2013 and 2017 the share of trade union members in the total number of workers was around 16% (Ministerio de Trabajo y Promoción del Empleo 2019d).

The 2019 report of the ILO Committee of Experts (CEACR 2019) 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 (given that short-term job contracts in the sector represent a barrier in trade unions activity as workers fear that they may not be renewed in case workers join a trade union or submit a complaint about working conditions, including health and safety at work). 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.

- Regarding sectors benefitting from exports to the EU, in mining (see Table 10 in Annex C-1) the number of trade union members increased from 13,395 in 2007 to 27,151 in 2019 with the share of affiliated workers in their total number in the sector increasing from 20.1% in 2007 to 25.6% in 2019 (Ministerio de Energía y Minas 2019a). The majority of workers (67.9% in 2019) are sub-contracted (Ministerio de Energía y Minas, 2019). Trade unions have requested ending the practice of sub-contracting, except for highly specialised work and strengthening labour inspection's capacity to ensure respect of workers' rights including health and safety at work. They also demand termination of any special regimes in the economy and advocate collective bargaining at the sector level to ensure equal conditions of work for all trade unions and workers in the sector (Gestión, December 2020a). While the Agreement is estimated to have caused a limited job reduction, given the overall employment growth in the sector, it may mean a slower growth rather than a job loss. However, as indicated above, sub-contracting seems to be the main factor limiting trade unions' activity in the sector.
- According to Table 10 in Annex C-1, the number of trade union members in agriculture decreased from 3,871 (4.9% of workers) in 2007 to 2,921 (0.9%) in 2019. Other sources (including complaint submitted by the civil society) show an increasing number of unionised workers under the special regime in agriculture (Ley N° 27360) from 8,295 in 2009 to 11,065 in 2016, with trade union affiliation rate varying over the analysed period from 4.9% in 2009 down to 3.3% in 2012 and up to 4.6% in 2016 (Queja contra el gobierno peruano, 2017). At the same time, the number of workers in agriculture in Peru increased from 3.97 million in 2008 to 4.08 million in 2017, and the number of those covered by the special regime for agriculture increased from 182,552 in 2008 to 276,403 in 2017 (Maldonado Mujica 2020). The National Federation of Agro-industry Workers has criticised amendments to the special regime adopted in 2020 for a missed opportunity to guarantee workers in the sector the right to collective bargaining and freedom of association (RPP noticias, December 2020). While the Agreement, through creation of additional export opportunities to the EU supports work in agriculture in Peru, it has not had a direct impact on trade union operation, which may be limited by the special regime and related temporary contracts of a large group of workers. Indirect positive impacts may have resulted from the policy dialogue under the TSD Title where freedom of association is discussed regularly.

As outlined in section 7.1 and above, the Agreement has triggered an increase in Peruvian exports, output and employment in the chemical sector and sectors covered by special regimes: in agriculture, e.g., in vegetables, fruits, and nuts, food processing, textiles, and apparel. Based on the literature and statistics, one can conclude that the number of trade union members in those sectors and the affiliation rate were affected mostly by macroeconomic developments (similar changes in data related to trade unions can also be observed in mining, construction and manufacturing), as well as by domestic legislation and provisions about short-term contracts under special regimes not offering job stability and potentially discouraging trade union activity out of fear of not having a contract renewed. It is to be seen yet if the latest legislative changes of 2019 and 2020 will bring about changes in practice in this respect. On the other hand, discussions under the TSD Title related to effective implementation of the ILO fundamental conventions, incl. on freedom of association and collective bargaining kept attention of the Parties focused on a need to seek improvements, notably further to civil society complaint. In 2017 and 2020, EU organised workshops in cooperation with Peru on labour conflict management.

In **Ecuador**, in 2017 three trade union confederations represented 879,000 workers from 21 sectors, i.e., some 4% of all workers.[129] 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 the Organic Integral Penal Code whose section 346 foresees imprisonment of one to three years for persons who stop or obstruct the normal provision of public services. According to the Committee and the Committee of Experts, this provision may be interpreted as foreseeing penal sanctions for participation in a peaceful strike in the public sector. 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).[130] In its 2019 report, the ILO Committee of Experts noted observations by ASTAC that three Ministerial Decrees of 2017 and 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; 2020). Further to two requests for information (in 2019 and 2020), in the report published in 2021, the Committee noted the response of the Government that the Ministerial Decrees 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 the situation of temporary workers had been 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 confirmed that the new rules did not impede trade union activity in the sector (CEACR 2021).

While issues with trade unions were present in Ecuador before the start of application of the Agreement, some stakeholders consider that the situation has deteriorated since the start of the Agreement (Daza et al. 2020). Some have reported that increased competition linked to the Agreement has led to a number of violations in the banana sector and agriculture, and that the TSD Title has failed to provide a safeguard against these negative developments. Nevertheless, the economic analysis shows that the vegetable, fruits, and

[129] According to data of the Ministry of Labour, 2,969 out of 5,853 trade unions were active in 2017 (El Comercio, 2017). In 2021, according to data provided to the study team by the Ministry of Labour, the list of registered organisations included 1,610 labour organisations, out of which 63 were created in the period between November 2019 and November 2021, and 11,456 social organisations, out of which 124 were created in the same period.

[130] In this context, the Ministry of Labour of Ecuador has shared with the study team a list of 32 worker organisations (associations, trade unions and committees at the enterprise level) in the banana sector bringing together from 15 to 4,104 workers (many organisations have not provided the exact number of members). Two of those organisations have respectively 15 and 19 members which is below 30, i.e., the number established as the minimum number of members to establish a trade union.

nuts sector (which includes bananas) has grown as a result of the Agreement, so competition in the sector has not worsened. On the other hand, three Ministerial Decrees in 2017 and 2018 introduced special regimes for temporary contracts in the banana sector, agriculture and agro-industry,[131] which have been the subject of fierce discussions regarding their effect on the stability of working relations, conditions for trade union operation and collective bargaining in the sector. Despite the timing of the Ministerial Decrees and the start of application of the Agreement for Ecuador no causal link between the practice of special regimes and the level of informality and the Agreement can be established, considering the pre-existing pressures in Ecuador. Within the cooperation under the TSD Title, the EU has been keeping a dialogue with the Ecuadorian authorities on the need to address issues regarding freedom of association; as this is still ongoing, it is too early to assess its effectiveness.

#### 7.4.4.2 Conclusions and recommendations

The trade union situation in the Andean countries has mainly been influenced by domestic factors. National legislation both lays down the foundations for freedom of association and the right to collective bargaining and provides regulations related to special regimes and establishes conditions for trade union activity (e.g. by setting a minimum number of workers to form a trade union) which impose constraints on trade union activity. Other factors affecting trade unions and their operation include the security situation (in Colombia), macroeconomic developments, approaches taken by employers, and international commitments including ratified conventions and trade agreements, with an important role played by the Labour Action Plan agreed by Colombia with the US. Compared to these factors, the Agreement seems to have had a more limited influence, although it has helped to hold the Parties to account and keep the ongoing dialogue and cooperation focused on shortcomings to address.

To strengthen the Agreement's role in contributing to the promotion of freedom of association, we recommend the following:

- Moving forward, it will be important to keep the dialogue under the TSD Title going. More emphasis will need to be placed on actions to be taken by the Andean partner countries to bring their legislation fully in line with the ILO fundamental conventions, and to effectively implement and enforce them in practice, as requested by the ILO and echoed by the EU and OECD. Moreover, workers' rights in sectors under special regimes should be made equal with other sectors, including with regard to freedom of association and the right to collective bargaining. One of the solutions could envisage enabling trade union membership at the sector level (above enterprises) to help workers in small enterprises and seasonal workers moving between employers to join trade unions of their choice and remain in them for a longer time. Based on information provided by workers in the banana and sugar cane sectors in Colombia, trade union membership has had a tangible positive impact on their working conditions and protection of rights.

- The EU should consider improving the communication with civil society regarding the Commission's engagement with partner countries on issues of concern, including those raised by the civil society in its complaints. We understand that the Commission has reached an understanding with Peru[132] regarding actions to take to address those issues. However, it may not have been communicated clearly enough to the civil society, given that in interviews with the study team, the DAG members from the EU

[131] Decrees no. MDt-2017-0029, MDt-2018-0096 and MDt-2018-0074. Similar decrees establishing contract modalities for the livestock, flower, tourism, manufacturing and other sectors were also adopted; see https://www.trabajo.gob.ec/acuerdos-ministeriales/. In a contribution to the evaluation, the Government stated that these decrees were prepared in a tripartite dialogue.

[132] See Minutes of the V TSD Subcommittee.

and partner countries suggested that the EU should step up its engagement and consider the form of an Action Plan (or another similar document, e.g. a roadmap) outlining actions that need to be taken, timeline, and responsible institutions. Moreover, as emphasised by interviewed civil society representatives, the tone of domestic discussion will need to be more moderate to avoid tensions and stigmatisation of workers and trade unions and any sentiments against them.

### *7.4.5 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 a detailed description of the situation in the Andean countries, trends observed in the analysed period and factors influencing them, including actions taken by the governments.

#### 7.4.5.1 Review

In **Colombia**, limited data regarding job quality by sector are available, but there is information about working conditions in a few sectors exporting to the EU. As indicated above, in some of them, e.g. in the banana sector, most jobs are formal, with trade union oversight, however, working conditions are hard overall. In others, e.g. in the mining, palm oil, flower and coffee sectors, job quality is described as low, notably for sub-contracted workers having short-term contracts, with wages being close to the minimum wage, long working hours and shortcomings in health and safety at work and personal protective equipment. On the other hand, projects are implemented in cooperation with the ILO (and with funding provided by the EU) to improve health and safety at work, e.g. in the coffee supply chain (ILO 2019b). The EU also provides assistance for sustainability and decent work in the coffee supply chain, focused on ensuring fair working conditions, elimination of child labour, addressing informality, and respect for human rights. Given that evidence in this area is provided either by one-off studies with surveys covering samples of workers from a selected region (not the whole sector) or qualitative descriptions (including those coming from trade unions), it is not possible to estimate precisely whether and to what extent the Agreement may have had an impact on working conditions in sectors in Colombia involved in exports to the EU. It is likely (as also explained below) that it influenced the situation alongside other factors, such as high competition in sectors, including in terms of costs and prices (e.g. in mining or the flower sector, the latter facing competition from Africa), fluctuations in global commodity prices (e.g. in mining or coffee sector) and low prices offered by European retailers (e.g. for bananas), none of which is directly related to the Agreement.

Across the Colombian economy, some job quality indicators have improved in the analysed period. For example, the share of workers being in sub-employment, i.e. in jobs with an insufficient number of working hours per week, and wages inadequate in relation 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 (Joint Statement, 2019). The number of fatal and non-fatal accidents at work per 100,000 workers has been decreasing since 2014.[133] Moreover, as outlined in detail in Annex C-1, the number of labour inspectors appointed permanently in a civil service competition increased reached 744 in December 2020, with further 635 aspirants. In 2019, the number of mobile inspection teams increased by 45% compared to 2018, and a national strategy for inspection was developed, focusing on an increase in the number and effectiveness of inspections. Moreover, the budget of inspection services has increased (from 3 billion Colombian pesos in 2017 to 8 billion in 2018) and salaries of labour inspectors grew by 77% between 2009 and 2016 (for comparison, salaries of civil servants increased by 32.7%

[133] Sistema General de Riesgos Laborales: https://sistemas.fasecolda.com/rldatos/

in the same period). Also, virtual training courses for labour inspectors have been developed. According to the Ministry of Labour, the Government has been implementing a plan of extending the presence and work of labour inspection services to the whole territory, notably rural areas and those which have been marked by the armed conflict, poverty, illegal activities, and weak institutions. According to other sources, however, much remains to be done, e.g. regarding the number of cases being treated: as of 30 June 2020, "there were 71,885 registered files, 35,806 of which were finalized (processes executed) and 36,079 were active (processes ongoing)" (CUT et al. 2021), which means a high number of open files per inspector. The same source also highlights the need to extend the network of inspection services in rural areas through permanent employment rather than preventive training or visits. To address the situation, the EU in cooperation with Colombia has launched focused assistance initiatives, e.g. a project on sustainable mining free from mercury in the Choco department and a project about labour inspection in rural areas delivered jointly with the ILO. Moreover, labour inspection has been addressed at TSD Sub-committee meetings (European Commission 2019c; 2020c).

In **Peru**, certain indicators have also improved, including the rate of workers with adequate employment which increased from 32.6% in 2007 to 52.5% in 2018. Among the indigenous peoples, the proportion was less favourable: 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 export 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 4,732 in 2011 to 35,083 in 2019, with mining and manufacturing recording the highest numbers (Ministerio de Trabajo y Promoción del Empleo 2011; 2019c). There are projects implemented in cooperation with the ILO to improve health and safety in sectors, such as construction (ILO 2018d) or agro-exporting sector.[134] The labour inspection services (National Labour Inspection Authority, SUNAFIL) have been increasing the number of inspectors. 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 (European Commission 2020c). According to the Ministry of Labour, the number of labour inspections increased from 21,657 in 2014 to 55,403 in 2020. For 2021, the plans assumed 94,970 inspections. In the year to 15 March 2021, 21,488 workers benefitted from actions to improve or ensure health and safety at work, and labour inspection closed 116 workplaces where 3,819 workers were exposed to a high level of risk. By 2020, the number of regional labour inspectorates increased to 26, covering the whole territory of the country (Ministerio de Trabajo y Promoción del Empleo 2021). However, there is a need for further strengthening capacity of labour inspection. In its 2021 report, the ILO 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 (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

[134] ILO, Seguridad y salud en el trabajo y Productividad en la Agroexportación no tradicional en el Perú: https://www.ilo.org/lima/programas-y-proyectos/WCMS_226631/lang--es/index.htm

agriculture increased from 182,552 in 2008 to 276,403 in 2017 (literature speaks also about 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 remained for most of the analysed period in precarious employment compared to the general regime; changes in the special regime were introduced only in 2019-2020: According to information provided by the Government of Peru, in 2019 Law No. 27360 establishing the special regime for agriculture (limiting workers' rights) was amended to equalise the rights of workers under this regime with the general regime regarding compensation for the time of service, holidays, and protection against arbitrary dismissal. Moreover, in 2020, a new Law (No. 31110) was adopted which established that workers will be able to have part in profit of enterprises where they work, starting from 5% in 2021 and increasing to 10% from 2027. The same Law also sets out working conditions and conditions regarding health and safety at work, foresees preference for contracting workers by the same enterprise in consecutive seasons and speaks about promotion of freedom of association and the right to collective bargaining in agriculture and agro-industry, especially above the enterprise level acknowledging that in this sector, workers face difficulties in exercising their rights due to temporary or seasonal forms of employment. In addition to that, a regulation setting out minimum rights and the right to collective bargaining in the sector was adopted.

Moreover, as outlined in section 7.2 above, in the mining sector, the majority of workers is sub-contracted having short-term contracts, not participating in companies' profits and other benefits, working long hours (with overtime not being paid), and facing shortcomings related to health and safety at work. To address some of the identified shortcomings, an EU funded project has been designed to support decent work, safe working conditions and productivity in small-scale artisanal gold mining in Puno. One of the objectives will be to align extraction and other activities at the mine site with fair trade standards, supporting exports in a way benefitting workers and the local community. In the cotton (textile and garment) sector, 80% of workers are informal, and include temporary workers hired for a short-term at the harvest season. They usually earn below the minimum wage and do not have social security coverage. It means that while Agreement has contributed to job creation or helped to preserve them, it is likely that a mix of job types benefitted from it, including formal and informal and having different quality levels.

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 increased between 2007 and 2013, but then recorded fluctuations and remained at a similar level between 2016 and 2018 (INEC 2015b; 2017a; 2018f; 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% for 60 hours or more. The number of recorded accidents at work has increased 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.[135] 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 2015; 2019). 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 ASTAC filed a complaint about working conditions in the banana sector, which directly employs 200,000 workers, and up to 2 million indirectly. According to the complaint (ASTAC 2019), low price levels established by European supermarkets have a direct impact on revenues, workers' and producers' incomes, as well as on the respect for labour and

[135] IESS, *Boletín Estadístico*: https://www.iess.gob.ec/es/web/guest/estadisticas

environmental standards.[136] In a survey carried out by ASTAC among workers in the sector,[137] 68% did not have a formal contract, 80% had working days extended to 10 hours a day, 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), and the use of chemicals had had negative impacts on the health of workers and inhabitants in the plantation areas.[138] According to critics, the three Ministerial Decrees issued in 2017 and 2018 introducing special regimes for temporary contracts in the banana sector, agriculture and agro-industry reduced job quality and stability of working relations, among other things (Iturralde 2021). The Government maintains that the purpose of the decrees was to contribute to the formalisation of the sector and to ensure appropriate working conditions for temporary workers, such as a written contract, direct employment, obligatory contract registration and obligatory registration of workers for the social security scheme, stability of employment (obligation to be hired in consecutive seasons), fair wage, etc.

In a study commissioned by the Global Living Wage Coalition (a grouping of fair trade organisations) carried out in 2016 (Ullua Sosa et al. 2020), the living wage for three regions covering 90% of banana plantations in Ecuador (El Oro, Guayas, and Los Ríos) was estimated at USD 463 and at the time was 8% higher than the minimum wage package for formal workers being employed for less than one year (USD 427) and also than the decent wage established by the Government of Ecuador (USD 430).[139] The study did not include information about the share of workers covered by each type of wage, and in addition it highlighted the existence of informal work (around 40%) with an unknown wage level (Ullua Sosa et al. 2020).

To address the situation on the labour market, but also to strengthen the social security net for workers, the EU is funding a project implemented by the ILO focused on strengthening social protection of workers in the case of unemployment. Moreover, to improve the respect of labour rights and working conditions, including health and safety, in rural areas, a project by the EU to be implemented in cooperation with the ILO has been designed. It will be inspired by a similar activity in Colombia and focus on strengthening the capacity of labour inspection services to operate in the rural areas and in the agriculture sector. Depending on the needs, the project may also support development of the policy and legislative framework facilitating this activity, as well as methodologies and technological tools for labour inspection services.

#### 7.4.5.2 Conclusions and recommendations

In the analysed period, the Colombian Government has taken actions to address some challenges related to working conditions. This includes strengthening capacity of labour inspection services, increase of minimum wage or implementation of projects with the ILO to address health and safety at work questions in certain sectors (e.g. coffee supply chain).

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136 In December 2021, a group of German supermarkets signed a voluntary agreement on the promotion of living wages and incomes in their agricultural supply chains and formed the "German Retailers Working Group on Living Income and Living Wages." The Group intends to develop criteria in 2022 to establish prices that enable the payment of living wages in the banana sector in countries supplying the German market, starting from Ecuador and extending the project to other suppliers. The concept assumes living wages being paid from 2023, with an increasing share of sourced bananas covered by the scheme (with a 2025 target of covering 50% of all bananas sourced by the Group members); see "German retailers step closer to Living Wages and Incomes in banana supply chains", Banana Link, December 2021, https://www.bananalink.org.uk/news/german-retailers-step-closer-to-living-wages-and-incomes-in-banana-supply-chains/.

137 Note the comment made section 7.2.1 above regarding the survey size.

138 According to another survey, conducted by University of California Davies in 2019 in the banana sector in Ecuador, with 454 banana plantations responding, 89% of respondents said that they had never experienced any exposure to chemicals resulting in sickness, 10% experienced such an exposure infrequently and 1% weekly (University of California Davis 2020).

139 Since then, the decent wage established by the Government increased to USD 447 in 2020; see Ministerio del Trabajo (2021), Acuerdo Ministerial Nro. MDT-2021-087: https://www.trabajo.gob.ec/wp-content/uploads/2021/03/AM-087-2021-Salario-Digno-signed.pdf?x42051.

The Agreement has also played its part, providing a forum for discussion about working conditions and a framework for assistance projects, including the one on labour inspection in rural areas in Colombia and Ecuador. On the other hand, several challenges remain to be addressed, including the following ones:

- A further strengthening of labour inspection and improvement of working conditions in sectors exporting to the EU is recommended. In particular, health and safety at work, minimum wages, working times, and social security coverage should be addressed by this, as these are often regulated by law rather than by economic circumstances or decisions by the private sector, and should be enforced by labour inspection.

- Moreover, given the interest expressed by the Colombian Government to extend the network of contact points under the TSD Title to ministries of labour and to continue cooperation and technical assistance, the Commission (and where relevant, also EU Member States) should consider options for such a cooperation to share best practice and advice in ways of addressing challenges.

Like in Colombia, the Peruvian Government has taken steps to improve job quality, e.g. through changes in the special regime in agriculture, strengthening capacity and extending the network of labour inspection, or extension of the health care insurance and social security coverage over a larger share of workers. The new Peruvian Law (No. 31110 of 2020)[140] also promotes social dialogue in agriculture, prohibiting any action from employers that could interfere or impede freedom of association and the right to collective bargaining. The latter should also be promoted at a higher than company level to acknowledge the seasonality of employment and the move of workers between employers. It also mandates the National Labour Council to provide a forum for a discussion about working conditions in agriculture. Moreover, projects with the ILO have been implemented focusing on improved respect for health and safety at work conditions in sectors, such as construction and agro-exporting industry. However:

- Job quality, including in sectors exporting to the EU, remains a challenge that should be addressed through effective implementation and enforcement of the existing legislation and equalising workers' rights with those under the general labour regime.

- Moreover, technical assistance projects with the EU, the ILO and Latin American countries should continue aiming at strengthening capacity of labour inspection, labour formalisation and respect for labour standards and health and safety at work.

In Ecuador, job quality has been closely related to the macroeconomic situation in the country and changes in terms of international trade, e.g., fall of global oil prices followed by economic slowdown having an impact on adequate employment rates, wage levels and public revenues, including the ability to hire labour inspectors. Other factors mentioned by stakeholders include price setting policy by the European supermarkets imposing a cap on revenues in the banana sector and limiting possibilities to improve working and living conditions. Actions taken by the Ecuadorian Government, such as extension of the social security coverage, brought about a positive change, while the new legislation establishing labour regime in the banana sector, agriculture and agro-industry has been received negatively as lowering levels of labour protection, while the Government argued they aim at formalisation of working relations in sectors covered.

Against this background, the Agreement seems to have played an indirect role with opening export opportunities and job creation, however, with a lesser influence on working conditions and incomes of workers and small producers. The Government of Ecuador stated that it had provided a response to the complaint lodged by ASTAC and supported by civil

[140] Available at https://cdn.www.gob.pe/uploads/document/file/1535274/Ley%2031110.pdf.

society. However, as the text has not been shared with the evaluation team it is difficult to evaluate its role in the dialogue between the Government and trade unions and between Ecuador and other Parties to the Agreement, notably under the TSD Title. Hence, unlike in Colombia and Peru, there is no tangible evidence available to the study team that the situation or positions in the disputed case have changed in the analysed period and that the dialogue under the TSD Title played a role in it. In 2020, the trade union sub-group of the Ecuadorian Domestic Consultative Council (DAG) sent a letter to the EU and other stakeholders stating that due to the lack of tangible results of the dialogue with the Government of Ecuador under the TSD Title, it had decided to withdraw from the DCC and from participation in 2020 annual meeting under the TSD Title. As the DCC's mandate expired, in October 2021 a new DCC was constituted, with three sub-groups (employers, workers and NGOs).

In response:

- There is a need to strengthen capacity of labour inspection services in Ecuador, equalise workers' rights in agriculture, incl. in the banana sector with other sectors, and ensure effective implementation and enforcement of these rights, notably in relation to the right of the contract, social security coverage, wages, and payment of additional wages and benefits, payment for extra working time, the right to holidays, and health and safety at work. In this context, assistance provided through EU projects may help to improve the situation.

### *7.5 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, 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 regarding trends in poverty and extreme poverty in the analysed period, incomes and expenditures, and factors influencing them, including Government policies. Given limitations in the modelling, the analysis presented here is qualitative and builds on the findings and conclusions drawn in sections 7.1 to 7.4.

#### *7.5.1 Summary of impact*

Regarding the availability and affordability of traded goods and services for consumers in all Parties, both the economic modelling results and trade statistics confirm an increase in trade in certain groups of products benefitting from reduction in tariffs under the Agreement.

The effects generated in the Andean partner countries through an increase in imports from the EU flow through various channels. Some imports, such as motor vehicles, pharmaceuticals, medical devices or other transport equipment, such as the metro in Quito, the tramway in Cuenca, and the cableway in Guayaquil may either be purchased by consumers directly as goods, or used by them as part of provision of transport or health care services, the wider choice has contributed to diversity, high quality and safety of these goods and services.

Other imports from the EU could lead to mixed results, if they constitute a strong competition to domestic producers – certain dairy products have been mentioned in the literature (see section 7.1 and Box 6-2 in section 6.5.4 above): although these benefit buyers and consumers, they may negatively affect competing producers and their incomes.

Yet other imports from the EU, such as machinery, are unlikely to have a direct effect for consumers, as they represent capital goods. However, as highlighted in public consultations for this study, imports in capital goods improve competitiveness in exporting sectors, e.g., food processing and support exports from the Andean countries to the rest of the world, including the EU. Therefore, in this case, EU exports may have a positive impact for workers employed in exporting sectors, as they help to generate jobs and income, and hence, consumer welfare.

Finally, tariff reductions by the Andean partner countries should also have brought about price reductions; however, these have not been modelled and otherwise, prices have been influenced also by other factors.

With regard to imports by the EU of products from the Andean partner countries, EU tariff reductions (compared to trade under the GSP+ arrangement) supported increase in trade in vegetables, fruit and nuts, sugar, fishery products, textiles, and leather products, among others. These are likely to have benefitted EU consumers, as they make available products which are not grown or manufactured in the EU, or ensure supply of them outside season (e.g. fruit 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 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 producer incomes in the exporting countries.

Regarding product safety, for the period 2005-2021 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 the REACH Regulation and the 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 the 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 the 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 19 June 2021) six entries for products from Argentina, 37 for Brazil, 57 for Mexico, and 15,981 for China.[141]

Regarding impacts on consumers' purchasing power 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 the prices of goods and services which account for the largest share 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 may have had some negative impacts for producers of the like products 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 Peru, Colombia, or Ecuador. As outlined in sections 7.1 to 7.4, the Agreement has contributed to job creation in some sectors, providing an opportunity for poverty reduction and income generation, including in rural areas and in agriculture. The positive impact may, however, be limited by a low job quality and relatively low wages in exporting sectors due to high levels of informality, sub-contracting, or existence of a special regime in agriculture. The overall effect for employment in each of the Andean countries remains unknown, but is likely to have been

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141 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

positive, considering small increases in GDP. Moreover, the opportunity to export to the EU has created additional income opportunities for producers, incl. small ones. However, as discussed in sections 7.1 to 7.4, prices set for 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, given the estimated limited and rather positive effects for employment in agriculture, food processing, textile and garments, notably in Peru and Colombia, we estimate that the Agreement contributed to job creation (or preservation) and additional income generation in these sectors, and hence to a limited poverty reduction in rural areas where it is still the highest in each country. Moreover, the effects of the Agreement are complemented by assistance projects financed by the EU, which focus on supporting small-scale farmers and their organisations operating in poor rural areas in Peru, as well as in areas rich in biodiversity. The projects aim at increasing food security, and economic and social development of those areas through support in production and trade of agricultural products, at fair prices and adequate quality. The projects also support access to finance of small producers.

More mixed results are estimated for Ecuador and therefore it is more difficult to draw a precise conclusion for this country. However, also in this case, positive effects are found in the vegetables, fruit and nuts, and fisheries sectors. Moreover, as discussed in detail in sections 7.3 and 7.4, while mixed results are found regarding overall employment effects for each of the groups that are disadvantaged on the labour market and are considered vulnerable also as consumers (women, youth, persons with disabilities, indigenous peoples, and migrant workers), the Agreement is likely to have had very limited 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.

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 section 6.12). 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. For social inclusion and reconciliation, it was USD 3.3 billion.[142]

### *7.5.2 Conclusions and recommendations*

The estimated effects of the Agreement for consumers are estimated as rather positive, with the overall increase in availability, accessibility and diversity of goods and services thanks to reduction of tariffs. The safety of traded products raises no concerns, neither for food nor non-food products.

Impacts for welfare and poverty levels also seem to be positive, although they may be limited. Job creation thanks to the Agreement, in particular in rural areas and in diverse regions of the Andean countries helps to generate income and reduce poverty. However as noted by stakeholders in consultations for this study, there are groups, such as small agricultural producers (family farming) who have not benefitted from the Agreement on

[142] 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

equal terms with big enterprises or who may have been negatively affected by competition of increased imports. Moreover, low job quality, including wage, levels in agriculture and among sub-contracted workers in palm oil or mining sectors, reduces positive welfare effects resulting from increased trade flows (exports).

To ensure continued positive impacts on consumers, welfare and poverty, the following is recommended:

- The governments of the Andean countries, acting jointly with complementary EU technical assistance, should provide support for MSMEs, including small agricultural producers, to enable them to improve productivity and competitiveness and to benefit from the Agreement or to preserve their position on the local market, given their importance for food security and as a source of employment and income for local population.

- While job creation supports poverty reduction, low job quality may limit positive welfare effects. Therefore, it is important that workers' rights already foreseen by the law, such as written contracts, minimum wages, social security contributions, other benefits, or health and safety at work with personal protective equipment, e.g. in agriculture or in the mining sector, are applied by employers and are effectively enforced in practice by labour inspection services. Moreover, they should be progressively aligned (upwards) with rights of workers in other areas or contract types (longer fixed-term contracts or permanent contracts, or rights enjoyed by direct employees of companies compared to sub-contracted workers).

## *7.6 Impact on Corporate Social Responsibility/Responsible Business Conduct*

In this section, we analyse to what extent the Agreement has contributed to the uptake of CSR/RBC practices by enterprises in Colombia, Peru, and Ecuador. In this context, Annex C-1 provides description of initiatives launched in each of the countries over the analysed period, incl. cooperation with international organisations (e.g., the UN, OECD, and the ILO) and the EU.

### *7.6.1 Summary of impact*

In Article 271 of the Agreement, the Parties agree to promote best practices related to CSR and to encourage the development and use of flexible, voluntary, and incentive-based mechanisms that can contribute to coherence between trade practices and sustainable development objectives. Indeed, as outlined in Annex C-1 and section 7.4, the Andean partner countries have pursued domestic policies encouraging application of CSR practices and this effort has been supported by the EU through assistance projects and dialogue under TSD Title, as well as by expectations of customers that products exported also on the EU market will be free from child labour and that other labour or environmental standards will be observed.

For example, the EU project on CSR practices in Latin America and the Caribbean, implemented jointly with the ILO, OECD and the Office of the UN High Commissioner for Human Rights, has supported initiatives in all three partner countries. In Ecuador, under the ILO component, training of 300 companies started in October 2020 to promote CSR practices, while under the human rights component work focused on preparation of the National Action Plan on Business and Human Rights, and under OECD component a review of CSR policies will be prepared guided by OECD Guidelines for Multinational Enterprises (European Commission 2020c). Moreover, under the OECD component, regional studies are planned to describe priority sectors, conditions for due diligence and related risks and to support private sector to develop capability in application of due diligence instruments prepared by OECD. This will include responsible sourcing of minerals from conflict affected and high-risk areas and due diligence in extractive industries in Colombia, Ecuador and

Peru, due diligence in value chains of agricultural products (also in all three countries) and due diligence in the textile and footwear sector in Colombia (OECD 2019). Also under this component, in 2020 a review of CSR policies in Peru was prepared with recommendations related to practical application of policies and related legislation, and transition to formal economy given that high levels of informality impede respect for human rights and labour and environmental standards (OECD 2020). Under the ILO component, awareness raising materials have been prepared, e.g., information booklet about child labour for enterprises in Colombia, or an information campaign for families and communities in the department of Antioquia (Colombia) launched in June 2021 to prevent and eradicate child labour in the coffee sector (ILO, June 2021). The ILO supported also work on the National Action Plan for Business and Human Rights 2021-2025 in Peru whose adoption was announced in June 2021 (ILO, June 2021a). Moreover, the EU provided assistance under other projects, such as "Clean cotton" in Peru, aiming at ensuring decent work conditions for working adults, awareness raising in families of working children, capacity building of state institutions and trade unions to reduce and eliminate child labour from cotton cultivation and to improve access to education for children from rural areas (El Confidencial, November 2018).

Furthermore, intergovernmental dialogue under the TSD Title and recommendations from civil society might have also played a role. For example, civil society representatives from the EU and the Andean partner countries gathered at the annual joint meeting under the TSD Title in Lima in 2017 emphasised the role which the National Action Plan on Business and Human Rights adopted in Colombia can play in encouraging respect for human rights by enterprises. 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 design of the updated version. They also made a reference to the Roadmap set by the European Parliament in 2012 to improve respect for human rights and labour and environmental standards in Colombia (Summary of the discussion, 2017). Indeed, the work on the new National Action Plan started in 2019 and public consultations were carried out. The Plan was adopted in 2019 (Consejería Presidencial DDHH 2019). There is, however, room for improvement and further action in this area. For example, the interviewed EU DAG members highlighted, as part of implementation of the TSD Title, 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 between the EU and the partner countries.

It is also probable that trade with the EU, notably exports in the flower sector, vegetables, fruit and nuts, and textiles (cotton) have contributed to a broader trend of promoting CSR practices, respect for human rights and labour and environmental standards through customer expectations. As stated by one of the Colombian enterprises ranking high in implementation of CSR/RBC practices, there is a close scrutiny of business operations by consumers (customers), and shareholders' expectation that considerations related to sustainability, including 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 $CO_2$ emissions), are integrated into business daily activity (Bancocolombia). A similar view was expressed by flower sector representatives in Colombia who admitted that actions to eradicate child labour from their operations were driven by requirements of certification schemes and expectations of international customers (Morales Rubiano et al. 2020). As noted above, in 2020, the scheme Florverde certified 105 out of 400 flower farms covering 53% of Colombian flower exports. Given that flower exports to the EU accounted in 2019 for 10% of the Colombian total exports in this sector, expectations of European customers possibly played a role in exercising pressure on Colombian producers to respect labour standards. The same trend can be observed in Ecuador, where in 2019, 81 enterprises from the flower sector were certified by the scheme Flor Ecuador and 20 were in the certification process. In 2019, 21% of Ecuadorian flower exports were destined on the EU market (Expoflores 2019). In the banana sector, 1,493 banana producers from Ecuador, 751 from Colombia and 6,254 from Peru were GlobalG.A.P. certified in January

2022.[143] In Peru, the use of "child labour free" seal and promotion of CSR practices should help to eradicate child labour from the blueberries sector (Gestión Perú, Aug 2019). 25% of exported Peruvian blueberries are shipped to the Netherlands (Peru Retail, Feb 2021).

In replies to the business survey conducted for the evaluation, around one third of enterprises said they had strengthened their CSR practices as a result of the operation of the Agreement and equally around one third had strengthened their policy on respect for human rights or labour or environmental standards. Among the examples of practices, the responding enterprises mentioned focus on employing women and supporting vulnerable women, formalising job contacts with employed women and paying their social security contributions and buying products directly from farmers to avoid intermediaries and being able to pay decent prices. Other examples include awareness raising regarding rights and obligations of workers, obtaining certificates on health and safety at work and signing up to the UN Global Compact and, in the area of environment, pursuing a policy of zero waste.

The Agreement also provides framework for further activities. Thus, Article 273 envisages the development of due diligence mechanisms enabling verification of timber origin and promotion of certification schemes, which could help to eradicate forced labour in the wood sector and illegal logging in Peru.

In addition, the Commission's 2021 work programme envisages a proposal for a Directive on Sustainable Corporate Governance, which is likely to include a mandatory mechanism for due diligence supporting respect for human rights and labour and environmental standards along supply chains of EU companies and companies placing products on the EU market, i.e., also exporters and/or importers (European Parliament, Jan 2021; European Commission, October 2020).

### *7.6.2 Conclusions and recommendations*

Available evidence suggests that the Agreement and technical assistance provided by the EU have contributed to promotion of CSR practices in the Andean countries and among companies involved in trade with the EU, and respect for human rights and labour and environmental standards through certification schemes.

But there is room for further actions, e.g. those envisaged in Article 273. Likewise, civil society, including DAG members, could engage in cooperation activities promoting CSR practices and examples of best practice developed in each Party to the Agreement. In addition, the upcoming new EU legislation on mandatory due diligence could encourage further improvements with respect to human rights, labour and environmental standards in trade between the EU and the Andean countries.

## *7.7 Effects of the 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 13-15.[144] Below, we provide an overview of the provisions of the TSD Title, grouping them into "building blocks" based on the structure of the Title.

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143 https://database.globalgap.org/globalgap/search/SearchMain.faces?init=1.

144 **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.

### *7.7.1 Promotion of core labour standards*

In Article 269, the Parties commit to the promotion and effective implementation in law and practice of core labour standards contained in the 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 EU Member States by July 2021) and Domestic Workers Convention No. 189 (eight ratifications by the EU Member State by July 2021). 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 July 2021). 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 (19 EU Member States by July 2021). Similarly, a high number of EU Member States have ratified priority conventions (27 regarding Convention No. 81 on labour inspection and No. 144 on tripartite consultations, 26 regarding No. 122 on employment policy and 21 regarding No. 129 on labour inspection in agriculture) (Joint Statement TSD Sub-committee, 2014, 2016).[145]

Colombia ratified in 2014 the Domestic Workers Convention No. 189, Ecuador ratified Convention No. 156 on workers with family responsibilities and Domestic Workers Convention (both in 2013), as well as Violence and Harassment Convention No. 190 (in May 2021), and Peru ratified Maternity Protection Convention No. 183 (in 2016), Domestic Workers Convention in 2018, Protocol to Convention No. 29 (in June 2021).

Regarding the 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 and sections 7.1 to 7.4, while here we provide a summary. In the Annex C-1, we also provide detailed statistics in each thematic area.

The Parties have taken steps to reduce the incidence of **child labour**, including in sectors involved in exports from the Andean countries to the EU, 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, the efforts will need to continue, including financial support for poor families, initiatives to increase school attendance and ensuring decent working conditions, including wages for adults. Such initiatives will also need to continue in sectors exporting to the EU, like the flower sector, blueberries, coffee, banana, fisheries and cotton, where certification schemes and projects implemented with the EU, the US, countries from Latin America, international organisations and private sector representatives aim at preventing and eradicating child labour. Moreover, as outlined in section 7.4, the Agreement, through encouraging agricultural exports, contributes to job and income creation for adults (both farmers and hired workers), poverty reduction and potentially reducing the number of working children in cases where incomes of adult household members become sufficient. 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

[145] ILO NORMLEX database: https://www.ilo.org/dyn/normlex/en/f?p=1000:12000:::NO:::

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 (while the latter is strengthened by the assistance projects and domestic efforts) 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.

The Parties to the Agreement have also 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 to estimate the progress achieved, while some reference is provided by the increasing number of detected cases, as well as new information collecting campaigns (like the one in Colombia), which also help to raise awareness of vulnerable workers. On the other hand, as in the case of Peru, insufficient funding, and administrative capacity of labour inspection and enforcement agencies pose challenges in implementation of the policy and legislative framework in this area. Therefore, the efforts will need to continue, including addressing root causes of forced labour and trafficking, such as poverty, low level of job-related skills, lack of awareness and violence, as well as migration from neighbouring countries. Regarding the effects of the Agreement, as indicated in section 7.4, there is room for further action, e.g., promotion of voluntary mechanisms for forest certification that are recognised in international markets (Article 273) to reduce illegal logging and the use of forced labour in the wood sector. In this context, assistance projects, e.g., aiming at strengthening capacity of civil society to engage with authorities on law enforcement in wildlife and timber trafficking should continue and if there are good practices afterwards, these should be shared. In addition, work of an extended labour inspection network being developed in Colombia and Peru should help in reducing and eradicating cases of forced labour in agriculture or mining (a project on labour inspection in agriculture is also planned with Ecuador). However, it is also to note that literature, while speaking about low job quality and tough working conditions in certain sectors in agriculture (e.g. flower and coffee sectors in Colombia and flower and banana sectors in Ecuador), does not refer at the same time to cases of forced labour which suggests that they may not be frequent. We conclude that international trade opportunities, including those created by the Agreement 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, there are tools envisaged in the Agreement (voluntary certification schemes) or included into domestic legislation of the importing countries, such as planned obligatory due diligence in the EU, that can help to end forced labour or at least reduce its incidence. This can be supported by the development of inspection and police capacities, as well as strengthening of justice system.

On **freedom of association**, while the situation in Colombia has improved regarding acts of violence against trade union activists and formalisation of work in certain sectors, resulting in an increased trade union membership and respect, other problems that have been raised by the ILO and OECD persist, incl. 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. Likewise in Peru, the trade union membership rate in the private sector is falling and so is the number of collective agreements, and the existing legislation restricts trade unions' and workers' rights in the public sector. In addition, contract regimes in non-traditional exports and agriculture (changed gradually only in 2019 and 2020), as well as provisions on the freedom of association in microenterprises (extended on other types of companies) make the establishment, joining and operation of trade unions more difficult. These issues have been raised by the Commission (further to a complaint submitted by the civil society) and the ILO, and this helped to bring about legislative changes that have to be implemented yet. In Ecuador, the right to set up a trade union is restricted by a high minimum number of workers required (note, however, that the Government provided evidence that workers' organisations with fewer members than required by law exist e.g. in the banana sector) and the contract regimes in the banana sector, extended on other sectors as well. There are also restrictions in joining a trade union in public sector. These issues have been raised by the ILO and the Commission – in the meantime, the provincial court of Pichincha ruled on the need to register the ASTAC trade union in the banana sector.[146] Overall, one can conclude that over the analysed period, the Andean partner countries did not improve much their record in this area, except some improvements in the security situation in Colombia until the end of 2019 and formalisation of work enabling operation of trade union in chosen sectors. Otherwise, regarding the effective implementation in law and practice of the ILO core labour standards enshrined in the Fundamental Conventions, as outlined in Article 269, there is no progress to report. However, as indicated in section 7.4, the number of trade unions and trade union members has increased in Colombia 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. In Peru, trends regarding the number of trade union members vary from one sector to another and while in the mining and construction sector the economic cycle seems to play a prominent role (it led e.g., to job 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 the Agreement, including policy dialogue pursued under the TSD Title may have helped to keep aspects related to freedom of association on the table, it has not contributed to any tangible improvement in the situation.

With regard to **non-discrimination at work**, 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. The 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 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 have also faced high numbers of migrant workers from Venezuela in the last few years, putting pressure on receiving communities and public services and influencing the 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 particular women migrants, and those in precarious employment." Given the lack of detailed data related to the number of workers in the analysed groups by sub-sector, it is not possible to estimate more precisely the magnitude nor the overall direction 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 both countries (working mainly in the services sectors where the estimated impacts are very limited), 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

[146] The Government's appeal to the provincial court decision was accepted on 09 September 2021 by the Constitutional Court of Ecuador; see http://esacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/e2NhcnBldGE6J3RyYW1pdGUnLCB1dWlkOicwY2FkYWE1Yy04OTIxLTQzYzQtYjkzNi0yODAxZGFhYThhNTkucGRmJ30= [accessed on 25 October 2021].

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 the industry.

### *7.7.2 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 Annexes C-2 and D-2. This section summarises the corresponding activities, including those reported by the Parties in the meetings of the TSD Sub-committee, primarily based on minutes from the meetings. 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 (Summary of the discussion, 2016). Colombia signed the Paris Agreement in April 2016 and ratified it in July 2018. The Minamata Convention was signed by Colombia in October 2013 and ratified in August 2019. At the joint meeting in 2017, civil society representatives expressed satisfaction that Peru and Ecuador ratified both (Summary of the discussion, 2017). Civil society also expressed their concerns about lowered environmental protection levels and altered environmental management systems due to changes in legislation, which aim at promoting investments in Peru and Colombia (Summary of discussions, 2018 and 2019). Especially in Peru, the procedures with respect to environmental certification of investment projects have been modified, according to some civil society organisations; however, the Government considers that the changes have not lowered protection levels. Moreover, increased flexibility in access to land and territories of indigenous peoples negatively affected the collective rights of indigenous peoples, according to stakeholders (Summary of the discussion, 2017).[147]

### *7.7.3 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 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 section 7.2, the 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, including in some sectors exporting to the EU. A move towards formal jobs requires sustained efforts and a mix of measures addressing poverty, supporting skills development and diversification of the economy,

[147] In a communication to the evaluation team, the Government disagreed with this view, stating that it has increased public consultation activities.

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 7.4, the 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. In addition, regulations introducing or extending special contract regimes in Peru and Ecuador have contributed to a widespread use of fixed-term and seasonal contracts in covered sectors, leading to lack of stability and certainty among workers and to precarious working conditions. These have been raised with both countries by the ILO and the European Commission. Whereas in Peru the legislation changed in 2019 and 2020, to date there has been no follow-up from Ecuador. Moreover, as outlined in sections 7.2 and 7.4, the job quality in several sectors, including those exporting to the EU, is low, notably for sub-contracted and seasonal workers. 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, or sub-contracting (the latter also applied in Colombia) – 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, incl. migrant workers, in particular women migrants, and those in precarious employment)", further work is needed, in particular to equalise workers' rights across sectors and to ensure effective enforcement of labour legislation related e.g., to social security payments, health and safety at work or minimum wage. Overall, as indicated in section 7.4, 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 the implementation of the Agreement directly. However, cooperation between the EU and the Andean partner countries and technical assistance related to, e.g., strengthening capacity of labour inspection, can be considered as a direct contribution to improved working conditions and their enforcement.

**Environmental policies**

Developments with respect to domestic environmental policies over the period 2007 to 2020 are described in Annex C-2 and D-2. In general, it is difficult to assess the importance which the Agreement has had on the Parties' development, implementation, and monitoring of effective environmental policies.

**Stakeholder views**

Civil society (DAG) representatives expressed the following views:[148]

*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 territories of indigenous peoples, in 2018 and 2020. They also argued that Peru's recovery activities (as a reaction to the covid-19 crisis) weakened key procedures to

[148] These have been obtained from the respective summary outcomes of joint meeting discussions, DAGs.

ensure environmental protection. Moreover, they pointed out that there are still insufficient actions to strengthen environmental impact assessments and improve monitoring and application of environmental legislation. The civil society representatives emphasized that it was not acceptable that the levels of environmental protection and labour standards deteriorate to attract trade and investment. The need to comply with the Agreement and the SDGs was also emphasised.
- In 2020, the DAGs expressed concerns about delays in the ratification of the Escazú Agreement in Peru and Colombia and requested the respective Governments and Congresses to promote the ratification.

*Labour*

- At the joint meeting in 2017, they expressed concern about the legislation in Peru and 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 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.[149] Moreover, in 2020, they highlighted the complaint submitted by the 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.

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[149] For the positions expressed by the Government of Ecuador on the matter, see section 7.2 on informal work, section 7.4.4 on freedom of association and the right to collective bargaining, and section 7.4.5 on working conditions and enforcement, as well as case studies 4 and 8, and Annex C-1.

### 7.7.4 Sustainable management of natural resources

Articles 272-274 of the Agreement address sustainable management of natural resources to conserve and sustainably use biodiversity, forestry, and fish stocks. While it is difficult to assess the Agreement's impact on this, several important policies and programmes have been identified in the partner countries (see section 8.3.2 and Annexes C-2, D-1 and D-2). Notable is the Ecuadorian SocioBosque forest conservation incentive programme as it played an essential role in reducing the net deforestation in the last two decades.

The TSD Sub-committee meetings proved to be a valuable platform to discuss and flag environmental issues: during several meetings the issue of Illegal, Unreported and Unregulated (IUU) fishing in Ecuador was discussed. Support from the EU, and the attention on fishing legislation in the TSD Sub-committee meetings, contributed to the development of the new *Organic Law for the Development of Aquaculture and Fishing* (see section 8.3.2.3). This impact is however considered marginal as there are little concrete examples of TSD-driven impacts on the sustainable management of natural resources.

### 7.7.5 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 European 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[150] which covered around 40% of total EU emissions (excl. 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.

### 7.7.6 Promotion of best business practices related to Corporate Social Responsibility

Article 271 addresses the promotion of best business practices related to 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 and section 7.6, 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.[151] In Peru, the National Action Plan was adopted in June 2021 and in Ecuador, it has been under preparation in the framework of an assistance project financed by the EU and implemented jointly by the ILO, OECD and the UN Office of High Commissioner for Human Rights. Under the same project, several other activities have been undertaken, such as studies related to due diligence in sectors involved in exports to the EU, capability building for enterprises and information

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[150] For more information see https://ec.europa.eu/clima/policies/ets_en

[151] http://www.derechoshumanos.gov.co/Prensa/2020/Documents/Plan-Nacional-de-Accion-de-Empresa-y-Derechos-Humanos.pdf

materials and awareness raising campaign aiming at elimination of child labour from the coffee sector in Colombia. 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, directory of companies having sustainability reports, and granting a certificate "Responsible Peru" to enterprises managed in a socially responsible way. 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, including in their supply chains.

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.[152] 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,[153] 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.[154] 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,[155] and own initiatives, e.g., sustainable development of the garment sector (European Commission 2019b).[156] The Commission has also devised guidance documents for business, such as CSR handbook and questionnaires for SMEs and their advisers. Moreover, the Commission work programme for 2021 foresees the presentation of a proposal for a Directive including mandatory due diligence for EU companies and companies placing products on the EU market regarding respect of human rights and labour and environmental standards. 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. Indeed, a new Plan was adopted in 2019, following public consultations.

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[152] 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
[153] https://ec.europa.eu/info/business-economy-euro/company-reporting-and-auditing/company-reporting/non-financial-reporting_en
[154] http://ec.europa.eu/trade/policy/in-focus/conflict-minerals-regulation/regulation-explained/
[155] For more details, please consult OECD website: http://www.oecd.org/corporate/mne/
[156] 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

### 7.7.7 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.

Although there is no explicit reference to transparency in the TSD Title (unlike in TSD chapters of other EU FTAs), civil society representatives requested that their respective governments apply 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:

- At the annual 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.[157]

### 7.7.8 Conclusions and recommendations

Detailed conclusions and recommendations regarding matters summarised in this section have been provided in sections 7.2 to 7.6 and in chapter 8. Overall, the analysis suggests that a direct and tangible impact of the Agreement and its TSD Title can be identified in areas where assistance projects have been implemented (e.g., in CSR practices or strengthening labour inspection capacity) or where the EU side was able to take own actions, such as transparency or impact assessment/ex-post evaluation.

In other areas, such as the ratification and implementation of international conventions or upholding levels of protection, dialogue with the EU or civil society views might have contributed to the actions taken as one of several factors. In areas where progress has been achieved in the Andean countries, such as elimination of child labour, actions were already taken prior to the Agreement's start of application; therefore, dialogue with the EU might have encouraged their continuation but cannot be considered as a decisive factor. Also, formalisation of work in some sectors in Colombia and higher respect for trade unions are due to the Action Plan under the agreement with the US. One may consider that dialogue with the EU under TSD Title encouraged the continuation of certain activities or prevented a worsening of the situation in the Andean countries, but it is difficult to identify

[157] 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.

concrete actions or changes which could be attributed to the Agreement with the EU as the main influencing factor.

# 8 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 ratification of the Paris Agreement in 2016, the adoption of the European Green Deal in 2019[158] and the EU Biodiversity Strategy for 2030[159] in 2020. The implementation of the Green Deal is the top priority of the European Commission for 2019-2024,[160] and identifies diplomacy and trade policy as a means to promote and enforce sustainable development across the globe and to support the EU's green transition. In addition, environmental objectives have also gained a more prominent and integral role in the EU's 2021 "Open, Sustainable and Assertive Trade Policy."[161] Finally, the EU's environmental footprint in third countries through its imports has become a key policy topic since studies identified the role of EU consumption in (embedded) deforestation and established that EU consumption is responsible for 10% and more of global deforestation (Cuypers et al. 2013; Hoang and Kanemoto 2021). In 2021, the Commission expects to present a law to prevent importing products which cause deforestation or forest degradation. Various EU strategies refer to the importance of this forthcoming law, such as the EU Trade Policy and the Farm to Fork Strategy.

These 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 EC on the alignment of existing trade agreements with these renewed policies.

This section provides an evaluation of the Agreement's environmental impacts, covering three different environmental impact areas: climate change, biodiversity and national resources, and other key environmental parameters (in turn broken down into water, air quality, and waste management and circular economy). It starts with brief summaries of the environmental baselines in the relevant countries (section 8.1) and the results of impact screening and scoping (8.2). Section 8.3 presents the analysis, followed by the conclusions (8.4) and recommendations (8.5).

## *8.1 Environmental baselines in the parties*

For each of the Parties (with a focus on the Andean partner countries), baselines describe both the governance framework per country and the environmental performance in the period around the Agreement. The detailed baselines are provided in Annex D-1 and D-2;

158 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.

159 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. EU Biodiversity Strategy for 2030. Bringing nature back into our lives, COM(2020) 380 final, 20 May 2020.

160 See https://ec.europa.eu/info/strategy_en

161 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.

they have been used to set the scene, and to inform the impact screening and scoping. Table 8-1 schematically summarises the key results.

**Table 8-1: 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, National Determined Contributions (NDCs) |
| **Biodiversity and natural resources** | | | | |
| *Terrestrial* | Mining and logging, agricultural production (incl. the harmful use of pesticides), population growth, (illegal) wildlife trafficking, poverty, social inequality, armed conflicts | Land use change (e.g. deforestation and forest degradation) resulting in ecosystem transformation and habitat loss. Other pressures: invasive alien species, pollution, and climate change-related threats, infrastructure projects, urbanisation and overgrazing | Loss/degradation of ecosystems associated biodiversity loss | National and regional biodiversity strategies, including protected areas, sustainable forestry management, measures for wildlife trading, sustainable agriculture practices |
| *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** | | | | |
| *Water* | Mining (i.e., gold, cobalt, copper), agricultural production, oil extraction, shrimp/ fishing | Discharge of untreated wastewater (with high content of metals), fertiliser 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 |
| *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 management 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 |

## 8.2 *Priority impact areas*

Based on two rounds of impact screening and scoping (see Annex D-3 for details), priority areas for the environmental impact analysis were identified. These priority areas are analysed in more detail in this evaluation. Table 8-2 shows the priority areas and indicates where in the analysis areas are covered. Because the Agreement's impact has been relatively stronger in the Andean partner countries, the analysis is focusing on them.

**Table 8-2: Impact screening and scoping results – priority areas**

| Country | Priority area | Covered in sections: |
|---|---|---|
| **Andean countries** | 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. | Biodiversity (8.3.2.1)<br>Other environmental parameters (8.3.3.1)<br>Case study 3 on sustainable production of bananas (Volume III) |
| | 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). | Climate change (8.3.1)<br>Case study 10 on LULUCF emissions (Volume III) |
| | The potential impact of the Agreement on the improvement and effective implementation of (international) environmental standards. | Biodiversity (8.3.2.3)<br>Climate change (8.3.1.2)<br>Other environmental parameters (8.3.3.4) |
| **Colombia** | The potential impact of increased output in (and imports of) transport equipment on air pollution. | Other environmental parameters (8.3.3.2) |
| **Peru** | The potential impact of increased production of and trade in avocados on biodiversity in Peru. | Case study 9 on avocados and biodiversity (Volume III) |
| | The potential impact of industrial waste on pollution (e.g., driven by potential changes sectors "chemical products" and "wearing apparel"). | Other environmental parameters (8.3.3) |
| **Ecuador** | The potential impact on aquaculture (e.g., shrimp). | Biodiversity (8.3.2.2) |
| | Potential impact on biodiversity through the Agreement's impact on the banana sector. | Case study 3 on sustainable production of bananas (Volume III) |

## *8.3 Evaluation of impacts*

### *8.3.1 Climate Change*

#### 8.3.1.1 Estimated impact on gross greenhouse gas emissions (excl. LULUCF)

While an analysis of the causal relation between the Agreement 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 model output allows for a quantitative analysis of the causal effect of the Agreement's tariff reductions on gross greenhouse gasses (GHGs); non-tariff effects of the Agreement are not considered. 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 8-1) allows to identify the scale and composition effects but cannot identify any (potential) technology effect.

##### *8.3.1.1.1 Scale effect*

Based on the overall change in economic activities – without considering differences in output change between sectors and differences between emission intensities per region – the change in gross GHG emissions is expected to follow the change in economic activity. This corresponds with the estimated impact of the Agreement on GDP resulting from tariff reductions estimated by the CGE model. This implies the following changes in annual GHG emissions: +0.01% in Colombia, +0.16% in Ecuador, +0.03% Peru, +0.007% in the EU28, -0.002% in the rest of the world (percentages are relative to total yearly emissions per country/region). Taking into account the emissions in all countries within the Agreement and in the rest of the world, a small increase in global emissions (+0.001%) would be expected when ignoring emission intensities, sectoral changes and technology effects.

**Box 8-1: Methodology applied for gross GHG emissions analysis**

The bullets below summarise the main steps that have been taken to estimate the tariff reduction-induced gross 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 tariff reduction-induced change in gross GHG emissions.

*8.3.1.1.2 Composition effect*

The scale effect alone is not very informative, as it ignores sectoral changes, differences in emissions intensities and technology effects. For that reason, the composition effect is estimated, which takes into account output changes at sector level and emission intensities. Figure 8-1 and Figure 8-2 show the changes in gross GHG emissions in 2020 per country for eight different sectors. It is noted that the underlying composition analysis is based on a much more disaggregated analysis (59 sectors, as per the CGE results). These results have been aggregated for reasons of visualisation.

**Impact in Andean partner countries**

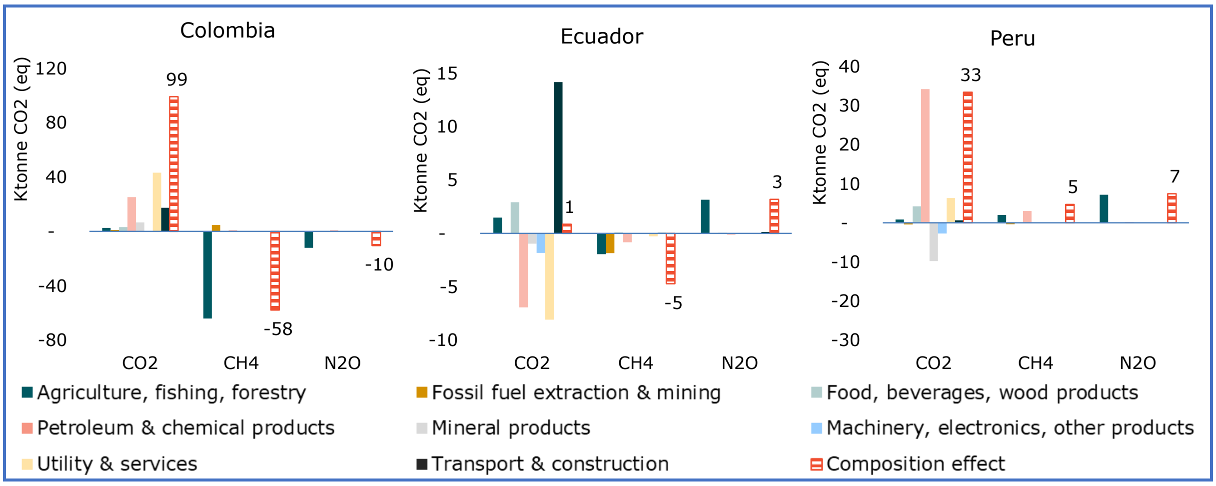
Figure 8-1 shows that, according to the estimates, the tariff reductions resulted in higher gross $CO_2$ emissions in all Andean countries. In **Colombia**, the increase is the result of increased emissions in all eight sectors, though the increase is predominantly driven by a rise in output in the sectors *petroleum and chemical* products and *utility and services*. Within these sectors, *chemical products* and *gas production and distribution* are responsible for the increase 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 and chemical* products and *utility and services* sectors. Yet, driven by increased emissions in the *transport and construction* sector, the net composition effect remains positive (i.e., higher gross GHG emissions). In **Peru**, the increase in $CO_2$ emissions is driven by increased emissions from the *petroleum and 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) gross $CO_2$ 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 is analysed in case study 10 (Volume III).

As shown in the baseline description (Annex D-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 negative impact of tariff reductions on output in the subsector *bovine cattle, sheep, and goats*. In Ecuador, $CH_4$ emissions decrease slightly, and in Peru they increase slightly. **Nitrous oxide** ($N_2O$) emissions are also dominated by the agricultural sector in the Andean countries, with both cattle grazing and crop cultivation having a major impact on $N_2O$ emissions (whereas $CH_4$ emissions are dominated by cattle grazing). The Agreement's tariff cuts have led to a decrease in $N_2O$ emissions in Colombia (due to lower output in the subsector *bovine cattle, sheep, and goats*), and an increase 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*).

In sum, according to the estimates the economic changes caused in the year 2020 by the Agreement's tariff reductions resulted in increased gross GHG emissions in Colombia ($CO_2$ emissions +99 ktonne, $CH_4$ emissions -58 ktonne, $N_2O$ emissions -10 ktonne) and Peru ($CO_2$ emissions +33 ktonne, $CH_4$ emissions +5 ktonne, $N_2O$ emissions +7 ktonne), and a decrease in gross GHG emissions in Ecuador ($CO_2$ emissions +1 ktonne, $CH_4$ emissions -5 ktonne, $N_2O$ emissions +3 ktonne). In the next section, these numbers are put into perspective by presenting the results as a share of the total gross GHG emissions per country in 2020.

**Figure 8-1: Tariff reduction-induced emissions (excl. LULUCF) in 2020 at sector level in Andean countries, in ktonne $CO_2$ (eq)**



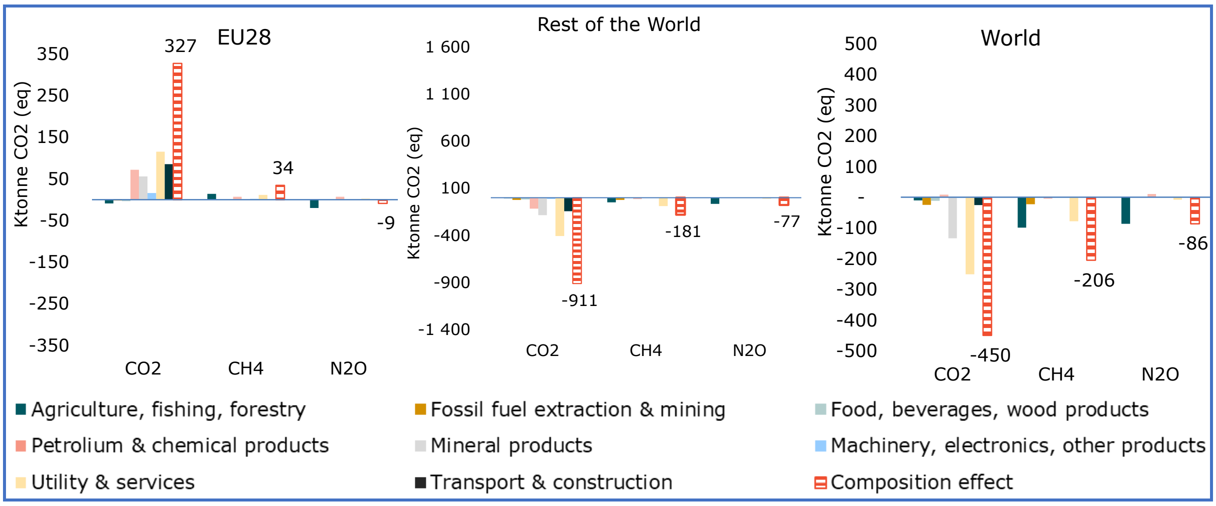

The values shown in the graphs correspond to the composition effect (sum of the underlying effects per sector).
Source: Trinomics (2021), based on EDGAR, GTAP and PRIMAP

### Impact in the EU and globally

The Agreement's tariff reductions caused **EU28** gross GHG emissions to rise (as shown in Figure 8-2). $CO_2$ emissions have increased in all sectors, except in *agriculture, fishing, forestry*, *fossil fuel extraction and mining* and *food, beverages, wood products*. The increase in gross GHG emissions in the EU28 is predominantly driven by increased $CO_2$ emissions (+327 ktonne in 2020), which can be attributed to increased economic activity in the *petroleum and chemical products*, *mineral products*, *utility and services*, and *transport and construction*. $CH_4$ emissions increased by 34 ktonne, while $N_2O$ emissions decreased by 10 ktonne.

On a **global** level, it is estimated that the Agreement resulted in a reduction of gross GHG emissions ($CO_2$ emissions -450 ktonne, $CH_4$ emissions -206 ktonne, $N_2O$ emissions -86 ktonne). This is the result of the combination of decreased economic activity in the **rest of the world**, combined with differences in emission intensities. The sectors which contribute most to the changes are *utility and services* (driven by changes in the *electricity* and *gas* sectors), *agricultural, fishing, forestry* (driven by reductions in the *bovine meat* sector and increases in the v*egetables fruits and nuts* sector), and *mineral products* (shifting from the rest of the world to the EU), respectively.

**Figure 8-2: Tariff reduction-induced emissions (excl. LULUCF) in 2020 at sector level in the EU28, Rest of the World, and World (total), in ktonne $CO_2$ (eq)**

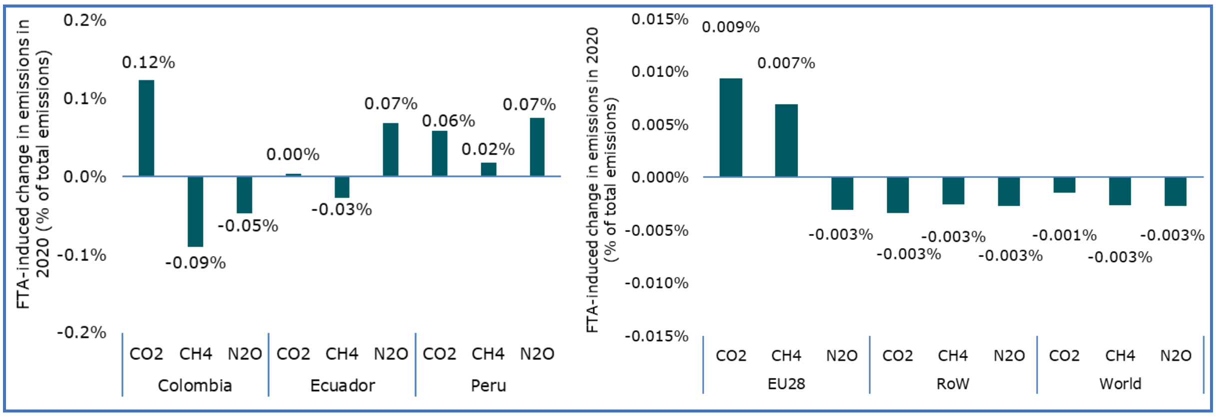



The values shown in the graphs correspond to the composition effect (sum of the underlying effects per sector).
Source: Trinomics (2021), based on EDGAR, GTAP and PRIMAP

*8.3.1.1.3 Total effect*

Figure 8-3 shows the total relative effect of the Agreement on gross GHG emissions in 2020. It refers to the percentage change between the (counterfactual) GHG emissions without the Agreement's tariff reductions and the (actual) gross GHG emissions with the Agreement's tariff reductions.

**Figure 8-3: Percentage change in emissions resulting from the Agreement compared to total emissions (excl. LULUCF) in 2020**




Source: Trinomics (2021), based on EDGAR, GTAP and PRIMAP

Table 8-3 summarises the results. Although gross GHGs increased in Colombia, Peru and the EU28, it is estimated that the **Agreement caused global gross GHG emissions to by roughly 0.75 Mtonne $CO_2$ eq. lower in 2020**. It is stressed that LULUCF emissions are not covered in this analysis, but in case study 10.

**Table 8-3: Tariff reduction-induced emissions (excl. LULUCF) in 2020 (Mtonne $CO_2$ eq.)**

| Country / Region | CO2 | CH4 | N2O | Total |
|---|---|---|---|---|
| **Colombia** | 0.099 | -0.058 | -0.010 | 0.031 |
| **Ecuador** | 0.001 | -0.005 | 0.003 | -0.001 |
| **Peru** | 0.033 | 0.005 | 0.007 | 0.045 |
| **EU28** | 0.327 | 0.034 | -0.009 | 0.352 |
| **RoW** | -0.911 | -0.181 | -0.077 | -1.170 |
| **World** | **-0.450** | **-0.206** | **-0.086** | **-0.743** |

Source: Trinomics (2021), based on EDGAR, GTAP and PRIMAP

#### 8.3.1.2 Other impacts on climate change – impacts on related governance and standards

Aside of the impact of the Agreement on gross GHG emissions through tariff reduction-induced output changes and impacts on LULUCF emissions, the Agreement may have affected climate change through other impact channels. The most important impact channel, besides those mentioned above, is the potential impact on legislation and (production) standards potentially affecting climate change.

Since the Agreement was signed, all Parties have made significant steps with regard to policies tackling climate change. Most of these policies are the result of the implementation of the Paris Agreement (PA), which entered into force in 2016, and which has been ratified both by the EU and the Andean countries (by the EU and Peru in 2016, Ecuador in 2017 and Colombia in 2018). Besides, the Andean countries implemented new policies to address climate change or integrated policies within national strategies: Colombia implemented the Climate Change Law in 2018, Peru the Framework Law on Climate Change in the same year, and Ecuador integrated climate related policies in the National Plan for Good Living (see Annex D-2).

With respect to the impact of the TSD Title on these legislative developments, it is observed that the implementation of the TSD Title enabled civil society and stakeholders to voice concerns about climate change, amongst others. The most visible platforms facilitated by the TSD Title are the DAG and joint meetings. In 2016, stakeholders for instance emphasised the importance of the ratification of the PA. Yet, despite the facilitating role of the TSD Title to express concerns, it seems unlikely that the Parties would not have ratified the PA in the absence of the Agreement or the TSD Title. Aside of this, no concrete measures or initiatives which may have generated a substantial positive effect on climate change could be identified based on literature review and stakeholder interactions. As such, the Agreement does not seem to have directly contributed to positive impacts related to climate change through the TSD Title.

### *8.3.2 Biodiversity and natural resources*

To assess the Agreement's potential impact on biodiversity, we analyse effects on land use change, specifically deforestation that may have been caused by changes in agricultural production (section 8.3.2.1), effects on marine biodiversity arising from changes in shrimp production in Ecuador (section 8.3.2.2), and impacts on governance of natural resources through the TSD Title (section 8.3.2.3).

#### 8.3.2.1 Potential impacts of the Agreement's tariff reductions on land use change

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-4.

##### *8.3.2.1.1 Estimated changes in land use – hectares of land*

The methodology uses the results of the CGE model as inputs to estimate the extent to which the tariff reduction-induced output change resulted in permanent deforestation. The CGE modelling results are used because they provide the most (and only) reliable estimate of tariff reduction-induced changes by calculating the difference between the actual observed situation and the modelled (hypothetical) situation without the Agreement's tariff reduction. 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 transposes the CGE results on sectoral output changes into a spatial metric (hectares of land).

Table 8-4 shows the results of this first stage. In all Andean countries, the *vegetables, fruit and nuts* sector experiences the largest increase in output (in USD) due to the Agreement. The second largest output change (in USD) took place in the *crops nec* sector. In contrast to Colombia, Peru and Ecuador experienced a negative *net* output change on cropland area. This is driven by the negative *gross* impacts on the *crops nec* sector combined with the higher average value of land use intensity of this sector, compared to the *vegetables, fruit and nuts* sector. It is also noted that the 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 of changes in cropland area.

**Table 8-4: Estimated 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 1000 ha) | | |
|---|---|---|---|---|---|---|---|---|
| | | *COL* | *PER* | *ECU* | | *COL* | *PER* | *ECU* |
| 1 | Paddy rice | 0.0 | 2.0 | 1.0 | | | | |
| 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 | Cropland | 11 | -4 | -2 |
| 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 |

Source: Author calculations based on DG TRADE model results.

*8.3.2.1.2 Land use change analysis for the Andean countries*

In the second stage of the analysis, the context of the Andean countries regarding land use conversion is incorporated. The following steps were used to estimate the share of deforestation resulting from cropland and grazing activities:

- Extract tree cover loss data per country (based on satellite images);
- Spatial analysis: By laying a country's land cover map over the tree cover map, the share of deforestation resulting from cropland expansion is estimated;
- By multiplying the results of the first two steps, the amount (hectares) of deforestation resulting from cropland is calculated for the period 2012-2016;
- The results of the third step are divided by the actual (observed) cropland increase over the same period to estimate the share of cropland expansion resulting in deforestation.

Table 8-5 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, such a share cannot be calculated for these countries. In fact, statistics from 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 8-5: 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 and 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 on 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%.

##### *8.3.2.1.3 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 tariff reductions.

The following conclusions are drawn regarding the impact of the Agreement through tariff reduction-induced output changes in the agricultural sectors in the Andean countries on permanent deforestation and biodiversity:

- For **Colombia**, it is estimated that the tariff reductions 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 output changes in the agricultural sector caused by the Agreement 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, fruit 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 tariff reduction-induced output change in the agricultural sector resulted in permanent deforestation in Ecuador.

- For **Peru** it is estimated that the Agreement's tariff reductions resulted in a *net* decrease in cropland areas (considering *all* crops produced). Despite this overall net decrease in cropland area, cropland area for specific sectors increased (in particular the *vegetables, fruit and nuts* sector), which could have resulted in deforestation. However, the output increase in the *vegetables, fruit 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).[162] The output increase (and corresponding cropland area expansion) in the *oil seeds* sector, which is dominated by oil palm production, suggests that tariff reduction-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.

#### 8.3.2.2 Shrimp farming in Ecuador

Ecuador is one of the world's major exporters of shrimp. Since 2007, Ecuador has maintained a steady annual growth rate of approximately 12% with regard to shrimp exports, achieving exports of 426,000 tonnes in 2017 and 506,000 tonnes in 2018, being the second most important export product after oil (Piedrahita 2018; 2019). The EU is an important export destination for Ecuadorian shrimp: In 2018, the Ecuadorian shrimp

[162] Global Forest Watch: Deforestation Rates & Statistics for Colombia, Ecuador and Peru, https://www.globalforestwatch.org/ [accessed 14 January 2021]; Guirkinger (2008); Mills-Novoa (2020).

exports to EU, more than 100 thousand tonnes, accounted for 22% of total shrimp exports. Exports to the EU increased considerably over the past decade, reaching €652 million, respectively 126,000 tonnes in 2020 (Figure 8-4). At the same time, the opening of the Chinese market has significantly stimulated exports of whole-round shrimp from Ecuador (Piedrahita 2019).

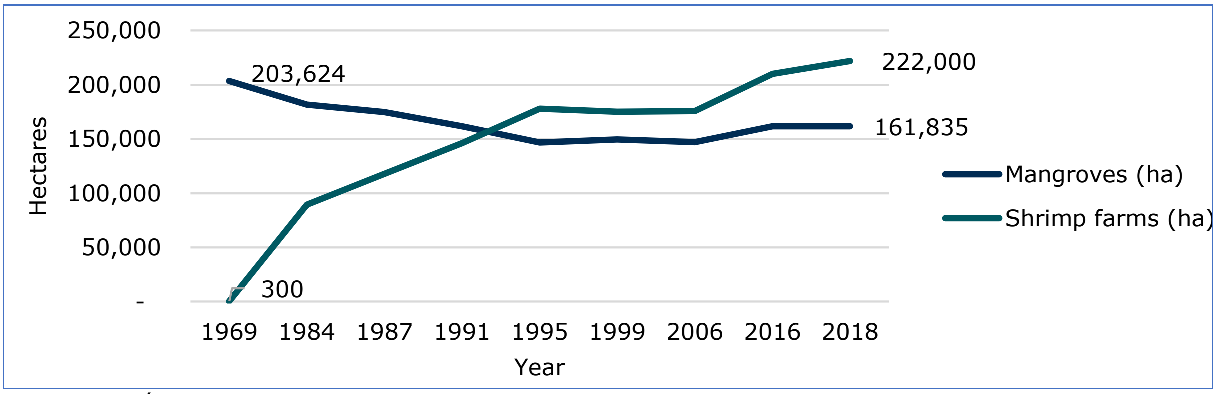
The increase in exports goes hand in hand with the expansion of shrimp farms in Ecuador (see Figure 8-5). In 2018, shrimp farms covered an area of 222,000 ha, mainly located in the five coastal provinces, namely Guayas (60%), El Oro (20%), Manabí (9%), Esmeraldas (9%), Santa Elena (2%) (Piedrahita 2019).

**Figure 8-4: EU imports of crustaceans (HS 0306) from Ecuador, 2007-2020**


Source: Authors' calculations based on Eurostat COMEXT data

Most shrimp ponds (the pools in which shrimp are grown) have first settled in mangrove forests, endangering valuable ecosystems and survival of fishing and gathering communities that depend on it. Figure 8-5 shows the change in mangrove area as well as in the change in shrimp farming areas. Between 1991 and 1995, mangrove area experienced the sharpest decline: 2.35% per year. This later slowed down to 0.13% per year. Between 2006 and 2016, a small recovery occurred of 14,864 hectares, while the number of hectares of shrimp farms increased (Rodríguez 2018). However, Castro (2019) concludes that between 2010 and 2018 shrimp farms expanded into protected mangrove area, covering a total of 9,332 ha. Other sources also highlight that shrimp farms are now expanding into agricultural lands, endangering local food sovereignty (Acción Ecológica 2020).

**Figure 8-5: Change in mangrove area and in shrimp farm area**




Source: Rodríguez (2018).

Illegal shrimp production occurs in several provinces. 66% of the shrimp ponds in the province of Esmeraldas were illegal in 2013. In total, 44.6 thousand ha of shrimp ponds were illegal in 2013 (Rodríguez 2018), which corresponds roughly to a quarter of total shrimp ponds.

From a biodiversity perspective, reduction in mangrove areas is harmful because mangrove forests are among the world's most diverse and productive ecosystems. Being located at the fertile intersection between oceans and freshwater, they provide multiple ecological and economic services to both terrestrial and marine habitats (Spalding 2011). Mangroves also give protection against natural disasters such as storm surges. It is estimated that 40% of mangroves species are threatened with extinction of which 16% are categorised under "elevated threat of extinction", particularly in the Atlantic and Pacific coasts (Polidoro et al. 2010). In addition to mangrove degradation and deforestation, shrimp production is also associated with water pollution due to the use of fertilisers, antibiotics and other biocides (Acción Ecológica 2020). Water is often released into the estuaries and sea without any treatment (Rodríguez 2018; Benavides 2021). It has also been reported that access to water in some shrimp producing regions in Ecuador is very irregular, and therefore, the shrimp farms depend on water extracted from rivers, which affects local rivers such as the Garrapata River. The production of shrimp may also harm populations of other aquatic species such as crustaceans, molluscs and fish as they are selectively eliminated in the process of collection shrimp larvae (Acción Ecológica 2020).

Mangrove forests act as natural carbon sinks as they are one of the most efficient ecosystems regarding carbon sequestration. The carbon stock in mangroves differs across hemispheres, latitudes, countries and plant community compositions (Atwood et al. 2017).[163] It is estimated that Ecuador's soil carbon stock is between 21 and 40 Mtonne $CO_2$, which is equal to roughly 20-40% of annual GHG emissions in Ecuador.[164] Conversion of mangrove forests into aquaculture ponds significantly increases $CO_2$ emissions from the soil as pond construction can be several meters deep, releasing large amounts of stored carbon (Atwood et al. 2017). The high levels of nutrients leaching and altered tidal flow further degrades mangrove forests. Hamilton and Lovette (2015) found that 80% (i.e., 7 Mtonne $CO_2$) of carbon lost in Ecuadorian mangrove forests can be attributed to direct displacement of mangrove forests by shrimp aquaculture with approximately 34,500 ha of mangrove converted between 1970 and 2014. However, after 2000 the carbon losses due to mangrove conversion have stabilised as the majority of the carbon losses occurred between 1970 and 1990.

In 2017, Ecuador passed the Organic Code of the Environment (Código Orgánico del Ambiente, COA), which ratifies that mangroves are State assets, with the Ministry of the Environment being the institution responsible for their management. The COA has been regarded as a setback in environmental protection levels in relation to shrimp farming within mangrove ecosystems as it eases the exceptional authorisation mechanism (Iturralde and Suárez 2019). As such, shrimp sector benefits from an exemption in the secondary regulation regarding the prohibition of expansion of productive activities in mangrove areas.[165] Policies for the protection and recovery of mangroves forests are discussed in more detail in Annex D-2.

Some measures aimed to lessen the effect of the potential environmental pressures have been supported by the EU. For instance, the Sustainable Shrimp Partnership (SSP) created in 2017 received 74,000 USD funds from the EU, seeking to establish a round table on sustainable shrimp with the private sector, academics and some non-governmental and intergovernmental organisations. Besides, in 2018 the IDH (the Sustainable Trade Initiative) partnered with the Sustainable Shrimp Partnership in Ecuador for the zero use of antibiotics (Acción Ecológica 2020). In 2018, 90% of shrimp farms held a state or private certification of good aquaculture practices, accredited to EU standards(Piedrahita 2019). Certified shrimp farms have better environmental and social standards, such as partial restoring of mangrove areas, limited use of antibiotics, traceability and neutral impact on

[163] For example, the Indo-Pacific mangrove forest is very efficient, sequestering to three to five times more carbon per unit area compared to tropical upland and boreal forests (Donato et al. 2011).
[164] Note that these estimates are based on limited data for Ecuador.
[165] "Síntesis de la evaluación del Acuerdo Comercial con la UE", Pablo de la Vega, 13 November 2020, https://cdes.org.ec/web/acuerdo-comercial-entre-la-union-europea-y-colombia-ecuador-y-peru-sesion-publica-del-subcomite-de-comercio-y-desarrollo-sostenible-noviembre-13-del-2020/

water.[166] Yet, Benavides (2021) states that the effectiveness of shrimp certification is questionable as e.g. contributions of certified shrimp farms to the restoration of mangroves remain limited.

In conclusion, the economic modelling results do not provide a definite answer regarding the causal link between the Agreement's tariff reduction on output in the shrimp sector in Ecuador as data is too aggregated. However, given the continued increase in shrimp exports it is likely that pre-existing biodiversity and climate pressures related to shrimp farming e.g., degradation and deforestation of mangroves areas, water pollution, and $CO_2$ emissions, are intensified by the Agreement. On the other hand, we note that the Agreement did not change the already existing growth trend in bilateral shrimp exports (Figure 8-4). In addition, 90% of shrimp exports to the EU is certified, which may mitigate negative effects.

8.3.2.3 Impacts on governance related to natural resources

Through the TSD Title, the Parties made relevant commitments with respect to the governance of natural resources, such as Article 272, in which they "confirm their commitment to conserve and sustainably use biological diversity in accordance with the CBD [Convention on Biological Diversity]" and Article 273, in which they recognise the importance of an "effective implementation and use of CITES [Convention on International Trade in Endangered Species of Wild Fauna and Flora] with regard to timber species that may be identified as endangered".

All Andean countries reported progress regarding the relevant MEAs. Concerning CITES, **Colombia** and **Peru** are among the category 1 countries, which indicates that legislation generally meets the requirements for implementing CITES. Through the TSD dialogue, the EU and Colombia are in ongoing discussions to implement effective control mechanisms to avoid trade in CITES-listed crocodile and caiman skins (Annual implementation report, 2017). **Ecuador** is found in category 2, which implies that legislation generally does not meet *all* requirements for implementing CITES. All Andean countries provide regular updates with regards to CITES implementation through the annual meetings in the light of the TSD implementation. As such, the TSD Title seems to have a positive role when it comes to flagging CITES-related issues and (transparently) reporting on progress made and new commitments and plans for the implementation in the coming years.

Despite this progress with regards to CITES, effective governance of natural resources remains an area of concern in the Andean countries. This is illustrated by the high rates of illegal extraction of natural resources, such as illegal logging in Colombia (42% according to Minambiente (2017)), shrimp farming in Ecuador (around 25%, according to Rodríguez (2018)) and illegal gold mining in Peru (nearly a third, according to the Global Initiative Against Transnational Organized Crime[167]). Another serious concern is the effective implementation of measures safeguarding natural resources, which is confirmed by the high number of reported killed environmental protectors and activists (Global Witness 2020).

The TSD Title also addresses trade in forest products as deforestation is a main concern for the Andean countries: Colombia lost 5.3% of its forest cover between 2001 and 2019; Peru and Ecuador lost 4% and 4.3% (respectively) of their tree cover in the same period (see Annex D-1). Several measures have been taken by the Andean countries to protect and sustainably manage forest areas: the Peruvian Government set-up several indigenous

[166] For more information see: https://www.asc-aqua.org/what-we-do/our-standards/farm-standards/the-shrimp-standard/

[167] "Organized Crime and Illegally Mined Gold in Latin America", Livia Wagner/Global Initiative Against Transnational Organized Crime, 30 March 2016, https://globalinitiative.net/analysis/organized-crime-and-illegally-mined-gold-in-latin-america/

forest monitoring initiatives to generate useful data to empower local and indigenous communities to monitor and measure forests (UN-REDD 2019); the Colombian National Development Plan includes the protection of natural heritage as matter of national security, leading to the creation of the National Council for the Fight Against Deforestation which seeks to combat trade in illegal forest products (TSD Sub-Committee Minutes, 2018); Ecuador reduced its net deforestation rate over the last two decades, in which the SocioBosque[168] programme played an important role. Nevertheless, although the partner countries discuss the actions taken against forest degradation and deforestation during the TSD Sub-committee meetings, there is no evidence that the TSD Title played a role in setting up these actions.

One of the most tangible EU actions with regard to governance of natural resources in the Andean countries is the issuing a "yellow card" to **Ecuador** to flag its limited action against IUU fishing.[169] Though this yellow card is not formally related to the Agreement, the EU urged Ecuador to draft a new *Organic Law for the Development of Aquaculture and Fishing* in the TSD Sub-committee meetings, which was completed in 2020. Interviewees mentioned that the support from the EU, and the attention on and monitoring of fishing legislation through TSD activities, contributed to the new law. As such, the Agreement seems to have contributed to some positive impacts related to biodiversity governance in the Andean countries through the TSD Title. This impact is considered limited as there are few concrete examples of TSD-driven impacts.

### *8.3.3 Other environmental impact areas*

#### 8.3.3.1 Water

For **Colombia,** it is estimated that exports to the EU and production of fruits and vegetables have increased as a result of the Agreement. Given this increase in agricultural production and because agriculture is the main water consumer in Colombia (accounting for 43.1% of water demand in 2018), the focus of this analysis is on potential tariff reduction-induced pressures in the use of water related to increased production in subsectors *vegetables and fruit* and *crops nec*.

Coffee (65%), palm oil (16%) and sugar cane (8%) were reported by the 2018 National Study on Water (Estudio Nacional de Agua, ENA) as the three major crops behind total virtual water exports from Colombia in 2016 (IDEAM 2019). Yet, there is no indication of tariff liberalisation-induced output increases coffee and sugar cane, as the overarching sector does not show an increase in output (sugar cane), or no tariff reduction took place (coffee). ENA notes that the highest proportion of water is virtually traded to the US (followed by the Netherlands and Germany). Further, ENA shows that most of the virtual water exports come from the Magdalena-Cauca region (74%) and from the Orinoco region. This suggests that access to safe and potable water in the Chocó region, which was found to be highly vulnerable (see section 9.2.3 on the right to water), does not seem to be strongly linked with the Agreement. For palm oil, it is noted that EU imports of Colombian sustainable palm oil (including a reduced water footprint) increased from 23% to 31% between 2014-2018 (Hilbert, Goretti Esquivel, and Brounen 2019).

The CGE modelling results for the agricultural sector in Colombia suggest that the tariff reduction-induced output change in the agricultural sector led to pressures in water quality. Stakeholders have raised concerns about an increase in the use of fertilisers and associated water pollution induced by the Agreement (see Annex D-3). ENA showed that the use of fertilisers in Colombia has increased considerably between 2012 and 2016 (1 979% for liquid fertilisers and 31% for solid fertilisers). Given that the use of fertilisers has been

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[168] For more information see http://sociobosque.ambiente.gob.ec/

[169] "Commission notifies the Republic of Ecuador over the need to step up action to fight illegal fishing", 30 October 2019, https://ec.europa.eu/commission/presscorner/detail/en/IP_19_6036

reported to have affected the health of water bodies in Colombia (IDEAM 2019), it is possible that the tariff reduction-induced economic growth in the agricultural sector indirectly contributed to increased fertiliser use. However, the previously described data constraints do not allow to establish a direct causal link with the Agreement.

Similarly, output increases in Colombia in *other food products, textiles, leather, chemical* and *rubber and plastic products* may have reinforced the water-related environmental pressures of these sectors. In the SIA, increased pollution was identified as a risk in case the Agreement would lead to higher production levels of chemicals, textiles, rubber, plastics, and metals (Development Solutions, CEPR, and University of Manchester 2009). Yet, given the higher share of industrial wastewater that is safely treated in the country (85%),[170] it is unlikely that the Agreement resulted in substantial negative impacts in this way.

Finally, the Agreement may have had an impact on water quality through the mining sector. As discussed in the baseline, mining exploitation in Colombia is driving the discharge of untreated water (IDEAM 2019). McIntyre et al. (2018) suggest that the national capacity to assess and manage the water resource impacts of mining is currently limited due to a variety of factors (including baseline data, lack of suitable hydrological models and lack of frameworks for evaluating risks). Yet, no tariff liberalisation took place on mining products, and as such there is by definition no tariff-reduction induced output change in the mining sector. Even though mineral fuels and precious minerals (e.g., gold) accounted for 22% and 15% of the total exports to the EU, these exports were not affected by the Agreement's tariff liberalisation. Meanwhile, Colombia implemented several measures to improve the mining sector, which as the approval by Colombia of the Minamata Convention on Mercury (EPRS and ICEI 2018). Besides, co-founded by the EU, in 2018 the Colombian government committed to take stronger action to implement OECD Due Diligence Guidance in gold supply chains (OECD 2017). Yet, these measures are not directly related to the Agreement.

For **Peru,** the economic analysis showed a general trend away from extractives towards more agricultural and processed agricultural products with exports to the EU of fruits showing fast growth. Given that water use in Peru is largely driven by agriculture (Aquino Espinoza 2017), potential effects of the Agreement likely occurred in this sector. Accordingly, the CGE results show a positive tariff reduction-induced impact on the *vegetables and fruit* sector, though it is difficult to single out individual crops whose increase in water demand is caused by the Agreement. Specifically, concerns have been expressed about asparagus and avocado production in the Ica and Villacurí valley in Peru (as shown in Annex D-3). For that reason, case study 9 (Volume III) focuses on biodiversity (and water) impacts related to the Agreement's impact on avocados in Peru. In this matter, Salmoral et al. (2020) showed that export-oriented agricultural expansion is exerting pressures on water resources in Peru: Agricultural expansion is reported to have taken place in desert areas driving groundwater resources appropriation. In 2017, the groundwater footprint in the Ica Valley accounted for nearly 90% of total irrigation demand, which was mainly embedded within commodities destined for export (the two main crops grown are asparagus and grapes). Yet, Vázquez-Rowe et al. (2016) showed that in the Paracas region (a hyper-arid area in Peru) farms that cultivate asparagus for export to Europe had considerably lower water use per hectare compared to business-as-usual values for the region, due to the advanced irrigation system applied.

In the case of copper, one of the most exported products from Peru to the EU, there is no indication that the Agreement's tariff liberalisation caused additional pressures on water resources by the mining sector in Peru, as no tariff liberalisation took place for mining products. Moreover, stakeholders have suggested that the Agreement may have indirectly

[170] Explorador de Datos ODS Colombia. Departamento Nacional de Planeación, https://www.ods.gov.co/es

favoured the implementation of initiatives and certification standards towards sustainable mining in Peru (e.g., Better Gold Initiative, Fairtrade and Fairmined) (see Annex D-3), though concerns have also been expressed about the creation of more favourable circumstances for private investment by the Government in the sector, which is associated with worse environmental performance according to those stakeholders (only in 2014, 50,000 legal mining concessions were granted) (Cáceres 2020).

In **Ecuador**, three products (bananas and plantains, preserved tuna, and frozen shrimps and prawns) account for 73% of the EU's total imports. Based on the existing pressures (see Annex D-1), the main way by which the Agreement may be posing pressures on water resources is driven by shrimp and aquaculture activities, and to the pressures caused by the application of pesticides and fertilisers by banana producers (SENAGUA 2019). We note, however, that the impact of shrimp production on water bodies in Ecuador is a controversial topic. The National Chamber of Aquaculture and the Ministry of the Environment and Water (MAA) have indicated that the sector has increased its sustainability standards.[171]

The production of cut flowers may have led to increased pressures on water resources. As shown in the economic analysis, cut flowers are one of the most important EU imports from Ecuador, after fish and agricultural products. Some companies managed to start exporting types of flowers that were not exported to the EU before (such as the Gerbera flowers) as a result of the Agreement. In the highlands, pressures on the environment due to the extensive use of pesticides and fertilisers to produce flowers make these products some of the main drivers of water pollution (SENAGUA 2019). Yet, the direct causality between cut flower production (and accompanying water pressures) cannot be identified as CGE data are not sufficiently disaggregated to allow for this.

Concerning the potential Agreement impacts on water quality in Ecuador, it has been reported that there is a lack of proper water management in the banana production farms in regions such as Los Rios, Guayas and El Oro, intensifying issues like poor water treatment and unauthorized use of domestic water to banana production (Defensoría del Pueblo 2018).[172] The negative effects on water resources driven by the increase in the use of agrochemicals to cope with exports of banana in Ecuador aggravated by insufficient regulation and monitoring have been reported by several stakeholders and researchers.[173] Researchers have also reported that the health of farmworkers might be compromised by the extensive use of pesticides in banana plantations applied under poorly regulated conditions (Hutter et al. 2020). Taking into account the significant share of bananas in EU imports from Ecuador, the increase in banana production caused by the Agreement could have led to an increase in the use of fertilisers and pesticides with implications for water quality. On this issue, the Ecuadorian Banana Cluster expressed its disagreement and suggested further research to understand the real impacts of water management in banana farms in Ecuador.

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171 El Universo (2020). "Continúa la discusión por la contaminación de aguas residuales, hay camaroneras que sí les dan tratamiento", El Universo, 26 July 2020, https://www.eluniverso.com/noticias/2020/07/26/nota/7920087/continua-discusion-contaminacion-aguas-residuales-hay-camaroneras/

172 According to the Ecuadorian Banana Cluster, an industry group, domestic water is not used due to the costs involved: the national average cost of domestic water per cubic metre is $1.07 while in Los Ríos, Guayas, and El Oro, it reaches up to $3.09, $3.58, and $3.80, respectively; see Benchmarking de Prestadores Públicos de los Servicios de agua Potable y Saneamiento en el Ecuador, 2019.

173 ASTAC (n.d). Contribución De Astac Para El Tercer Ciclo Del Examen Periódico Universal A Ecuador; "Vivir y morir del banana", Lise Josefsen Hermann & Rebeca Calabria, 12 March 2018; https://www.planv.com.ec/investigacion/investigacion/vivir-y-morir-del-banano; "Sindicatos del sector bananero presentan queja ante el gobierno", La Linea de Fuego, 16 April 2019, https://lalineadefuego.info/sindicatos-del-sector-bananero-presentan-queja-ante-el-gobierno/; and Polo Andino (2018).

**Quantitative estimation of tariff reduction-induced virtually traded water**

The high share of the water resources used by the agricultural sector in the Andean countries (see Annex D-1) combined with the relatively large output changes estimated by the CGE model in some subsectors (such as the *vegetables and fruit*) warrants an analysis on the Agreement effects on virtually traded water (virtual water). Virtual water refers to the volume of water that has been used (consumed or polluted) to produce a commodity and that is thus, virtually embedded in it (Hoekstra et al. 2011).

As shown in Table 8-6, it is estimated that the Agreement resulted in a *net* decrease in virtual water in Ecuador and Peru (considering all crops produced).[174] In Colombia, the estimated average increase of virtual water content equals around 0.7% of the total annual virtual water content of exports.[175]

**Table 8-6: Changes in virtual water caused by the Agreement, 2020 (millions of m³)**

| Country | Min | Max |
|---|---|---|
| **Colombia** | 88 | 113 |
| **Ecuador** | -67 | -39 |
| **Peru** | -86 | -44 |

Source: Trinomics (2021) based on Mekonnen and Hoekstra (2010) and FAOSTAT

The decrease of virtual water content showed by the results for Peru and Ecuador can be explained by the aggregated impact of both the output decrease showed in the CGE results for the *crops nec* sector, and the output increase in the *vegetables and fruit* sector. The agricultural products that have become commodities in the EU imports from Peru and Ecuador (such as avocados, grapes, and asparagus for Peru, and bananas for Ecuador) use lower volumes of water compared to the products included in *crops nec* sector.

The ultimate impact of the volumes of virtual water used depend largely on the region where the products are produced and the local water availability, as well as how efficient water resources allocation is on the scale of a catchment or river basin (Hoekstra et al. 2011). Therefore, detailed data about the origin of the Agreement exports to the EU would be needed to assess if and to what extent the water resources of specific producing areas in the Andean countries show levels of water scarcity and thus are being negatively impacted by the Agreement. Current data constraints do not allow to establish a causal link with the Agreement in greater detail.

#### 8.3.3.2 Air quality

Based on the historical and current pressures and drivers on air quality in the Andean countries (see Annex D-1), and considering the CGE modelling results, the main potential impacts of the Agreement's tariff preferences on air quality are likely to be driven by the industry and transport sectors in Colombia. In comparison, the effects on air quality in Peru and Ecuador have likely been lower, as is explained below.

For **Colombia**, the CGE modelling results suggest that the Agreement's tariff reductions could have led to additional pressures caused by the clothing industry, mainly by the sectors *textiles* and *leather*. As indicated in the baseline, in regions such as the Aburrá Valley, the textile sector is the main driver of air pollution. Half of the coarse particulate matter ($PM_{10}$) emissions are caused by the sector (Minambiente 2019) and it is the primary source of industrial carbon dioxide, nitric oxide, and sulphur oxide pollution (SIPA 2017). Besides, air pollution monitoring has been historically insufficient. In 2012, 93% of Colombian leather manufacturers did not have air pollution monitoring systems in place (Minambiente and UNAL 2015). Within this context, the EU has not been among the top

[174] This analysis considers average production and exports values of all crops.
[175] According to the ENA (IDEAM 2019), total virtual water exports of Colombia were 14,355 million m³ in 2016.

importers of Colombian textiles since the Agreement entered into force. This suggests that the potential impact that the Agreement may have had on air quality in Colombia through the clothing industry has likely been relatively small.

In addition, the CGE results for Colombia indicate that the Agreement led to an output increase in the *transport equipment* sector. Given the relatively high impact of the transport sector on air quality in Colombia (see Annex D-1), this suggests a potential effect on air pollution caused by increased trade of transport equipment. Whether the impact on air quality of the Agreement is positive or negative depends largely on the type (i.e., efficiency, emissions) of the affected transport equipment. However, data about the type of vehicles and other transport equipment imported/exported are limited. According to the Latin American Economic Observatory, Spain and France were the main countries from which electric vehicles were imported to Colombia in 2019 (Ugarteche and de León 2020). Moreover, since 2018 the Swedish company Scania is the largest provider of gas-fuelled Euro VI buses to Bogotá, which is contributing to reducing carbon and particulate matter emissions.[176] More detailed information and further analysis would be required to assess if and to what extent the Agreement induced any of these effects improving (or lowering) air quality through the transport sector in Colombia.

Regarding the impacts of the Agreement on the regulatory framework on air quality, the Colombian Government indicated during the interview that, since the Agreement entered into force, key policy instruments have been established. This includes Law 1972 of 2019,[177] which establishes measures to reduce polluting emissions from mobile sources; Law 1968 of 2019, by which the use of asbestos was banned;[178] and the *Policy for the Improvement of Air Quality,*[179] which proposes actions to reduce air pollutants through the modernisation of the vehicle fleet, among others. Nonetheless, no direct causal link between these regulatory developments and the Agreement has been identified.

In **Ecuador**, the principal way the Agreement may have impacted air quality is through economic changes in the *metals production*, *construction,* and *other food products* sectors, according to the CGE results. Neither of the first two have been specifically identified as a significant driver of the existing (and historical) pressures on air pollution in Ecuador (see Annex D-1), and therefore, the linked tariff reduction-induced impact has likely been relatively small. In contrast, the noted impact of the output of the *other food products* on air quality may have been relatively larger. As indicated in the economic analysis, preserved fish is included under this sector, which saw an increase of 68% compared to the situation without the Agreement in 2020. Acción Ecológica (2020) reported that larger shrimp manufacturing in Ecuador has negative effects on air quality throughout all the production cycle, and Avadí et al. (2015) reported the emission of air pollutants during the processing of tuna. Since the latest national plan on air quality (Plan Nacional de Calidad del Aire del Ecuador) was published in 2010, available data on air quality in Ecuador is limited and, thereby, these results do not allow drawing any firm conclusion.

Apart from the above, MINAM indicated during interviews conducted for this study that the Agreement may have contributed to the improvement of air quality in Ecuador through the more stringent EU emission standards that have led to the import of less-pollutant vehicles to Ecuador. As the estimated import increase from the EU was limited in absolute terms

[176] "Scania Entregará 741 Buses A Gas Euro Vi Para El Sistema Transmilenio", December 2018, https://www.scania.com/co/es/home/experience-scania/news-and-events/News/2019/scania-entregara-741-buses-a-gas-euro-vi.html

[177] Ley 1972 de 2019 por medio de la cual se establece la protección de los derechos a la salud y al medio ambiente sano estableciendo medidas tendientes a la reducción de emisiones contaminantes de fuentes móviles y se dictan otras disposiciones.

[178] Ley 1968 de 2019 Por el cual se prohíbe el uso del asbesto en el territorio nacional y se establecen garantías de protección a la salud de los colombianos.

[179] CONPES 3943 de 2018- Política de Calidad del Aire.

(based on the CGE results), it appears that the EU emission standards contributed to the improvement of air quality in Ecuador only in a limited way.

Finally, the CGE results suggest that pressures on air quality in **Peru** are likely to be found in the *chemical products sector* and *other food products.* From these, the *other food products* sector may be of comparably greater concern as in some Peruvian regions the fishing industry is a significant source of air pollution (MINAM 2016). Although at the national level the impact on air quality caused by the fishing industry is considerably lower compared to the transport sector (MINAM 2016), if and to what extent the Agreement may be driving air pollution in Peru is dependent on the production area of the exported *other food products*.

In addition to the potential impacts outlined above, the CGE output obtained for the horticulture sector for the three countries may also be linked with the potential impact on air quality driven by an increase in the use of fertilisers. Agricultural practices with intensive use of fertilisers have been widely associated with negative air quality effects (Aneja, Schlesinger, and Erisman 2009). Though the data available is not sufficient to assess the effects of the Agreement on the use of fertilisers (and thus the linked impact on air quality), some concerns have been raised with regard to this issue. In Ecuador, for instance, stakeholders have complained about increasing unpleasant odours caused by the extensive use of pesticides by banana exports (Defensoría del Pueblo 2018).

#### 8.3.3.3 Waste management and circular economy

In the SIA, increased pollution was identified as a risk for all the Andean countries in case the Agreement would lead to higher production levels of chemicals, textiles, rubber, plastics, and metals (Development Solutions, CEPR, and University of Manchester 2009). However, as mentioned in the baselines (see Annex D-1) historical data on the generation, collection, treatment and disposal of types of waste different from municipal waste (e.g., industrial, electronic, and construction waste) in Colombia, Peru, and Ecuador is very limited, and therefore, it is not possible to assess the certainty of the Agreement sectorial effects on waste management taking into account historical data.

Based on the impact screening and scoping analysis (see Annex D-3), a potential impact of the Agreement is related to industrial pollution in **Peru**. The economic analysis showed that the Agreement has resulted in output changes in various Peruvian industrial sectors, including, wearing apparel and chemical products. Specifically, environmental effects of the wearing apparel in Peru haven been historically related to liquid waste management which, depending on the chemical process, may have potential negative effects on water quality (OEA 2006). Given that none of these sectors is a main driver of the waste generated in Peru (see Annex D-1), it is estimated that the Agreement's impact on the waste generation by the sector is limited at national scale. Moreover, Cornejo (2020) reported that new trends are emerging in Arequipa (also home of key manufacturers of textiles for export) where waste management practices aimed at reducing and recycling waste are being implemented driven among others, by the international demand for sustainable products. In addition to the above, the Agreement may have been indirectly related to the reduction of plastic waste produced by the agricultural sector in Peru. For instance, a project driven by Peruvian-Dutch cooperation is reducing the amount of virgin plastic bags used for the shipment of bananas to Europe (Holland Circular Hotspot 2021).

In **Colombia**, the Agreement may have helped to advance environmental framework for waste management. During the interviews, Minambiente suggested that the Agreement has contributed to move Colombian industry to a circular economy, and influenced the development of related environmental legislation, such as the Resolution 1558 on single-use plastics in national parks. Moreover, MINCIT and the Chamber Commerce of Bogotá with the support of the EU announced in 2019 a €1 million programme that seeks to support and promote circular economy practices in companies in sectors with high environmental impact, such as construction, food-beverages, and clothing manufacturing, among others.[180] One of the three main components of the programme is related to the design and implementation of a waste management model for selected sectors (the model will be validated in 30 Colombian companies). In addition, the Netherlands announced in 2018 a joint initiative with the Colombian Government that seeks to promote and strengthen circular agriculture (du Pré 2020). Some of the areas of focus of this initiative address agricultural products that, according to the CGE results as discussed in the previous sections, have showed a positive economic output as a result of the Agreement. This includes, for instance, water use in the production of palm oil, banana, flowers and coffee; valorisation of biomass produced from palm oil, coffee and banana; and reduction of singe use plastics in the banana and flowers sector. Yet, the direct causal link between the Agreement and these initiatives remains unclear.

Finally, Ministry of Environment in Ecuador indicated during interviews that the Agreement helped **Ecuador** promote and implement several productive and regulatory initiatives in the area of sustainable agriculture focused on biobased and circular economy models, which have gained special attention for the post-covid green recovery.

#### 8.3.3.4 Governmental impacts related to environmental parameters (not directly related to climate change or biodiversity)

The Agreement may also have generated environmental impacts through changes in the (effective implementation) of environmental regulation and standards, or through initiatives resulting from the cooperation under the TSD Title.

In meeting held under the TSD Title, stakeholders repeatedly raised concerns about the potential lowering of environmental protection levels, aiming to promote investments in Peru and Colombia. In 2017, an official complaint was issued by the Peruvian shadow DAG, expressing concerns about Peru's lack of compliance with its sustainability commitments. In response, the EU and Peru engaged into discussions on this matter, which resulted in concrete measures, such as a renewed framework for environmental impact assessments. Despite this, stakeholders remain concerned about the relation between environmental standards and attracting investments (also in relation to covid-19 recovery measures).

With respect to Ecuador, the TSD dialogue was among others used to discuss Ecuador's fishing regulation (see section 8.3.2.3 above). Representatives also expressed their concerns about delays in the ratification of the Escazú Agreement in Colombia and Peru, which is the first international treaty on environmental protection in Latin America and the Caribbean (Joint Declaration of the Consultative Groups of the EU, Colombia, Peru, and Ecuador, 2020). Even though the TSD Title opened a new platform for cooperation and discussion, it seems to have achieved little advances in the environmental space. Concrete examples of initiatives or dialogues through which the TSD Title led to tangible positive impacts in the environmental space seem to be limited to those mentioned above.[181] All in all, the TSD chapter seems to only have contributed very marginally to positive impacts for other (general) environmental parameters.

## *8.4 Conclusions*

Irrespective of the environmental impact area, it is noted that increased economic activity goes hand in hand with intensifying pre-existing environmental pressures in the area where this increased economic activity materialises. Even though it is challenging – if not impossible – to identify the direct causal link between environmental developments and

[180] "MinComercio, Unión Europea y Cámara de Comercio de Bogotá se unen para fortalecimiento de la industria con enfoque sostenible", 25 October 2019, https://www.mincit.gov.co/prensa/noticias/industria/mincomercio-union-europea-y-ccb-fortalecen-sector

[181] This view is shared by at least some stakeholders, see e.g. OIDHACO (2021).

the Agreement, it is very likely that any agreement with the central objective to foster economic development intensifies pre-existing environmental threats to a certain extent. At the same time, agreements aiming to promote sustainable development may mitigate negative environmental impacts to different extents, and may even contribute to certain positive environmental developments if they lead to improved production standards or shifts towards more sustainable products. For agreements to have an overall positive environmental impact, the positive effects related to efficiency gains should outweigh the negative effects related to volume increases.

The analyses on the Agreement's impact on climate change, biodiversity and natural resources, and other environmental parameters (water, air quality and waste management and circular economy) are summarised below. The focus is on the prioritised environmental impact areas, being climate change, as well as biodiversity and natural resources. Lastly, it is noted that impacts until 2020 are covered by this analysis, whereas the Agreement may create significant environmental impacts in the future.

Below, indications of the size of the Agreement-induced impacts are provided. It is noted that the size of an impact is relative to the impacts that can be created by trade agreements. As such, a "medium impact" refers to a medium impact within the range of impacts that can be created by trade agreements. It does not refer to the impact relative to other policies or developments affecting a certain environmental impact area.

#### *8.4.1 Climate change*

The impacts of the Agreement on climate change until 2020 have been assessed from various perspectives: the impact of the Agreement through tariff reduction-induced output changes on gross global GHG emissions (section 8.3.1.1), the impact of the Agreement on LULUCF emissions (case study 10, Volume III) and the potential impacts of the Agreement on governance and standards (section 8.3.1.2). Based on these analyses, it is concluded that:

- The Agreement's changes in production triggered by tariff reductions are estimated to have resulted in higher gross GHG emissions in the Andean countries as well as in the EU, but in lower gross GHG emissions in the rest of the world, with a net result of an estimated overall marginal decrease in gross GHG emissions. The increase in the Andean countries and in the EU is predominately driven by the positive impact of tariff reduction on production in the *petroleum and chemical*, *utilities*, and *transport* sectors. The decrease in the Rest of the World is driven by decreases in output in the *petroleum and chemical* and *utilities* sectors. The net-reduction impact is driven by differences in emission intensities (GHG emissions per unit of product) in the EU and the RoW. For example, an item produced in the EU may be produced with lower GHG emissions than the same item in a different country. If production shifts to the EU from that country, net GHG emissions reduce.
- Gross GHG emissions do not provide a complete picture – roughly a third of GHG emissions in the Andean countries are LULUCF emissions, which are excluded in statistics on gross GHG emissions. With respect to LULUCF emissions, it is estimated that the changes in agricultural sector outputs caused by the Agreement's tariff reductions increased LULUCF emissions in Colombia (+0.41 Mtonne $CO_2$-eq. in 2020), and reduced LULUCF emissions in Ecuador (-0.04) and Peru (-0.05). The impact of the Agreement's tariff reductions in other countries and the impact of tariff reductions on LULUCF emissions in other sectors have not been evaluated; the CGE modelling results suggest, however, that these impacts are marginal.
- With respect to governance and standards related to climate change, all Parties made significant progress since the start of application of the Agreement by signing and ratifying the Paris Agreement. National policies have also been designed to transpose the Paris Agreement commitments into concrete policies. Yet, it is very unlikely that the EU-Andean Trade Agreement influenced these development (although the TSD Title

did create a platform through which the importance of ratification was voiced by stakeholders).

All in all, it is estimated that the Agreement's tariff reductions increased gross GHG emissions in the EU and in the Andean countries, but decreased gross GHG emissions in the rest of the world, as a result of which global gross GHG emissions decreased marginally (by 0.7 Mtonne $CO_2$-eq.) in 2020. Tariff reductions in the agricultural sector triggered a small-medium increase in LULUCF emissions in Colombia (accounting for 1%[182] of total LULUCF emissions in Colombia). The TSD Title does not seem to have caused concrete direct positive climate-related impacts. The quantitative impact estimates (as shown in Table 8-7) indicate a marginally positive impact on global GHG emissions caused by the tariff reductions under the Agreement. Other impacts have not been assessed quantitatively.

**Table 8-7: Estimated changes in GHG emissions caused by tariff cuts under the Agreement, 2020 (in Mtonne $CO_2$-eq.)**

| Country/Region | Gross GHG emissions | Agricultural LULUCF emissions | Other LULUCF emissions |
|---|---|---|---|
| **Colombia** | 0.03 | 0.41 | Unknown |
| **Ecuador** | -0.00 | -0.04 | Unknown |
| **Peru** | 0.05 | -0.05 | Unknown |
| **EU28** | 0.35 | Unknown | Unknown |
| **RoW** | -1.17 | Unknown | Unknown |
| **World** | **-0.74** | Unknown | Unknown |

Source: Trinomics (2021), based on EDGAR, GTAP, PRIMAP and IVM

### *8.4.2 Biodiversity and natural resources*

The impact of the Agreement on biodiversity and natural resources has been analysed by considering the potential effects of tariff cuts on land use change and permanent deforestation in the Andean countries, the Agreement's effects on sustainability of governance related to natural resources, and two case studies on shrimp production in Ecuador and avocado production in Peru. Based on these analyses the following can be concluded:

- The Agreement has led to a positive *net* output change of cropland area in Colombia, and a negative *net* output change of cropland area in Ecuador and Peru (considering *all* crops produced). There is no evidence to conclude that the output changes in the agricultural sector resulted in permanent deforestation in Ecuador and Peru. For Colombia it is estimated that the increase in cropland area 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.

- Given the increase in Ecuadorian shrimp exports to the EU, it is likely that the Agreement contributed to output growth in the shrimp sector, intensifying pre-existing biodiversity and climate pressures related to shrimp farming, such as degradation and deforestation of mangroves areas, water pollution, and $CO_2$ emissions.

- Based on the CGE results and observed trade developments, it is likely that avocado production in Peru has expanded due to the Agreement, thereby indirectly intensifying the environmental pressures associated with avocado production. In particular, water scarcity and related negative consequences for terrestrial and aquatic ecosystems and biodiversity seems to be the most important environmental consequence of avocado production. In all regions studied, water stress is a present threat to the economic

[182] Based on total LULUCF emissions in 2017.

feasibility of avocado production (especially for small farm holders) and the environment. According to Government and industry representatives, in the coastal production areas the large agro-export companies invest in highly technical irrigation systems, reducing the environmental pressures as mentioned above.

- The TSD Title seems to have had a positive impact when it comes to flagging and discussing environmental issues for instance related to the effective implementation of control mechanisms to avoid trade in CITES-listed crocodile and caiman skins for Colombia and Unreported and Unregulated fishing in the case of Ecuador. Yet, it is unlikely that the Agreement contributed to the effective implementation of other MEAs and national policies and legislation to protect and restore the countries' biodiversity and natural resources.

All in all, the Agreement had a very small negative impact on biodiversity and natural resources: it had a small impact on permanent deforestation in Colombia but none in Ecuador and Peru. The impact of the Agreement on the environmental issues related to avocado production in Peru and shrimp production in Ecuador seem to be marginal. The TSD Title has had a marginally positive impact on the biodiversity and natural resources of the partner countries as the TSD Sub-committee meetings proved to be a relevant platform to flag and discuss environmental issues related to biodiversity and natural resources. Given the specific focus, the biodiversity impact analysis does not provide findings on the environmental impact of other (mono)crops traded between the EU and the Andean countries (such as asparagus) which have not been studied in detail.

#### *8.4.3 Other environmental impact areas*

With respect to other environmental impact areas, it is estimated that the Agreement had a small negative impact on **water availability and quality** in Colombia, mostly caused by increased agricultural production, although increased demand for sustainable products may have mitigated a proportion of the negative effects. In Ecuador and Peru, the impact of the Agreement on water is estimated to be marginally positive, as tariff reductions seem to have benefitted agricultural sectors with lower water footprints more than agricultural sectors with higher water footprints overall (based on the CGE results). Yet, within certain regions growing specific crops, negative water availability impacts may have resulted from the Agreement, as noted above for avocados in Peru.

Only qualitative research has been undertaken to assess the Agreement's impact on air quality. On this basis, the impact of the Agreement on **air quality** seems most substantial in Colombia, as the sectors that benefitted from tariff-reduced output changes are those that have been directly related with air pollution historically. This link is less strong in Ecuador and Peru. Additional research would be required to evaluate the exact (causal) effect.

For **waste management**, the main effects of the Agreement are likely related to the improvement of the environmental framework in Colombia (e.g., the ban on single-use plastics), Ecuador and Peru. In all three Andean countries, the promotion of circular economy practices in key sectors, including agriculture, have led to certain improvements with regards to waste management (e.g., the EU-Peru initiative to reduce plastic waste in the agricultural sector). However, the direct link between these developments and the Agreement remains unclear. As such, the Agreement's impact on waste management is regarded as marginal. Aside of waste management, the Agreement indirectly contributed to waste generation resulting from increase in production. This impact has not been evaluated in detail.

### *8.4.4 Impact of the TSD Title on environmental outcomes*

The TSD Title sets a baseline for environmental performance. Besides, it created a platform for civil society and stakeholders to flag concerns about the implementation of environmental components of the Agreement. This platform enabled stakeholders to voice their concerns on environmental legislation in Peru, for instance. In addition, it also facilitated discussions between the EU and the Andean countries. These discussions opened another door for the EU to raise concerns on environmental legislation in Peru, fishing legislation in Ecuador and the implementation of CITES in all Andean countries. All in all, considering the limited scope of the TSD Title as well as the limited number of concrete actions and their corresponding impacts, the impact of the TSD Title on environmental performance is assessed as marginally positive.

## *8.5 Recommendations*

Since the signing of the Agreement, global ambition to combat climate change and environmental degradation has gained momentum. Soon after the ratification of the Agreement, the Paris Agreement was signed (in 2015) and in 2019 the European Green Deal was launched. By means of the Green Deal, tackling climate change and environmental degradation became the EU's top priority. Given the new top priority, these objectives have been integrated in many EU strategies that were previously less rigidly related to climate and environmental objectives, such as the new EU Trade Policy. The new EU trade policy underlines the Green Deal and involves more focus on achieving environmental objectives, for instance through the promotion (and implementation) of sustainable value chains and improving corresponding due diligence. In the Andean countries, combatting climate change and environmental change has also gained a more prominent role in national policies. In Peru for instance, environmental sustainability is a crucial component of the National Plan for Productivity and Competitiveness from 2019.

Against this background, recommendations are based on three main elements: the identified environmental impacts of the Agreement thus far, the most severe environmental pressures in the Andean countries, and the new EU priority, the Green Deal. Even though the latter two elements are not directly related to the Agreement, it is deemed important to provide recommendations from this perspective in order to be coherent with EU strategies.

**Recommendations to make the Agreement future proof and aligned with new EU priorities, related to identified impacts of the Agreement thus far:**

- Taking into account the Agreement's (small) impact on deforestation in Colombia and given the deforestation footprint of EU imports more generally, it is recommended to intensify efforts to prevent deforestation in the Andean countries. As such, it is recommended to use the Agreement to contribute to the creation of deforestation free value chains, which is in line with (and thereby anticipating) the forthcoming law to prevent imports that contribute to deforestation, building on the *Communication on Stepping up EU Action to Protect and Restore the World's Forest.*[183] It would also be in line with national strategies of the Andean countries, which aim to prevent deforestation. Given that the Andean countries are biodiversity hot spots and play a significant role in carbon sequestration, close engagement with the Andean countries in particular is considered important. Despite this, many EU initiatives in Latin America are focussed on Brazil and Argentina. It is therefore recommended to actively seek initiatives and provide support to improve forest management and to support deforestation free agriculture. Specifically, support and knowledge exchange to

[183] Available at: https://ec.europa.eu/info/sites/default/files/communication-eu-action-protect-restore-forests_en.pdf

improve due diligence and controls in the forestry sector is considered an import area in which the EU could provide added value, also in the light of the Agreement, and is in line with the new EU trade strategy.

- Taking into account the large share of LULUCF emissions (in total GHG emissions) in the Andean countries, as well as the increase in LULUCF emissions in the agricultural sector and the potential impact through other sectors (e.g., shrimp in Ecuador), it is recommended to support stricter initiatives to lower LULUCF emissions. In addition to the recommendations related to forest management and agriculture (as mentioned above), it could be considered to pay specific attention to the role of mangroves in LULUCF emissions related to aquaculture (e.g., stricter mangrove ecosystem management).

- Considering the Agreement's impact on output in the horticulture sector, which intensifies environmental pressures related to agrochemical use (related to soil and water pollution and negative impact on biodiversity) and water use, it is recommended to intensify efforts to mitigate negative impacts through pesticide use and closely monitor potential future impacts on water use. Examples are the development of Sustainable Partnerships and support to certification in the different sectors, as well as the promotion of organic production. Lowering the use of pesticide of imported goods would be in the spirit of the EU's Farm to Fork Strategy, which aims to reduce the use of chemical pesticides by 50% and fertilisers by 20% in the EU by 2030.

- In response to the Agreement-induced increase in water use by the Colombian agricultural sector (as well as avocados in Peru), combined with existing pressures and (social) tensions related to water use as well as the projected intensification of these pressures as a result of climate change in all Andean countries, it is recommended to support initiatives aiming to reduce water use in the agricultural sector, in particular in areas where water is particularly scarce.

- Taking into account the Agreement's effects on selected industrial activities, which intensifies various environmental pressures related to among others (air) pollution and waste generation, it could be considered to support initiatives to lower the environmental footprint of industrial production by promoting the use of more efficient production techniques and implementing production standards.

- Considering the increase in exports consumer goods from the EU to Andean countries and the corresponding environmental pressures related to waste generation, it could be considered to explore initiatives to lower the environmental footprint of these EU-products and to increase circularity, for instance by the implementation of Extended Producer Responsibility (EPR) of EU products, or to cooperate with the Andean countries, which are also starting to explore EPR initiatives.

**Recommendations to make the Agreement future proof and aligned with new EU priorities, not related to identified impacts of the Agreement:**

- No causal link between the Agreement and negative environmental impacts related to the mining industry have been identified. Despite this, ongoing pressures in the mining industry in the Andean countries combined with the attention on raw materials in the European Green Deal warrant intensified attention and cooperation to minimise environmental damage of EU raw material imports. Certification, stricter standards and knowledge exchange could contribute to positive impacts in the mining sector.

- Regardless of specific environmental impacts, the following actions could generate positive cross-cut environmental impacts and thereby contributing to EU strategies: enhance knowledge transfer and technical support, including for enhanced monitoring of key environmental indicators in the Andean partner countries; strengthen the implication of environmental standards and certifications; and enhance regulatory cooperation.

**Central recommendation**:

- The inherent power of the TSD Title is considered very strong. Based on the minimum amount of direct positive impacts of the TSD Title on environmental indicators thus far and the recommendations mentioned above, it is recommended to unlock the potential of the TSD Title. Significant progress could be made within the current TSD framework of the Agreement without the need to renegotiate the chapter. To unlock this potential, it is crucial to step up the ambition and align the priorities of the implementation of the Agreement with the overarching EU priorities on climate and environment, which could imply allocating more resources to TSD implementation and turn it into a pro-active tool, instead of a reactive one. Where possible, it is recommended to seek concrete targets so that progress towards these targets can be monitored and reflected upon.

# 9 RESULTS OF THE HUMAN RIGHTS ANALYSIS

This chapter provides an analysis of the impact of the Agreement on human rights.[184] It 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 (chapter 6). 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[185] and the EC Guidelines on the Analysis of Human Rights Impacts in Impact Assessments for Trade-related Policy Initiatives (European Commission 2015), 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. 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 Agreement provisions, evidence from the CGE results, literature review, 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 details).

The following sections present the results of the analysis. The role played by human rights in EU trade policy and in the Agreement is summarised in section 9.1. Section 9.2 contains a detailed assessment, both quantitative and qualitative,[186] of those human rights that had been identified as potentially being affected by the Agreement in a screening and scoping analysis, i.e. the right to freedom of assembly and association (including the right to join

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[184] 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.

[185] A/HRC/19/59/Add.5

[186] For Ecuador, quantitative analysis is limited due to the short period of evaluation, so analysis mostly relies on literature review and stakeholder consultations.

and form trade unions), children's rights and child labour, and the right to water. Section 9.3 presents the conclusions and recommendations.

### *9.1 Human rights in EU trade policy and in the Agreement*

The protection of human rights is one of the EU's overarching objectives in its external actions[187] and is further developed in policy documents of the European Commission.[188] The Commission's 2020 EU Action Plan on Human Rights and Democracy reaffirms the EU's commitment to promote human rights in all areas of its external action and points to the reinforcement of synergies between trade and human rights policies in the context of EU trade arrangements.[189]

The preamble of the Agreement reflects this objective and states the commitment of the Parties to the Universal Declaration of Human Rights (UDHR), 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 Agreement contains standard "essential elements" clause which specifies that "respect for democratic principles and fundamental human rights, as laid down in the UDHR, 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" (Art. 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 effective implementation. This means that the Parties have an obligation to engage measures 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.

The essential elements clause establishes a human rights obligation binding on all the Parties to the Agreement. Since the Lisbon Treaty, which introduced Articles 3(5) and 21(3) to the TEU, the EU has come under concrete legal obligations to ensure that it respects human rights norms in its external action (Bartels 2014). Although this does not mean that the EU needs to enforce human rights obligations of other countries, the EU must ensure

[187] Article 3(5) TEU lays down the commitment to contribute to the protection of human rights in its relations with the wider world: "In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter". Article 21(1) TEU mandates that the EU is guided by the values of human rights in its external policies: "The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental principles of the UN Charter and international law". Art. 21(3) TEU requires the EU to ensure "consistency between different areas of its external action and between these and its other policies". And Art. 207(1) TFEU provides that the EU's trade relations and agreements "shall be conducted in the context of the principles and objectives of the Union's external action".

[188] See e.g. "Trade for All" Strategy from 2015 (COM(2015) 497 final), but also the new strategy "Trade Policy Review – an Open, Sustainable and assertive Trade Policy launched in February 2021 (COM(2021 66 final).

[189] 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

that it does not contribute to human rights violations in other countries.[190] The EU has the legal possibility of triggering the application of the essential elements clause through Article 60 of the Vienna Convention on the Law of the Treaties in order to prevent the EU from being implicated in human rights violations occurring in the other country.

In addition to the human rights clause, Title IX of the Agreement – the TSD Title – contains a separate set of provisions on labour and environmental standards. Article 271(3) contains provisions related to the promotion of best business practices related to corporate social responsibility (as areas of cooperation). Articles 271-273 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. Article 277 lays down the commitments of the Parties to uphold levels of protection (the so-called "non-regression" clause), referring to both the legal framework and implementation of the existing laws. 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. As such, the TSD Title reaffirms already existing obligations (as in Art. 269, because all Parties already ratified the ILO conventions in question), sets minimum obligations to comply with international standards on these issues (Arts. 271-275) and includes provisions that require the Parties not to lower their levels of protection (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). In addition, in accordance with national legislation, domestic mechanisms need to be established or used for domestic consultation on the matters in the areas covered under the TSD Title (Art. 281).

The Agreement does not provide for a specific enforcement mechanism under the TSD Title (Art. 285(5)), except bilateral governmental consultations (Art. 283) and an envisaged role of a Group of Experts in case mutually satisfactory resolution of the matter is not feasible (Arts. 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 (Art. 285(4)).

## *9.2 Agreement impact on selected human rights*

Starting with a comprehensive screening and scoping of human rights that could have been potentially impacted on by the Agreement's implementation – either channelled through its economic impact or arising directly from the provisions in the Agreement – three human rights were selected for an in-depth evaluation.[191] These are the right to freedom of assembly and association, incl. the right to join and form trade unions, children's rights (including impacts on child labour), and the right to water.

[190] As per rules set out in the Articles on the Responsibility of States for Internationally Wrongful Acts (ARSIWA) annexed to the UNGA Res. 56/83, Un Doc. A/Res./56/83, 12 Dec. 2001.

[191] See Annex E-3 for details and results of the screening and scoping analysis.

For other human rights, the initial screening and scoping analysis showed that the Agreement could have had only very minor effects, and these were therefore not analysed further. Similarly, no effects on the human rights situation in the EU could be determined, and the detailed analysis therefore focused on the three Andean partner countries.

The following sections present the results of the detailed analysis of the three human rights. More details regarding the right to freedom of assembly and association, including the right to join and form trade unions, and children's rights are presented in case studies 7 and 8 (Volume III).

### *9.2.1 Right to freedom of assembly and association, including the right to join and form trade unions*

Article 269(3)(a) of the Agreement reaffirms the obligations of the Parties regarding freedom of association as laid down in the ILO Fundamental Conventions No. 87 and No. 98, which cover freedom of association, the right to organise and collective bargaining and form core labour standards to promote decent terms and conditions of work and balance between workers and employers in the workplace. In addition, Article 277 includes commitments of the Parties not to lower the existing levels of protection with respect to labour rights, referring to both the legal framework and implementation of the existing laws. We find potential mixed but overall small effects of the Agreement on the right to freedom of assembly and association, incl. the right to join and form trade unions in the Andean partner countries. These effects were caused both by the sectoral economic effects and by the implementation of the TSD Title.

The situation of trade unions in **Colombia** over the last decade was mainly shaped by the security situation in the country, the Labour Action Plan adopted with the US, and macroeconomic developments which influenced creation of formal jobs on the one hand and preserved structures with sub-contracted workers in some sectors (e.g., in mining) on the other, to cut costs in international competition. 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,[192] but the number of cases remains high; multiple violations of the right to freedom of association have been recorded by the ILO as well as the EU, in particular with respect to collective agreements with non-unionised workers.

The Agreement is likely to have had some impact on these developments. With regard to the economic impact channel, a number of mostly industrial sectors (basic pharmaceuticals, metal products, machinery, motor vehicles, and miscellaneous manufactures) have been exposed to more competitive pressure to cut costs, which could have put pressure against forming trade unions – but this effect seems to have been small. Overall, in all sectors of the economy the number of collective agreements has increased which suggests that factors other than the Agreement were more important. On the positive side, assistance projects (e.g., mining free from mercury) and capacity building (also by EU Member States and European trade unions), dialogue under the TSD Title between the European Commission and partner country governments, and civil society engagement have had a positive, but rather limited effects (see section 7.7 above). Last, but by no means least, the Agreement served as a lever to support the political dialogue between the EU and Colombia.

In **Peru**, multiple violations have been recorded by the ILO and the EU with respect to freedom of association.[193] Some stakeholders report that increased competition linked to

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[192] Based on data from Escuela Nacional Sindical: https://www.ens.org.co/

[193] 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

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 shows that agricultural sectors in Peru 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 the 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.[194] It remains to be seen if the latest legislative changes of 2019 and 2020 will bring about any changes with respect to special regimes. In any case, discussions under the TSD Title related to effective implementation of the ILO fundamental conventions, incl. on freedom of association and collective bargaining kept attention of the Parties focused on the need to seek improvements, notably further to civil society complaint. In 2017 and 2020, EU organised workshops in cooperation with Peru on labour conflict management.

Over the past decade, **Ecuador** has made progress with respect to the protection of the right to peaceful assembly. Nevertheless, in the period 2012 to 2019, six complaints were submitted to the ILO on freedom of association. 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 the high level of informality.

While issues with trade unions were present in Ecuador before the start of application of the Agreement, some stakeholders consider that the situation has deteriorated since the start of the Agreement (Daza et al. 2020). Some have reported that increased competition linked to the Agreement has led to a number of violations in the banana sector and agriculture, and that the TSD Title has failed to provide a safeguard against these negative developments. Nevertheless, the economic analysis shows that the vegetable, fruits, and nuts sector (which includes bananas) has grown as a result of the Agreement, so competition in the sector has not worsened. On the other hand critics state that the three Ministerial Decrees in 2017 and 2018 that introduced special regimes for temporary contracts in the banana sector, agriculture and agro-industry had worsened conditions for trade union operation and collective bargaining in the sector. Despite the timing of the Ministerial Decrees and the start of application of the Agreement for Ecuador no causal link between the practice of special regimes and the level of informality and the Agreement can be established, considering the pre-existing pressures in Ecuador. Within the cooperation under the TSD Title, the EU has been keeping a dialogue with the Ecuadorian authorities on the need to address issues regarding freedom of association; as this is still ongoing, it is too early to assess its effectiveness (see section 7.7 above).

For more details, see section 7.4.4 above and case study 8 in Volume III.

### *9.2.2 Children's rights and child labour*

Article 269(3)(c) of the Agreement includes commitments of the Parties regarding effective implementation of the already ratified ILO fundamental conventions No. 138 (on minimum age) and 182 (on worst forms of child labour), which includes the abolition of child labour.

The child labour incidence in all three Andean countries is often related to rural areas, poverty and informal economic activities. However, the governments have taken many initiatives, including in cooperation with private sector, international organisations, the EU,

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[194] See also social analysis.

NGOs, and other countries from Latin America to prevent and eliminate child labour through awareness raising campaigns, providing jobs for adult household members, improving labour inspection's capacity, encouraging better school attendance, and promoting certification schemes. In this context, the Agreement may have contributed to reduced child labour incidence through creating job opportunities for adults, mainly in agriculture, but also in textiles, garment, and mining sectors.

Examples of some of the sectors analysed in the evaluation, such as rice, cotton, sugar cane and banana cultivation in Colombia suggest that the availability of formal jobs for adults, ideally with overall high formality levels in the sector, as well as trade union presence with high membership rates among workers (like in the banana sector) support elimination of child labour. Hence, the importance of job quality and social dialogue.

For more details, see section 7.4.1 above, as well as case study 7 in Volume III.

### *9.2.3 Right to water*

The Agreement does not explicitly refer to the right to water. However, it includes commitments that are relevant for this right, in particular progressive trade liberalisation and trade facilitation of (agricultural) goods. The economic analysis indicates that the Agreement has led to a minor increase in trade and output of several agricultural sectors that are either water-intensive or could lead to water pollution through use of fertilisers and/or pesticides.

**International framework**

In 2010, through the UNGA Resolution 64/292, the right to safe and clean drinking water and sanitation was "recognised as a human right that is essential for the full enjoyment of life and all human rights".[195] Several international human rights instruments have references to the right to water": The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)[196] and the Convention on the Rights of the Child (CRC)[197] contain explicit provisions to the right to water. Article 14(2)(h) of the CEDAW states that states parties to the Convention need to ensure, especially in rural areas, that women "enjoy adequate living conditions, particularly in relation to housing, *sanitation,* electricity and *water supply*, transport and communications" (emphasis added).[198] While the CEDAW sets out the rights of women in rural areas to access safe drinking water and sanitation, the CRC has a different focus on the right to water. Namely, in its Article 24(2)(c), it recognises the child's right to enjoy the highest attainable standard of health to "combat disease and malnutrition, including within the framework of primary care, through, *inter alia*, the application of readily available technology and through provision of adequate nutritious foods and clean drinking water, taking into consideration the dangers and risks of environmental pollution". In the CRC, in contrast to the CEDAW, the focus is on the right to water as a part of the right to health. Quality of water rather than any other aspect (e.g. sanitation) is distinctly emphasised.

Other international treaties that implicitly refer to the right to water are the UN Charter and both Human Rights Covenants (the ICCPR and the ICESCR). It can be derived from the right to life recognised under the ICCPR (Art. 6(1)). And the ICESCR contains two articles that have links to the right to water: Article 11 (right to an adequate standard of living and the right to food) and Article 12 (right to the highest attainable standard of

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[195] UNGA Res 64/292, p.2.
[196] Convention on the Elimination of All Forms of Discrimination Against Women (adopted on 18 December 1979, entered into force 3 September 1981 UNGA Res 2263 (XXII)) (CEDAW).
[197] Convention on the Rights of the Child (adopted on 20 November 1989, entered into force 2 September 1990 UNGA Res 44/25) (CRC).
[198] CEDAW, art. 14.

health) which is also explained in the General Comment No. 15 (GC 15) of the Committee on Economic Social and Cultural Rights (CESCR).[199]

A number of regional human rights instruments also implicitly refer to the right to water. The European Convention for the Protection of Human Rights and Fundamental Freedoms and the American Convention on Human Rights implicitly provide for the right to water under the right to life and the Protocol of San Salvador – under the right to health.

All the Parties to the Agreement have ratified the ICESCR (as well as the ICCPR, the CEDAW, the CRC, and the CEPD) and have therefore accepted legally binding obligations in relation to the right to water (see Table E-1 in Annex E-2).

**Content of the right to water and state obligations**

The CESCR General Comment No. 15 clarifies the content of the right and sets "the standards and guidelines for the states parties to the Covenant to realise their obligations" (Cahill 2012) with respect to this right:

> "The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related disease and to provide for consumption, cooking, personal and domestic hygienic requirements" (GC 15, para. 2).

Key values encompassed in these entitlements include availability, quality, affordability, non-discrimination and accessibility.[200] Availability includes quantities for continuous personal and domestic uses as defined by the World Health Organisation. Quality component is aimed at guarantee of water free of disease-causing contaminants. Affordability requires that water services need to be affordable with respect to peoples' income. Non-discrimination ensures that there is no discrimination in providing water services to people based on their race, national or social origin, with special attention paid to such vulnerable groups as women, children and indigenous peoples. And accessibility, which contains in its turn "four overlapping dimensions"[201] – (i) physical accessibility, (ii) economic accessibility, (iii) non-discrimination, and (iv) information accessibility – basically targets at physical availability of affordable water to all people and "the right to seek, receive and impart information concerning the water issues".[202]

The primary responsibility for the realisation of the right to water, like other human rights, is put on national governments (stipulated in part III of the GC 15). Thus, in line with general legal obligations, states have an obligation to guarantee that the right will be exercised without discrimination of any kind; an obligation to take active steps towards the full, progressive realisation of the right; and classic human rights obligations: to respect, to protect and to fulfil (facilitate, promote and provide).

9.2.3.1 Right to water in Colombia

The Constitution of Colombia does not explicitly recognise the right to water. However, the Constitutional Court has upheld the right in various cases on the basis of Article 79 of the Constitution that refers to the "right to a healthy environment".[203] The National Development Plan 2018-2022 was adopted by the government to improve access to safe drinking water, manage wastewater and improve the quality of water services in rural

[199] UN Committee on Economic, Social and Cultural Rights, General Comment No. 15.1, "The Right to Water", UN Doc. E/C.12/2002/11, 26 November (GC 15).
[200] GC 15, para.2.
[201] GC 15, para. 12.
[202] GC 15, at para. 17, 21-29.
[203] See cases T-406-1992, T-539 (1993), T-091 (2010) of the Constitutional Court of Colombia.

areas.[204] The programme *Programa Guajira Azul* was introduced to increase access to safe drinking water in the Department of La Guajira, one of the most impoverished departments of Colombia with limited water supply and frequent draughts. As a result, the Casa Azul module has been installed in the Manaure municipality, improving access to safe drinking water for 131 communities.[205] Cooperation with the World Bank has also contributed to improved access to water in the Department of La Guajira in the framework of the *La Guajira Water and Sanitation Infrastructure Service Management Project*.[206]

The National Human Rights Institution of Colombia, the Defensoría del Pueblo, has a mandate to protect and promote human rights, including the right to water and sanitation, as stated in Law 74 and Article 93 of the Constitution of Colombia.[207] Between 2010 and 2018, 711 projects aimed at improved access to safe drinking water had been carried out in over 20 regions in the country (643 of them had been finalised).[208] For 2020, 18 new projects have been approved by the government in the framework of the programme *Compromiso por Colombia – Capítulo Agua* which is aimed to improve access to safe drinking water and sanitation.[209]

Based on the reports from the UN Universal Periodic Review, a vulnerable situation with water has existed in Colombia also prior to the start of the Agreement's application. The UN CESCR noted in 2010 that issues related to water in Colombia include insufficient provision of water and sanitation services – in some regions (e.g. Chocò) 90% of the population do not have access to safe drinking water.[210] Inadequate access to drinking water particularly affects indigenous peoples.[211] Water contamination due to illegal mining has been pointed out by the UN OHCHR as an issue affecting indigenous communities.[212] Even though the statistics on the access to at least basic drinking water services and access to safely managed drinking water services in Colombia shows a positive trend regarding the access to improved water sources, disparity in the access to water between rural and urban areas remains high (Figure 9-1 and Figure 9-2).

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[204] Inter-American Commission on Human Rights (2019). Annual Report 2019, Chapter V Follow-up to Recommendations Made by the IACHR in the Report Truth, Justice and Reparation: Fifth Report on the Human Rights Situation in Colombia, at: https://www.oas.org/en/iachr/docs/annual/2019/docs/IA2019cap5CO-en.pdf

[205] Ibid.

[206] World Bank (2019). Improving Water Supply and Sanitation Services in La Guajira, Colombia, 23 April 2019: https://www.worldbank.org/en/results/2019/04/23/improving-water-supply-and-sanitation-services-in-la-guajira-colombia

[207] Defensoría del pueblo. *Derecho Humano al agua* (2021): https://www.defensoria.gov.co/es/public/contenido/1312/Derecho-humano-al-agua.htm

[208] Ardila, L. (2018). En 29 departamentos se desarrollan proyectos de agua potable: https://www.eltiempo.com/colombia/otras-ciudades/uso-de-proyectos-de-agua-potable-en-colombia-233494

[209] Ministerio de Vivienda, Colombia (2020). *Gobierno Nacional lanzó 18 nuevos proyectos del Compromiso por Colombia- Capitulo Agua con inversiones de más de $255 mil millones*: https://minvivienda.gov.co/sala-de-prensa/gobierno-nacional-lanzo-18-nuevos-proyectos-del-compromiso-por-colombia-capitulo-agua-con-inversiones-de-mas-de-255-mil-millones

[210] United Nations Committee for Economic Social and Cultural Rights (2010). Concluding observations on the Committee on Economic, Social and Cultural Rights, Colombia, UN. Doc. E/C.12/COL/CO/5; UN Human Rights Council (2008). Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15(c) of the annex to Human Rights Council resolution 5/1, UN Doc. A/HRC/WG.6/3/COL/3; United Nations Human Rights Council (2014). Annual Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia*, UN Doc. A/HRC/25/19/Add.3.

[211] United Nations Human Rights Council (2016). Annual Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, UN Doc. A/HRC/31/3/Add.2; United Nations Human Rights Council (2015). Annual Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia*, UN Doc. A/HRC/28/3/Add.3; United Nations Human Rights Council (2010). Annual Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia*, UN Doc. A/HRC/13/72.

[212] United Nations Human Rights Council (2017). Annual Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia*, UN Doc. A/HRC/34/3/Add.3

**Figure 9-1: Share of the population using at least basic drinking-water services in Colombia (%)**

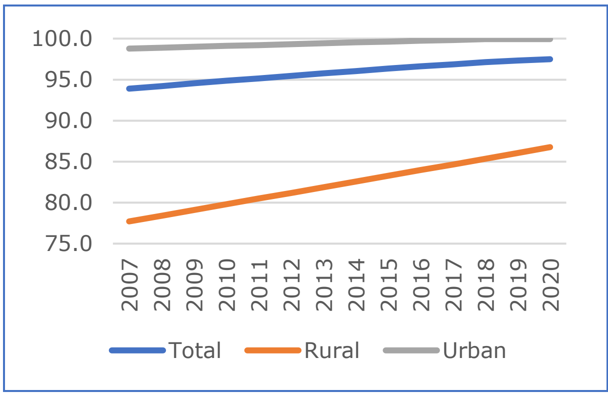
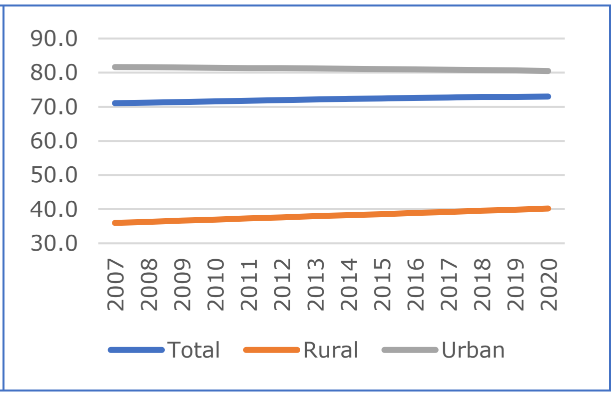



**Figure 9-2: Share of the population using safely managed drinking water services in Colombia (%)**

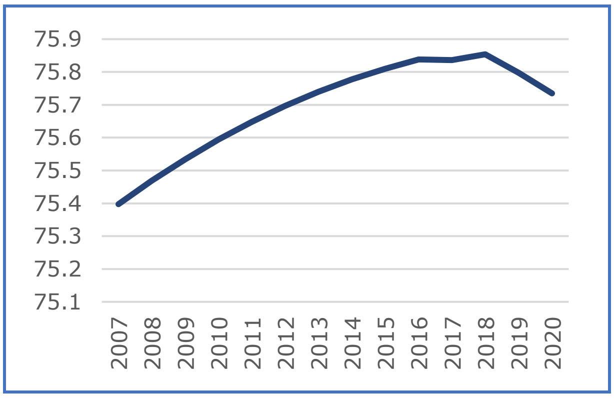



Source: WHO/UNICEF Joint Monitoring Programme (2021), https://data.humdata.org/dataset/unicef-ws-ppl-w-alb; https://data.humdata.org/dataset/unicef-ws-ppl-w-sm

In 2017, the UN CESCR expressed concerns about the disproportionate and uncontrolled use of water and about the river pollution as a result of mining activities. Water pollution in the rivers resulted in serious violations of the right to water, affecting the health of several communities and damaging the environment.[213] The environmental analysis indicates that water pollution has also been common due to a considerably increased use of fertilisers in the agricultural sector (section 8.3.3.1). In rural areas, the percentage of households without access to drinking water was 14% higher than in urban areas.[214]

Figure 9-3 shows the percentage of the population using improved drinking water sources free of faecal and priority chemical contamination. The indicator shows that there was a slightly positive trend until 2018, but a drop since.

**Figure 9-3: Share of the population using improved drinking water sources free of faecal and priority chemical contamination in Colombia (%)**




Source: WHO/UNICEF Joint Monitoring Programme (2021), https://data.humdata.org/dataset/unicef-ws-ppl-w-ava

Due to the specific climate of Colombia and natural shortage of water resources (especially in selected areas), as well as the known environmental impacts of mining and agribusiness activities on water, there is an increased pressure on the right to water in Colombia. In the context of the Agreement, the impact on the right to water has been investigated. Although provision of water services is mainly a domestic matter, international trade in specific goods may lead to increases (or decreases) in pollution of water resources associated with production of certain goods or lead to pressure on the availability of water for basic needs of the population.

[213] United Nations Committee on Economic Social and Cultural Rights (2017). Concluding observations on the sixth periodic report of Colombia, UN. Doc. E/C.12/COL/CO.6

[214] UN Human Rights Council (2020). Situation of human rights in Colombia, Report of the United Nations High commissioner for Human Rights, UN Doc. A/HRC/43/3/Add.3. Note that the analysis in Annex D-1 shows a higher gap – approximately 24% in 2019.

**Impact of the Agreement on the right to water in Colombia**

*Quantitative analysis*

Results of the economic analysis indicate that the impact of the Agreement on the right to water channelled through changes in mining industry activities has likely been limited: the production of oil, coal and metals has increased only marginally (less than 0.1%; see Table 6-7 in section 6.2.2). It is important to note that mineral fuels account for 22% of total Colombian exports to the EU and that mining is driving the discharge of untreated water in Colombia (IDEAM 2019). As mentioned above, water contamination due to illegal mining has been found to be an issue affecting indigenous communities as pointed out by the UN OHCHR.[215] This implies that, while the Agreement does not seem to have had a significant impact on the right to water via an impact on mining activities, the sector's impact on the right to water is potentially large and the impact of the sector on the right to water should continue to be monitored.

Regarding the impact of the Agreement on the right to water stemming from polluting activities/intensive use of water in agricultural and fishing sectors, a mixed but also limited impact can be observed. The agricultural sector was responsible for 43.1% of water demand in Colombia in 2018 and as such, changes in production for water-intensive crops because of the Agreement are likely to impact the right to water. The economic modelling results indicate that the largest effect from the Agreement is the production of vegetables, fruit and nuts (+0.87%), whereas output in other agricultural sectors only increases in a limited way or even decreases (see Table 6-7 in section 6.2.2). Some of the products from this sector are rather water-intensive (e.g. bananas). While the model results are not disaggregated to crop level, it is likely that the Agreement's output-increasing effect in the sector has led to increased demand for water and also led to increased fertiliser use and water pollution. These latter effects were reported by stakeholders. With 43.1% of water demand coming from agriculture, and considering that vegetables, fruit and nuts sector exports come predominantly from the Magdalena-Cauca and Orinoco regions (IDEAM 2019), in those regions the right to water could have been negatively impacted. For the Chocó region, where over 90% of the population does not have access to safe drinking water,[216] the effects are likely to be limited. The degree to which the right to water has been impacted does appear to be small and regional because it does not show in the overall trends on access to and use of safe drinking water in Colombia.

Other sectors that can have an impact on the right to water are: other food, textiles, leather and chemicals. In the ex-ante assessment, the potential growth of these sectors was viewed as a potential issue for the quantity and quality of water available (regionally) in Colombia. While the Agreement does seem to have had a positive effect on these sectors (see Table 6-7 in section 6.2.2), because of the high share of wastewater treatment (85%) in Colombia (DNP, n.d.) no negative impact on water quality and thus the right to water is found for these sectors.

*Qualitative analysis*

A review of the literature related to the impact of the Agreement on the right to water shows that there is a concern about the deterioration of 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). While a negative link between extractive industries and water

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[215] United Nations Human Rights Council (2017). Annual Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia*, UN Doc. A/HRC/34/3/Add.3

[216] United Nations Committee for Economic Social and Cultural Rights (2010). Concluding observations on the Committee on Economic, Social and Cultural Rights, Colombia, UN. Doc. E/C.12/COL/CO/5.

quality is often found, the Agreement has not led to an increase in extractive industry activities.

In the consultations undertaken for the evaluation, some stakeholders (mostly human rights organisations and other NGOs) pointed to environmental damage from the energy and mining sectors that have been detrimental to the water quality of indigenous communities and communities living in close proximity to mining sites. Other stakeholders also noted that water-intensive agricultural production, in particular production of palm oil, has led to serious issues with the groundwater in Mapiripán and affected the right to water of the communities from this region. Representatives of governmental institutions have not provided details specifically aimed at the impact on the right to water but stated that the Agreement has provided foundation to facilitate protection of all human rights.

Based on the responses to the OPC, overall, respondents did not perceive that the Agreement had an impact on the right to water in Colombia. Some of the respondents indicated a 'somewhat negative' impact and others either did not address the question or indicated no impact.

In additional interviews several Colombian stakeholders stated that there is a concern among the civil society that contamination of water resources as a result of business activities negatively affects the enjoyment of the right to water by selected communities in the country, in particular, indigenous communities.

In sum, the available evidence from the indicators related to water, results of the quantitative analysis, responses from the survey as well as insights from relevant reports and interviews suggest that the Agreement did not have a significant impact on the right to water overall. As it was also mentioned by the stakeholders, it is not possible to clearly distinguish the impact of the Agreement on the right to water from other factors. However, it should be noted that due to instances and concerns reported by several stakeholders, it is possible that the Agreement has contributed to the overall pressure on water in some regions in the country and could have played a minor role in affecting the right to water of local communities.

#### 9.2.3.2 Right to water in Peru

Amended by the Law No. 30588 (2017), the Constitution of Peru explicitly recognises the right to water (Art. 7a). The 2009 Law on Water Resources and the National Water Resource Management System regulate water issues in the country. The 2015-2035 National Water Plan has been adopted to regulate the growing demand for water in Peru, addressing, among others, issues with water distribution, water quality, water availability, and treatment of wastewater (CEPAL and OCDE 2017).

The National Human Rights Institution of Peru, the Defensoría del Pueblo, has a mandate to protect and promote human rights, including the right to water and sanitation. In cooperation with various municipalities, the Peruvian government and international organisations, the Defensoría del Pueblo has carried out a series of projects aimed to improve water quality, water availability and treatment of wastewater.[217]

Based on reports from the UN Universal Periodic Review, the water situation in Peru has been vulnerable since before the Agreement's application. The UN Office for Project Services (UNOPS) and the UN Environment Programme note that the coastal region of Peru has less than 2% of its fresh water supply while 55% of the country's population live there.

[217] Website of the National Human Rights Institution of Peru: https://www.defensoria.gob.pe

Lima, the capital of the country, is the second driest capital in the world after Cairo.[218] The Pisco River Valley has been transformed due to the lack of water.[219] The UN CESCR noted in 2012 that issues related to water in Peru include insufficient provision of water and sanitation services in peripheral urban areas and rural regions and environmental impacts of extractive industries on access to safe drinking water were reported to have affected the right to water.[220] Even though statistics on access to drinking water in Peru show a slightly positive trend, i.e. an increasing access to improved water sources, disparity in access to water between rural and urban areas remains high (Figure 9-4 and Figure 9-5). Also, the gap between basic access to drinking water services and safely managed drinking water services is bigger than for Colombia and Ecuador.

**Figure 9-4: Share of the population using at least basic drinking-water services in Peru (%)**

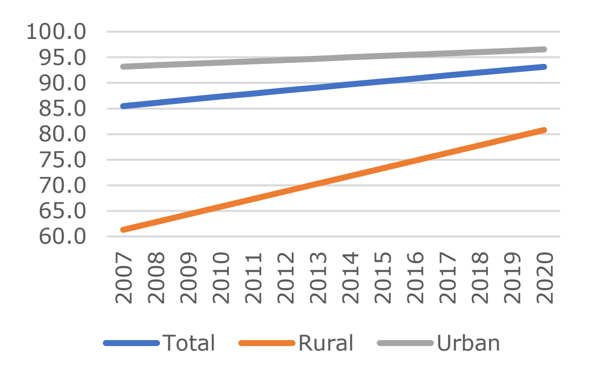
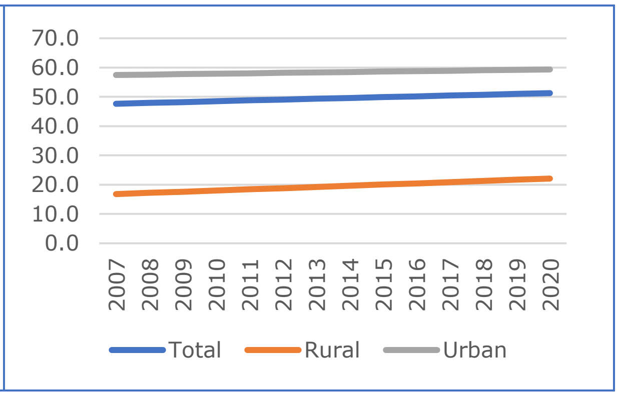



**Figure 9-5: Share of the population using safely managed drinking water services in Peru (%)**




Source: WHO/UNICEF Joint Monitoring Programme (2021), https://data.humdata.org/dataset/unicef-ws-ppl-w-alb; https://data.humdata.org/dataset/unicef-ws-ppl-w-sm

According to a CEPAL/OECD study, the environmental quality standards introduced in 2010 have helped to improve water quality, which is reflected in a decrease of diarrhoea illnesses in children under five years; also, access to water has improved in recent years but there exist some shortfalls in the water infrastructure, and water quality still needs to be increased (CEPAL and OCDE 2017). The main issues named by the study with respect to water quality and the impact of water pollution on the health of the population refer to improperly treated domestic wastewater, untreated dumping from informal mining activities, the use of untreated water for irrigation, the use of agrochemicals in intensive agriculture and high level of incompliance with the environmental standards that pollute the adjacent rivers. Additionally, the report notes that there has been no assessment of water quality monitoring. Urban wastewater in nine out of 24 regions is not being treated. In many regions of Peru water security is under threat from the growing demand for water (CEPAL and OCDE 2017).

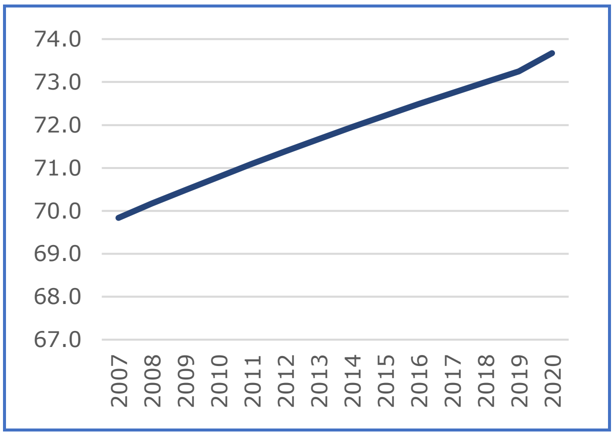
[218] World Bank (2018). Water and Sanitation Programme: Lima Running Fry – Promoting Water Culture in the Second Driest Capital in the World: https://www.wsp.org/featuresevents/features/lima-running-dry-%E2%80%93-promoting-water-culture-second-driest-capital-world

[219] UNOPS, Combating Water Scarcity in Peru: https://www.unops.org/news-and-stories/stories/combating-water-scarcity-in-peru

[220] UN Human Rights Council (2012). Compilation prepared by the Office of the United Nations High Commissioner for Human Rights, in accordance with paragraph 5 of the annex to the Human Rights Council resolution 16/21, UN Doc. A/HRC/WG.6/14/PER/2; United Nations Committee for Economic Social and Cultural Rights (2012). Concluding observations on the Committee on Economic, Social and Cultural Rights, UN. Doc. E/C.12/PER/CO/2-4; UN Human Rights Council (2012). Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15(c) of the annex to Human Rights Council resolution 16/21, UN Doc. A/HRC/WG.6/14/PER/3.

Figure 9-6 shows the share of Peru's population using improved drinking water sources free of faecal and priority chemical contamination; this is improving slowly but constantly over the period 2007 to 2020, with the start of application of the Agreement showing no effect on the trend.

**Figure 9-6: Share of the population using improved drinking water sources free of faecal and priority chemical contamination in Peru (%)**




Source: WHO/UNICEF Joint Monitoring Programme (2021), https://data.humdata.org/dataset/unicef-ws-ppl-w-ava

**Impact of the Agreement on the right to water in Peru**

*Quantitative analysis*

Results of the economic analysis indicate that there is a shift from extractive industries to agricultural ones: the production of oil, coal and metals (especially copper) is slightly lower than it would have been in the absence of the Agreement. This implies that the Agreement did not have a negative impact on the right to water as linked to the pollution from mining activities.

Regarding the impact of the Agreement on the right to water, stemming from increased activity in agricultural and fishing sectors – which largely drive water use in Peru (Aquino Espinoza 2017) –, a mixed and limited impact is observed. According to the economic modelling, the largest output effect of the Agreement is in the vegetables, fruit and nuts sector (+1.1; see Table 6-7 in section 6.2.2). Some of the products from this sector are rather water-intensive, e.g. bananas and avocados. Increased production of these products has led to an increased demand for water and increased use of fertilisers (Salmoral et al. 2020). Stakeholders raised particular concerns about the right to water in the Ica and Villacuri valley where asparagus and avocado production dominate and where agriculture is responsible for 90% of total irrigation demand.

The vegetable oils and fats sector (which includes palm oil) has increased production by 0.9% as a result of the Agreement. Other agricultural sectors as well as fishery have experienced minor changes in production (all less than 0.5%). Based on this, the Agreement had no significant impact on the right to water in Peru.

*Qualitative analysis*

A review of the literature related to the impact of the agreement on the right to water shows that there is a concern about the deterioration of water quality and water availability in Peru due to mining and agricultural activities (Fritz 2018; EPRS and ICEI 2018). Some stakeholders have reported that environmental impact assessments are not carried out in a due manner.[221]

During the consultations, some stakeholders (mostly human rights organisations and other NGOs) pointed out environmental damages from the activities in the mining and oil sectors, which have been detrimental to the water quality of indigenous communities and communities living in close proximity to the mining sites. A complaint filed by the Peruvian civil society to the European Commission in 2017 presents specific examples of

[221] 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

violations.[222] While the negative impact of mining and oil sectors are clear for the environment and thus also negative for indigenous communities, our analysis shows that the Agreement does not seem to have contributed to it.

Responses to the OPC provide a mixed picture regarding the impact of the Agreement on the right to water in Peru. Some respondents from Peru indicated that the impact on water in Peru has been very positive. Others noted no impact of the Agreement on the right to water. And yet other respondents stated that the Agreement had a very negative impact either on water quality or on the right to water. In additional interviews, several Peruvian stakeholders stated that there is a concern among the civil society that contamination of water resources as a result of business activities negatively affects the enjoyment of the right to water by selected communities in the country, especially in rural areas, areas adjacent to production sites and in areas populated by indigenous communities.

To summarise, based on the analyses undertaken the Agreement had a local but overall marginal impact on the right to water due to increased production and exports of water intensive crops. However, it should be noted that due to instances and concerns reported by several stakeholders, it is possible that the Agreement has contributed to the overall pressure on water in the country and could have played a minor role in affecting the right to water of local communities.

#### 9.2.3.3 Right to water in Ecuador

The 2008 Constitution of Ecuador explicitly recognises the right to water as a human right (Article 12).[223] Article 3 of the Constitution furthermore states that guaranteeing the right to water to citizens is one of the primary obligations of the state. Clean water is named as one of the components of the right to a decent life specified under Article 66(2). Article 314 of the Constitution provides that the State is responsible for providing public services of drinking water, and Article 318 prohibits any form of water privatisation and declares water management as the prerogative of the legal entities of the states or communities.

The key legislation related to water governance in Ecuador is the 2014 Organic Law on Water Resources, Use and Utilisation of Water (Ley Orgánica de Recursos de Hídricos Usos y Aprovechmiento del Agua). This Law seeks to guarantee the human right to water, and regulates matters related to the authorisation, preservation and conservation of water resources in accordance with the Constitution. The National Strategy for Drinking Water and Sanitation (*Estrategía Nacional de Agua Potable y Saneamiento*, ENAS) and the National Plan for Integrated and Comprehensive Management of the Water Resources of the Watersheds and Micro-Watersheds of Ecuador (*Plan Nacional de Gestión Integrada e Integral de los Recursos Hídricos de las Cuencas y Microcuencas Hidrográficas del Ecuador*) are the key policy instruments that combine efforts to guarantee the human right to water and sanitation through the Water and Sanitation for All programme.[224]

The National Human Rights Institution of Ecuador, the Defensoría del Pueblo, has a mandate to protect and promote human rights, including the right to water and sanitation. In cooperation with international organisations, the Defensoría del Pueblo has carried out a series of projects in the capacity building and education programmes for the sustainable use of water services and sewage systems. The Government of Ecuador states that in the framework of the *Agua y Saneamiento para Todos* (Water and Sanitation for All) programme, 181 projects were approved for constructing, expansion or improvement of

[222] Ibid.

[223] Article 12 of the Constitution of Ecuador states: "The human right to water is essential and cannot be waived. Water constitutes a national strategic asset for use by the public and it is unalienable, not subject to a statute of limitations, immune from seizure and essential for life"

[224] Secretaría Técnica de Planificación "Plantifica Ecuador" (2020). Examen Nacional Voluntario, Ecuador 2020: https://sustainabledevelopment.un.org/content/documents/26392VNR_2020_Ecuador_Spanish.pdf

access to drinking water and sanitation. Next to that, financed by the UN, projects in selected regions were carried out to improve access to and quality of drinking water (*Project Manejo Seguro de aguas residuals en el espacio de tránsito migratorio Rumichaca* and *Construcción del Sistema de Agua Potable en el Centro Binacional de Atención en Frontera (Cebaf-Huaquillas*).[225] Under the Water and Sanitation Strengthening Programme (PFA), 16 pre-investment and technical assistance projects were approved in 2020 to be financed by the Development Bank of Ecuador, the Investment Facility for Latin America, the EU and the French Development Agency.[226]

Based on the reports from the UN Universal Periodic Review, the water situation in Ecuador was vulnerable already prior to the start of application of the Agreement. Environmental impacts of mining and agribusiness activities were reported to have affected the right to water of rural populations.[227] Even though the statistics on the access to drinking water in Ecuador show a trend of increasing access to improved water sources, disparity in the access to water between rural and urban areas remains (Figure 9-7 and Figure 9-8).

**Figure 9-7: Share of the population using at least basic drinking-water services in Ecuador (%)**

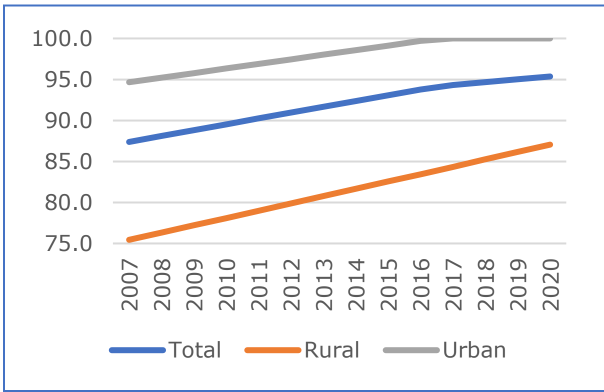
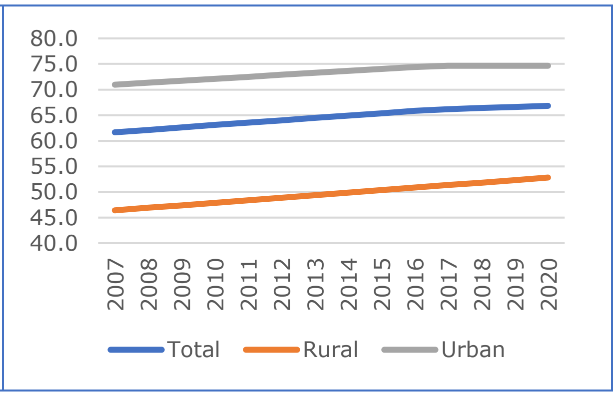



**Figure 9-8: Share of the population using safely managed drinking water services in Ecuador (%)**




Source: WHO/UNICEF Joint Monitoring Programme (2021), https://data.humdata.org/dataset/unicef-ws-ppl-w-alb; https://data.humdata.org/dataset/unicef-ws-ppl-w-sm

The share of the population using improved drinking water sources free of faecal and priority chemical contamination for Ecuador (Figure 9-9) has increased over the period 2007 to 2020, showing improved drinking water access. This share continued increasing after Ecuador acceded to the Agreement in 2017, although the growth trend slowed down somewhat – at the same time, this is not necessarily related to the start of application of the Agreement, but might rather reflect the fact that it is increasingly difficult and expensive to cover the last 10% of the population; in this context, we note that the share of the population using improved drinking water sources in Ecuador is considerably higher than in Colombia or Peru (see above).

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[225] Ibid.

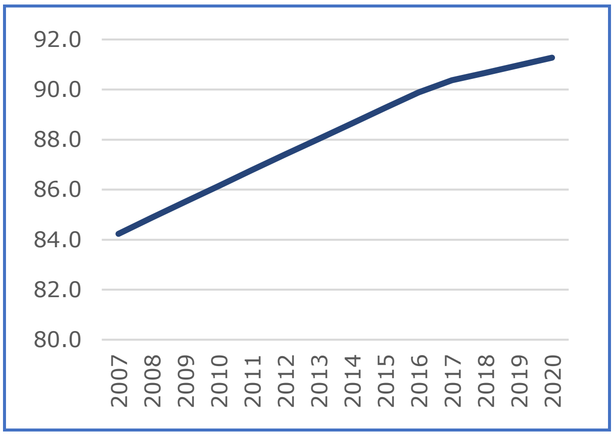
[226] ÚltimaHora Ecuador (2020). UE financia proyectos de agua potable por $6.1 millones en Ecuador: UE financia proyectos de agua potable por $6,1 millones en Ecuador | Ultima Hora Ecuador

[227] UN Human Rights Council (2017). Report of the Office of the United Nations High Commissioner for Human Rights, Compilation on Ecuador, UN Doc. A/HRC/WG.6/27/ECU/2; 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; UN Human Rights Council (2017). Report of the Office of the United Nations High Commissioner for Human Rights, Summary of other stakeholders' submissions on Ecuador, UN Doc. A/HRC/WG.6/27/ECU/3.

**Impact of the Agreement on the right to water in Ecuador**

*Quantitative analysis*

**Figure 9-9: Share of the population using improved drinking water sources free of faecal and priority chemical contamination in Ecuador (%)**




Source: WHO/UNICEF Joint Monitoring Programme (2021), https://data.humdata.org/dataset/unicef-ws-ppl-w-ava

The impact of the Agreement on the right to water stemming from polluting activities or intensive use of water in agriculture and aquaculture is mixed but limited. The economic modelling results show that the largest production effect stemming from the Agreement took place in the cereal grains sector (+2.1%see Table 6-7 in section 6.2.2). The vegetables, fruit and nuts sector has increased production by 0.8% as a result of the Agreement. Some of the products from this sector are rather water-intensive, e.g. bananas, and could have proportionately affected water availability. But also water quality could be negatively impacted due to the use of pesticides and fertilisers by banana producers (SENAGUA 2019). This effect is reinforced by lack of proper water management in banana producing farms in Los Rios, Guayas and El Oro, for example. Most other agricultural sectors have experienced marginal decreases in production, thereby positively affecting the right to water through less pollution and less water use for the production of these agricultural goods as a result of the Agreement (e.g. production of palm oil).

While not visible from the modelling results, cut flowers could also have had an impact on the right to water, because in the agricultural highlands where flowers are grown, extensive use of pesticides and fertilisers are having a negative impact on the quality of water – with implications for indigenous populations who depend on that water.

The fishing sector (shrimps) accounts for a minor increase of production of 0.3%. Because shrimp farms are in their majority located in and around the Garrapata river in the Cantón Chone, these moderate overall effects could be more pronounced in this region – and shrimps produced in the region are destined in part for the EU. Stakeholders have also expressed concern over water contamination and the negative impact this has on water quality and access to safe drinking water. This effect does not show in the overall change in access to water free of faecal and priority chemical contamination, but is likely to have had an impact locally.

The impact of the Agreement on output of the mining industry in Ecuador has been limited – while production of oil and coal has decreased, production of metals has increased by 0.03%. This implies that the impact on the right to water as linked to the pollution from mining activities is limited, too.

*Qualitative analysis*

A review of the literature related to the impact of the Agreement on the right to water shows that there is a concern about the impact of the high level of pollution from the energy and mining sectors, fishing sector (especially production of shrimps) and agricultural sectors (e.g. palm oil, bananas and broccoli). In addition, several reports state that high water use for agricultural production puts pressure on the access to safe drinking water for population of specific regions. Civil society is particularly concerned about increased production of shrimps on the right to water. Acción Ecológica states that as a result of the Agreement, shrimp farms along the river Garrapata in the Cantón Chone that are involved in production for the European market are responsible for contamination of water in these areas. Water pollution sets limitations to the enjoyment of the right to water by the adjacent communities, affecting water quality and access to safe drinking water. The issue is said to be most problematic for residents of small villages due to issues with the purification systems that are not able to filter out the toxic substances from the water (Acción Ecológica 2020; Tadeo Tadeo, Vinueza Salazar, and Machado 2018).

With respect to bananas and broccoli, some reports state that despite the existing regulations[228] fertilisers and other chemicals used in these sectors are often discarded into water sources, affecting the right to water (and right to health) of the adjacent communities; it is noted that diseases such as asthma, diabetes, cancer and kidney failure are common among residents of such communities (Heifer Foundation 2014; Daza et al. 2020). Apart from pollution, banana and broccoli production are also characterised as very water-intensive, affecting water availability.

Few respondents to the OPC from Ecuador provided an opinion related to the impact of the Agreement on the right to water or water quality. However, stakeholder views expressed through other consultation channels have shown that there is a general agreement about the fact that certain issues exist regarding the enjoyment of the right to water in the country, including the impact of business activities on water quality and water pollution; but none of the respondents indicated that the Agreement had an impact on the right to water in Ecuador. Some stakeholders also stated that access to clean water for peasant communities and/or indigenous women in rural areas is undermined due to the corporate impunity for contamination of water resources as a result of business activities.

In sum, the available evidence (indicators related to water, results of the economic modelling analysis, literature review and stakeholder consultations) indicates that the Agreement has not had a significant impact on the right to water in Ecuador overall. However, it should be noted that due to instances/concerns reported by several stakeholders, it is possible that the Agreement has contributed to the overall pressure on water in the country and could have played a minor role in affecting the right to water of local communities. Stakeholders noted that water pollution has increased from shrimp and aquaculture activities, and environmental analysis also notes increased water pollution of coastal communities (section 8.3.2.2). Also, some stakeholders stated that the right to water of people from the communities adjacent to banana and palm oil plantations is under pressure due to pollution from pesticides and fertilisers used in these sectors.

## *9.3 Conclusions and recommendations*

Overall, the impact of the Agreement on the enjoyment of human rights in the Parties is assessed as marginal for most human rights in the Andean countries, and no effects on the human rights situation in the EU could be determined. A more in-depth analysis was carried out for the Agreement's potential impact on three human rights in the Andean partner countries.

The Agreement is likely to have had a limited impact on the **right to freedom of assembly and association, incl. the right to join and form trade unions**. With regard to the economic impact channel, a number of mostly industrial sectors have been exposed to more competitive pressure in the Andean countries to cut costs, which could have put pressure against forming trade unions – but this effect seems to have been small. The same is true for (mostly agricultural) sectors in which employment has grown as a result

[228] The Ecuadorian Banana Cluster pointed out that the use of water and phytosanitary products in banana plantations in Ecuador is heavily regulated not only by the Phytosanitary Control Agency (AGROCALIDAD; see https://www.agrocalidad.gob.ec/wp-content/uploads/2020/05/guia4.pdf) but also by certification agencies such as GlobalG.A.P.

of the Agreement, but which are covered by special labour regimes in Peru and Ecuador. On the positive side, assistance projects and capacity building (also by EU Member States and European trade unions) and dialogue under the TSD Title between the European Commission and partner country governments, and civil society engagement have had positive, but rather limited effects. Last, but by no means least, the Agreement served as a lever to support the political dialogue between the EU and Colombia.

With respect to **children's rights**, child labour in all three Andean countries is mostly found in rural areas and informal economic activities. However, the governments have been addressing child labour through many initiatives, including awareness raising campaigns, providing jobs for adult household members, improving labour inspection capacity, encouraging better school attendance, and promoting certification schemes. In this context, the Agreement may have contributed to reduced child labour incidence through creating job opportunities for adults, mainly in agriculture, but also in textiles, garment, and mining sectors.

The analysis suggests no significant overall impact of the Agreement on the **right to water**. The baseline analysis indicates that all Andean countries have faced water pressure prior to the application of the Agreement due to climate characteristics of certain areas, a limited share of the rural population with access to safe drinking water facilities, and water pollution/pressure caused by business activities. Key indicators related to water have shown (minor) positive trends since 2007, with not changes in trends visible since the start of the Agreement's application. Changes in output of critical sectors for the right to water (mining, agriculture, fishery) have mostly been too limited to cause any material changes in the right to water situation. Nevertheless, we cannot exclude the possibility that increased production of certain water-intensive and/or water polluting products may have caused negative local effects in the areas where these products are produced. In line with this, several stakeholders from all three countries stated that they perceived the situation to have deteriorated over the last few years, in particular regarding the impact of various business activities on the enjoyment of the right to water of specific communities.

**Recommendations**

While the Agreement does not seem to have had a significant impact on human rights overall, in particular civil society stakeholders reported incidents of local/sectoral impacts and noted that in their view the commitments of the Parties to improve labour and other rights have not materialised so far. This indicates that further efforts are necessary. We put forward the following suggestions:

- Regional impacts on the right to water (via increases in water demand, and water pollution from fertiliser use) should be monitored – especially in Magdalena-Cauca and Orinoco regions (for Colombia), the Ica and Villacura valley (for Peru) and the Garrapata river (in Ecuador). While this is primarily the responsibility of the Partner country governments, it may require cooperation and assistance by the EU.

- Flanking the Agreement, the parties could also take into account existing water pressures due to climate characteristics of certain areas of Andean countries and the fairly low percentage of the rural population with access to safe drinking water facilities and create cooperation projects to address these root causes of vulnerabilities. This would help increase the resilience of the Ecuadorian economy to shocks, including small shocks like from trade agreements.

- In support of the technical assistance programme, create economic incentives for local agriculture and aquaculture to shift more rapidly to sustainable farming (e.g. sustainable palm oil production; sustainable banana production; sustainable shrimp production) for exports to the EU. This would help reduce the water footprint and thus pressure on the right to water.

- Use effective schemes that would link trade preferences to the respect of human rights by companies to promote corporate social responsibility and accountability. Further research into the most effective measures to incentivise companies to respect human rights may be necessary.

- We suggest that the EU support partner programmes aimed at strengthening protection of the rights of workers, in particular regarding working conditions, minimum pay, and safety at work. Effective monitoring of temporary service companies to make sure that the rights of workers are not violated through temporary positions with weak social protection is important too.

- Make use of the European Instrument for Democracy and Human Rights (EIDHR) to work closely with the implementation of the Agreement regarding labour rights and corporate social responsibility to ensure close cooperation and exchange of best practice in education, trainings and effective enforcement of labour legislation. Since the EIDHR provides annual reports on human rights, specific topics that are relevant in the framework of the trade agreement may need to be explicitly included to follow progress on those issues. Alternatively an action plan on human rights could be prepared for all the partner states, with clear time-bound targets and clear responsibilities of identified parties. Based on the analysis carried out in the evaluation, the following areas should be covered in the action plan: labour rights; labour inspection; child labour and forced labour; protection of human rights defenders and trade union representatives; prior consultation of indigenous peoples; discrimination; and corporate social responsibility. It is important that action plans are publicly available for the civil society to participate in the evaluation and monitoring of their implementation.

- Finally, we suggest carrying out targeted evaluations of the human rights impact of the Agreement at regular intervals of time (every three years as recommended by the European Parliament) to ensure proper implementation of the parts of the Agreement relevant for human rights (e.g. TSD Title) but also to assess whether other parts of the Agreement identified as possibly affecting human rights had any impact and if so, its nature, direction and degree. Many of the stakeholders welcomed further regular monitoring of the impact of the Agreement on human rights also as a chance to participate in the process of monitoring through the mechanisms of the trade agreement (e.g. civil society was able to submit complaints to the European Commission). A three-year interval has been supported by stakeholders as it exercises continued pressure on the parties to ensure effective implementation of their commitments and is likely to bring about more tangible results than a less frequent monitoring and assessment of the Agreement.

We also refer to the conclusions and recommendations made with respect to labour rights (section 7.4), corporate social responsibility (section 7.6), the implementation of the TSD Title (section 7.7), and the functioning of the TSD Title implementation mechanisms (chapter 10).

# 10 RESULTS OF THE INSTITUTIONAL AND PROCEDURAL ANALYSIS

This chapter analyses to what extent the institutional structures of the Agreement, both overall (section 10.1) and specific 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,[229] 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, as well as the **Sub-committee on Trade and Sustainable Development** comprising high level representatives from each Party responsible for labour, environmental and trade matters (Article 280). The TSD Sub-committee oversees the implementation of the TSD Title.[230] Our review is provided in section 10.2.
- **Civil society** advisory groups or **domestic consultative mechanisms** mandated to monitor implementation of the Title and provide recommendations to the Parties (Article 281). 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 (section 10.3).
- **Annual** (unless otherwise agreed by the Parties) **sessions** between the TSD Sub-committee and civil society and the public at large to pursue dialogue about the Title's implementation, ideally with a balanced representation of stakeholders (Article 282; see section 10.4).
- A specific **dispute settlement mechanism for the TSD Title** (Articles 283 to 285; see section 10.5)

## *10.1 Trade Committee and Sub-committees (other than the Sub-committee on Trade and Sustainable Development)*

The analysis in this section focuses on operation of the Trade Committee and eight Sub-Committees responsible for management of the Agreement and implementation of its provisions in practice. The Trade Committee, in addition to having an overall oversight of the Agreement's functioning and supervising work of all specialised bodies established in its framework, has the mandate to take decisions that are binding upon the Parties, which in turn are to take all the necessary measures to implement them.[231]

### *10.1.1 Review*

Trade Committee meetings have been 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

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[229] **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.

[230] 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.

[231] 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.

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 Government 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.

The operation of the Sub-committees is 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 sections of chapter 6 above.

### *10.1.2 Conclusions and recommendations*

The Trade Committee has 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.

Regarding concerns raised by the Parties however, while several of them were raised 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 always serve as a proper body for escalation of issues and their resolution or agreeing the way forward and mandating the Parties to take certain steps. Moreover, in cases like the government procurement, even the adoption of the Trade Committee decision did not solve the problem as issues emerged around interpretation of its provisions.

To enhance the functioning of the Trade Committee, the following recommendations are made:

- More consideration should be given to the role of the Trade Committee as a decision-making body, and in this context the role it can play in problem solving, notably in cases where a discussion at Sub-committee level does not bring about a satisfactory outcome over time. Considering that the experience showed the difficulty to unblock stalemate positions, the Trade Committee should provide political momentum for problem-solving, including by repackaging issues affecting different chapters, holding the Trade Committee meetings at the political level, and engaging Ministers for Trade and the Trade Commissioner (as foreseen in Article 12) to advance in the discussions.

- Moreover, with more time passing by since the Agreement's entry into force and with new developments taking place in international trade and global economy, including changes triggered by the covid-19 pandemic, the Trade Committee (acting within its mandate and powers granted to it by the Agreement) should consider taking decisions for improving the Agreement's implementation and amending the Agreement in a way that it will catch up with new developments and will achieve its objectives to a higher degree; in other words, the Trade Committee could assume a more strategic role for the functioning of the Agreement, as foreseen in Article 13(1)(f) and in Article 13(2)(c), (d) and (g).

- Given that cooperation activities and technical assistance facilitate the implementation of the Agreement, the Parties should continue and enhance the use of such opportunities, notably in areas where there is room for improving implementation (trade and sustainable development being one of the examples).

### *10.2 Contact points and Sub-committee on Trade and Sustainable Development*

*10.2.1 Review*

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 and partner countries' view, contact points are an effective element of the institutional structure, facilitating the preparation of TSD Sub-committee meetings, ensuring follow-up, and providing a channel for bilateral engagement with other Parties, a forum to discuss cooperation activities, and a link for escalation to the higher level of the respective administrations, including the Trade Committee.[232] During the consultations it was suggested that it would be useful to extend the contact point network and include also representatives of Ministries for Labour and Environment and the relevant Commission Services, as this would facilitate a direct dialogue between the Parties during the year in areas covered by the TSD Title, including discussions about and implementation of technical assistance and other cooperation activities.

The TSD Sub-committee has held its meetings annually. The EU is represented there by the European Commission's services and Colombia, Ecuador, and Peru by their respective Ministries responsible for trade, labour, environment, and climate change (Article 280(2)).

During the first meeting, the Sub-committee agreed that it would operate under the Rules of Procedure of 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). The TSD Sub-committee thus complied with the provisions of the Title and enabled the operation of the structures envisaged therein. The Parties also discussed their civil society consultative mechanisms envisaged to play the role foreseen in Article 281.[233]

At each meeting, the Parties also exchanged information about steps taken to implement the provisions of the TSD Title (see section 7.7 for more detail), changes in administrative capacity and enforcement, and discussed good practices and cooperation activities.[234]

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

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[232] To-date, interviews have been conducted with representatives of all Parties.

[233] 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.

[234] Examples are the EU project to promote CSR/RBC activities in Latin America, the project to promote sustainable mining (free from mercury) implemented by UNIDO in Colombia, the project to strengthen labour inspection in rural areas of Colombia implemented by the ILO, development of a manual for 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 include workshops on circular economy (Peru), and on labour conflict management and strengthening labour inspection capacity (also Peru).

in touch and start cooperating.[235] The EU raised the issue again in 2016, given that the EU DAG did not have clearly defined counterparts for a dialogue. Along the same line, the EU raised in 2018 with Peru issues highlighted later in the civil society complaint and, in 2019, the situation in the banana sector with Ecuador. In 2019, the EU expressed concern to Colombia regarding acts of violence against trade union and social activists. Ecuador raised a concern in 2018 with the EU regarding practices applied by European supermarkets in setting very low prices for bananas which do not allow for 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 shared view of all Parties, TSD Sub-committee meetings provide a useful forum for dialogue and cooperation on matters covered by the Title. The Parties, notably Peru, stress the value of regular meetings, which are not always taking place under other FTAs. Colombia emphasised the value of cooperation activities, technical assistance and exchange of good practice. These should continue and ideally be enhanced. 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 and policies to address them, and developing next steps in implementation, based on gradually developed trust and openness among the Parties, and increased transparency. The latter meant that most issues were discussed among all Parties (with a rare use of bilateral meetings) and reports from meetings have been published on DG TRADE's website since 2018. They provided occasion to discuss operation of civil society mechanism under the Title, matters of concern requiring actions from other Parties (e.g., Peru or Ecuador) and engagement over a longer term for their resolution.

*10.2.2 Conclusions and recommendations*

All Parties agree that the Contact Points established under TSD Title play well their role, and represent an effective element of the institutional structure in preparation for joint meetings and their follow up, planning cooperation activities and addressing concerns.

The Parties also agree that TSD Sub-committee meetings provide a valuable forum for exchanging information about implementation, and an opportunity to appreciate efforts already taken (e.g., to reduce child labour) and encourage new actions. They also provide an opportunity to discuss needs for technical assistance or interest in cooperation activities. This should continue, given that the Parties benefit from the exchange of experience in research, capability building or design and application of practical solutions covered by the TSD Title, based on their own practice and experience in the implementation of other trade agreements. However, based on the available literature and interviews, one can conclude that there are areas for further improvement, and these include the TSD Sub-committee's role in addressing shortcomings in implementation and dialogue with civil society representatives.

To further enhance the operation and effectiveness of the contact points and the TSD Sub-committee, we put forward the following recommendations:

- Moving forward, the Parties should consider extending the network of Contact points to also include the representatives relevant for labour, environment, and climate change to enable direct dialogue and cooperation between them during the year. According to

[235] 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 by Peru.

the Colombian representative, such a mechanism exists under Colombia's agreements with the US and Canada and is considered as very useful and supporting cooperation.

- Regarding the strengthening of the TSD Sub-committee for addressing implementation shortcomings related to TSD issues, we recommend the following:

  a. Issues of concern related to the implementation of the TSD Title should continue to be addressed. Examples are the commitment not to encourage trade or investment by reducing levels of protection (Article 277(1)) and not to fail to effectively enforce domestic labour or environmental laws (Article 277(2)), as well as commitments to effectively implement ILO core labour standards (Article 269(3)) and MEAs (Article 270(2)). This exchange of information constitutes the basis on which the Parties can further discuss and determine if any actions are required.

  b. Recognising that addressing certain issues or improving a given situation may take time, an approach suggested e.g. by Colombia should be considered. This would foresee a more frequent use of cooperation activities, including technical assistance and exchange of good practices, to strengthen administrative capacities and test solutions in the area of concern that are applied successfully by other Parties. In this context, the Commission could promote in a more visible way, e.g. through attachments to the minutes of the TSD meeting, the already ongoing cooperation activities with the Andean countries in areas relevant for the TSD Title, as these also demonstrate a commitment to address the identified problems and show the activity of the EU.

  c. Where needed, the Parties should continue to develop and agree lists of actions to be taken by the Party or Parties concerned, with related timelines, outputs, and responsible institutions (we understand that similar measures have been discussed and agreed under the Agreement). Subsequently, these, as well as other outcomes of the dialogue should be communicated more clearly to the civil society and other stakeholders than has been the case so far. Communication could take place verbally in meetings or in writing, e.g. in the TSD Sub-committee meeting minutes or in other documents published on a website or shared with members of the advisory groups/ domestic consultative mechanisms. Once adopted and communicated, such documents would enable measuring progress over time and provide a useful reference for dialogue between the respective government and civil society, as well as between the Parties and with other relevant partners, including international organisations (e.g. the ILO).

  d. If needed, matters should be escalated to the Trade Committee, including at the ministerial level, as this may also help to open possibilities for political decisions or solutions which may provide a momentum for new actions or decisions at the technical level addressing identified problems.

- Regarding the TSD Sub-committee's dialogue with civil society, notably advisory groups or domestic mechanisms, there is a need to provide the latter with better opportunities to contribute to discussions of the Parties by sharing results of the monitoring activities, submitting proposals (e.g., for cooperation activities) and raising concerns. There are different ways how this can be achieved:

  a. The first one would assume improvement of the domestic dialogue between the Government and civil society regarding the implementation of the Agreement and the TSD Title, including consultations before the TSD Sub-committee meetings, where the civil society could express views, share results of the monitoring, and formulate proposals, which would then be included into a briefing for the TSD Sub-committee meeting (this solution is applied e.g., in the EU).

b. To enable civil society's dialogue with all Parties, a dedicated meeting between all Parties' members of the TSD Sub-committee with all advisory groups or domestic mechanisms should be held as part of the joint annual meetings, immediately before the TSD Sub-committee session and contributing to it. This would emphasise a particular role of the advisory groups or domestic mechanisms in the monitoring of the implementation of the TSD Title and their advisory role to the Parties.

c. The Parties could envisage inviting members of the civil society advisory groups/domestic mechanisms to participate in the part of the TSD Sub-committee meeting dedicated to the follow-up of discussions from the previous year and findings from the implementation monitoring. The Parties would have an opportunity to state what actions they have taken to address civil society recommendations, and civil society representatives could report about their own activities, findings from monitoring and share new recommendations with the Parties as an input for their discussions in the TSD Sub-committee meeting. The Rules of Procedure of the Trade Committee, which also apply to the TSD Sub-committee, in Article 5 state that observers may be invited to the meeting on an ad hoc basis. This rule could be interpreted by the Parties in a way to allow the participating civil society representatives to also take the floor, i.e., to be active observers. Otherwise, the Parties could consider an amendment to the Rules of Procedure to include a provision similar to Rule 8 (point 5) of the Rules of Procedure of the EU-Canada Joint Committee, according to which the Co-chairs of the Committee may by mutual consent invite observers or independent experts to attend its meetings in order to provide information on specific subjects.

d. As an alternative, one could envisage a solution applied in 2014 under the EU-Korea FTA, where chairpersons of the EU and Korea domestic advisory groups joined the TSD Sub-committee meeting for the first agenda item to inform about work of the domestic advisory groups since the previous joint meeting and bring to the Parties' attention priorities and concerns of the civil society with a view of them being discussed by the Parties at the TSD Sub-committee session.

## *10.3 Domestic civil society mechanisms*

This section reviews the 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 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 emphasises civil society's importance in trade policy delivery.[236]

### *10.3.1 EU Domestic Advisory Group (EU DAG)*

#### 10.3.1.1 Review

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, also providing three out of 12 members of the group. 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

[236] 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.

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.[237] It meets twice a year to discuss the implementation of the TSD Title internally and with the Commission, and to prepare the annual joint meetings with the 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 the secretariat, funds for travel, meeting venues and other elements of logistics. Thanks to this and to its early establishment, the EU DAG has been able to monitor the implementation of the TSD Title, convey concerns of the partner countries' civil society to the Commission, participate in all open sessions, and lead 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.

For the evaluation, we have interviewed eight EU DAG members serving under the term ending in 2020. Their reflections regarding the work of the DAG and recommendations for changes and improvement in the future are summarised here while further details are provided in Annex F-2. Accordingly, EU DAG members appreciated the opportunity for dialogue with the Commission and wished to have more engagement with the European Parliament and an opportunity to use advice of EU Delegations. On the other hand, they regretted the lack of proper follow-up to civil society recommendations by the Parties. Regarding EU DAG meetings, in their view, too much attention was dedicated to the process and challenges faced by the partner countries (even if it is true that their problems are serious) and relatively too little time was spent on considering impacts for and compliance by the EU and on cooperation activities. There was also a feeling that more can be done to cover in discussion the whole scope of the TSD Title and that two meetings per year do not offer sufficient time to follow-up to and prepare for annual meetings, and to monitor implementation (an additional meeting or workshop would be very much appreciated in this context). Moreover, information about the date and agenda of an EU DAG meeting should be shared more in advance to facilitate preparation, which could also be supported by the assistance of external experts (e.g. research notes supporting discussions at DAG meetings or annual meetings). EU DAG members also appreciated the assistance project financed by the Commission, and some observed that to fully use the opportunities offered by the Title, civil society representatives should work more towards consensus and all DAG members and groups should be treated equally.

In the Commission's view, meetings with EU DAG and the exchange of views are important, and the Commission raises with the Andean partner countries concerns discussed with the EU 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 the reiteration of positions. Moreover, regarding civil society conclusions presented at the 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 initiatives or actions to be taken by the Parties.

#### 10.3.1.2 Conclusions and recommendations[238]

Overall, the process of establishment and operation of the EU DAG have been assessed positively, however, there are areas where further improvement is possible:

- To the extent this is not the case yet, the EU DAG Secretariat should consider inviting for the EU DAG meetings Members of the European Parliament or arrange meetings for the EU DAG or its Presidency with the INTA Committee or the EP Delegation for relations

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[237] EU Domestic Advisory Group: https://www.eesc.europa.eu/en/sections-other-bodies/other/eu-colombiaperuecuador-domestic-advisory-group

[238] Conclusions and recommendations regarding annual joint meetings and dialogue between the governments and civil society are provided in section 10.4.

with countries from the Andean Community, or the rapporteur for the Andean countries. This would provide the EU DAG members with an additional channel for dialogue and raising concerns to be conveyed later by MEPs to the Governments and Members of the Parliaments from the Andean countries.

- Likewise, to support EU DAG's monitoring role, guest speakers could be invited for EU DAG meetings, or an additional meeting or workshop could be organised each year. This should not represent a substantial burden for EU DAG members, but could provide an opportunity to learn about and discuss wider aspects from within the scope of the TSD Title. Interlocutors could include representatives of the ILO, OECD, ECLAC or other international and regional organisations having offices in the Andean countries, selected national institutions (e.g. promoting women's participation in trade), civil society and private sector representatives, and academia from the EU, Colombia, Peru, and Ecuador. Meetings could be held in virtual format to reduce time needed for participation and organisational costs.

- Given that the current EU support project for civil society participation in the TSD Title implementation envisages the possibility of undertaking studies or analysis for the DAG members, there should be the option of requesting such materials on specific subjects, e.g. to facilitate preparation for a joint meeting. Commissioned studies or additional workshops could be shared with the Andean DAGs or domestic consultative mechanisms to support cooperation, their monitoring role, and capability building. In this context, it is to note that due to holding the joint annual meetings and EU DAG meetings virtually in 2020/2021, civil society's participation costs were reduced substantially and therefore, if project budgetary rules allow for it, more money from the project budget could be spent on content-based support for EU and Andean DAG members.

- Building on such support and own capability, EU DAG members would be expected to cover a wider spectrum of aspects under the TSD Title and provide the Commission with more in-depth analysis and concrete recommendations. The EU DAG Secretariat should support this process by planning meetings and informing about them well in advance to allow enough time for preparation. Better organisation of work might also be supported by an adopted work programme and better coordination of DAG members within each of the three sub-groups, or ad hoc thematic working groups to prepare presentations and other materials for joint meetings.[239]

- The Commission should use the opportunity of meetings with the EU DAG to provide information about follow-up activities after joint meetings and actions taken on its own or with the Andean countries to address civil society recommendations. It should also ensure that EU DAG members can contribute to the choice of topics or priorities for cooperation activities with the Andean partner countries and their civil society.

### *10.3.2 Colombian Domestic Advisory Group*

#### 10.3.2.1 Review

Colombia, like Peru, originally chose existing domestic mechanisms to perform the role of a DAG. For labour, it was the Permanent Commission on Salaries and Labour with 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 the national and sub-national governments, scientific institutions, universities, NGOs,

[239] Some recommendations in this chapter have been inspired by the ongoing discussion among EU DAGs on how to improve implementation of TSD chapters. The outcomes of that discussion are presented in a non-paper titled "Strengthening and improving the functioning of EU trade Domestic Advisory Groups".

indigenous and afro-Colombian peoples' organisations, and sectoral bodies representing the agricultural, industrial, forest, mining, and export sectors.[240]

However, as raised by civil society representatives from Colombia and the EU (EESC REX 530, Iuliano, 2020), these bodies did not comply with the spirit of the TSD Title because they included government representatives, therefore not guaranteeing the independence of the civil society consultative mechanisms.[241] Moreover, as highlighted by Colombian civil society representatives, the mechanisms did not provide an opportunity for genuine dialogue but rather an occasion for the Government to share information 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.[242] The DAG has three sub-groups, each taking the rotating Presidency for one year. In this context, two interviewed members of the Colombian DAG shared the following observations (details are provided in Annex F-2): The work of the DAG would benefit from holding more than one meeting a year and having a technical secretariat helping in the management of meetings, as well as supporting research activities. Moreover, a genuine dialogue with the Government would be appreciated, as well as a consultation of DAG members before the TSD Sub-committee meetings. The Government should also demonstrate its will to address and resolve issues being raised as concerns, including violations of trade union rights and acts of violence against trade union activists in Colombia.

Representatives of the Colombian Government reiterated in an interview information provided at the TSD Sub-committee meeting in 2020, i.e. that meetings take place both with the independent DAG and the domestic consultative mechanisms notified under Article 281 of the Agreement. The Government regretted a relative lack of initiative from the independent DAG, saying that all meetings had taken place on the Government's initiative and invitation, the Government had to propose their agendas and DAG members had not responded to an invitation to provide proposals for cooperation activities. The Government rejected the idea of financially supporting the independent DAG, stating that public money could not support private mechanisms, and that the independent DAG could not replace the mechanisms notified to the other Parties. It expressed, however, the willingness to cooperate with the DAG, including under joint projects. Colombia also requested technical assistance for its DAG at the joint meeting in 2020.[243]

#### 10.3.2.2 Conclusions and recommendations

While progress has been made over time in the establishment and operation of the civil society mechanisms, i.e. the independent DAG and the notified domestic consultative mechanisms, their dialogue with the Colombian Government, and their dialogue with other Parties to the Agreement and their civil society representatives, there is still room for improvement:

- The Colombian DAG should consider holding more (e.g., two or three) meetings a year to discuss the implementation of the TSD Title, prepare for annual meetings and ensure their follow-up. In case the current members do not have time/capacity to meet such a requirement, then the DAG membership and participation in meetings should be based on organisations rather than concrete individuals. Then, if needed, a DAG member could

[240] Based on information provided by the Government of Colombia.

[241] It should be noted that the Agreement text does not mention explicitly such independence, nor that the advisory groups should have only civil society members.

[242] However, it is to note that in the interview for this study, the Colombian Government representatives still referred to the originally chosen mechanisms as the primary ones, with the independent DAG being recognised but considered a "private undertaking."

[243] Minutes of the 2020 TSD Sub-committee meeting, https://trade.ec.europa.eu/doclib/docs/2021/january/tradoc_159256.pdf

be represented in meetings by another person from the same organisation, preserving the same rights for participation, discussion, and decisions.

- It is a shared view that the Colombian DAG would benefit from strengthened capacity and additional support. Ideally, such a support, including in financial terms, would come from the Colombian Government. However, for as long as it is not possible or not being considered an optimal solution, it should be provided by the EU in cooperation with other actors, when appropriate. The European Commission could provide funding (from the TSD support project or technical assistance related to implementation of the Agreement, e.g. a broader project supporting capacity development of civil society organisations) for the secretariat function, which could be provided either by one of the civil society organisations, members of the Colombian DAG or an external supplier. The secretariat function could either have only an administrative nature (preparing agenda and minutes from the meeting and organisation of meetings) and therefore require a very limited time engagement during the year and a very limited funding, or it could also cover some content-based work, such as own research and cooperation with academia, international organisations, and wider civil society to collect information and data in support of the monitoring and advisory function of the DAG.

- Other options for capacity and capability building of the Colombian DAG should also be considered, including sharing best practice from the EU side and other Andean Parties, participation in joint workshops (suggested in recommendations for EU DAG), as well as sharing information and data related to the operation of the Agreement. Other proposals for such activities should come from the members of the Colombian DAG and help to address the identified shortcomings. The assumption would be that all actions taken will be used by the Colombian DAG members to improve the work of the DAG and how it plays its role in the dialogue with the Colombian Government and with other Parties and civil society representatives, e.g., during the annual joint meetings. This would include the approach to joint objectives of the TSD Title and constructive cooperation of all DAG members in work on joint civil society conclusions and recommendations to the Parties with an outcome being approved by all DAG members from all Parties. This would mean a departure from a recent situation of some members leaving joint meetings and not approving joint texts.

- It is a shared view of the Colombian Government and civil society, notably Colombian DAG members, that domestic dialogue related to the implementation of the TSD Title does not meet expectations yet and requires improvement. However, the two sides expressed diverging views regarding the reasons for the limited effectiveness and the way forward. Our recommendation is that both sides take a constructive approach. The DAG should consider inviting representatives of the Government (the Ministries of Trade, Labour and Environment) to its meetings to discuss implementation of the TSD Title, and the Government should demonstrate openness to talk about the preparations for the TSD Sub-committee meetings and the follow-up to these, the implementation of the TSD Title and the Agreement and its impacts. These topics can also be discussed in the bodies notified under Art. 281 to secure contribution and engagement of wider civil society and all relevant actors. We note in this context information provided by the Colombian Government at the 2020 TSD Sub-committee meeting about the workshop held with trade unions to support an analysis of impacts of Colombian trade agreements with different partners. Such an event may provide inspiration for similar ones in the future. DAG members could also provide ideas for other cooperation activities, given the Government's openness to pursue them.[244]

[244] The Colombian Government and civil society could also consider a solution recommended below for Peru, i.e. to support a domestic consultative mechanism under the TSD Title composed of two parts, i.e., the DAG and the bodies notified under Article 281, with the latter providing additional expertise and research capacity for the former, as well as contribution for meeting commitments under the TSD Title.

- The Colombian Government signalled in an interview with the evaluation team an idea of cooperation with the civil society, including e.g. a dedicated website. We recommend implementing this idea to increase transparency, information sharing and inclusion of a wider group of stakeholders into a dialogue about the Agreement and its TSD Title. Such a website could be part of the website of the Ministry of Trade (as it is the case of DG TRADE's website) and could include information about the TSD Title and its implementation, dialogue with civil society, cooperation activities, and others.

### *10.3.3 Ecuadorian Domestic Consultative Council (DCC)*

#### 10.3.3.1 Review

According to information provided by four members and one observer of the Ecuadorian DCC, the Ministry of External Trade launched a consultation process with civil society in 2018,[245] including 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 and a half 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 rotational basis (the President is elected for 10 months, so that each of the three sub-groups can have a Presidency during the term, and manages DCC meetings cooperating with the two remaining coordinators). The DCC holds its meetings quarterly.[246] Before the covid-19 pandemic, regular meetings with the Government were held, as well as contacts with the Colombian and Peruvian civil society.

The interviewed members of the DCC shared the following observations (more details are provided in Annex F-2): While funding provided by the EU is appreciated, it is dedicated mainly to supporting the participation in annual meetings; it does not cover needs related to the DCC's monitoring role and daily operation. Additional funds for research and a technical secretariat would help a lot in this respect and would also facilitate dialogue with civil society from other Parties, as well as Ecuadorian institutions, EU Delegation, and other actors. DCC members would also need support in access to trade statistics and see a need for engagement with representatives of the Ministry of Agriculture, given its relevance for TSD Title and trade with the EU more generally.

In 2020, trade union members of the DCC expressed their protest against the lack of follow-up by the Ecuadorian Government of ASTAC's complaint and a too soft position of the Commission, and left the DCC.

At the 2020 TSD Sub-committee meeting, the Ecuadorian Government informed about dialogue with the DCC including a seminar held by the latter on circular economy, a meeting to discuss preparations for the TSD Sub-committee and another one planned for December 2020 about trade with the EU in the post covid-19 situation. The Government expressed concerns about the withdrawal of the trade unions from the DCC and the unclear situation it created for the operation of the DCC. In 2021, a new DCC was established,

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[245] 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

[246] Information based on interviews and text of the rules of procedure shared with the evaluation team.

following the end of terms of the previous one; the new mechanism has representatives of all three sub-groups.

#### 10.3.3.2 Conclusions and recommendations

Both the Government and civil society praised the process of consultations leading to setting up a DCC, as well as its composition, the ways of working, and dialogue with the Government and other Parties and their civil society representatives. However, there is still a need to support the group and strengthen its capacity. Moreover, there is a need for further dialogue between the Government and trade unions (as well as employer representatives) regarding working conditions and respect for worker rights, including freedom of association, in the main exporting sectors in Ecuador. While in 2021 a new DCC was established with all three sub-groups, including trade unions, there is a need to ensure that problems raised under the previous DCC term are not dropped from the agenda and considered as solved only with the change of the composition of the DCC.

We recommend similar actions as for the Colombian DAG:

- As in the case of the Colombian DAG, the most appropriate way of providing support would be if it came from the Government. In case this is not possible for now, support to the DCC could include the provision of EU funding for a secretariat function, either with administrative tasks, as outlined in the DCC Rules of Procedure, or with a research capacity to support monitoring and advisory role of the DCC. In case direct support was not recommendable, there might be a possibility for the DCC to apply for support for civil society capacity building provided by the EU or potentially available from other sources. Moreover, further to a request of the Ecuadorian Government to help to strengthen capacity of the group, other activities could be considered in consultation with the DCC. These could include best practice sharing, workshops for participation of DAG/domestic consultative mechanisms' members from the EU and the Andean partner countries, and others. Also, the possibility of the DCC to request small-scale research projects financed from the EU TSD project (either for DCC only or requested jointly with the EU DAG) could be considered. Explored could also be a possibility of having a dedicated website with information about the Agreement, the TSD Title and dialogue between the Government and civil society, as well as DCC activities. The website could be hosted by the Ministry of Trade or one of the organisations, from among DCC members or observers. The DCC secretariat could ensure that information on the website is kept up to date.

- Further to a request from the DCC to have better access to information and data about the Agreement, notably trade statistics, the Government could use the opportunity of meetings with the DCC to share information and data.[247] Moreover, unless this is already the case, the EU Delegation and the EU DAG could share systematically with the Ecuadorian DCC (and equally, civil society in Colombia and Peru) available information and data, e.g., from the EU annual FTA implementation reports, with the chapter on the Agreement being translated into Spanish to be accessible for civil society.

- To enable proper operation of the Ecuadorian DCC and a genuine dialogue in the context of the TSD Title, the Government should continue to engage in discussions with trade unions and employer representatives about freedom of association and working conditions in the banana sector, including aspects raised in ASTAC's complaint.

[247] Based on information provided by the Government of Ecuador, this type of information is shared with the DCC and is also available on a dedicated website.

### *10.3.4 Peruvian domestic mechanisms*

10.3.4.1 Review

The Peruvian Government decided to use existing domestic consultative mechanisms led by the Ministry of Labour and the Ministry of Environment. 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.[248] These are tripartite bodies comprising Government representatives, employer associations and trade unions. In 2021, the National Council for Labour and Promotion of Employment issued a report reiterating its role as the national, tripartite forum for social dialogue. In this context, the Government confirmed its choice of the Council as a body acting as domestic consultative mechanism for labour-related aspects under Article 281 of the Agreement.

The provisions of Article 281 are quite limited (compared to other EU FTAs) with respect to the requirements that the domestic consultative mechanisms must fulfil. For example, they do not require independence of the advisory groups or committees, only their balanced composition, and they do not say explicitly that these should be civil society mechanisms, nor that Government representatives or other institutions cannot be part thereof. Therefore, the mechanisms chosen by Peru, even if peculiar, are not in breach with the provisions of the TSD Title as such. However, according to the civil society, because the mechanisms are managed by the Government which also sets their agenda, they are not in line with the spirit of the TSD Title and the idea that those groups should monitor implementation of the Title, hold Governments to account, and provide independent views and advice. They cannot thus be considered as independent advisory groups or committees providing recommendations to the Peruvian Party (or the 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. According to the interviewed members of the Peruvian civil society, while these bodies have in their remit labour-related aspects which 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 their participation in work of the National Council for Labour and Promotion of Employment (Martens, Potjomkina, and Orbie 2020).[249]

In the area of environment and climate change, Peru has numerous bodies and technical groups, including the Climate Change Commission, the National Commission for Biological Diversity, the National Commission for Desertification and Droughts, the National Commission for Wetlands, and the National Environmental Commission. They 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 those bodies do not have the mandates covering the whole scope of the TSD Title, the Government representatives are, as mentioned above, among their members (hence, the bodies cannot clam being independent to provide advice to the same Government) and their agendas focus mainly on domestic issues, while the TSD Title and its implementation are not discussed as such. What improved after the

[248] 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 of the 2018 TSD Sub-committee meeting.

[249] 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).

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 per year between the civil society and the Peruvian Government to discuss trade agreements and the 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 remaining until then 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 the 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 who are at the same time members of the formal domestic consultative mechanisms). As regards recommendations for further steps and improvements, civil society representative stressed that the institutional mechanism under TSD Title should be strengthened, including funding for civil society to participate in meetings and exercising its monitoring role. The Parties should also be obliged to ensure follow-up to civil society's recommendations (further details in Annex F-2).

In interviews for the evaluation, representatives of the Peruvian Government stressed that the Agreement with the EU is the best they have from the point of view of the operation of the institutional structures under the TSD Title, the frequency of meetings and holding them regularly, and the dialogue and engagement they create.

10.3.4.2 Conclusions and recommendations

While Article 281 leaves up to discretion of the Parties the choice of the format of the domestic consultative groups or committees and does not set out many requirements for these, one should assume that the overarching requirement should be that these mechanisms are effective in exercising their role in monitoring implementation of the TSD Title and providing advice to the Parties. There has been a view that the way the mechanisms chosen by Peru operate, their composition (which includes Government) and the lack of transparency and coordination in relations with the EU and other Parties has represented a barrier in dialogue and cooperation under TSD Title. There is a recognition that the situation has improved further to the joint meeting in Quito in 2018 and that the Government has engaged in a discussion with civil society, including members of the autonomous DAG, on the TSD Title, however, there is room for further improvement:

- Given the preferences of the Government and civil society regarding the composition and operation of the domestic consultative mechanism, one could think of an agreed reform of the existing set-up towards a hybrid structure which would build on the strengths of the current solution but would also address its shortcomings. The new structure would bring together a reformed DAG, building on the autonomous group and the groups notified under Article 281.

  a. The DAG would be recognised by the Government, other Parties to the Agreement and their civil society as representatives of the Peruvian domestic mechanism under the TSD Title. The composition of the group would build on the current one but would be extended to also include business representatives and some representatives of the bodies notified under the Article 281 to ensure that the whole spectrum of topics covered by the TSD Title is also covered by the group. The final composition would be agreed by the Government and the civil society, and the so enhanced DAG would also be seen as a group of "spokespersons" representing the bodies notified under Article 281. The group would hold its meetings two-three times a year, would set up its agenda to cover the whole TSD Title and interests of all three sub-groups, would invite Government representatives (Trade, Labour and Environment) to participate in the open part of those meetings to discuss implementation of the TSD Title and preparation for and follow-up to annual joint meetings with other Parties, and would interact with bodies notified under Article 281 and wider civil society to gather views and evidence regarding implementation of TSD Title in Peru and recommendations.

b. The bodies notified under Article 281 (described at the beginning of this section) would form the other part of the domestic consultative mechanism and its research foundation. They would continue their statutory role in work on domestic legislation and policies in areas covered by the TSD Title and cooperating with the Government they would play a role in helping Peru to meet its commitments under the Title, e.g. contributing to the reduction of child labour and forced labour or implementation of the commitments related to MEAs, biodiversity, climate change and others. Members of those bodies would also provide expertise, research, data and information, and advice to DAG members, thus supporting monitoring and advisory role of the latter. In this way, members of the notified bodies could provide inputs to work of the DAG filling in the gap, which has been identified as a weakness of the DAGs in general, i.e., insufficient access to and the use of external research. The whole mechanism would be kept under review and adjusted, if needed.

- An alternative solution could be to introduce flexibility in the ways the National Council for Labour and Promotion of Employment works in its role under Article 281 of the Agreement to ensure that the employer associations and trade unions may hold meetings without the participation of the Government. During such meetings, the employers' and workers' representatives could discuss between themselves any potential advice to be put forward to the Government, and any issues of mutual interest or concern to raise with the Government during the plenary sessions of the Council. In addition, employers and workers would retain the right to present to the Government the advice and to flag concerns on behalf of their group (members). Similar arrangements would need to be introduced in the other bodies notified by Peru. Also, the Government should commit that at least once or twice a year the agenda of meetings of the notified bodies include matters covered by the TSD Title, any progress (or lack thereof) in their implementation and proposals for next steps, as well as other related matters, e.g., working conditions in exporting sectors or cooperation proposals and preparation for annual meetings under the TSD Title.

- Similarly, as it was recommended for the DAGs in Colombia and Ecuador, also in this case, we recommend support for the DAG in the form of a technical secretariat that could either be sponsored by the Peruvian Government or the EU side, along with funding for participation in annual joint meetings, when held in person.

### *10.3.5 Joint meetings of civil society representatives*

#### 10.3.5.1 Review

Like under other EU trade agreements with TSD chapters, the EU and partner country 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 the TSD Title's 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. In interviews held with civil society, the following views were expressed on the joint meetings (details are provided in Annex F-2): It was acknowledged that DAG-to-DAG meetings are informal, however, they should be recognised by the Parties in view of the role envisaged by the TSD Title for DAGs/ domestic consultative mechanisms. Moreover, interviewees expressed dissatisfaction with the inability of DAG/consultative mechanisms' members to reach an agreement on joint recommendations to the Parties. In this context, they suggested that draft texts should be shared earlier (prior to joint meetings) to give more time for a discussion and finding a position acceptable to all participants.

Workshops accompanying annual meetings also take place, 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's participation in the implementation of the TSD Title.

10.3.5.2 Conclusions and recommendations

DAG-to-DAG meetings are an important element of the annual meetings and provide an opportunity for civil society members to discuss implementation of the TSD Title and discuss and agree joint positions (recommendations) to be shared with Parties to the Agreement. We recommend the following:

- DAG-to-DAG meetings should continue as part of joint annual meetings and ideally be supported by the Parties through funding for the civil society to travel, when meetings are held in person, and through recognition of recommendations presented by the civil society representatives at the open session and ensuring their follow-up.

- DAG-to-DAG meetings should be prepared in advance to allow time for reflection and internal consultations, with DAGs from all Parties cooperating in agreeing the agenda, collecting evidence about implementation of the TSD Title, developing presentations and other materials and engaging in a discussion on recommendations to the Parties. All DAG members should take a constructive approach and be committed to act in line with sustainable development combining three dimensions, i.e., interests of all three sub-groups. In case of diverging views, DAG members, in cooperation with the host of the annual meeting should consider inviting a facilitator, e.g., an ILO representative or a representative of another international organisation relevant for the TSD Title to help achieve a satisfactory outcome. The basis for a compromise could be provided by the existing international recommendations. In this context, we note that cooperation between Governments, employers, and trade unions within the ILO bodies, including on adoption of labour standards could provide a reference point, in particular given that some DAG members (organisations and / or individuals) participate in ILO meetings as national delegates and have experience in working on a compromise.

## *10.4 Annual sessions of the TSD Sub-committee with civil society and the public at large*

### *10.4.1 Review*

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 TSD Title. In practice, such sessions have been organised annually, at the occasion of the TSD Sub-committee meetings, usually 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 members of all DAG/DCC/consultative mechanisms, if they have a joint document. This in turn is followed by questions and answers, as well as positions expressed by individual participants. In the first few years, the lack of financial support from their own governments made it impossible for civil society representatives from Colombia and Peru[250] 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 the TSD Title, including annual joint meetings.[251] Since then, the situation has changed and, e.g. in the meeting in Bogota in 2019, civil society representatives from all Parties were present.[252]

Civil society representatives shared the following views about the open sessions (for further details, see Annex F-2): While there was an appreciation that the quality of the dialogue at the open sessions improved, there was also a feeling that the formula of the open sessions does not allow for an in-depth conversation and does not acknowledge the special role of the DAGs/domestic consultative mechanisms under the TSD Title. Therefore, it was proposed that DAG members meet with representatives of the Parties prior to the TSD Sub-committee meeting and that such a discussion would provide an input to the discussion between the Parties. Moreover, there was a frustration that the Parties do not ensure any visible follow-up to recommendations from civil society shared at the annual meetings.

### *10.4.2 Conclusions and recommendations*

Dialogue between Governments and civil society representatives constitutes one of the key elements of the TSD Title's implementation and operation of its institutional mechanism. However, an insufficient follow-up to civil society recommendations by the Parties has been the most frequently raised concern or a frustration in interviews carried out for this study, with civil society representatives.

In this context we recommend the following:

- Dialogue between Governments and civil society representatives should continue and ideally be strengthened, e.g., by holding a TSD Sub-committee meeting with DAG/ domestic consultative mechanism representatives (different options to be considered in this context have been provided in section 10.2.2). Participation of civil society representatives in joint annual meetings should continue to be supported financially, notably when meetings are held in person.

- Regarding the follow-up to civil society recommendations, we note that while the Agreement with the Andean countries does not include a corresponding provision, inspiration for a positive solution may be taken from other EU FTAs. For example, a provision with a commitment of follow-up to civil society views by the Parties was

[250] In 2014-2016, no representatives of Ecuador participated in the annual meetings given that Ecuador became a Party to the Agreement only in 2017.

[251] 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

[252] 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.

agreed 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."[253] Moreover, even though there is no such a provision in the EU agreement with Central America, the Commission and the Central American Governments have been following a practice of discussing follow-up to the civil society recommendations at the meetings of the TSD Board.[254] A similar practical solution could be agreed and followed by the EU and the Andean partner countries. In addition, points highlighted in recommendations could be discussed as part of domestic dialogue by the Government of one Party with its own civil society.

- To facilitate this kind of a dialogue and follow-up, civil society representatives should consider making their recommendations more focused and operational, thus making it easier to hold the Parties to account, but also to enable the Parties to demonstrate that progress has been made. For example, at the joint meeting in December 2016 civil society adopted recommendations stressing importance for Colombia to ratify the Paris Agreement on climate change and the Minamata Convention. They were subsequently ratified in July 2018 and August 2019, respectively.[255] Even if the civil society's voice may represent in such cases one of several factors triggering an action, further to a concrete recommendation, the Government may show that it has addressed matters being of importance or a concern for civil society. Focused recommendations may also outline a step-by-step approach in more complex situations where a substantial change may be possible only over a longer time or when it requires significant resources.

- Moreover, civil society should consider choosing priorities (on its own or jointly with the Governments) for the TSD Title for a year or another period. This could help to structure the conclusions and recommendations around a limited number of topics and to focus discussion and implementation efforts, including cooperation activities and technical assistance, on them. Priorities should be selected in a way to ensure that each sub-group in the DAG (business, trade unions and NGOs) and pillar (economic, social, and environmental) have their interests covered.

## *10.5 TSD dispute settlement mechanism*

### *10.5.1 Review*

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 the TSD chapters (European Commission 2018).

Regarding Peru, in July 2018, Trade Commissioner Malmström sent a letter to the Peruvian Minister for Trade expressing concerns over implementation of the TSD Title. It 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, the need to eliminate child labour and informality, and to strengthen 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

[253] See text of CETA: https://ec.europa.eu/trade/policy/in-focus/ceta/ceta-chapter-by-chapter/

[254] 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

[255] See recommendations from the joint meeting in 2016: https://www.eesc.europa.eu/sites/default/files/resources/docs/joint-declaration_dag-to-dag_dec-2016_en.pdf

at the annual meeting of the TSD Sub-committee in Quito in December 2018. Based on discussions between the Parties, Peru presented the policies in place (and in planning) to address the existing challenges and committed to engage actively in a dialogue with civil society on TSD implementation, in line with Article 281 (European Commission 2018b).

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 have 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 dissatisfaction about the lack of follow-up by the Parties to civil society conclusions and recommendations which could be seen as an early warning highlighting concerns over a situation in the Parties to the Agreement. There was also a feeling that the Commission's position and engagement with Ecuador was insufficient and that more effective would be a solution applied by Canada, the US or the European Parliament (and its human rights roadmap for Colombia) setting up a roadmap with actions to take, timeline and responsible institutions. Some stakeholders also were of the view that the Commission should be more active in engagement with partner countries and build on lessons learned from the dispute with Korea. This would include a more active use of the existing dispute settlement mechanism, but also other forms of cooperation and dialogue and technical assistance. Finally, some stakeholders expressed a preference for a sanction-based dispute settlement to be applicable also to the TSD Title. In this context, we note that the Commission has, e.g. in relations with Peru, followed a focused approach, agreeing on a set of actions to be taken by Peru, as well as organising technical workshops and exchanges of good practice. However, reporting on these activities and their results could have been clearer and more precise. We note however, that this has already improved, as e.g. they are listed in the minutes of the fifth TSD Sub-committee meeting.

*10.5.2 Conclusions and recommendations*

While there is an acknowledgement of a slight improvement of the situation in Peru since the meeting in Quito in 2018, and partner countries have achieved progress, e.g., in elimination of child labour or strengthening capacity of inspection services, there is also a view that more substantial changes are needed to address recommendations and concerns raised by the international organisations and civil society. There is also a view that more should have been done by the Andean partner countries since the entry into force of the Agreement and therefore, there may be a need for the EU side to adapt the approach to generate better results in relations with partner countries.

- In this context, as outlined in section 10.2, several options could be considered, with the overarching principle that each Party should ensure compliance with its commitments under the TSD Title and that the TSD provisions should be treated equally with provisions in other parts of the Agreement (e.g. on tariffs), while bearing in mind a distinct dispute settlement for the TSD Title. First, the EU and the governments of the Andean countries should improve their communication with civil society about the outcomes of the TSD discussions. Such a document setting out the actions to be taken, the timeline, responsible institutions, and a process enabling a regular review of results achieved, could provide a good basis for dialogue between Parties, and between the Parties and civil society, and for measuring progress. Another, complementary, option would assume a broader and more frequent use of technical assistance addressing identified shortcomings. Civil society should be given an opportunity to have a say in the choice of priorities for cooperation and assistance, and – where relevant – projects should also involve civil society representatives and most affected groups.

- The Single-Entry Point, i.e., a possibility to submit complaints against violations of TSD provisions should also be made known to civil society representatives. However, it will only be available for EU-based stakeholders, therefore, one should assume that civil society organisations based in partner countries will be able to submit complaints using intermediation of EU partner organisations (FIDH note; European Commission, November 2020).

- Finally, while engagement, dialogue and positive agenda dominate the EU's approach, in cases where there is no progress over a longer time or the situation worsens, the EU should consider using the dedicated TSD dispute settlement mechanism to assess the case and to recommend concrete actions to remedy the situation. The dispute with Korea resulting in ratification of three out of four outstanding ILO fundamental conventions demonstrates that the use of this measure, together with other enabling factors, may bring about tangible results.

# 11 COMPARISON OF EVALUATION FINDINGS WITH THE ANDEAN SUSTAINABILITIY IMPACT ASSESSMENT FINDINGS

A broad range of potential sustainability effects were identified at the Agreement's negotiation stage, in particularly in the 2009 EU-Andean Trade Sustainability Impact Assessment (Development Solutions, CEPR, and University of Manchester 2009), mostly relating to undesired social and environmental effects of increased output and sectoral production shifts.

However, the effects anticipated in the SIA have not all been confirmed in the evaluation. In particular, because the overall magnitude of the Agreement's economic impact has been more limited than originally expected, the "significant environmental and social challenges" (p. 124) identified in the SIA in effect tended to be rather small (and mixed), as indicated in Table 11-1.

**Table 11-1: Effects anticipated in the SIA vs. effects identified in the ex post evaluation**

| 2009 SIA findings | Ex post evaluation findings | Evaluation findings compared to SIA findings |
|---|---|---|
| **Impacts in the EU** | | |
| **Overall: no significant impacts** | **Overall: no significant impacts** | **Same finding** |
| "No change in EU27 **GDP** and the impact on EU **trade** flows is negligible" | In relative terms, marginal (positive) changes in EU GDP and EU trade flows | Same finding |
| EU **investment** in partner countries: "European firms may also benefit from improved opportunities in some parts of the services sector but these positive impacts are not expected to be significant" | Negligible impact on EU investment in partner countries, including in services sector | No impact found compared to (marginal) positive impact in SIA |
| **Economic impacts in the Andean partner countries** | | |
| Agriculture and agricultural processed goods sector: only **horticulture** (edible fruits, nuts and vegetables) is expected to increase production across all Andean countries | Increase in output in all 3 partner countries for horticulture (vegetables, fruits, nuts) and other food products (incl. processed food) | More positive impact found: benefits for Andean countries in more agricultural sub-sectors. |
| **Forestry** and **fisheries**: mixed results with both increases and decreases in output according to individual countries | Forestry: marginal impacts in all 3 partner countries; fishery: (small) positive impacts in Ecuador and Peru, no impact in Colombia | More positive impact found: no decrease in forestry and fishery production in any partner country |
| Primary **mining** is estimated to increase production | Marginal changes in mining activity – positive and negative | No impact on mining found - no preferences under Agreement |
| Output of **light industrial goods** (textiles, clothing, and leather goods) will generally increase | Mixed effects across sub-sectors and countries: mostly small gains | More nuanced impacts, ranging from decreases in output for certain sub-sectors and |

| 2009 SIA findings | Ex post evaluation findings | Evaluation findings compared to SIA findings |
|---|---|---|
| | in Colombia; decreases in Ecuador; mixed effects in Peru | countries to increases in other sectors and countries |
| Output of **heavy-industrial goods** will increase *on average* | Mostly small decreases | Less positive impact than expected in SIA |
| Decreases in the output of the **financial, insurance, business and recreation services** | Small but mixed effects | More nuanced impacts, ranging from decreases in output for certain sub-sectors and countries to increases in other sectors and countries |
| Output in the **utilities, construction, distribution and communication** sub-sectors are predicted to increase | Small but mixed effects | More nuanced impacts, ranging from decreases in output for certain sub-sectors and countries to increases in other sectors and countries |
| **Investment** agreement is expected to have a positive impact on inbound capital flow and employment | Investment provisions in the Agreement have not impacted investment levels | No notable positive impact found |
| Potential benefits of **government procurement** are positive | Hardly and changes in government procurement | No notable positive impact found |
| **Social and environmental impacts in the Andean partner countries** | | |
| **Overall: significant environmental and social challenges** | **Overall very limited impact, with some positive and some negative effects** | **Rather than significant negative impact, small and mixed impacts are found** |
| Potential for positive impacts of **banana** sector expansion (Colombia, Ecuador) and other agricultural commodities in Peru and Bolivia on household incomes and poverty reduction depends on local re-investment of large foreign companies | Increased employment in the banana and other agricultural sub-sectors has not always gone hand-in hand with improved working conditions. The Agreement's influence on working conditions and incomes of workers and small producers (through the TSD Title) is likely to have been rather limited. Re-investments do not seem to have been relevant. | SIA expectation confirmed, but different explanation. |
| In the large-scale formal **mining** sector, the restrictions on workers' rights will restrain any significant increase in real wages or improvement in working conditions. Additional negative social impacts of further expansion of mining and hydrocarbons in rural territories of the four Andean countries might arise from the local and national conflicts that have emerged in the last five years. The mining sector is a key source of water pollution (acid water with high metal content) which gives rise to health problems for local communities. | No impact, because the Agreement has not impacted output of mining | Absence of the expected significant negative social and environmental impact. |
| Key sources of **pollution** are discharges from mining activities, industrial and agricultural processing and agricultural runoffs. | Overall small effects. Small negative impact in Colombia on water and air quality; marginal effects in Ecuador and Peru. Localised/regional negative effects e.g. from avocado output increase. | Lower negative impacts than anticipated |
| Increased market access for processed timber products can be expected to add to existing **deforestation** trends. Illegal logging is a significant contributor to this problem. | No impact, because the Agreement has not impacted output of forestry sector | Absence of the expected significant negative environmental impact. |
| Expansion of production and trade in agricultural and agricultural processed products that results will have potentially adverse **biodiversity** impacts. In particular, any additional pressure on the rate of deforestation represents an immediate threat to biodiversity. Similarly, the conversion of pristine habitats and natural resources to agricultural production and mining | Small impact on permanent deforestation in Colombia resulting from the expansion of commercial agriculture. It is unlikely that this deforestation occurred in the most (biodiverse) intact areas in Colombia. For Ecuador and Peru, there is no evidence that deforestation driven by agriculture is linked to the Agreement. | Lower negative impacts than anticipated |

| **2009 SIA findings** | **Ex post evaluation findings** | **Evaluation findings compared to SIA findings** |
|---|---|---|
| would also have significant negative implications for biodiversity | | |
| Loss of biodiversity and environmental deterioration will potentially cause **adverse impacts for vulnerable groups** whose livelihoods and food security depend on traditional agricultural production, especially indigenous people | Problems are mostly related to mining; no impact of the Agreement found | Lower negative impacts than anticipated |
| Changes within the industrial sector, with some industries expected to increase production and others to experience a decline, will give rise to short to medium term **adjustment costs**, including unemployment and decline in household incomes. | Sectoral employment shifts in Colombia and Peru are limited; employment contraction in Ecuador up to 4.3% in the automotive sector, with gains of up to 3.9% in food processing. | More limited trade adjustment effects than anticipated in Colombia and Peru; effect as expected in Ecuador |
| Improvements in **pollution control** due to improved access to environmental goods and services | No impact from liberalisation found; limited positive impact from TSD Title implementation. | Lower positive impact than anticipated |
| Decline in indirect tax revenues and an overall fall in total government revenue. This could lead to a **fall in social expenditure**, for example on education and health, with negative consequences for vulnerable households and poverty groups | No impact in Ecuador and Peru, and decrease in government revenue in Colombia of about 1.2%. This may have limited the availability of funds for social expenditure, depending on the prioritisation made by the government | No negative impact as anticipated in Ecuador and Peru. Impact in Colombia largely as anticipated. |
| Liberalisation of infrastructural services is expected to improve the **quality of services** supplied, but improvements in **access and affordability of basic services** for the poor will depend on effective regulation. | No impact as no liberalisation of infrastructural services has taken place. | No actual impact compared to the anticipated mixed impact |

Source: Development Solutions, CEPR, and University of Manchester (2009); own preparation.

# PART C: CONCLUSIONS AND RECOMMENDATIONS

## 12 CONCLUSIONS AND RECOMMENDATIONS

Based on the findings presented above, the evaluation team has drawn conclusions and presents recommendations. The main ones are presented in the following sections, grouped by evaluation criterion.

### *12.1 Effectiveness*

**The Agreement has been moderately effective with regard to the achievement of operational objectives.** On the positive side, *tariff liberalisation* has taken place as planned, and has led to more *trade in goods* – both bilaterally and globally – than would have been the case in the absence of the Agreement. Nevertheless, the magnitude of the goods trade increase has been limited; this is also a consequence of the previously existing preferential market access for the Andean partner countries to the EU market under the GSP+ arrangement. Customs and trade facilitation, as well as other non-tariff instruments have not been used by the Parties as a substitute for tariffs. Although a number of issues have been raised by the Parties over 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.

It is difficult to measure the effectiveness of the Agreement in facilitating *trade in services* and *bilateral investment*. In these areas, commitments made by the Parties lock-in current levels of openness. Services sectors have played a limited role in the implementation of the Agreement. The opening of *government procurement* markets has not led to increased participation of suppliers and providers from the respective other Party.

Progress has been made in the registration and enforcement of *GIs*, although this has been sometimes slow, and room for improvement remains regarding enforcement. The Agreement's provisions on *competition* also constitute a sound legal basis for cooperation and consultations between the European Commission and the Andean partner countries' competition authorities.

With regard to the effectiveness of *dispute settlement* under the Agreement, this is difficult to assess in the absence of objective criteria about what constitutes the right level of assertiveness. The fact that about half of the disagreements counted have been solved indicates that by and large the approach taken by the Parties works. The fact that formal disputes are "outsourced" to the WTO however indicates a high reluctance by the Parties to make use of the formal dispute settlement provisions provided by the Agreement. In protracted disagreements a more assertive stance by the Parties to actually use the DSM might be called for.

The effectiveness of the *TSD Title* and its implementation is mixed: A direct and tangible impact can be identified in areas where assistance projects have been implemented or where the EU was able to take own actions. In other areas, dialogue with the EU or civil society views provided as part of the TSD Title implementation might have contributed to actions taken as one of several factors. Overall, dialogue under the TSD Title has encouraged the continuation of certain activities or prevented worsening of the situation in the Andean partner countries, but it is difficult to identify concrete actions or changes which could be attributed to the Agreement as the main influencing factor.

Finally, *technical assistance* and support has been provided, at varying degrees, in relation to different areas covered by the Agreement, and has overall been effective in addressing a number of weaknesses in the Andean partner countries. But some stakeholders disagree on whether the technical assistance provided has been sufficient.

Some **lessons learnt and recommendations to further improve the effectiveness of the Agreement** are:

- Further measures to facilitate trade could be considered, including the promotion of the approved exporter scheme, the potential expanded use of digital documents, and a review of the Agreement's provisions on direct transport to ensure eligibility for preferences.
- Technical assistance is needed to ensure that exporters of products covered by SPS requirements can keep benefitting from the preferences offered by the Agreement.
- Measures in line with the Access to Market Days should be envisaged to encourage more new exporters to benefit from the Agreement, especially MSMEs. The promotion of the approved exporter scheme and a (still) stronger focus on raising awareness of businesses for the Agreement, e.g. by strengthening the EU Chambers in the partner countries, and by promoting the Access to Markets database could also be envisaged.
- An increased focus on ways to develop bilateral trade in services is recommended, e.g. by establishing a dedicated sub-committee that could also follow-up on the negotiation of MRAs.

### *12.2 Impact*

The **impact of the Agreement overall is assessed as positive, although relatively limited**, based on the following findings: In *economic* terms, it has led to a small increase in GDP in all Parties and globally. Generally, sectors in which the Parties have comparative advantage are the ones that have benefited – in the Andean partner countries, agriculture and food products, but also some (mostly light) industries; and in the EU industrial sectors, led by machinery and the automotive sector. Because of this strengthening of sectors with existing comparative advantage, the Agreement has so far had a limited effect on export diversification in the Andean countries at a wider scale – although diversification within the primary (i.e., a shift from extractives to agriculture) and with the agriculture sector has been observed. Likewise, diversification of exporters has taken place, including an increase in exporting MSMEs. Public revenues have not palpably been affected in any of the Parties except for Colombia, where foregone revenues amount to about 1% of total revenues. LDCs and developing countries have not been impacted by the Agreement; among the EU ORs, the sugar sector in La Réunion and Guadeloupe has so far largely been able to compete with increasing sugar imports from the Andean countries and the shift towards speciality sugar trade.

Among the *social* impacts, sectoral employment shifts follow the economic changes. In the EU, effects are negligible; in the Andean partner countries, the strongest positive effects are in the vegetable, fruits and nuts sector, as well as other agri-food sectors, and contractions in a number of industrial sectors. The impact on welfare and poverty, as well as for consumers, is estimated as positive, but rather limited. The same is true for the impact on women, also aided by support programmes, although the gender gap has hardly been affected by the Agreement. In terms of working conditions and labour rights, although the Andean partner country governments have taken measures to improve job quality, also supported by EU funded projects, issues remain in terms of labour inspection, trade union operation, and special labour regimes for selected (agricultural) sectors. Finally, CSR practices have expanded, a positive trend which was supported by increased trade between the Andean countries and the EU taking place as a result of the Agreement.

The *environmental* impact of the Agreement overall is found to be very small, following from the small economic impacts, and mixed. The impact on global GHG emissions is slightly positive. Overall effects on biodiversity are marginal, but with some likely negative local/regional effects from increased production of specific products such as avocados in Peru and shrimp in Ecuador. No effect on deforestation is found in Ecuador and Peru, and a small contribution to deforestation arising from agricultural activity in Colombia (about 0.5% of total deforestation arising from agricultural activity in the country). Other environmental effects are marginal.

The impact of the Agreement on the *human rights* situation in the Andean partner countries likewise has been limited, and no impact could be determined in the EU. An initial screening of human rights effects indicated that only the right to freedom of assembly and association, incl. the right to join and form trade unions, children's rights (including impacts on child labour), and the right to water could potentially be affected palpably by the Agreement. For the first two, we find potential mixed but overall small effects of the Agreement, caused both by the sectoral economic effects and by the implementation of the TSD Title. For the right to water, no significant impact of the Agreement could be proven in the in-depth analysis, although we cannot exclude the fact that increased production of certain water-intensive/water polluting goods could have had a minor contribution to already existing water stress in certain regions.

Some **lessons learnt and recommendations to further improve the impact of the Agreement** are:

- Although the Andean partner countries are all upper middle income countries, the capacity of many businesses, in particular MSMEs, to engage in trade or value chains with the EU is limited. Therefore, technical assistance remains important, and although the primary responsibility for this rests with the partner country governments, the EU should continue to provide support, to enable MSMEs to improve productivity and competitiveness and to benefit from the Agreement. To foster the Agreement's contribution to trade diversification, 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.

- While job creation thanks to the Agreement is a positive result, the nature of those jobs (formal or not) and their quality also play a role in the economic situation of workers and their families. Therefore, it will be important in all Andean countries that in addition to creating conditions for new jobs, sufficient attention is paid to their quality. The work will need to ensure that conditions already foreseen in the legislation are implemented in practice and enforced by labour inspection. These include the right to a written contract, payment of salaries according to the law, payment for overtime and social security contributions, and other benefits, provision of training in health and safety at work and appropriate personal protective equipment.

- To further strengthen working conditions and labour rights, technical assistance projects involving the EU, ILO and the partner countries should continue, aiming at strengthening capacity of labour inspection, labour formalisation and respect for labour standards and health and safety at work. In Ecuador, worker rights in agriculture, incl. in the banana sector, should be brought to the level of other sectors, and the effective implementation and enforcement of these rights should be ensured.

- A common problem for the social impact analysis was lack of disaggregated data by gender and sector. Therefore, we recommend a more frequent and more systematic collection of gender disaggregated employment data, starting with sub-sectors participating in international trade and likely to be affected by trade agreements. Such data could be collected by national institutes of statistics, sectoral business associations, civil society, or research institutes, depending on the available capacities and specificity of the sector.

- Although the Agreement's impact on gender equality has been limited, considering suggestions made by stakeholders and international trends related to gender and trade, we suggest that the Parties include into their policy dialogue, either under the TSD Title or other relevant chapters, elements related to participation of women and women-led enterprises in trade between the Parties. This could include the exchange of information and examples of best practice in the collection and processing of sex-disaggregated data, examples of support activities provided to women and effects, and engagement with women entrepreneurs to note success stories and remaining challenges. Such cooperation and capacity building should be driven by the identified needs, and be complementary to activities undertaken in other forums, including in WTO, in the follow-up of the Buenos Aires Declaration.

- Measures should be taken to avoid that the Agreement contributes to deforestation. In addition, taking into account the large share of LULUCF emissions (in total GHG emissions) in the Andean countries, as well as the increase in LULUCF emissions in the agricultural sector and the potential impact through other sectors (e.g., shrimp in Ecuador), it is recommended to support stricter initiatives to lower LULUCF emissions (see section 12.4).

### *12.3 Efficiency*

The Agreement's **efficiency in relation to the objectives is evaluated as high**: preference utilisation is high, trade diversion in line with other FTAs – and alternative trade policy instruments were either not available for the EU, would arguably have caused larger distortions or been less targeted.

The **institutional efficiency is assessed as mixed**: The Trade Committee and the Sub-committee have played their roles as forums for exchange of information and views, but performance with regard to the resolution of trade irritants between the Parties has been mixed, in particular when different interpretations of the Agreement were concerned. Dialogue with civil society representatives, notably dialogue with advisory groups or domestic mechanisms would benefit from better opportunities to contribute to discussions of the Parties by sharing results of the monitoring activities, submitting proposals (e.g., for cooperation activities) and raising concerns. Insufficient follow-up to civil society recommendations by the Parties is another shortcoming – unlike some other EU FTAs, the Agreement does not include a commitment by the parties to follow-up to civil society views. DAG/domestic consultative groups have also performed unevenly across the Parties, primarily as a result of differences in the availability of resources and capacities.

The **proportionality and distribution of costs and benefits is evaluated positively**. Likewise, although the administrative costs for the Parties arising from the annual meetings and follow-up are considerable, they are not found to be unduly high in comparison to the overall benefits of the Agreement.

Some **lessons learnt and recommendations to further improve the efficiency and implementation mechanisms of the Agreement** are:

- Moving forward, consideration should be given to the role of the Trade Committee as a decision-making body, and in this context the role it can play in problem solving, notably in cases where a discussion at the working level in Sub-committee meetings does not bring about a satisfactory outcome over time. Considering that the experience showed the difficulty to unblock stalemate positions, the Trade Committee should provide political momentum for problem-solving, including by repackaging issues affecting different chapters, holding the Trade Committee meetings at the political level, and engaging Ministers for Trade and the Trade Commissioner (as foreseen in Article 12) to advance in the discussions. The Trade Committee (acting within its mandate) should also consider taking decisions improving the Agreement's implementation and amending the Agreement in a way that it will catch up with new developments and will achieve its objectives to a higher degree.

- Regarding the strengthening of the TSD Sub-committee for addressing implementation shortcomings related to TSD issues, we recommend the following:
  - Issues of concern related to the implementation of the TSD Title should continue to be addressed. Examples are the commitment not to encourage trade or investment by reducing levels of protection (Article 277(1)) and not to fail to effectively enforce domestic labour or environmental laws (Article 277(2)), as well as commitments to effectively implement ILO core labour standards (Article 269(3)) and MEAs (Article 270(2)). This exchange of information constitutes the basis on which the Parties can further discuss and determine if any actions are required.
  - Recognising that addressing certain issues or improving a given situation may take time, an approach suggested e.g. by Colombia should be considered. This would foresee a more frequent use of cooperation activities, including technical assistance and exchange of good practices, to strengthen administrative capacities and test solutions in the area of concern that are applied successfully by other Parties. In this context, the Commission could promote in a more visible way, e.g. through attachments to the minutes of the TSD meeting, the already ongoing cooperation activities with the Andean countries in areas relevant for the TSD Title, as these also demonstrate a commitment to address the identified problems and show the activity of the EU.
  - Where needed, the Parties should continue to develop and agree lists of actions to be taken by the Party or Parties concerned, with related timelines, outputs, and responsible institutions (we understand that similar measures have been discussed and agreed under the Agreement). Subsequently, these, as well as other outcomes of the dialogue should be communicated more clearly to the civil society and other stakeholders than has been the case so far. Communication could take place verbally in meetings or in writing, e.g. in the TSD Sub-committee meeting minutes or in other documents published on a website or shared with members of the advisory groups/ domestic consultative mechanisms. Once adopted and communicated, such documents would enable measuring progress over time and provide a useful reference for dialogue between the respective government and civil society, as well as between the Parties and with other relevant partners, including international organisations (e.g. the ILO).
  - If needed, matters should be escalated to the Trade Committee, including at the ministerial level, as this may also help to open possibilities for political decisions or solutions which may provide a momentum for new actions or decisions at the technical level addressing identified problems.
- To foster the cooperation between the Parties and civil society, various options could be pursued. The first one would be a strengthened domestic dialogue between the Government and civil society, including consultations before the TSD Sub-committee meetings, where the civil society could express views, share results of the monitoring, and formulate proposals, which would then be included into a briefing for the TSD Sub-committee meeting. Second, to enable civil society dialogue with all Parties, dedicated meetings between all Parties' members of the TSD Sub-committee with all advisory groups or domestic mechanisms should be held as part of the joint annual meeting.

Alternatively, the Parties could envisage inviting members of the civil society advisory groups/domestic mechanisms to participate in the part of the TSD Sub-committee meeting dedicated to the follow-up of discussions from the previous year and new findings from monitoring the implementation.[256] This would be similar to the solution applied in 2014 (albeit not repeated since) under the EU-Korea FTA, where Chairpersons of the EU and Korea domestic advisory groups joined the TSD Sub-committee meeting for the first agenda item to inform about work of the domestic advisory groups since the previous joint meeting and bring to the Parties' attention priorities and concerns of the civil society with a view of them being discussed by the Parties in the TSD Sub-committee's session. Finally, a more active and frequent use of virtual meetings both between the domestic consultative mechanism and between them and the Parties could help civil society advance their agendas, work on opinions, and monitor activities through remote connections.

- To support the partner country domestic consultation mechanisms, the EU DAG could organise an additional meeting or a workshop a year, with invited speakers, opening the possibility to address topics from the broad spectrum covered by the TSD Title. Such workshops should be open to civil society from the Andean countries to develop capacity.

- Given an expressed wish from Colombia and Ecuador to strengthen capacity of their DAGs, a virtual seminar could be organised with the participation of all Parties and their civil society representatives (DAG/DCC or domestic consultative mechanisms), with a moderated discussion broken-down by thematic blocks regarding DAGs/domestic consultative mechanisms, joint meetings and other aspects related to institutional structures under the TSD Title. The participants could discuss examples of best practice and jointly develop and agree recommendations for the operation of all elements of the TSD institutional set up. There would also be an assumption that the participants would commit to implement the recommendations both, domestically and in the context of joint meetings. If needed, more detailed advice could be developed for each Party to reflect the starting point and domestic reality.

- The TSD Title's institutional provisions would benefit from a greater degree of precision, as outlined above, which could be realised either through a change in the Agreement text itself (requiring re-negotiation) or a set of guidelines, agreed by the Parties and civil society.

- Capacity building measures and additional support (including financial support to allow for a secretariat) to the non-EU DAGs/domestic consultative mechanisms should be provided. Such support should normally be provided by the respective government; in cases where resource or capacity constraints of the Partner country government do not allow for such support, the EESC could step in to provide technical support.

- To a certain extent, the dissatisfaction of some stakeholders with the achievements of the TSD Sub-committee are the results of unrealistic expectations regarding the TSD Title and the degree of authority that it has. Ultimately, the powers of the Sub-committee are the result of the negotiations between the Parties and the level of supranationalism that they were prepared to give (or not) to the institutions established under the Agreement. At the same time, during the negotiations (and also during

[256] The Rules of Procedure of the Trade Committee which also apply to the TSD Sub-committee in Article 5 state that observers may be invited to the meeting on an ad hoc basis. This rule could be interpreted by the Parties in a way to allow the participating civil society representatives to take the floor, i.e., to be active observers. Otherwise, the Parties could consider amendment to the Rules of procedure to include a provision similar to the Rule 8 (point 5) of the Rules of Procedure of the EU-Canada Joint Committee, according to which the Co-chairs of the Committee may by mutual consent invite observers or independent experts to attend its meetings in order to provide information on specific subjects.

implementation), the Parties highlighted the important role of the TSD Title for ensuring inclusiveness and social and environmental sustainability of the Agreement, thereby contributing to the emergence of overblown expectations. To avoid this going forward, more cautious communication about the scope and level of authority and powers of the TSD Title and the TSD Sub-committee is recommended.

- Having said this, the inherent power of the TSD Title is considered very strong. Based on the minimum amount of direct positive impacts of the TSD Title on environmental indicators thus far and the recommendations mentioned above, it is recommended to unlock the potential of the TSD Title. Significant progress could be made within the current TSD framework of the Agreement without the need to renegotiate the chapter. To unlock this potential, it is crucial to step up the ambition and align the priorities of the implementation of the Agreement with the overarching EU priorities on climate and environment, which could imply allocating more resources to TSD implementation and turn it into a pro-active tool, instead of a reactive one. Where possible, it is recommended to seek concrete targets so that progress towards these targets can be monitored and reflected upon.

### *12.4 Coherence*

**Coherence of the Agreement with the EU's overall trade policy, with the EU's commitment to the SDGs and the Decent Work agenda, and with the EU's environmental policies at the time of its signing was high**. At that time, for example the inclusion of the TSD Title reflected the prevailing policies and strategies regarding sustainable development. In terms of its effects and impact **the Agreement is also moderately coherent with environmental policy objectives and the EU's commitment to the SDGs and Decent Work agenda, but its positive contributions in these areas are also small. In addition, in some areas the coherence of the Agreement with the EU's environmental policy objectives, which have evolved substantially, has been reduced**: for example, some deforestation has taken place in Colombia because of expanded agricultural production triggered by the Agreement's tariff liberalisation. (Although the extent and severity of this is limited, in the interest of policy coherence, even these observed small developments call for continued monitoring of mitigation measures).

In terms of **coherence with EU trade policy objectives and priorities, the Agreement** does not conflict with the new priorities (and there is thus no incoherence), but neither does it actively promote them: Issues such as the development of GVCs, services trade, digital trade and e-commerce, or the green and digital transformation if at all covered in the Agreement are mostly limited to general statements and soft language. They have also not played an important role in the implementation of the Agreement, nor have they been strengthened as a result of the Agreement's implementation. There is thus a lack of "positive coherence" with these new issues.

Based on these conclusions, some **lessons learnt and recommendations to improve the coherence of the Agreement** with other EU policies are:

- The implementation of the Agreement should focus more on covering, respectively strengthening, the new issues and priorities set in the 2015 and 2021 EU trade strategies, such as trade in services, digital trade, or the green transformation.

- To mitigate the deforestation effects (identified in Colombia) and, more broadly, considering the deforestation footprint of EU imports we recommend to intensify efforts to prevent deforestation in the Andean countries. Cooperation under the Agreement should be used to contribute to the creation of deforestation free agriculture and agricultural value chains, including through support for improving forest management and due diligence and controls in the forestry sector.[257]

### *12.5 Relevance*

Our conclusion regarding **the Agreement's relevance for the Parties' trade needs and issues is mixed**, and is closely related to the evaluation of coherence: The Agreement has been and remains relevant in the sense of providing a basis for fostering bilateral trade, and trade and development of the Parties more broadly. However, the new challenges, needs and issues that have arisen both for the EU and the Andean partner countries since the signing of the Agreement require heightened attention. The Agreement itself, its implementation and its results address these issues in a limited way.

Some **lessons learnt and recommendations to improve the relevance of the Agreement** are:

- Although new issues are discussed between the Parties in the annual meetings of the Trade Committee and Sub-committees and their follow-up, cooperation on practical measures related to them could be expanded. This need not necessarily take place within the implementation of the Agreement in a strict sense but as flanking measures. For example, more cooperation on fostering organic and fair trade would contribute to the need for enhancing the sustainability of productive activities fostered by the Agreement. An increased focus on ways to develop bilateral trade in services is another area.

- Some of the current trade issues – such as digital trade or the consequences of the European Green Deal and Farm to Fork strategy for trade – are not addressed substantively in the Agreement. The scope of the Agreement and the institutions established under the Agreement do however provide a framework for discussing and addressing them in the implementation of the Agreement. Nevertheless, if a common understanding between the Parties develops on the benefits of addressing these issues more explicitly as part of the Agreement, a modernisation of the Agreement could be contemplated, also to strengthen provisions for the sustainability and inclusivity of bilateral trade.

These recommendations show that in order to ensure the continued relevance of the Agreement for today's trade issues and needs more active implementation work and follow up are required. This, however, would seem to be in line with the EU's increased focus on the enforcement of trade agreements.

[257] This would be in line with (and thereby anticipating) the forthcoming law to prevent imports that contribute to deforestation, building on the Commission *Communication on Stepping up EU Action to Protect and Restore the World's Forests (a*vailable at: https://ec.europa.eu/info/sites/default/files/communication-eu-action-protect-restore-forests_en.pdf), as well as national strategies of the Andean countries, which aim to prevent deforestation.

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