



**Brussels, 8 November 2016  
(OR. en)**

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**Interinstitutional Files:**

2016/0091 (NLE)  
2016/0092 (NLE)

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13472/2/16  
REV 2

WTO 296  
SERVICES 27  
COLAC 90

**'I/A' ITEM NOTE**

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From: General Secretariat of the Council  
To: Permanent Representatives Committee (Part 2)/Council

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No. prev. doc.: 13472/1/16 REV 1  
No. Cion doc.: 7614/16 WTO 79 SERVICES 4 COLAC 18 + ADD 1 to ADD 28  
7616/16 WTO 80 SERVICES 5 COLAC 19 + ADD 1 to ADD 28

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Subject: Draft COUNCIL DECISION on the signing, on behalf of the Union, and provisional application of the Protocol of Accession to the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, to take account of the accession of Ecuador

- Adoption

and

Draft COUNCIL DECISION on the conclusion, on behalf of the Union, of the Protocol of Accession to the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, to take account of the accession of Ecuador

- Request for the consent of the European Parliament

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1. On 4 April 2016, the Commission submitted to the Council:
  - a) a proposal for a Council Decision on the signing, on behalf of the European Union, and provisional application of the Protocol of Accession to the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, to take account of the Accession of Ecuador (doc. 7614/16 + ADD 1 - ADD 28); and

- b) a proposal for a Council Decision on the conclusion of the Protocol of Accession to the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, to take account of the Accession of Ecuador (doc. 7616/16 + ADD 1 - ADD 28).
2. The proposals were examined by the Trade Policy Committee (Deputies) at its meetings on 15 April and 27 May 2016 and were subsequently endorsed, as amended.
3. The signing of the Protocol is envisaged for 11 November 2016.<sup>1</sup>
4. In light of the above, and subject to confirmation by the Permanent Representatives' Committee, the Council is invited to agree to:
- a) adopt the Council Decision on the signing, on behalf of the Union, and provisional application of the Protocol of Accession to the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, to take account of the accession of Ecuador, as finalised by the legal-linguistic experts and set out in documents 7619/16 WTO 82 SERVICES 7 COLAC 21 and 7621/16 WTO 84 SERVICES 9 COLAC 23 + ADD 1 - ADD 13;
- b) agree to forward the draft Council Decision on the conclusion, on behalf of the Union, of the Protocol of Accession to the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, to take account of the accession of Ecuador, as finalised by the legal-linguistic experts and set out in documents 7620/16 WTO 83 SERVICES 8 COLAC 22 and 7621/16 WTO 84 SERVICES 9 COLAC 23 + ADD 1 - ADD 13, to the European Parliament for its consent;
- c) enter in its minutes the statements set out in Annex I to this note.

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<sup>1</sup> Communication CM 3666/1/16 REV 1.

**1. Statement by Portugal**

Bearing in mind the compliance with the principle of competence sharing between the European Union and its Member States, as established by the Treaties, the Council Decision regarding the provisional application of the Protocol of Accession to the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, to take account of the Accession of Ecuador, shall not affect the autonomy of Portugal's decisions regarding issues within its national competence, whose international binding to Protocol of Accession, pursuant to its Constitutional principles and rules, depends on the conclusion of the internal ratification procedures and the entry into force of the Protocol of Accession in the international legal system.

**2. Statement by Slovenia**

On the basis of the allocation of competences between the European Union and its Member States under the Treaties, the Decision of the Council that authorises the provisional application of the Protocol of Accession to the Agreement between the European Union and its Member States, of one part, and Columbia and Peru, of the other part, to take into account of the Accession of Ecuador, shall not affect the autonomy of the Republic of Slovenia to decide to be bound by it with regard to issues falling within its national competence. That implies inter alia that reference in the said Protocol to internal requirements and procedures necessary for its provisional application is to be understood in the case of Slovenia as referring to the completion of ratification procedures.

**3. Statement by Ireland**

Ireland recalls the statement made by the Council on 31 May 2012 at the occasion of the adoption by the Council of the decision authorising the signature and the provisional application 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's statement noted that:

"Should the implementation of the agreement by the European Union necessitate a recourse to measures pursuant to Part III, Title V, of the Treaty on the Functioning of the European Union, the provisions of the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, will be fully respected."

Ireland notes that the Council statement applies also to the accession by Ecuador to the Agreement and notes further that the Commission has, by letter dated 13 October 2016, notified Ecuador of the terms of the Council statement.

#### **4. Statement by the United Kingdom**

The United Kingdom welcomes the signature of the Protocol of Accession to the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, to take account of the Accession of Ecuador.

However, the United Kingdom considers that the Agreement contains provisions related to the temporary presence of natural persons for business which are pursuant to Title V of Part III of the Treaty on the Functioning of the Union. The United Kingdom recalls that, in accordance with Article 2 of Protocol (No. 21) to the Treaties on the position of the United Kingdom and Ireland in Respect of the Area of Freedom, Security and Justice, no provision of any international agreement concluded by the Union pursuant to that Title shall be binding upon or applicable in the United Kingdom unless, in accordance with Article 3 of the Protocol, it notifies its intention that it wishes to take part in the adoption and application of a proposed measure.

As a result, in accordance with Article 3 of Protocol (No. 21), the United Kingdom notified the President of the Council that, to the extent that the Decisions relate to the temporary presence of natural persons for business, it intends to take part in the Council Decisions.