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PROPOSAL

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| From: | Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director |
| date of receipt: | 4 April 2016 |
| To: | Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union |
| No. Cion doc.: | COM(2016) 173 final - ANNEX 13 |
| Subject: | ANNEX to the 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 |

Delegations will find attached document COM(2016) 173 final - ANNEX 13.

Encl.: COM(2016) 173 final - ANNEX 13



Brussels, 4.4.2016
COM(2016) 173 final

ANNEX 13

ANNEX

to the

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

ANNEX XIV

(New Section D of Appendix 1 to Annex IX to the Agreement referred to in Article 124 of the Agreement)

RESERVATIONS REGARDING TEMPORARY PRESENCE OF NATURAL PERSONS FOR BUSINESS PURPOSES

APPENDIX 1

RESERVATIONS ON KEY PERSONNEL AND GRADUATE TRAINEES

'SECTION D

ECUADOR

This Schedule of Commitments is consistent with the constitutional and legal provisions governing the temporary presence in Ecuador of persons for business purposes and their compatibility with the undertakings made at multilateral level.

For the preparation of this offer, account was taken of the United Nations Statistics Division's Central Products Classification, Statistical Reports, Series M, No. 77, provisional, 1991, for the offer relating to cross-border trade in services.

The list of reservations set out below indicates the economic activities liberalised pursuant to Article 114 of this Agreement for which limitations on key personnel and graduate trainees in accordance with Article 124 of the same apply, and specifies such limitations. Ecuador does not undertake any commitment for key personnel and graduate trainees in economic activities which are not liberalised (remain unbound) pursuant to Article 114 of this Agreement.

For methodological revision and analysis purposes, the list below is presented as follows:

- The services sectors affected by restrictions in this offer are shown on the left-hand side headed “Sector or sub-sector”.
- To complement the list, the right-hand column includes the restrictions or limitations affecting the corresponding sector or sub-sector.
- Commitments in specific sectors or sub-sectors are subject to the horizontal reservations and limitations included in the first section, which apply across the board and unconditionally to all sectors unless otherwise stated.

In accordance with the provisions included in Article 107(7) relating to the scope of the rules in the Title on Trade in Services, Establishment and Electronic Commerce, no measures are listed that relate to regulation of the entry of natural persons into, or their temporary stay in, Ecuadorian territory, including those measures adopted or maintained by Ecuador as necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders.

The list below does not include measures relating to qualification requirements and procedures, technical standards and licensing requirements and procedures, and measures regarding employment, work and social security conditions. Such measures, which include

but are not limited to: the need to obtain a license, the need to obtain recognition of qualifications in regulated sectors, the need to pass specific examinations, including language examinations, the need to have a legal domicile in the territory where the economic activity is performed, the need to comply with national regulations and practices concerning minimum wages and with collective wage agreements in the host country, even if not listed, apply in any case to key personnel and graduate trainees.

The rights and obligations derived from this schedule of commitments are not directly applicable and effective and thus do not confer directly enforceable rights on natural or legal persons.

| Sector or sub-sector | Description of reservations |
|--|--|
| HORIZONTAL COMMITMENTS | |
| ALL SECTORS | <p>Any employer with a staff of more than 10 employees must employ Ecuadorian nationals at a proportion of not less than 90% of the staff of ordinary employees and not less than 80% of the skilled employees, specialists, administrative staff or persons in posts of responsibility. This restriction does not apply to employers with a staff of up to 10 employees. This proportion shall also apply to the wages and salaries of the respective staff.</p> <p>Employers, irrespective of their activity or nationality, shall give preference to the recruitment of national workers.</p> <p>Although this covers only the temporary entrance of persons for business purposes, it is clarified that where foreign staff are recruited for an establishment in Ecuador a written work contract, for a specified period and approved by the Ministry of Labour Relations, is required in addition to the appropriate visa.</p> |
| ALL SECTORS | <p>The recognition of academic degrees or certificates issued by foreign higher education bodies may be subject to bilateral agreements. If the higher education body does not appear on the list approved by the competent body and is not established in countries with which reciprocal agreements have been signed, an application for registration is required.</p> |
| 1. BUSINESS SERVICES | <p>For registration in associations or guilds, different rates may apply to Ecuadorians and to foreign nationals.</p> |
| A. Professional Services | <p>For the purposes of exercising most professional services in Ecuador, professional qualifications obtained abroad must be recognised by the national competent authority, which generally requires residence in Ecuador before it can grant such recognition. If the employment of the person as key personnel or a graduate trainee does not involve the provision of service for third parties, this requirement does not apply.</p> |
| a) Legal services (CPC 861) Only advisory services on foreign legislation and international law (excluding advisory services and representation in court cases under national law) | <p>Foreign lawyers may exercise their profession, provided their qualification is recognised in Ecuador under the conditions laid down by law and in observance of the principle of reciprocity, if such condition is laid down in an international agreement in force.</p> |
| d) Architectural services (CPC 8671 and 8674) | <p>In order for a foreign architect who qualified abroad to be able to obtain a permanent licence from the College of Architects of Ecuador to exercise the profession in the country, the following are required:</p> <ul style="list-style-type: none"> a) Submission of a properly reasoned application for authorisation to the National Register; b) Verification that Ecuadorian architects can practice with no restrictions in the applicant's country of origin. c) Verification that the applicant is present in the country legally, and more specifically of his/her immigrant status, in the light of the relevant legislation. |

| Sector or sub-sector | Description of reservations |
|--|--|
| | <p>d) Presentation of an academic qualification duly ratified in Ecuador; and</p> <p>e) Verification of the applicant's worthiness and solvency to exercise the activities proposed, with a certificate from the college or society of architects in his/her country of origin.</p> |
| <p>e) Engineering services (CPC 8672)</p> <p>f) Integrated Engineering Services (CPC 8673)</p> | <p>National or foreign enterprises, and consortia of national and/or foreign enterprises formed for the performance of engineering works shall be obliged to have, for the performance of that work, a staff of engineers employed on the Project, not less than 80% of the total of which must be Ecuadorian engineers, until the tenth year of their establishment in the country. From the eleventh year onwards they must increase the percentage of Ecuadorian professionals by 4% per year, until it reaches 90%. In the event that there are no national professionals specialised in the tasks performed by the said enterprises or consortia, they shall be obliged to employ them to train them in the relevant field of specialisation.</p> |
| <p>F. OTHER BUSINESS SERVICES</p> | <p>For the purposes of exercising most professional services in Ecuador, professional qualifications obtained abroad must be recognised by the national competent authority, which generally requires residence in Ecuador before it can grant such recognition.</p> |
| <p>l) Investigation and security (CPC 873)</p> | <p>Only Ecuadorian citizens by birth will be authorised to administer and operate static security services, mobile security services, personal protection, transport of valuables, electronic security, satellite security, investigation and training in this area.</p> <p>Staff providing services in companies of this type as security guards and private investigators must meet nationality requirements.</p> |
| <p>7. FINANCIAL SERVICES</p> | <p>Residence requirements are laid down for legal agents and representatives.</p> |
| <p>10. RECREATIONAL, CULTURAL AND SPORTING SERVICES</p> | |
| <p>A Entertainment Services</p> <p>(including theatre, live bands and circus services)</p> <p>(CPC 9619)</p> | <p>Foreign artistes must obtain a 'carnet ocupacional' (occupational permit) and present up-to-date certification from the National Federation of Professional Artistes.</p> <p>Before receiving the work permit granted to foreign artistes by the Ministry of Labour Relations, the artistes or their representative shall be required to sign a contract to give a performance free of charge in a location defined by the Ministry of Labour Relations in agreement with the corresponding Decentralised Autonomous Municipal Government.</p> |
| <p>11. TRANSPORT SERVICES</p> | |
| <p>A. MARITIME TRANSPORT SERVICES</p> | <p>Foreign officers and crews of national vessels shall require authorisation from the Directorate for the Merchant Marine and for the Coast in the case of ships requiring specialised handling and in the absence of any suitable Ecuadorian staff available.</p> <p>Ships or merchant vessels flying the Ecuadorian flag and larger than 500 tons may only be</p> |

| Sector or sub-sector | Description of reservations |
|--|--|
| <p>International Transport of freight and passengers</p> <p>(CPC 7211 and CPC 7212)</p> <p>Except cabotage transport</p> | <p>commanded by captains who are Ecuadorian by birth: their officers may be Ecuadorian by birth or naturalised Ecuadorians who have also met the requirements laid down by the relevant regulation. The Directorate for the Merchant Marine and for the Coast may authorise the recruitment of foreign staff as officers and crew in cases that are duly justified and for reasons of provision of technical services, in accordance with the quotas set each year for each vessel in accordance with its capacity and service specialisation, but under no circumstances may their proportion exceed 40% of the total crew on board.</p> <p>Vessels smaller than 500 tons may be commanded by captains who are Ecuadorian by birth or naturalised Ecuadorians, and the provisions of the preceding paragraph apply to their officers and crew.</p> |
| <p>C) AIR TRANSPORT SERVICES</p> <p>d) Repair and maintenance of aircraft (part of CPC 8868)</p> <p>e) Selling and marketing of air transport services.</p> <p>f) Computerised reservation services</p> | <p>Licences for aviation personnel for citizens of foreign countries will be granted by the Director-General of Civil Aviation subject to verification of the standards under which the licence was issued or the reciprocity agreement with the foreign country.</p> <p>In Ecuadorian companies, only aeronautical technical personnel of Ecuadorian nationality may perform paid aeronautical activity in the country and the use of foreign technicians or foreign instructors of Ecuadorian technicians may only be authorised when this is necessary for the provision or improvement of an aeronautical service. Such authorisations will be granted by the Directorate-General for Civil Aviation for a period of no longer than six months, renewable for a similar period if the proven need for this persists. During these periods the contracted staff shall provide the appropriate training to the Ecuadorian staff who will replace them.</p> |
| <p>F. ROAD TRANSPORT SERVICES</p> | <p>Ecuador reserves the right to adopt or maintain any measure in relation to international land passenger or freight transport operations in border areas.</p> |
| <p>a) Passenger transportation</p> <p>(CPC 7121+7122)</p> <p>Freight Transportation</p> <p>(CPC 7123)</p> <p>Except road cabotage transport</p> <p>c) Rental of commercial vehicles with operator</p> <p>(CPC 7121+7122+7123+7124)</p> | <p>.</p> |