



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 20 April 2012
(OR. en)**

14762/11

**Interinstitutional File:
2011/0249 (NLE)**

**WTO 328
AMLAT 83
SERVICES 95
COMER 189**

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the conclusion of the Trade Agreement
between the European Union and its Member States, of the one part, and
Colombia and Peru, of the other part

COUNCIL DECISION No .../2012/EU

of

**on the conclusion of the Trade Agreement
between the European Union and its Member States, of the one part,
and Colombia and Peru, of the other part**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91, Article 100(2) and the first subparagraph of Article 207(4), in conjunction with Article 218(6)(a) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament¹,

¹ Consent of ... (not yet published in the OJ).

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 which shared the aim of reaching an ambitious, comprehensive and balanced trade agreement.
- (2) Those negotiations have been concluded and 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 "the Agreement") was initialled on 23 March 2011.
- (3) In accordance with Council Decision No .../2012/EU^{1*}, the Agreement was signed on behalf of the Union on ..., subject to its conclusion, and has been applied on a provisional basis.
- (4) The Agreement should be approved.
- (5) The Agreement does not affect the rights of investors of the Member States to benefit from any more favourable treatment provided for in any agreement relating to investment to which a Member State and a signatory Andean Country are Parties.

¹ OJ L ...

* OJ: please insert the number and publication reference of the Decision in document 14759/11.

- (6) Pursuant to Article 218(7) of the Treaty, it is appropriate for the Council to authorise the Commission to approve modifications of the Agreement concerning geographical indications to be adopted by the Trade Committee, as proposed by the Subcommittee on Intellectual Property pursuant to Article 209(2) of the Agreement.
- (7) It is appropriate to set out the relevant procedures for the protection of those geographical indications which are given protection pursuant to the Agreement.
- (8) The Agreement should not be construed as conferring rights or imposing obligations which can be directly invoked before Union or Member State courts and tribunals,

HAS ADOPTED THIS DECISION:

Article 1

The Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part^{1*}, is hereby approved on behalf of the Union.

Article 2

The President of the Council shall designate the person(s) empowered to proceed on behalf of the Union to give the notification referred to in Article 330(1) of the Agreement, in order to express the consent of the Union to be bound by the Agreement.

Article 3

For the purposes of Article 209(2) of the Agreement, modifications of the Agreement concerning geographical indications to be adopted by the Trade Committee, as proposed by the Subcommittee on Intellectual Property, shall be approved by the Commission on behalf of the Union. Where interested parties cannot reach agreement following objections relating to a geographical indication, the Commission shall adopt such a position on the basis of the procedure laid down in Article 15(2) of Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs².

¹ The Agreement has been published in OJ ... together with the Decision on signing.
^{*} OJ: please insert in footnote 1 the publication reference of the Agreement in document 14764/11.
² OJ L 93, 31.3.2006, p. 12.

Article 4

1. A name protected under Appendix 1 of Annex XIII (Lists of Geographical Indications) of the Agreement may be used by any operator marketing agricultural products, foodstuffs, wines, aromatised wines or spirits which comply with the corresponding specification.
2. The Member States and the institutions of the Union shall enforce the protection provided for in Article 210 of the Agreement, including at the request of an interested party.

Article 5

The applicable provision for the purposes of adopting the necessary implementing rules for the application of the rules contained in Appendix 2A and Appendix 5 of Annex II concerning the Definition of the Concept of 'Originating Products' and Methods of Administrative Cooperation, and Appendix 1 of Annex I concerning the Elimination of Customs Duties of the Agreement is Article 247a of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code¹.

¹ OJ L 302, 19.10.1992, p. 1.

Article 6

The Agreement shall not be construed as conferring rights or imposing obligations which can be directly invoked before Union or Member State courts and tribunals.

Article 7

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

Done at Brussels,

For the Council
The President
