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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union
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Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the tariff treatment for goods originating from Ecuador

Delegations will find attached document COM(2014) 585 final.

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EUROPEAN
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Brussels, 1.10.2014
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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the tariff treatment for goods originating from Ecuador

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

On 17 July 2014 the negotiations were concluded with Ecuador for its accession to the Trade Agreement concluded between the EU and Colombia/Peru. As a result of these negotiations, a Protocol of Accession by Ecuador to the Agreement (hereinafter “the Protocol of Accession”) was initialled on [...].

In order to avoid unnecessary trade disruption pending the completion of the procedures for the approval and application of the Protocol of Accession, it is necessary to ensure that customs duties applied on the date of initialling of the Protocol of Accession are not increased and that no new customs duties are applied on products originating in Ecuador. To this end, the proposed Regulation provides for the maintenance of the level of duty rates that were applicable to Ecuador on the date of initialling of the Protocol of Accession.

This Regulation will apply as of 1 January 2015 and until six months after the Protocol of Accession enters into force (or, where appropriate, is applied provisionally), or until 31 December 2016, whichever occurs first. This duration is necessary to provide for sufficient time to carry out all the necessary internal procedures in the EU, but also in Ecuador, for the application of the Protocol of Accession. Additional delays could be incurred due to the necessary consultation and approval of the Protocol of Accession by Colombia and Peru prior to the Commission decision on the proposal for the Council Decisions on signature and provisional application and on conclusion of the Protocol of Accession. The potential six month overlap of this Regulation and of the application of the Protocol of Accession is deemed necessary to enable the economic operators to adjust to the new customs procedures.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

Not applicable.

3. LEGAL ELEMENTS OF THE PROPOSAL

The legal basis for the proposal is Article 207(2) of the Treaty on the Functioning of the European Union.

4. BUDGETARY IMPLICATION

The proposed Regulation maintains the current market access arrangements and in this sense does not have any additional financial implications for the EU budget. The absence of its application would, however, entail a potential increase in the customs revenue collection.

The amount of this customs revenue collection is difficult to predict, but would in any case be relatively small. The duty savings incurred by current market access regime enjoyed by Ecuador and which lapses on 1 January 2015 are in the range of €15 million (based on 2013 trade figures). Ecuador's exports to the EU are highly concentrated and 95% of these savings come from exporting essentially 5 product groups with an average customs duty of 16%.

Therefore, applying the *erga omnes* duties for these products would significantly reduce their exports to the EU, thus further reducing the actual impact on the EU budget.

Proposal for a

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part (hereinafter “the Agreement”) signed on 26 June 2012, provides in its Article 329 for the possible accession to the Agreement of other Member Countries of the Andean Community.
- (2) Following the request by Ecuador to restart the negotiations with the Union to become a Party to the Agreement, negotiations were conducted between the Union and Ecuador in 2014. As a result of those negotiations, a Protocol of Accession by Ecuador to the Agreement (hereinafter “the Protocol of Accession”) was initialled on [...].
- (3) Following the initialling of the Protocol of Accession, an interim reciprocal arrangement is necessary for the establishment of a free-trade area with Ecuador in order to avoid unnecessary trade disruption. Therefore, as from 1 January 2015, customs duties applied on the date of initialling of the Protocol of Accession are not increased nor new customs duties applied on products originating in Ecuador.
- (4) This Regulation therefore provides for the maintenance of the level of duty rates applicable to Ecuador on [date of initialling of the Protocol of Accession] as from 1 January 2015.
- (5) This measure is without prejudice to measures taken under Council Regulations (EC) Nos 597/2009¹, 1225/2009² or 260/2009³.

¹ Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community (OJ L 188, 18.07.2009, p. 93).

² Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ L 343, 22.12.2009, p. 51).

- (6) As a condition for the application of the tariff treatment granted under this Regulation, Ecuador should abstain from introducing new duties or charges having equivalent effect or new quantitative restrictions or measures having equivalent effect for imports originating in the Union, or from increasing existing levels of duties or charges or from introducing any other restrictions from [the date of initialling of the Protocol of Accession].
- (7) To ensure that Ecuador maintains its commitment to core international conventions on human and labour rights, environmental protection and good governance, the application of this measure should be subject to the continued and effective implementation of those conventions.
- (8) In order to prevent any risk of fraud, the entitlement to benefit from the tariff treatment provided under this Regulation should be conditional on compliance by Ecuador with the relevant rules of origin of products and the procedures related thereto.
- (9) It is necessary to provide for the application of Common Customs Tariff duties for any products originating in Ecuador which cause, or threaten to cause, serious difficulties to Union producers of like or directly competing products, subject to an investigation by the Commission.
- (10) In the event of failure to comply with any of the conditions laid down in this Regulation, implementing powers should be conferred on the Commission to suspend temporarily in whole or in part the tariff treatment provided therein. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and the Council⁴.
- (11) This Regulation is to be applied until six months after the entry into force or date of provisional application of the relevant provisions of the Protocol of Accession, and until 31 December 2016 at the latest,

HAVE ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation:

- (a) ‘tariff treatment’ means the duty rate and treatment applied on goods originating in Ecuador as provided for by Article 2 ;
- (b) ‘Common Customs Tariff duties’ means the duties specified in Part Two of Annex I to Council Regulation (EEC) No 2658/87⁵, as amended, except those duties established as part of tariff quotas;

³ Council Regulation (EC) No 260/2009 of 26 February 2009 on the common rules on imports (OJ L 84, 31.3.2009, p. 1).

⁴ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁵ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

- (c) ‘product(s) originating in Ecuador’ means product(s) that conform(s) to the origin requirements under Title II, Chapter 2 of Council Regulation (EEC) No 2913/92⁶ and, depending on the tariff treatment sought pursuant to the provisions of Article 2, Title IV, Chapter 1 or Section 1 of Chapter 2 of Commission Regulation (EEC) No 2454/93⁷.

Article 2

Tariff treatment

1. Customs duties applied on products originating in Ecuador on [date of initialling of the Protocol] shall not be increased and no new customs duties introduced after that date shall be applied on those products.
2. The tariff treatment provided for in paragraph 1 shall be applied without prejudice to any measures taken under Regulations (EC) Nos 597/2009, 1225/2009 or 260/2009.

Article 3

Conditions for entitlement to the tariff treatment

Entitlement to benefit from tariff treatment defined in Article 2 shall be subject to:

- (a) compliance with the rules of origin referred to in Article 1(c) and the procedures related thereto, including, as appropriate, effective administrative cooperation provisions applicable on [date of initialling of the Protocol of Accession];
- (b) abstention by Ecuador from introducing new duties or charges having equivalent effect and new quantitative restrictions or measures having equivalent effect for imports from the Union, or from increasing existing levels of duties or charges or from introducing any other restrictions from [the date of initialling of the Protocol of Accession];
- (c) maintaining the ratification and effective implementation on the part of Ecuador of the covenants, conventions and protocols listed in the Annex to this Regulation, and accepting without reservation the reporting requirements, regular monitoring and review of its implementation record in accordance with the provisions of the covenants, conventions and protocols it has ratified;
- (d) cooperating with the European Commission and providing all information necessary to assess the respect by Ecuador of the requirements in paragraph (c);
- (e) Ecuador conducting continuous efforts to sign and ratify 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.

⁶ Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).

⁷ Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p. 1).

Article 4

Temporary suspension

Where it finds that there is sufficient evidence of failure to comply with the conditions set out in Article 3, the Commission may adopt implementing acts in order to suspend tariff treatment temporarily, in respect of all or of certain products originating in Ecuador. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 6(2).

Article 5

Safeguard clause

Where a product originating in Ecuador is imported in volumes and/or at prices which cause, or threaten to cause, serious difficulties to Union producers of like or directly competing products, the Common Customs Tariff duties for that product may be reintroduced following the procedural rules laid down in Regulation (EU) No 19/2013 of the European Parliament and of the Council⁸, *mutatis mutandis*.

Article 6

Committee procedure

1. For the implementation of Article 4 of this Regulation, the Commission shall be assisted by the Customs Code Committee established by Article 248a of Council Regulation (EEC) No 2913/92. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where a reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 7

Entry into force, application and expiry

1. This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.
2. This Regulation shall apply from 1 January 2015.
3. This Regulation shall expire six months after the Protocol of Accession enters into force or, where appropriate, is applied provisionally, or on 31 December 2016, whichever occurs first. The Commission shall publish in the *Official Journal of the European Union* a notice in the event that this Regulation ceases to apply before 31 December 2016.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

⁸ Regulation (EU) No 19/2013 of the European Parliament and of the Council of 15 January 2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part (OJ L 17, 19.1.2013, p. 1).

Done at Brussels,

For the European Parliament
The President

For the Council
The President