



Brussels, 24.3.2014  
COM(2014) 170 final

2014/0099 (NLE)

Proposal for a

## **COUNCIL DECISION**

**on a position to be taken by the European Union within the Trade Committee set up by the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, as regards the adoption of the Rules of Procedure for the Trade Committee, the Rules of Procedure and Code of Conduct for arbitrators, the establishment of the lists of arbitrators and the list of experts of the Group of Experts, and the adoption of the Rules of Procedure for the Group of Experts on Trade and Sustainable Development**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

The Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part (hereinafter referred to as "Agreement") was signed on 26 June 2012, and it has been provisionally applied since 1 March 2013 with Peru and since 1 August 2013 with Colombia.

Article 13.1(j) of the Agreement stipulates that the Trade Committee shall adopt its own Rules of Procedure.

Articles 13.1(h) and 315 of the Agreement specify that the Trade Committee shall adopt the Rules of Procedure and Code of Conduct for arbitrators.

Article 304(1) and (4) of the Agreement requires that the Trade Committee establish a list of 25 individuals to serve as arbitrators and additional lists of 12 individual with sectorial experience on specific subjects covered by this Agreement.

Article 284 (3) and (6) of the Agreement requires the Trade Committee to endorse a list of at least 15 persons with expertise on issues covered by the Trade and Sustainable Development Title to serve in the Group of Experts and to adopt the Rules of Procedure of the latter.

The attached proposal constitutes the proposal for a legal instrument approving the position that the European Union will be taking in the Trade Committee on the above mentioned issues.

### **2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES**

The Rules of Procedure for the Trade Committee, the Rules of Procedure and Code of Conduct for arbitrators, the list of individuals to serve as arbitrators, the list of persons with expertise on issues covered by the Trade and Sustainable Development Title and the Rules of Procedure for the Group of Experts have been previously discussed and agreed with Colombia and Peru in the framework of the preparation of the first Trade Committee for the implementation of the Agreement. The discussions started immediately after the Agreement has been provisionally applied with Peru in March 2013, however, they could only be finalised after the Agreement was provisionally applied also with Colombia in August 2013. The final text of this proposal is the result of these detailed discussions.

On 30 July 2010 (Trade Policy Committee note meeting document 452/10) the Commission asked the Member States to submit candidates for the establishment of the Dispute Settlement rosters. The proposed EU individuals to serve as arbitrators or experts on the Trade and Sustainable Development Title for this Agreement have been chosen from the nominations that were sent by the Member States.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4) in conjunction with Article 218(9) thereof, the Commission is submitting a proposal to the Council for a decision on establishing the position to be adopted on the Union's behalf in the Trade Committee set up by this Agreement.

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## COUNCIL DECISION

**on a position to be taken by the European Union within the Trade Committee set up by the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, as regards the adoption of the Rules of Procedure for the Trade Committee, the Rules of Procedure and Code of Conduct for arbitrators, the establishment of the lists of arbitrators and the list of experts of the Group of Experts, and the adoption of the Rules of Procedure for the Group of Experts on Trade and Sustainable Development**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 19 January 2009, the Council authorised the Commission to negotiate a multiparty trade agreement on behalf of the European Union and its Member States with the Member countries of the Andean Community.
- (2) These negotiations have been concluded and the Trade Agreement between the European Union its Member States, of the one part, and Colombia and Peru, of the other part (hereinafter referred to as ‘the Agreement’)<sup>1</sup> was signed on 26 June 2012.
- (3) Pursuant to Article 330(3) of the Agreement, the Agreement has been provisionally applied with Peru since 1 March 2013 and with Colombia since 1 August 2013 subject to its conclusion at a later date.
- (4) Article 12 of the Agreement establishes a Trade Committee, which shall, *inter alia*, ensure that the Agreement operates properly.
- (5) Article 13.1(j) of the Agreement provides that the Trade Committee shall adopt its own Rules of Procedures.
- (6) Articles 13.1(h) and 315 of the Agreement provide that the Trade Committee shall adopt at its first meeting the Rules of Procedure and the Code of Conduct for arbitrators.
- (7) Article 304(1) and (4) of the Agreement provide that the Trade Committee shall establish at its first meeting a list of 25 individuals to serve as arbitrators and an additional lists of 12 individuals with sectorial experience on specific subjects covered by this Agreement.
- (8) Article 284(3) of the Agreement provides that the Trade Committee shall endorse at its first meeting a list of at least 15 persons with expertise on issues covered by the Trade and Sustainable Development Title to serve in the Group of Experts.

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<sup>1</sup> OJ L 354, 21.12.2012.

- (9) Article 284(6) of the Agreement stipulates that the Trade Committee shall adopt at its first meeting Rules of Procedure for the Group of Experts.
- (10) The Union should determine the position to be taken as regards the adoption of the Rules of Procedure of the Trade Committee, the Rules of Procedure and Code of Conduct for arbitrators, the establishment of the lists of individuals to serve as arbitrators and of the list of persons with expertise on issues covered by the Trade and Sustainable Development Title, as well as the adoption of Rules of Procedure for the Group of Experts,

HAS ADOPTED THIS DECISION:

*Article 1*

The position to be taken by the European Union in the Trade Committee, set up by the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, as regards the adoption of the Rules of Procedure of the Trade Committee, the Rules of Procedure and Code of Conduct for arbitrators, the establishment of the lists of individuals to serve as arbitrators and the list of persons with expertise on issues covered by the Trade and Sustainable Development Title, as well as the adoption of the Rules of Procedure for the Group of Experts, shall be based on the draft decisions of the Trade Committee annexed to this Decision.

Minor changes to the draft Decision may be agreed to by the representatives of the Union in the Trade Committee without further decision of the Council.

*Article 2*

After its adoption, the Decision of the Trade Committee shall be published in the *Official Journal of the European Union*.

*Article 3*

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

*For the Council*  
*The President*