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European Union

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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) 174 final - ANNEX 15
Subject:	ANNEX to the 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

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Delegations will find attached document COM(2016) 174 final - ANNEX 15.

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Encl.: COM(2016) 174 final - ANNEX 15



Brussels, 4.4.2016  
COM(2016) 174 final

ANNEX 15

**ANNEX**

**to the**

**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**

## ANNEX XVI to XVII

### ANNEX XVI

(New Section D of Appendix 2 to Annex IX to the Agreement referred to in Article 126 and 127 of the Agreement)

#### RESERVATIONS REGARDING TEMPORARY PRESENCE OF NATURAL PERSONS FOR BUSINESS PURPOSES

##### APPENDIX 2

#### RESERVATIONS ON CONTRACTUAL SERVICES SUPPLIERS AND INDEPENDENT PROFESSIONALS

##### 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 below indicates the economic activities liberalised pursuant to Articles 126, paragraphs 2 and 3 and 127, paragraphs 2 and 3 of this Agreement and the specific discriminatory limitations which apply thereto. Ecuador does not undertake any commitment for contractual service providers and professionals whose activities are not liberalised pursuant to Articles 126 and 127 of this Agreement.

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

- The sectors of services out of which the sectors affected by restrictions in this offer are described 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 the categories of Contractual Service Providers and Independent Professionals.

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 related to requirements and procedures concerning qualifications, technical standards and requirements concerning degrees, and procedures related to employment, work and social security conditions. Such measures, which include but are not limited to: the need to obtain a licence, 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 Contractual Service Providers and Independent Professionals.

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
<b>HORIZONTAL COMMITMENTS</b>	
ALL SECTORS	The recognition of academic degrees or certificates issued by foreign higher education bodies may be subject to bilateral agreements providing for reciprocity. 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.
<b>1. BUSINESS SERVICES</b>	For registration in associations or guilds for the purpose of exercising a profession, different rates may apply to Ecuadorians and to foreign nationals.
A. Professional Services	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.
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)	Foreign lawyers may exercise their profession, provided their qualification is recognised in the country under the conditions laid down by law and in observance of the principle of reciprocity. It must be clarified that membership of the " <i>Foro del Consejo de la Judicatura</i> " (Judiciary Council Association) does not constitute a requirement for the provision of liberalised legal services. However, foreign lawyers who apply for admission to the cited Association shall be required to perform one year of pre-professional practice.
b) Accounting, auditing and bookkeeping services  (CPC 862)	None
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"> <li>a) Submission to the National Register of a properly reasoned application for authorisation;</li> <li>b) Verification that Ecuadorian architects can practise with no restrictions in the applicant's country of origin.</li> <li>c) Verification that the applicant is present in the country legally, and more specifically verification of his/her immigrant status, in the light of the relevant legislation.</li> <li>d) Presentation of an academic qualification duly ratified in Ecuador; and</li> <li>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.</li> </ul>
e) Engineering services (CPC 8672)	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

Sector or sub-sector	Description of reservations
f) Integrated Engineering Services (CPC 8673)	<p>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>Foreign civil engineers recruited on a temporary basis by State enterprises or institutions may only perform advisory, supervisory and training tasks.</p> <p>Foreign engineers with a temporary licence may only sign documents related to the advisory, supervisory or training tasks for which they were recruited.</p> <p>Foreign professionals in the field of engineering must meet the following requirements to be able to exercise their profession in the country:</p> <ul style="list-style-type: none"> <li>a) Ratification of their qualification in any of the country's Higher Education Institutions recognised by the Higher Education Act;</li> <li>b) Presentation of the corresponding immigrants' visa in the country; and</li> <li>c) Professional licence obtained from the Ecuadorian Society of Engineers in accordance with the relevant Regulation.</li> </ul>
C. RESEARCH AND DEVELOPMENT SERVICES (85)	<p>In public procurement processes, foreign consultants, whether natural or legal persons, may only participate in those activities or areas where there is no technical capacity or experience among national consultants. An exception is made for consultancy contracts totally or partially funded with resources from loans granted by foreign governments or multilateral development organisations of which Ecuador is a member.</p>
F. OTHER BUSINESS 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 at the time of the corresponding request before it can grant such recognition.</p>
m) Related scientific and technical consulting services (CPC 8675)	<p>In public procurement processes, foreign consultants, whether natural or legal persons, may only participate in those activities or areas where there is no technical capacity or experience among national consultants. An exception is made for consultancy contracts totally or partially funded with resources from loans granted by foreign governments or multilateral development organisations of which Ecuador is a member.</p>

## **ANNEX XVII**

(New Annex XI.a to the Agreement)

'ANNEX XI.a (<sup>1</sup>)

### **Understanding related to subparagraph (b) of the definition of 'services provided in the exercise of governmental authority' laid down in Article 152 of this Agreement**

1. The Parties understand that Title IV (Trade in Services, Establishment and Electronic Commerce) of this Agreement applies to the measures adopted or maintained by a Party relating to activities and services described in subparagraph (b) of the definition of 'services supplied in the exercise of governmental authority' as referred to in Article 152 of this Agreement, only to the extent that a Party allows its financial service suppliers to supply such activities and services in competition with a public entity or a financial service supplier. The Parties furthermore understand that Title IV of this Agreement does not apply to such measures to the extent that a Party reserves such activities and services to the government, a public entity, or a financial service supplier and they are not supplied in competition with another financial service supplier.
2. Accordingly, the Parties recognise that each one may designate, formally or in effect, a monopoly, including a financial service supplier, to supply some or all of the activities or services included in the cited subparagraph (b), and that such a measure shall not be deemed incompatible with the obligations and commitments undertaken by the Parties in Title IV to this Agreement.'

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<sup>1</sup> This Annex applies only between the EU Party and Ecuador.