

ANNEX J: CASE STUDY 7 – INCIDENCE OF CHILD LABOUR AND RESPECT FOR CHILDREN'S RIGHTS IN SECTORS IN COLOMBIA, PERU AND ECUADOR INVOLVED IN EXPORTS TO THE EU

1 INTRODUCTION

1.1 Children's rights – references in international human rights law

Children are entitled to the same human rights and fundamental freedoms as adults. Like other vulnerable population groups, children have been given a special status of protection in the UN framework and in regional human rights treaties. The Convention on the Rights of the Child (CRC), a legally binding international treaty, is the key instrument on the rights of the child, which focuses on protection of children against discrimination, exploitation, and neglect, sets out their basic needs and rights, and defines obligations of states to ensure their well-being. Its Optional Protocols cover protection of children against sexual exploitation, protection of children in the situation of armed conflict, and allow children and/or their legal representative to submit complaints in case violations of their rights cannot be addressed effectively at the national level. EU MS and the Andean countries have ratified the CRC and the Optional Protocol on the Involvement of Children in Armed Conflict and hence have accepted legally binding obligations on protection of children's rights specified in these treaties.¹

Children's rights are also addressed in other core human rights treaties, e.g., both Covenants, the Convention on the Rights of Persons with Disabilities, the Convention on the Elimination of All Forms of Discrimination Against Women and others. Regional treaties also include explicit provisions regarding protection of children's rights, e.g., the American Convention on Human Rights and the EU Charter of Fundamental Rights (see ratification status of human rights treaties in Annex E of the main report).

1.2 Children's rights and trade

Since the entry into force of the Lisbon Treaty, the EU has taken actions to advance the international framework for child protection, including through trade agreements (Lind-Haldorsson, O'Donnell, 2016, European Commission, 2017f). In a trade context, expanding levels of trade liberalisation and increasing business activities affect children, e.g., through impact on their health through increased pollution, or their standard of living through increased job opportunities that open up for adult household members. A more direct, immediate impact of trade on children's rights is usually discussed through the problem of child labour (Jodoin, Pollack, 2019).

1.3 References in the EU Trade Agreement with the Andean countries

Article 269(3)(c) of the TSD Chapter 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) regarding the abolition of child labour.

¹ The reservation of Colombia to the CRC is in fact an extensive statement by which the state commits to an obligation beyond the one expressed in the treaty (minimum age for recruitment into armed forces set for 18 years of age instead of 15 years as stipulated in the treaty).

2 IMPLEMENTATION OF THE AGREEMENT AND CHILD LABOUR IN THE PARTNER COUNTRIES

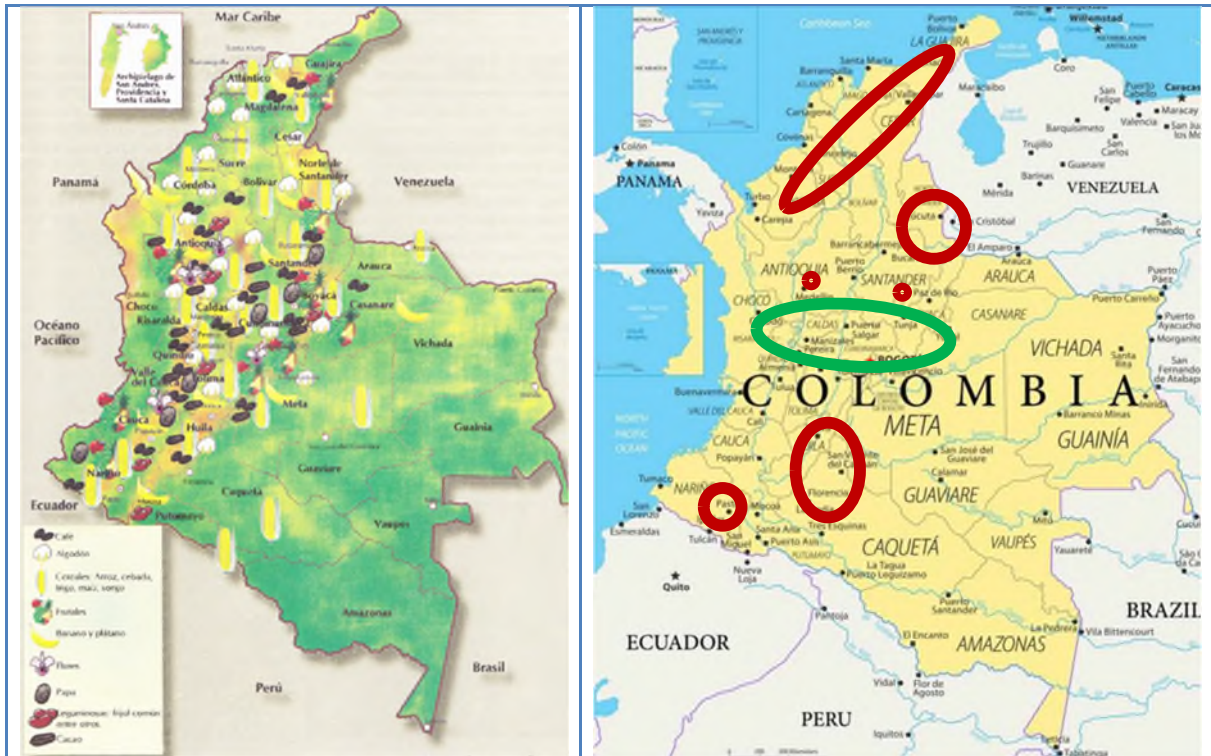
2.1 *Child labour in Colombia*

The Constitution recognises rights of children in Articles 44 and 45. In 2017, Colombia made a significant effort in eliminating child labour by approving the National Policy to Prevent and Eliminate Child Labour and Protect the Young Worker and a roadmap to prevent and eliminate child labour in mining (US Department of Labour, 2017). In 2021, the Colombian Ministries of Labour and Education, the Colombian Network against Child Labour and the Institute of Family Welfare, as well as representatives of local authorities signed a National Pact for Prevention and Eradication of Child Labour and Protection of Young Workers, in which they emphasised the role of education in the fight against child labour and the need to support return to school after the break caused by the current pandemic. They recognised importance of labour inspection and of identification of local needs and risk factors which may increase probability of child labour (Gobierno de Colombia, 2021). Activities related to prevention and elimination of child labour have also been included in the National Development Plans 2014-2018 and 2018-2022 (see Annex C-1 of the main report). Colombian law (Resolution 1796 of 2018) provides an updated list of hazardous types of work prohibited for persons under 18 years of age. The activities listed there include, e.g., work in mining, work involving contact with chemicals, activities involving direct contact with animals generating a high level of risk for health and safety, activities involving contact with residues of animal origin and with dust of certain plants (cereals, cotton), work with tools and machinery, driving means of transport, work with radioactive or toxic substances, and work in conditions involving extreme temperatures, insufficient ventilation, or light or long-term noise. The same Resolution envisages that persons of 15-17 years of age may work with an official authorisation, which may be revoked if minimum guarantees protecting health, social security, education, and acceptable conditions of work are not met.

As outlined in Annex C-1 of the main report, the Colombian authorities have taken several actions to reduce the incidence of child labour, and the number 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, 2021, DANE, 2001-2018). 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. On the other hand, while there were exceptions, regions with high rates of child labour corresponded with those having high levels of informal adult employment and a less diversified economy. For example, the highest levels of informality were registered in Cucuta (74.4% in 2007 and 73.1% in 2019) and at the same time, the area was marked as having the third highest level of child labour in 2015 (12.5%) (DANE, 2007b; 2019a) and the highest in 2020 (3.6% in the city, without rural areas) (DANE, 2021).

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

Figure 1: Agricultural activity and regions with child labour incidence in Colombia



Key: Red shape – higher level of child labour Green shape – lower level of child labour

Source: Atlas geográfico: <https://atlasgeografico.net/produccion-agrícola-en-colombia.html> (left panel); Proyecto Mapamundi: <https://proyectomapamundi.com/américa-del-sur/colombia/> (right panel)

Regarding sectors benefitting from exports to the EU, agriculture records an overall high rate of child labour incidence (44.1% share in all child labour in 2020, ranking first among sectors recording child labour) (DANE, 2021). According to Torres-Tovar et al. (2018), due to automation of processes and formal employment for adults, there is no evidence of regular child labour in rice, cotton, and sugar cane cultivation in Colombia. This is due to the commitment of formal enterprises and trade union monitoring (Torres Tovar and Helo Molina, July 2020). According to the literature, e.g., in the sugar cane sector, collective workers’ actions, including strikes, helped to bring about a change towards direct and formal employment and a recognition of trade unions’ role in labour relations (AIL, April 2021). Moreover, the US-Colombia Labour Action Plan of 2011 might have also played a role. It chose sugar cane as one of the priority sectors for labour inspection and envisaged faster than originally planned implementation of laws and regulations on formalisation of work and work intermediation (the laws were adopted in 2010) (Colombian Action Plan, 2011). On the other hand, in the informal economy including in subsistence farming and small-scale family undertakings, work on coffee plantations and in production of panela sugar cane is related to informal employment involving children and adolescents. Reportedly, inspection services have only very limited resources at their disposal in rural areas² and therefore, child labour may remain unaddressed. Moreover, the lack of training and respect for health and safety at work principles (incl. that children and adolescents operate field machines) results in a high rate of accidents at work, and the lack of medical infrastructure may reduce the possibility of providing medical assistance in case of an accident. Rice and cotton are cultivated in El Espinal (department of Tolima). While work in these two sectors is automated and in general workers are adult and have formal contracts, there are cases of poor, homeless families moving within the region and undertaking occasional informal work at the harvest, including children and adolescents

² To improve labour enforcement in rural areas in Colombia and strengthen the capacity of labour inspection, the EU provided funding for an assistance project implemented by the ILO.

(the latter usually remain outside the education system). Sugar cane is cultivated in the department of Valle de Cauca and panela sugar cane is produced in Cundinamarca (Torres-Tovar et al, 2018). A project has been implemented in Valle de Cauca to prevent and eradicate child labour in production of panela sugar cane (FAO, ILO, 2019). Coffee plantations are *inter alia* in Tolima and Huila. Recently, projects have been implemented with the National Federation of Coffee Producers aiming at eradication of child labour from the sector (Semana Sostenible, October 2019). Moreover, as part of 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, under the ILO component information materials have been prepared, e.g., a booklet about child labour for enterprises in Colombia and an information campaign for families and communities in the department of Antioquia (Colombia) was launched in June 2021 to prevent and eradicate child labour in the coffee sector (ILO, June 2021). Also, an ILO Vision Zero Fund project financed by the EU has been implemented in Colombia, to improve health and safety at work in the coffee supply chain based on exchanges of best practice with other coffee growing countries from the region, such as Mexico and Honduras (ILO, 2019g).

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

In the banana sector, a survey carried out in 2017 by a researcher among 210 workers from eight banana plantations in the region of Urabá (department of Antioquia) revealed that only 1 person among them was in the group of 10-20 years of age (which may also suggest an adult person of over 18 years of age), with the largest group (42%) being in the group 30-40 years of age. Moreover, 88.7% of surveyed workers were members of trade unions. Although most of them were generally satisfied with work, 90.2% said they did not want to see their children ever working in the banana sector (Penagos Gaviria, 2017). The replies suggest formal work and a good oversight of trade unions on working conditions and respect for labour standards in the sector, as well as a lack of signs of child labour. Moreover, in a survey carried out by the ILO in 2020 with a group of 194 rural workers, including 95 from banana plantations from regions the of Magdalena and Urabá, only 1.5% declared to be 18-22 years of age (others were older), 90% said to have a contract for an indefinite period and being member of a trade union affiliated to one of the trade union confederations (CUT or CTC), which suggests formal employment and presence of only adult persons (ILO, 2020a).

The flower sector provides around 130,000³ formal jobs and operates in Cundinamarca, Antioquia y Risaralda. In the 1990s and early 2000s, it was linked to child labour (Morales Rubiano et al, 2020). Since then, the sector is committed to prevention and eradication of

³ Other sources speak about 90,000 workers in the sector.

child labour through Corporate Social Responsibility (CSR) programmes. They focus on three aspects: 1) engagement with families having cases of child labour to raise awareness of the problem and offering jobs to adult members of a household to encourage replacing income generated by children with adults' wages; 2) working with school children to convince them to continue education and not to abandon it to start working, e.g. by funding scholarships; 3) creating opportunities for children in rural areas to spend actively their leisure time, e.g., by launching sport schools or art activities. Moreover, since 2015 Asocolflores, the association representing flower growers and exporters in Colombia, and 21 companies from the sector have been members of the Colombian network against child labour, a public-private initiative engaging state institutions and private enterprises (Portafolio, 2015). Members of Asocolflores require also from their suppliers not to involve child labour, although this is not always monitored. In a study realised in regions cultivating flowers, sector representatives admitted that actions to eradicate child labour from their operations were driven by requirements of certification schemes and expectations of their international customers. According to the study, the problem of child labour requires involvement and effective cooperation of the sector representatives, local and national government, and school. Moreover, national efforts can be supported by assistance projects (some are financed by the US) (Morales Rubiano et al, 2020). In a workshop organised by the ILO, the sector representatives, based on own experience and an example from Ecuador, recognised that to remove child labour from the sector, there was a need for social dialogue with workers and trade unions, formalization of the sector and compliance with national and international commitments, engagement with children affected by child labour and their communities to remove children from work and create conditions reducing the need for them to work, and joining certification schemes for flower producers which require using only adult workforce (in addition to other possible conditions) (ILO, 2017c). Flower exports to the EU account for some 10% of the Colombian total exports in this sector (ITC, Trade Map, data for 2019) and it may be the case that expectations of European customers also played a role in exercising pressure on Colombian producers (as mentioned above) to respect labour standards, incl. elimination of child labour from their operations and supply chains, and therefore that the Agreement opening additional export opportunities also contributed to it.

Another sector with child labour incidence is small-scale artisanal mining (Alliance for Responsible Mining) classified as hazardous type of work, prohibited for persons under 18 years of age. Child labour is related there to lack of formal employment opportunities for adults, deteriorating living conditions (e.g., due to an accident at work of an adult family member), presence (until recently) of the armed conflict, and the lack of quality education opportunities. Precise data regarding the number of children working in the sector are not available. (Records from the official register SIRITI speak about 5,000 persons, however, the Ministry of Labour admits this number is an underestimation). At the beginning of the 2000s, activities of the small-scale mining sector covered seven departments (Boyacá, Nariño, Cundinamarca, Antioquia, Chocó, Sucre y Santander) (Ministerio del Trabajo, 2017a). According to the UN Committee on Economic Social and Cultural Rights, the National Strategy for the Prevention and Eradication of the Worst Forms of Child Labour is not effective in addressing the exploitation of children and adolescents in illegal mining activities (UN Committee on Economic Social and Cultural Rights, 2017). Given that in this case the evidence is related to the small-scale informal, artisanal mining and not operation of a large-scale mining sector, there is a possibility that there is no connection between this sector and child labour on one hand and exports to the EU (and the Agreement) on the other. The EU, in cooperation with UNIDO, provided assistance focused on sustainable mining, free from mercury.

2.2 Child labour in Peru

The Constitution of Peru contains provisions on special social protection of children and adolescents (Article 4). The Civil Code, the Children and Young Persons Code, the General Law on Labour Inspection, and a Decree on the impacts of hazardous work and night work

on health of teenagers also regulate working activities of children. The minimum age for admission to work has been established at 14 years, and for certain sectors, it is at 15-18 years of age. At the policy level, the 2012-2021 National Strategy to Prevent and Eradicate Child Labour was adopted in 2012, which sets out various measures aimed at eradication of child labour. The policy framework is complemented by the National Action Plan for Childhood and Adolescence 2012-2021 and Interinstitutional Protocol against Forced Labour (Ministerio de Trabajo y Promoción del Empleo, ILO, 2016). Under the Semilla Project, the Ministry of Labour created the Child Labour Free Seal, which recognises products and services of companies whose operations are free from child labour (US Department of Labour, 2019). Peru joined the Alliance 8.7 to work towards the SDG 8.7 to eradicate forced labour, end modern slavery and human trafficking, and secure the prohibition and elimination of the worst forms of child labour.⁴

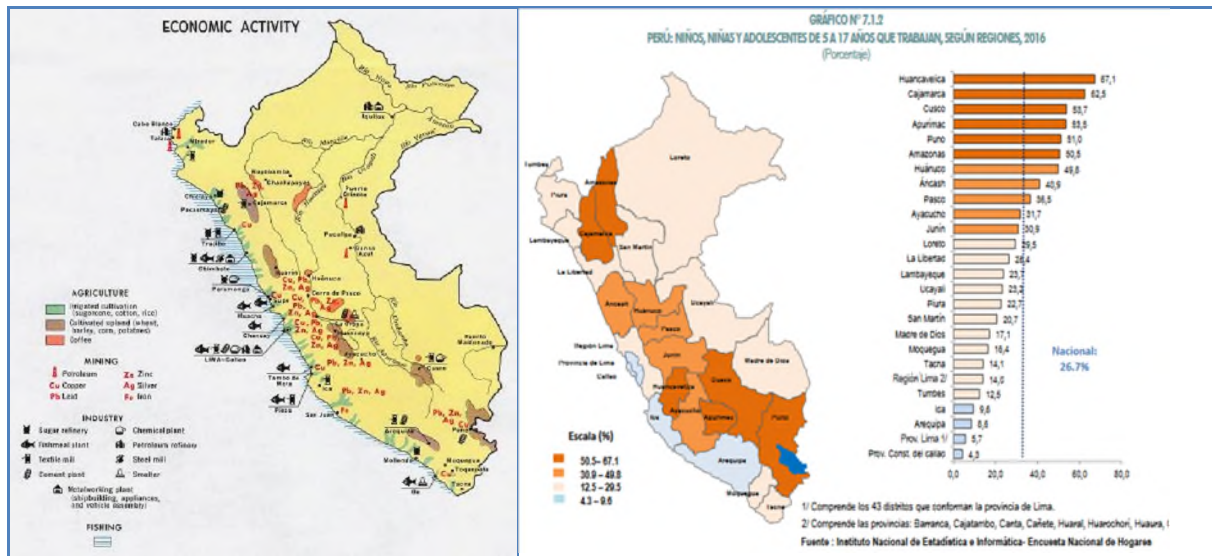
Like in Colombia, Peruvian authorities have taken several actions to reduce the incidence of child labour (for details, see Annex C-1 of the main report). While in 2007, 3.3 million children aged 5 to 17 years were economically active in the country (ILO, IPEC, INEI, 2009), by 2015, their number decreased to 2 million (i.e., 26.1% of this age group and 47.6% among indigenous peoples),⁵ 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 another measurement, in Household Survey, where in 2015, the child labour rate equalled 11.5% of the population between 5 and 17 years of age, the incidence of child labour was further reduced by 2019, falling to 10.4% in the whole country, with 4.9% in urban areas and 25.1% in rural areas. The UN Human Rights Council reports that in 2015, 16.8% (1.25 million) of children aged 5 to 17 years in Peru were involved in hazardous work.⁶ In a break-down by three big regions, the highest rate of child labour was registered in the mountains, 18.3%, with 14.2% in the selva, and only 3.8% in the coastal area (data shared with the study team by the Ministry of Labour). The reasons behind child labour include poverty, discrimination, and lack of accessible quality education (INEI, 2017). Labour inspection (SUNAFIL) has an insufficient number of inspectors to effectively combat child labour. 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 mostly rely on traditional sectors, incl. family and subsistence farming and mining (Ministerio de Trabajo y Promoción del Empleo, ILO, 2016).

In Peru, sectors recording employment increases thanks to the Agreement include e.g., vegetables, fruits and nuts, vegetable oils and fats, sugar cane, other food products, chemical products, and textiles and garments. Those which may witness job reductions include metals, pharmaceuticals, computer, electronic and electrical equipment.

⁴ See website of the Alliance 8.7: https://www.alliance87.org/pathfinder_countries/peru-2/

⁵ From 2012 to 2016, the child labour rate fell from 31.7% to 26.7%, i.e., by around 370,000 (INEI, 2017).

⁶ UN Human Rights Council (2018). Report of the Working Group on the issue of human and transnational corporations and other business enterprises on its mission to Peru, UN Doc. A/HRC/38/48/Add.2.

Figure 2: Economic activity and regions with child labour incidence in Peru (2016)

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

Regarding sectors benefitting from exports to the EU, in agriculture, child labour in Peru has been present e.g., in cultivation of coffee, cocoa, blueberries, asparagus and avocado, (Desarrollo y Autogestión, Perú) mainly as part of family farms. However, through cooperatives and trade intermediaries buying produce from family farms and subcontracting work on plantations, products involving child labour may be integrated in value chains of goods exported *inter alia* to the EU. Moreover, given that whole families are hired during the harvest season (some migrating from other parts of the country), child labour may be part of it without being registered (the groups of casual workers are not checked for the presence of children and as the payment depends on the weight or number of harvested fruits or vegetables, the more family members participate in work, the higher the income is).

The frequently quoted reasons of continued child labour in agriculture include low-income levels not allowing for contracting adult workers to help on small farms and the custom of passing the agricultural practice between generations. The Peruvian Association of Cocoa Producers estimates, for example, that the cocoa price on the international market should increase by ca. 40% (from USD 2,300 to USD 3,200 per tonne) to ensure decent income for small farmers. There are also initiatives, such as the seal of products "free from child labour" launched in 2019 by the Government of Peru, which is granted to farmers who can demonstrate the absence of child labour use in their practice (Ojo público, August 2020). Representatives of coffee producers in Peru hope that the seal will help to differentiate "child labour free" products from others and gain them appreciation from international customers, which could then translate into higher prices and a sustainable possibility of using only adult workforce. NGOs supporting the initiative also highlight a need for it to be accompanied by targeted support for small-scale producers to improve their economic situation and enable their children to attend school (Gestión Perú, August 2019). Initiatives like the above are indeed complemented by awareness raising campaigns which explain to parents in rural areas that children should attend school and have time for rest in addition to learning agricultural activities, and should not be involved in work which may pose risks to their health and safety (Ojo público, August 2020). However, there is a need to ensure that they will cover all areas in the country where there is likelihood of child labour being involved in cultivation of agricultural products, and that they will be accompanied by economic support for small farmers.

The cultivation of blueberries in Peru is located in the regions of La Libertad (79%), Lambayeque (17%), Ica, Lima and Ancash. While around half of exports is destined for the US market, 25% go to the EU, with the Netherlands marked as an entry point. Given the growing production (from 2.6 thousand tonnes in 2014 to 179.8 thousand tonnes in 2020), investment, innovation, and exports outside of the harvest season in the northern hemisphere, Peru managed to benefit from increasing revenues (in the season of 2020-2021, they were projected to pass USD 1 billion) and higher prices than other producers. The country ranks first among world exporters. However, profit margins have been maintained *inter alia* thanks to the low labour costs, being in line with the special regime for agriculture. This is likely to change due to 2019-2020 amendments to the legislation (see details in section 6.1 of the main report) equalising part of workers' rights in agriculture with other sectors of the economy (Peru Retail, February 2021). It was also estimated that in the 2020-2021 season, cultivation and harvest of blueberries would offer in total 100,000 jobs, out of which 52% would be occupied by women. Jobs covered by the special regime for agriculture are formal. Exporters from the sector feared, however, that a potential action by the US to limit imports in blueberries from Peru (by safeguards or TRQs) may put some jobs in the sector at risk (AgroNoticias, October 2020). Given the presence of child labour in the cultivation of blueberries, the sector will also look at the possibility to use and promote "child labour free" seal as one of the ways of eliminating child labour (Gestión Perú, August 2019). Other measures include the exchange of best practices with other countries in the region such as Argentina, which developed a pilot project to eliminate child labour from the production of yerba mate and blueberries. The concept of the project has been presented at a workshop in Lima. It assumes an analysis of the value chain, identification of weak points and stages where child labour may be involved, optimisation of the production model of participating enterprises and, provision of education and health care services facilitating removal of children from work (Desarrollo y Autogestión, (a)). By ensuring duty-free exports of fruits and vegetables to the EU, the Agreement has created an opportunity for increased exports, effectively used by producers of blueberries from Peru. Given favourable prices obtained by Peru (higher than its competitors), the country managed to maintain profit margins and thus create formal jobs in the sector, potentially also reducing poverty in the regions where blueberries are grown. Moving forward, it will be important to use policy dialogue in the TSD Title, technical assistance and commercial mechanisms, incl. export promotion to raise awareness (among both, producers and customers) of the child labour free seal to obtain decent prices for exported blueberries (and other agricultural products, such as coffee, using it) which in turn would enable implementing an amended special regime for agriculture (with improved workers' rights for adult workers) and eliminate the use of child labour from the sector.

According to 2016 data, the textile and garment sector in Peru, incl. cotton cultivation, provided jobs to some 400,000 persons (2.5% of the total employment in the country). Cotton cultivation was pursued by 8,425 farms, 60% of which did not exceed 5 hectares, which means that small-scale family farms played an important role in the sector. Since the year 2000, however, the area used for cotton cultivation had decreased considerably due to low prices, competition of cotton fibre and fabrics from Asia, the financial crisis of 2008-2009, which reduced demand for Peruvian cotton, and the lack of public policy and support that would encourage further development of the cotton value chain in Peru, with a focus on high-quality fabrics and identification of market niches where Peruvian products would be competitive. In 2016, some 80% of workforce⁷ in the cotton sector was informal and included short-term workers hired for the cotton harvest. They usually earned less than the minimum wage and did not have social security cover. Child labour was involved in the sector mainly at the time of the harvest and often included children of temporary workers who were hired for the harvest (ILO, Agencia Brasileña de Cooperación, 2016).

⁷ This means an increase in informality, from 72% in 2015 (IESS, 2021).

In 2019, the textile and garment sector continued to offer direct jobs to 400,000 persons⁸ (equalling 26.2% of the employment in manufacturing, and 2.3% of the total employment in the country) and generated 900,000 indirect jobs. The level of informality was at 78.1%, while among workers in microenterprises accounting for 80% jobs in the sector, the level of informality was at 88.7%. Garment production had a 76.3% share in the employment in the sector, with textile taking the rest (23.7%). Women represented 61.5% of workers in the sector (IESS, 2021). In 2018, Peru signed a cooperation agreement with Brazil aimed at the exchange of good practices to learn from the Brazilian experience in promoting decent work in the cotton value chain, poverty reduction, prevention and elimination of child labour and forced labour, formalization of work, jobs for youth, vocational training and capability building, health, and safety at work and social dialogue (El Comercio, December 2018). Peruvian labour inspectors also participated in workshops with counterparts from Brazil and Paraguay to exchange practices about work in rural areas and elimination of child labour in the cotton sector (ILO, 2019d). The EU has supported the elimination of child labour from cotton cultivation in Peru through the "Clean cotton" project, 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 improved access to education for children from rural areas (El Confidencial, November 2018).

To illustrate the overall possible impact of the Agreement on child labour in the sector, we note that according to the economic modelling, the Agreement is estimated to have contributed to a 0.3% employment increase in the sector, which would mean the generation of some 1,200 jobs or protection of this number of jobs against a trend of decreasing employment. It is more difficult however to draw conclusions on the nature of jobs (formal or informal), given the high informality rate in the sector. It may be the case that a mix of formal and informal jobs benefitted from the Agreement in different occupational categories, along the value chain. In such a case, exports to the EU could have helped to create or preserve jobs and to reduce poverty or prevent some workers from falling into poverty given a decreasing employment trend in the sector. This in turn may mean less need for child labour and less poverty among children. However, it may also not influence much the situation around child labour if mainly children of temporary workers join work (in such a case, those children would probably continue coming to the harvest and participating in it with their parents, unless the latter receive an opportunity of a more sustainable, long-term employment and income generation).

Child labour is also present in mining in the regions of Ica, Ayacucho, Arequipa, La Libertad, Huancavelica, and Piura in small-scale underground gold mines,⁹ and in Madre de Dios, in open-air gold extraction. Regarding non-metals mining, child labour has been identified in sand, clay, and precious stones exploitation. Working children and adolescents are exposed to hazardous substances, noise in underground mines, vibrations, extreme temperatures, heavy loads, repetitive movements overburdening certain parts of the body, health and safety risks related to operation of heavy machines, and life in a mostly masculine environment, characterised by high consumption of tobacco and alcohol, and high levels of aggression, which may also turn into violence and abuse of young women working in the neighbouring areas. Work in mining does not allow for dedication of much time to education and in some mining areas, there are no schools. Moreover, the work remains informal, and children receive worse contractual conditions than adult workers.¹⁰ There are, however, examples of good practice preventing and eliminating child labour in mines. In Santa Filomena (Ayacucho), it has been prohibited for children to come to a mine, and a school has been established in the community to facilitate education, but also to enable

⁸ However, in 2017, there was a short increase in employment, up to 463,300 persons (IESS, 2021).

⁹ In the early 2000s, around 30,000 families in Peru lived from income generation in gold mining (Ministerio del Trabajo, Colombia, 2017a).

¹⁰ Ministerio de Energía y Minas, Protejamos a nuestros niños del trabajo infantil: <http://intranet2.minem.gob.pe/ProyectoDGE/Mineria/TRIPTICO%20-%20Trabajo%20Infantil.PDF>

parents to come to work not being accompanied by children (ILO, 2017c). A similar practice with education for children, health care advisory services and additional income generation opportunities for parents has been developed in Mollehuaca (Arequipa) (Ministerio del Trabajo, Colombia, 2017a).

2.3 Child labour in Ecuador

The Constitution prohibits forced labour, human trafficking, and all forms of exploitation, including the use of children for illicit activities (Arts. 46 & 66). The Criminal Code of Ecuador criminalises the exaction of forced labour or other forms of exploitation (Art. 105) as well as sex and labour trafficking (Arts. 91 & 92), prescribing penalties ranging from 10 to 13 years of imprisonment for forced labour, and from 13 to 16 years for sex and labour trafficking.¹¹ The Childhood and Adolescence Code sets the minimum age for work at 15 years of age, and the minimum age for hazardous work at 18. Resolution No. 16 (2008) prohibits children under the age of 18 years from working in certain economic activities. The Labour Code authorises labour inspectors to conduct inspections.

The policy framework includes various measures to combat forced labour, human trafficking and child labour: e.g., the Organic Act on human mobility, the National Plan to Combat Trafficking in Persons, the 2012-2021 National Action Plan for Childhood and Adolescence, the 2017-2021 National Agenda for Intergenerational Equality, and the 2017-2021 National Development Plan. The Unified System of Registration of Child Labour has been upgraded.¹² It is difficult to estimate the real scale of child labour in Ecuador due to the lack of updated statistics, which also hampered the effectiveness of measures to combat child labour.¹³ The UN Committee on the Rights of the Child recommended Ecuador in 2017 to intensify its efforts in combatting child labour in all sectors of the economy and to establish programmes at the local and cantonal levels to implement the national strategy against child labour.¹⁴

The child labour rate among children aged 5 to 17 years decreased in the country from 17% in 2006 (INEC, 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 years¹⁵ (Plan V, June 2020). 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).

Sectors benefitting from the Agreement include vegetables, fruits and nuts, cereals, fisheries, other food products, apparel, and metal products. On the other hand, sectors, such as metals, motor vehicles, textiles, leather products, chemical products, rubber and plastics, pharmaceuticals, and paper products may be negatively affected.

¹¹ Código Orgánico Integral Penal del Ecuador: https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/EQU/INT_CEDAW_ARL_ECU_18950_S.pdf

¹² U.S. Department of Labor, Bureau of International Labor Affairs, Child Labor and Forced Labor Reports – Ecuador: <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/ecuador>

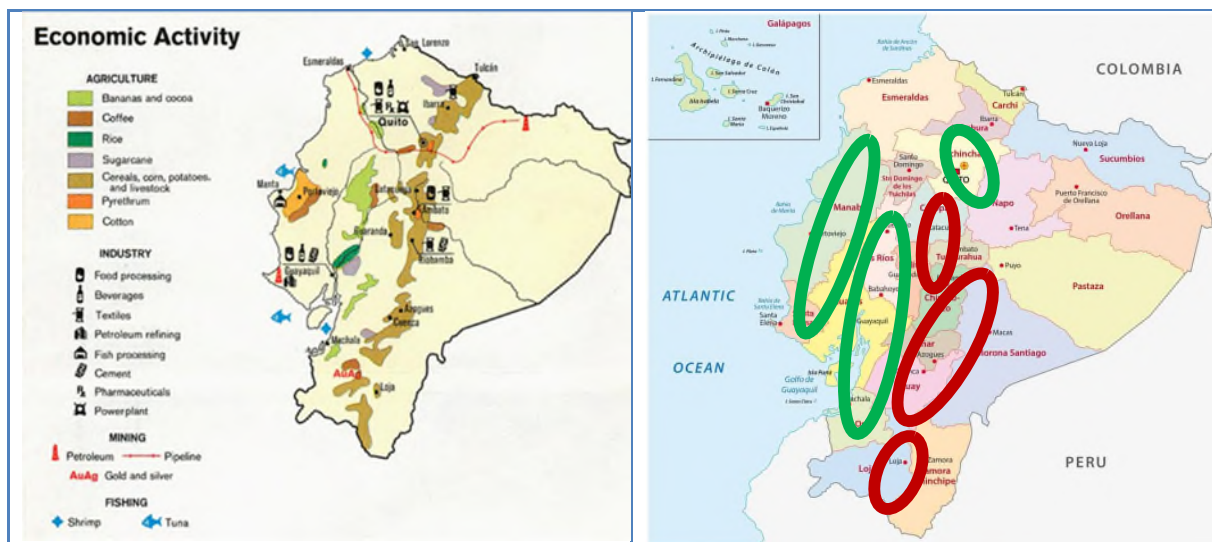
¹³ BTI (2020). Country Report Ecuador: <https://www.bti-project.org/en/reports/country-report-ECU.html>

¹⁴ United Nations Committee on the Rights of the Child (2017). Concluding observations on the combined fifth and sixth periodic reports of Ecuador, UN Doc. CRC/C/ECU/CO/4-5.

¹⁵ Plan V (June 2020), El trabajo infantil en Ecuador aumentará por la pandemia: <https://www.planv.com.ec/historias/sociedad/el-trabajo-infantil-ecuador-aumentara-la-pandemia>

In agriculture, child labour has been identified in banana and palm oil plantations, flowers and the abacá sector, as well as 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), and producers and exporters of flowers cooperate with government and trade unions to remove child labour also from this sector (ILO, 2017c). The majority of children working in agriculture in rural areas is not remunerated (in 2012, it was 91%), which suggests work as non-paid family members. Moreover, even if they receive payment, the amounts are usually very low. The poverty rates and job opportunities for adults have been closely related to child labour incidence. Over the last two decades, periods of economic growth and job creation went hand in hand with decreasing poverty and child labour incidence, while economic slowdown provoked an increase in both. A higher incidence of child labour is also recorded in poor families where a short-term gain from additional work carried out and generated income prevails over long-term investment in education and skills development (Consejo Nacional para la Igualdad Intergeneracional, 2018).

Figure 3: Economic activity and regions with child labour incidence in Ecuador



Red shape – high level of child labour; **Green shape** – low level of child labour

Source: Proyecto Mapamundi: <https://proyectomapamundi.com/america-del-sur/ecuador/> (right), Mapa Owje: https://mapas.owje.com/1938_mapa-de-actividad-economica-de-ecuador.html (left)

The flower sector in Ecuador provided 100,000 jobs in 2019 and 21% of exports were destined to the EU market, with the US being the main customer receiving 44% of exports in the sector (Expoflores, 2019). Flower cultivation takes place in provinces of Pichincha, Cotopaxi, Carchi, Imbabura, and Azuay (Fairtrade). In 2000, an ILO study evaluated child labour incidence in the sector in provinces of Pichincha and Cotopaxi, concluding that children below 15 years of age were involved in work, along with older adolescents, the latter carrying out hazardous work, working long hours, receiving low wages, and not having access to school. Since then, several projects were implemented covering in total 13,100 children (some of them were financed by EU Member States). Training and awareness raising activities have been provided to employers, workers, and local communities, and children received facilitated access to education and leisure activities. A certification scheme, Flor Ecuador, has also been set up to ensure compliance with labour and environmental standards, and has been made obligatory for members of Expoflores, an association of flower growers and exporters. In the labour-related part, it includes, among others, a requirement to prevent and eradicate child labour, to pay social security contributions for workers, to formalise work of adolescents and to respect norms in health and safety at work. It has been recognised internationally. In 2019, 81 enterprises from

the flower sector in Ecuador were certified and 20 in the process of certification. Experience developed in this context can also be replicated in other sectors (Expoflores, 2019).

Regarding the banana sector, a survey carried out by ASTAC among workers in the sector suggests challenging working conditions and an overall low job quality. However, the report 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 operations (ASTAC, 2019).