

Sustainable Development Chapters in new-generation Free Trade Agreements concluded by the EU in 2010–2020. The results of the comparative study

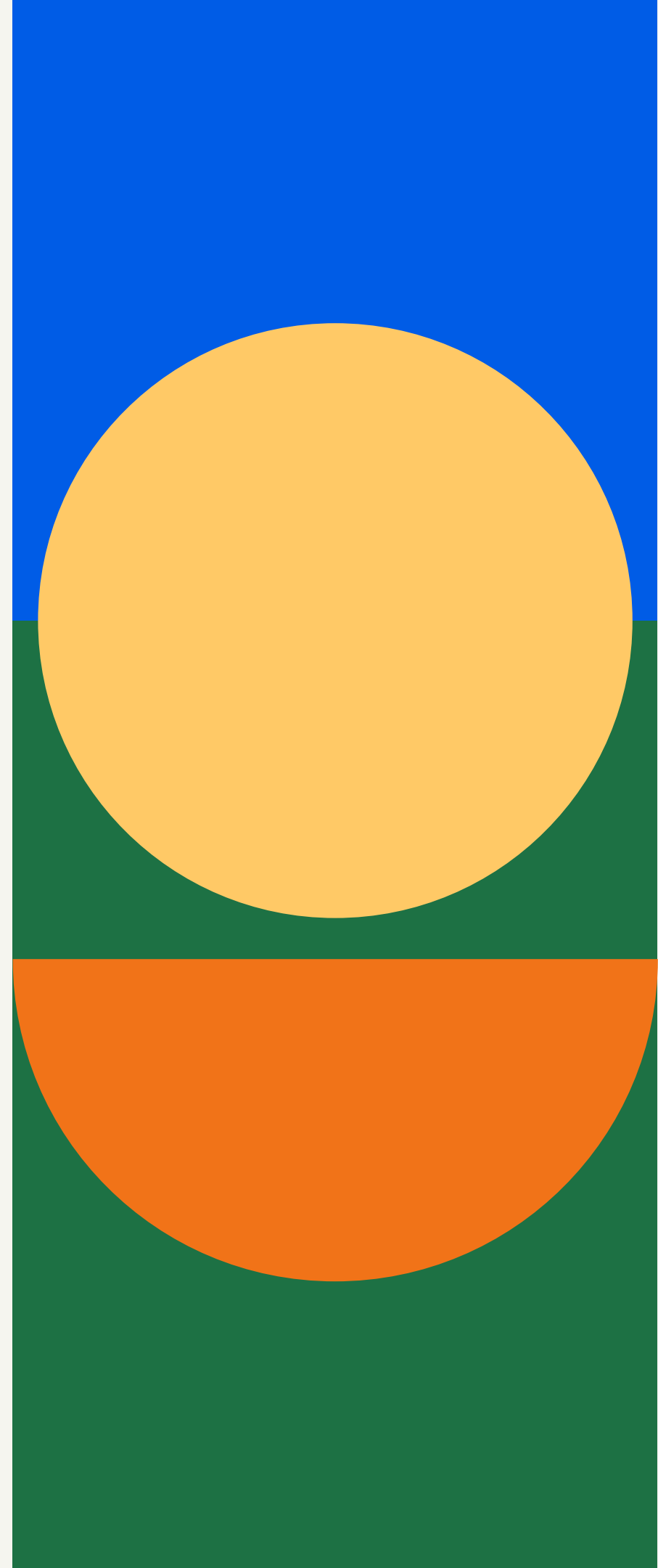
ImprovEUorGlobe conference, Bologna

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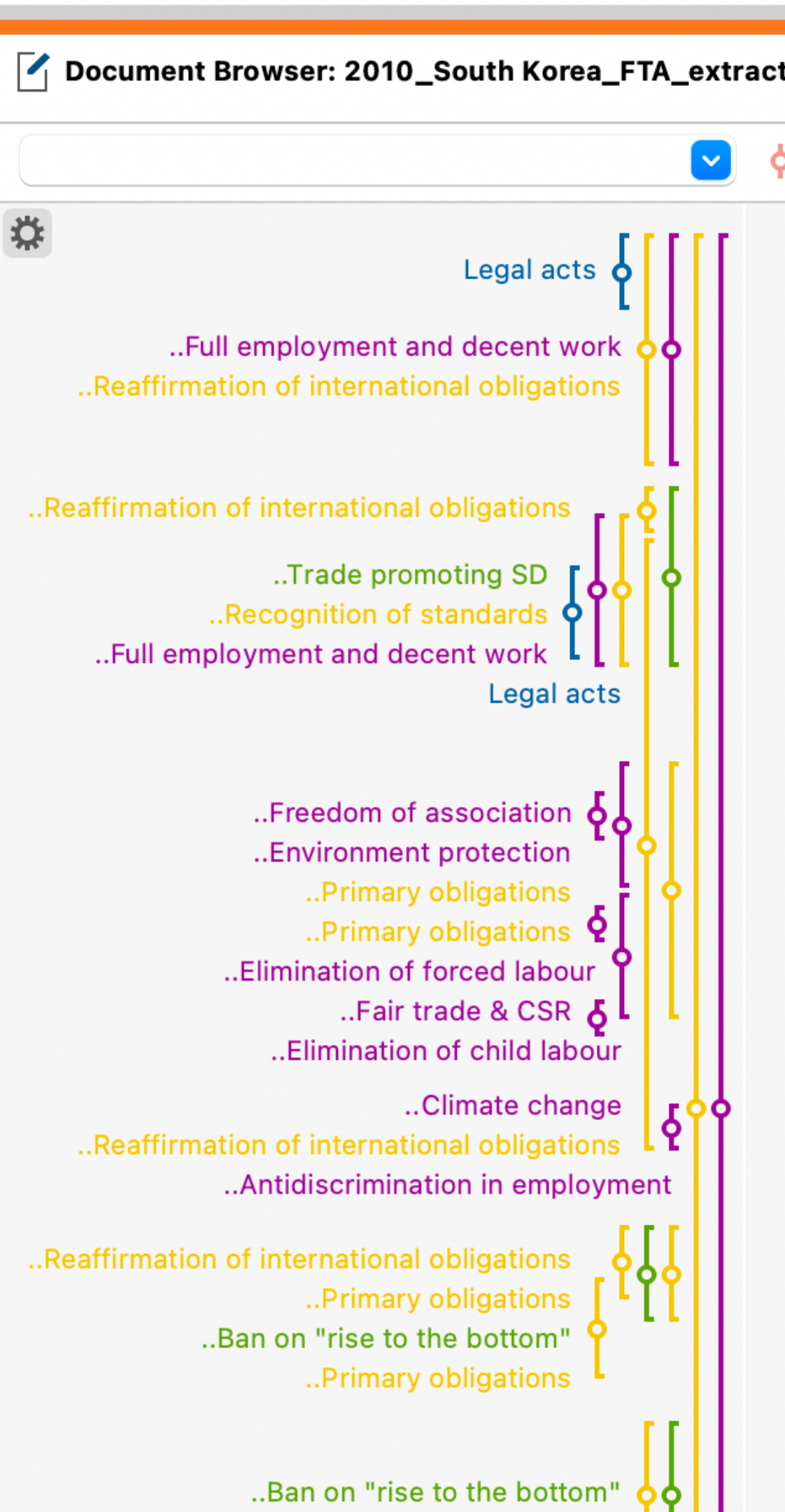
Methodology

Qualitative content analysis – using
MAXQDA 2022 software for coding
segments of analysed trade agreements



Documents	Count
2010_South Korea_FTA_ex...	82
2010_Central America_AA_e...	154
2010_Georgia_FTA_extract	208
2010_Moldova_AA_extract	203
2010_Ukraine_Association A...	111
2010_Andean countries_FTA_...	247
2010_Canada_CETA_extract	318
2010_Japan_FTA_extract	234
2010_Singapore_FTA_extract	205
2010_Vietnam_FTA_extract	236
2010_UK_TCA_extract_1	383
Total	4762

System	Count
Values and values protected	0
Labour rights	82
Antidiscrimination in e...	14
Elimination of forced la...	11
Freedom of association	11
Elimination of child lab...	11
Full employment and d...	17
Monitoring of impact	35
Transparency	62
Scientific knowledge	15
Fair trade & CSR	35
Mix of values	53



Legal acts

..Full employment and decent work

..Reaffirmation of international obligations

..Reaffirmation of international obligations

..Trade promoting SD

..Recognition of standards

..Full employment and decent work

Legal acts

..Freedom of association

..Environment protection

..Primary obligations

..Primary obligations

..Elimination of forced labour

..Fair trade & CSR

..Elimination of child labour

..Climate change

..Reaffirmation of international obligations

..Antidiscrimination in employment

..Reaffirmation of international obligations

..Primary obligations

..Ban on "rise to the bottom"

..Primary obligations

..Ban on "rise to the bottom"

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2. The Parties reaffirm the commitment, under the 2006 Ministerial Declaration of the UN Economic and Social Council on Full Employment and Decent Work, to recognising full and productive employment and decent work for all as a key element of sustainable development for all countries and as a priority objective of international cooperation and to promoting the development of international trade in a way that is conducive to full and productive employment and decent work for all, including men, women and young people.

3. The Parties, in accordance with the obligations deriving from membership of the ILO and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted by the International Labour Conference at its 86th Session in 1998, commit to respecting, promoting and realising, in their laws and practices, the principles concerning the fundamental rights, namely:

(a) freedom of association and the effective recognition of the right to collective bargaining;

(b) the elimination of all forms of forced or compulsory labour;

(c) the effective abolition of child labour; and

(d) the elimination of discrimination in respect of employment and occupation.

The Parties reaffirm the commitment to effectively implementing the ILO Conventions that Korea and the Member States of the European Union have ratified respectively. The Parties will make continued and sustained efforts towards ratifying the fundamental ILO Conventions as well as the other Conventions that are classified as 'up-to-date' by the ILO.

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cooperating on the development of the future international climate change framework in accordance with the Bali Action Plan ⁽⁸⁵⁾.

Article 13.6

Trade favouring sustainable development

1. The Parties reconfirm that trade should promote sustainable development in all its dimensions. The Parties recognise the beneficial role that core labour standards and decent work can have on economic efficiency, innovation, productivity, and they highlight the value of greater coherence between trade policies, on the one hand, and employment and labour policies on the other.

2. The Parties shall strive to facilitate and promote trade and foreign direct investment in environmental goods and services, including environmental technologies, sustainable renewable energy, energy efficient products and services and eco-labelled goods, including through addressing related non-tariff barriers. The Parties shall strive to facilitate and promote trade in goods that contribute to sustainable development, including goods that are the subject of schemes such as fair and ethical trade and those involving corporate social responsibility and accountability.

Article 13.7

Upholding levels of protection in the application and enforcement of laws, regulations or standards

1. 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.

2. A Party shall not weaken or reduce the environmental or labour protections afforded in its laws to encourage trade or investment, by waiving or otherwise derogating from, or otherwise failing to enforce, its laws, or by otherwise failing to enforce its laws.

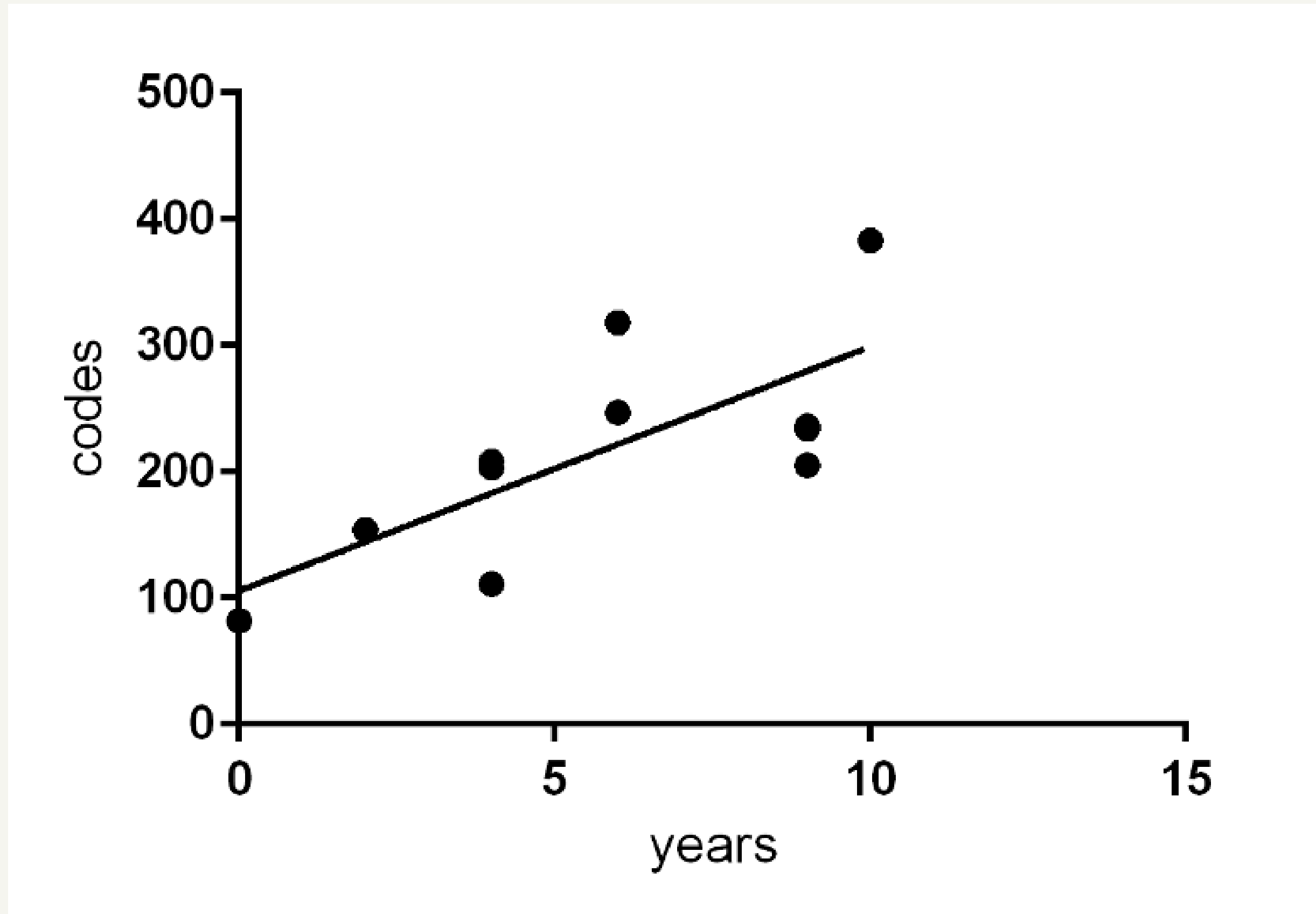
Article 13.5

Multilateral environmental agreements

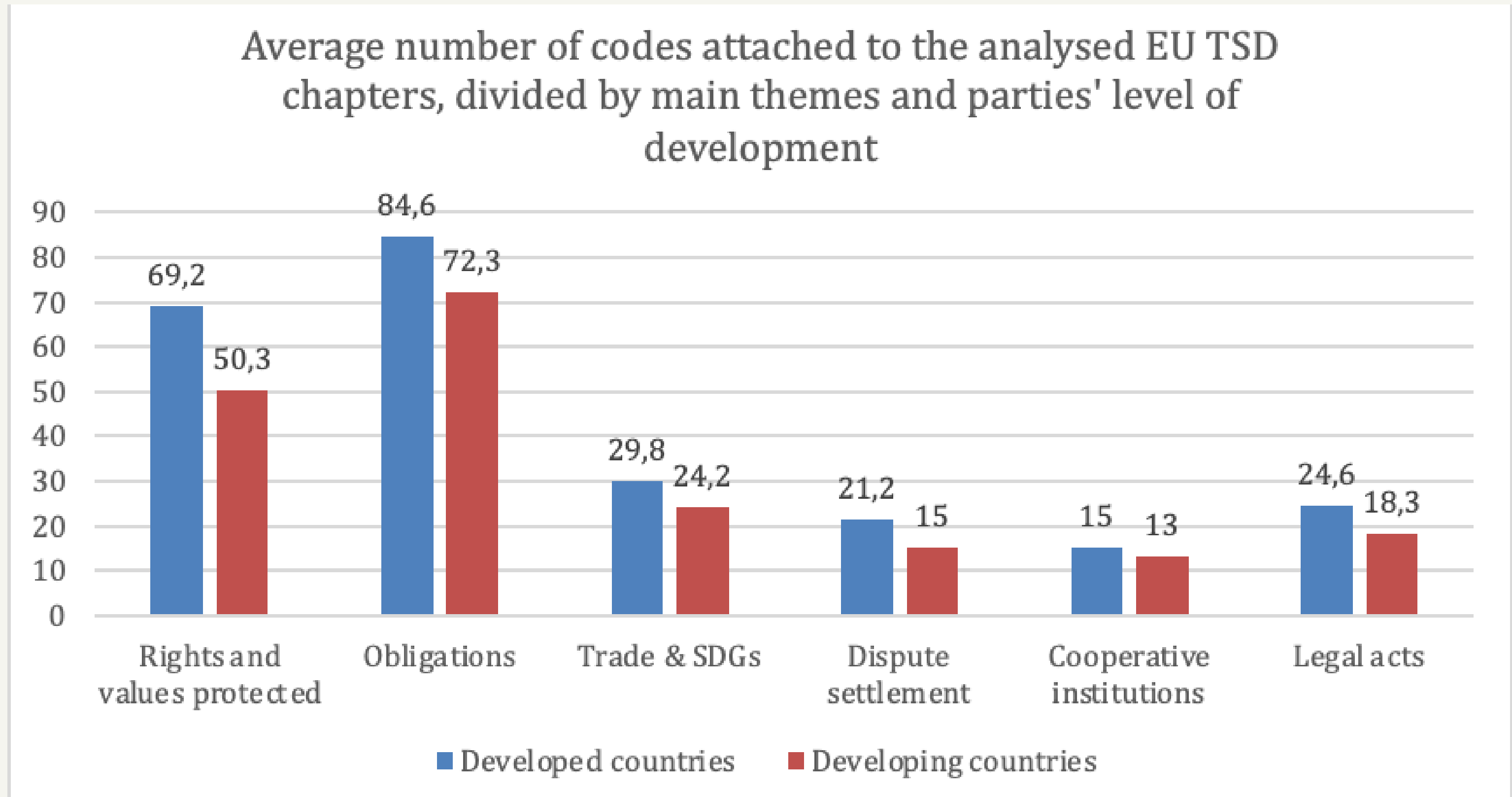
Two main hypotheses of the empirical research made worldwide

- The **complexity** of TSD chapters **has risen** over time
- FTAs concluded by **developed** countries with **developing** ones tend to contain **more detailed provisions** on sustainable development

Complexity

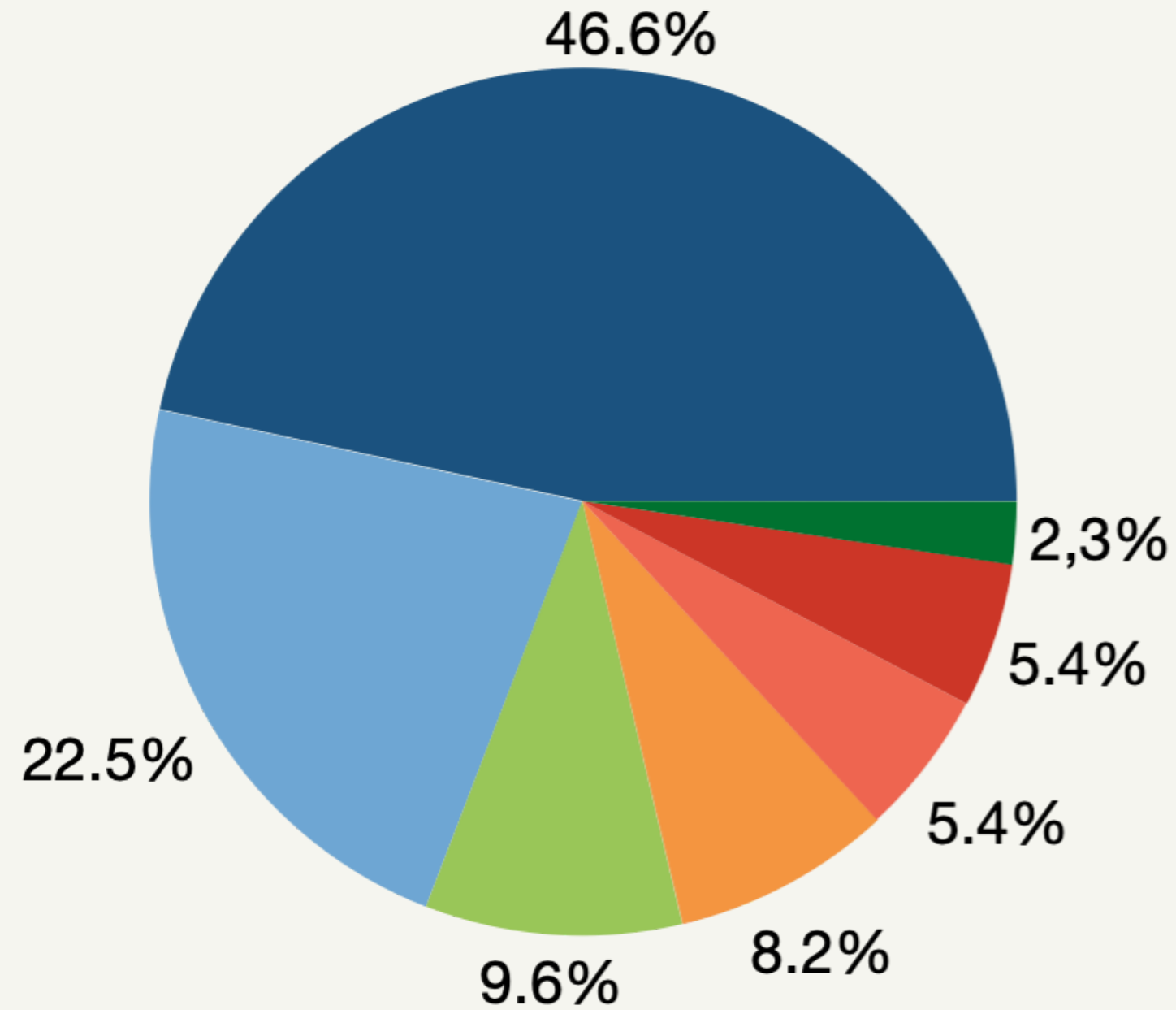


Complexity



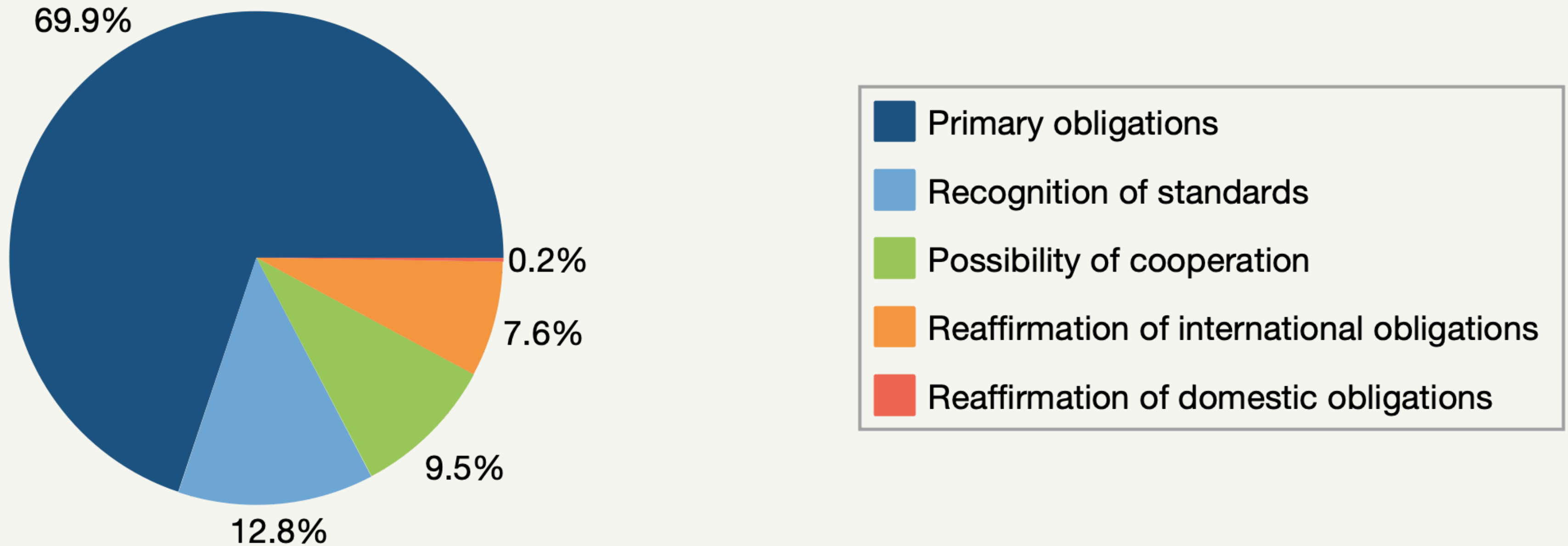
Distribution of subcodes

Rights and values protected



Distribution of subcodes

Obligations



Dispute resolution

EU FTA trade partner	South Korea	Central America	Ukraine	Canada (CETA)	Japan	Singapore	Vietnam	UK (TCA)
interim report	no	yes	no	yes	yes	yes	yes	yes
deadline for the interim report	-	60 days for a panel to convene + 120 days	-	120 days	45 for a panel to convene + 90 days	90 days	90 days	100 days
deadline for the final report	2 months for a panel to convene + 90 days	180 days from establishing the panel	60 days for a panel to convene + 90 days	60 from interim report	180 days from establishing the panel	150 days from establishing the panel	150 days from establishing the panel	175 days from establishing the panel

Issues with the EU TSD chapters

- long procedure (EU v. Korea – 479 days!)
- lack of sanctions → VCLT + human rights conditionality clauses
- panels of experts are not prepared
- vague substantive provisions, standard of care not defined