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⁽¹⁾ Text with EEA relevance

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) No 496/2014

of 14 May 2014

approving the active substance acequinocyl, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ⁽¹⁾, and in particular Article 13(2) and Article 78(2) thereof,

Whereas:

- (1) In accordance with Article 80(1)(a) of Regulation (EC) No 1107/2009, Council Directive 91/414/EEC ⁽²⁾ is to apply, with respect to the procedure and the conditions for approval, to active substances for which a decision has been adopted in accordance with Article 6(3) of that Directive before 14 June 2011. For acequinocyl the conditions of Article 80(1)(a) of Regulation (EC) No 1107/2009 are fulfilled by Commission Decision 2003/636/EC ⁽³⁾.
- (2) In accordance with Article 6(2) of Directive 91/414/EEC the Netherlands received on 17 March 2003 an application from Agro-Kanesho Co. Ltd for the inclusion of the active substance acequinocyl in Annex I to Directive 91/414/EEC. Decision 2003/636/EC confirmed that the dossier was 'complete' in the sense that it could be considered as satisfying, in principle, the data and information requirements of Annexes II and III to Directive 91/414/EEC.
- (3) For that active substance, the effects on human and animal health and the environment have been assessed, in accordance with the provisions of Article 6(2) and (4) of Directive 91/414/EEC, for the uses proposed by the applicant. The designated rapporteur Member State, the Netherlands, submitted a draft assessment report on 8 March 2005. In accordance with Article 11(6) of Commission Regulation (EU) No 188/2011 ⁽⁴⁾ additional information was requested from the applicant on 13 July 2011. The evaluation of the additional data by the Netherlands was submitted in the format of an updated draft assessment report in November 2011.

⁽¹⁾ OJ L 309, 24.11.2009, p. 1.

⁽²⁾ Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ L 230, 19.8.1991, p. 1).

⁽³⁾ Commission Decision 2003/636/EC of 2 September 2003 recognising in principle the completeness of the dossiers submitted for detailed examination in view of the possible inclusion of potassium phosphite, acequinocyl and cyflufenamid in Annex I to Council Directive 91/414/EEC concerning the placing of plant-protection products on the market (OJ L 221, 4.9.2003, p. 42).

⁽⁴⁾ Commission Regulation (EU) No 188/2011 of 25 February 2011 laying down detailed rules for the implementation of Council Directive 91/414/EEC as regards the procedure for the assessment of active substances which were not on the market 2 years after the date of notification of that Directive (OJ L 53, 26.2.2011, p. 51).

- (4) The draft assessment report was reviewed by the Member States and the European Food Safety Authority (hereinafter 'the Authority'). The Authority presented to the Commission its conclusion ⁽¹⁾ on the peer review of the pesticide risk assessment of the active substance acequinocyl on 19 April 2013. The draft assessment report and the conclusion of the Authority were reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 20 March 2014 in the format of the Commission review report for acequinocyl.
- (5) It has appeared from the various examinations made that plant protection products containing acequinocyl may be expected to satisfy, in general, the requirements laid down in Article 5(1)(a) and (b) and Article 5(3) of Directive 91/414/EEC, in particular with regard to the uses which were examined and detailed in the Commission review report. It is therefore appropriate to approve acequinocyl.
- (6) In accordance with Article 13(2) of Regulation (EC) No 1107/2009 in conjunction with Article 6 thereof and in the light of current scientific and technical knowledge, it is, however, necessary to include certain conditions and restrictions. It is, in particular, appropriate to require further confirmatory information.
- (7) A reasonable period should be allowed to elapse before approval in order to permit Member States and the interested parties to prepare themselves to meet the new requirements resulting from the approval.
- (8) Without prejudice to the obligations provided for in Regulation (EC) No 1107/2009 as a consequence of approval, taking into account the specific situation created by the transition from Directive 91/414/EEC to Regulation (EC) No 1107/2009, the following should, however, apply. Member States should be allowed a period of six months after approval to review authorisations of plant protection products containing acequinocyl. Member States should, as appropriate, vary, replace or withdraw authorisations. By way of derogation from that deadline, a longer period should be provided for the submission and assessment of the complete Annex III dossier, as set out in Directive 91/414/EEC, of each plant protection product for each intended use in accordance with the uniform principles.
- (9) The experience gained from inclusions in Annex I to Directive 91/414/EEC of active substances assessed in the framework of Commission Regulation (EEC) No 3600/92 ⁽²⁾ has shown that difficulties can arise in interpreting the duties of holders of existing authorisations in relation to access to data. In order to avoid further difficulties it therefore appears necessary to clarify the duties of the Member States, especially the duty to verify that the holder of an authorisation demonstrates access to a dossier satisfying the requirements of Annex II to that Directive. However, this clarification does not impose any new obligations on Member States or holders of authorisations compared to the Directives which have been adopted until now amending Annex I to that Directive or the Regulations approving active substances.
- (10) In accordance with Article 13(4) of Regulation (EC) No 1107/2009, the Annex to Commission Implementing Regulation (EU) No 540/2011 ⁽³⁾ should be amended accordingly.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

Approval of active substance

The active substance acequinocyl, as specified in Annex I, is approved subject to the conditions laid down in that Annex.

Article 2

Re-evaluation of plant protection products

1. Member States shall in accordance with Regulation (EC) No 1107/2009, where necessary, amend or withdraw existing authorisations for plant protection products containing acequinocyl as an active substance by 28 February 2015.

⁽¹⁾ European Food Safety Authority, 2013. Conclusion on the peer review of the pesticide risk assessment of the active substance acequinocyl. EFSA Journal 2013,11(5):3212, 71 pp. doi:10.2903/j.efsa.2013.3212.

⁽²⁾ Commission Regulation (EEC) No 3600/92 of 11 December 1992 laying down the detailed rules for the implementation of the first stage of the programme of work referred to in Article 8(2) of Council Directive 91/414/EEC concerning the placing of plant protection products on the market (OJ L 366, 15.12.1992, p. 10).

⁽³⁾ Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).

By that date they shall in particular verify that the conditions in Annex I to this Regulation are met, with the exception of those identified in the column on specific provisions of that Annex, and that the holder of the authorisation has, or has access to, a dossier satisfying the requirements of Annex II to Directive 91/414/EEC in accordance with the conditions of Article 13(1) to (4) of that Directive and Article 62 of Regulation (EC) No 1107/2009.

2. By way of derogation from paragraph 1, for each authorised plant protection product containing acequinocyl as either the only active substance or as one of several active substances, all of which were listed in the Annex to Implementing Regulation (EU) No 540/2011 by 31 August 2014 at the latest, Member States shall re-evaluate the product in accordance with the uniform principles, as referred to in Article 29(6) of Regulation (EC) No 1107/2009, on the basis of a dossier satisfying the requirements of Annex III to Directive 91/414/EEC and taking into account the column on specific provisions of Annex I to this Regulation. On the basis of that evaluation, they shall determine whether the product satisfies the conditions set out in Article 29(1) of Regulation (EC) No 1107/2009.

Following that determination Member States shall:

- (a) in the case of a product containing acequinocyl as the only active substance, where necessary, amend or withdraw the authorisation by 29 February 2016 at the latest; or
- (b) in the case of a product containing acequinocyl as one of several active substances, where necessary, amend or withdraw the authorisation by 29 February 2016 or by the date fixed for such an amendment or withdrawal in the respective act or acts which added the relevant substance or substances to Annex I to Directive 91/414/EEC or approved that substance or those substances, whichever is the latest.

Article 3

Amendments to Implementing Regulation (EU) No 540/2011

The Annex to Implementing Regulation (EU) No 540/2011 is amended in accordance with Annex II to this Regulation.

Article 4

Entry into force and date of application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 September 2014.

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

Done at Brussels, 14 May 2014.

For the Commission

The President

José Manuel BARROSO

ANNEX I

Common Name, Identification Numbers	IUPAC Name	Purity ⁽¹⁾	Date of approval	Expiration of approval	Specific provisions
Acequinocyl CAS No 57960-19-7 CIPAC No 760	3-dodecyl-1,4-dihydro-1,4-dioxo-2-naphthyl acetate	≥ 960 g/kg	1 September 2014	31 August 2024	For the implementation of the uniform principles as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the review report on acequinocyl, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 20 March 2014 shall be taken into account. In this overall assessment Member States shall pay particular attention to: — the protection of workers and operators; — the risk to birds, mammals and aquatic organisms. Conditions of use shall include risk mitigation measures, where appropriate. The applicant shall submit confirmatory information as regards: (a) an analytical method for residues in body fluids and tissues; (b) the acceptability of the long-term risk to small granivorous birds and small herbivorous and frugivorous mammals, concerning the use on apple and pear orchards; (c) the acceptability of the long-term risk to small omnivorous and small herbivorous mammals, concerning the use on outdoor ornamentals. The applicant shall submit that information to the Commission, the Member States and the Authority by 31 August 2016.

⁽¹⁾ Further details on identity and specification of active substance are provided in the review report.

ANNEX II

In Part B of the Annex to Implementing Regulation (EU) No 540/2011, the following entry is added:

Number	Common Name, Identification Numbers	IUPAC Name	Purity (*)	Date of approval	Expiration of approval	Specific provisions
'72	Acequinocyl CAS No 57960-19-7 CIPAC No 760	3-dodecyl-1,4-dihydro-1,4-dioxo-2-naphthyl acetate	≥ 960 g/kg	1 September 2014	31 August 2024	For the implementation of the uniform principles as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the review report on acequinocyl, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 20 March 2014 shall be taken into account. In this overall assessment Member States shall pay particular attention to: — the protection of workers and operators; — the risk to birds, mammals and aquatic organisms. Conditions of use shall include risk mitigation measures, where appropriate. The applicant shall submit confirmatory information as regards: (a) an analytical method for residues in body fluids and tissues; (b) the acceptability of the long-term risk to small granivorous birds and small herbivorous and frugivorous mammals, concerning the use on apple and pear orchards; (c) the acceptability of the long-term risk to small omnivorous and small herbivorous mammals, concerning the use on outdoor ornamentals. The applicant shall submit that information to the Commission, the Member States and the Authority by 31 August 2016.'

(*) Further details on identity and specification of active substance are provided in the review report.

COMMISSION REGULATION (EU) No 497/2014**of 14 May 2014****amending Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council and the Annex to Commission Regulation (EU) No 231/2012 as regards the use of Advantame as a sweetener****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives ⁽¹⁾, and in particular Articles 10(3) and 14 thereof,

Having regard to Regulation (EC) No 1331/2008 of the European Parliament and of the Council of 16 December 2008 establishing a common authorisation procedure for food additives, food enzymes and food flavourings ⁽²⁾, and in particular Article 7(5) thereof,

Whereas:

- (1) Annex II to Regulation (EC) No 1333/2008 lays down a Union list of food additives approved for use in foods and their conditions of use.
- (2) Commission Regulation (EU) No 231/2012 ⁽³⁾ lays down specifications for food additives listed in Annexes II and III to Regulation (EC) No 1333/2008.
- (3) Those lists may be updated in accordance with the common procedure referred to in Article 3(1) of Regulation (EC) No 1331/2008, either on the initiative of the Commission or following an application.
- (4) An application for authorisation of the use of Advantame as a sweetener in several food categories was submitted in May 2010. The application was made available to the Member States pursuant to Article 4 of Regulation (EC) No 1331/2008.
- (5) There is a technological need for the use of Advantame as a high-intensity sweetener in various food and tabletop products in order to replace caloric sugars (sucrose, glucose, fructose, etc.) thus allowing for a reduction of the caloric content of those foodstuffs. The addition of Advantame as a sweetener to the categories of foods in which high-intensity sweeteners are authorised according to Annex II to Regulation (EC) No 1333/2008 will provide manufacturers with greater flexibility in formulating energy-reduced foods with a similar taste profile as the full-caloric equivalent. The flavour and sweetness qualities of Advantame, coupled with good stability characteristics, mean that Advantame provides an alternative to already approved high-intensity sweeteners, offering consumers and the food industry the option to choose from a wider selection of sweeteners, thus reducing the intake of each individual sweetener.
- (6) The European Food Safety Authority ('the Authority') evaluated the safety of Advantame when used as a food additive and expressed its opinion on 31 July 2013 ⁽⁴⁾. The Authority established an Acceptable Daily Intake (ADI) for Advantame of 5 mg/kg bw/day. Conservative estimates of advantame exposure for high level adults and children consumers were below the ADI for the proposed use levels. After considering all the data on stability, degradation products, toxicology and exposure, the Authority concluded that Advantame would not be of safety concern at the proposed uses and use levels as a sweetener.

⁽¹⁾ OJ L 354, 31.12.2008, p. 16.

⁽²⁾ OJ L 354, 31.12.2008, p. 1.

⁽³⁾ Commission Regulation (EU) No 231/2012 of 9 March 2012 laying down specifications for food additives listed in Annexes II and III to Regulation (EC) No 1333/2008 of the European Parliament and of the Council (OJ L 83, 22.3.2012, p. 1).

⁽⁴⁾ EFSA Journal 2013; 11(7):3301.

- (7) Therefore, it is appropriate to authorise the use of Advantame as a sweetener in the food categories specified in Annex I to this Regulation and to assign E 969 as an E-number to that food additive.
- (8) The specifications for Advantame should be included in Regulation (EU) No 231/2012 when it is included in the Union list of food additives laid down in Annex II to Regulation (EC) No 1333/2008 for the first time.
- (9) Regulations (EC) No 1333/2008 and (EU) No 231/2012 should therefore be amended accordingly.
- (10) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to Regulation (EC) No 1333/2008 is amended in accordance with Annex I to this Regulation.

Article 2

The Annex to Regulation (EU) No 231/2012 is amended in accordance with Annex II to this Regulation.

Article 3

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 14 May 2014.

For the Commission
The President
José Manuel BARROSO

Annex II to Regulation (EC) No 1333/2008 is amended as follows:

(1) In Part B, in Table 2 'Sweeteners', the following new entry is inserted after the entry for food additive E 968 Erythritol:

'E 969	Advantame'
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(2) In Part E, the following entries for E 969 are inserted in numerical order in the food categories referred to:

PART E: AUTHORISED FOOD ADDITIVES AND CONDITIONS OF USE IN FOOD CATEGORIES

Category number	E -Number	Name	Maximum level (mg/l or mg/kg as appropriate)	Footnotes	restrictions/exception
01.4	Flavoured fermented milk products including heat-treated products				
	'E 969	Advantame	10		only energy-reduced products or with no added sugar'
03	Edible ices				
	'E 969	Advantame	10		only energy-reduced or with no added sugar'
04.2.2	Fruit and vegetables in vinegar, oil, or brine				
	'E 969	Advantame	3		only sweet-sour preserves of fruit and vegetables'
04.2.3	Canned or bottled fruit and vegetables				
	'E 969	Advantame	10		only fruit energy-reduced or with no added sugar'
04.2.4.1	Fruit and vegetable preparations excluding compote				
	'E 969	Advantame	10		only energy-reduced'
04.2.5.1	Extra jam and extra jelly as defined by Directive 2001/113/EC				
	'E 969	Advantame	10		only energy-reduced jams jellies and marmalades'
04.2.5.2	Jam, jellies and marmalades and sweetened chestnut puree as defined by Directive 2001/113/EC				
	'E 969	Advantame	10		only energy-reduced jams, jellies and marmalades'

Category number	E -Number	Name	Maximum level (mg/l or mg/kg as appropriate)	Footnotes	restrictions/exception
04.2.5.3	Other similar fruit or vegetable spreads				
	E 969	Advantame	10		only dried-fruit-based sandwich spreads, energy-reduced or with no added sugar'
05.1	Cocoa and Chocolate products as covered by Directive 2000/36/EC				
	E 969	Advantame	20		only energy-reduced or with no added sugars'
05.2	Other confectionery including breath refreshing microsweets				
	E 969	Advantame	20		only cocoa or dried fruit based, energy reduced or with no added sugar
	E 969	Advantame	10		only cocoa, milk, dried fruit or fat based sandwich spreads, energy-reduced or with no added sugar
	E 969	Advantame	20		only starch based confectionary energy reduced or with no added sugar
	E 969	Advantame	10		only confectionary with no added sugar
	E 969	Advantame	60		only breath-freshening micro-sweets, with no added sugar
	E 969	Advantame	20		only strongly flavoured freshening throat pastilles with no added sugar'
05.3	Chewing gum				
	E 969	Advantame	200		only with added sugars or polyols, as flavour enhancer
	E 969	Advantame	400		only with no added sugar'
05.4	Decorations, coatings and fillings, except fruit based fillings covered by category 4.2.4				
	E 969	Advantame	20		only starch based confectionary energy reduced or with no added sugar
	E 969	Advantame	10		only confectionary with no added sugar
	E 969	Advantame	20		only cocoa or dried fruit based, energy reduced or with no added sugar
	E 969	Advantame	4		only sauces'

Category number	E -Number	Name	Maximum level (mg/l or mg/kg as appropriate)	Footnotes	restrictions/exception
06.3	Breakfast cereals				
	'E 969	Advantame	10		only breakfast cereals with a fibre content of more than 15 %, and containing at least 20 % bran, energy reduced or with no added sugar'
07.2	Fine bakery wares				
	'E 969	Advantame	10		only essoblaten — wafer paper
	E 969	Advantame	17		only fine bakery products for special nutritional uses'
09.2.	Processed fish and fishery products including mollusks and crustaceans				
	'E 969	Advantame	3		only sweet-sour preserves and semi preserves of fish and marinades of fish, crustaceans and molluscs'
11.4.1	Table Top Sweeteners in liquid form				
	'E 969	Advantame	<i>quantum satis</i> '		
11.4.2	Table Top Sweeteners in powder form				
	'E 969	Advantame	<i>quantum satis</i> "		
11.4.3	Table Top Sweeteners in tablets				
	'E 969	Advantame	<i>quantum satis</i> '		
12.4	Mustard				
	'E 969	Advantame	4'		
12.5	Soups and broths				
	'E 969	Advantame	2		only energy-reduced soups'
12.6	Sauces				
	'E 969	Advantame	4'		

Category number	E -Number	Name	Maximum level (mg/l or mg/kg as appropriate)	Footnotes	restrictions/exception
12.7	Salads and savoury based sandwich spreads				
	'E 969	Advantame	4		only <i>Feinkostsalat</i> '
13.2	Dietary foods for special medical purposes defined in Directive 1999/21/EC (excluding products from food category 13.1.5)				
	'E 960	Advantame	10'		
13.3	Dietary foods for weight control diets intended to replace total daily food intake or an individual meal (the whole or part of the total daily diet)				
	'E 960	Advantame	8'		
14.1.3	Fruit nectars as defined by Council Directive 2001/112/EC and vegetable nectars and similar products				
	'E 969	Advantame	6		only energy-reduced or with no added sugar'
14.1.4	Flavoured drinks				
	'E 969	Advantame	6		only energy reduced or with no added sugar'
14.2.1	Beer and malt beverages				
	'E 969	Advantame	6		only alcohol-free beer or with an alcohol content not exceeding 1,2 % vol; "Bière de table/Tafelbier/ Table beer" (original wort content less than 6 %) except for "Obergäriges Einfachbier"; Beers with a minimum acidity of 30 milli-equivalents expressed as NaOH; Brown beers of the "oud bruin" type
	E 969	Advantame	0,5		only energy-reduced beer'
14.2.3	Cider and perry				
	'E 969	Advantame	6'		
14.2.8	Other alcoholic drinks including spirits with less than 15 % of alcohol and mixtures of alcoholic drinks with non-alcoholic drinks				
	'E 969	Advantame	6'		
15.1	Potato-, cereal-, flour- or starch-based snacks				
	'E 969	Advantame	5'		

Category number	E -Number	Name	Maximum level (mg/l or mg/kg as appropriate)	Footnotes	restrictions/exception
15.2	Processed nuts				
	'E 969	Advantame	5'		
16.	Desserts excluding products covered in category 1, 3 and 4				
	'E 969	Advantame	10		only energy-reduced or with no added sugar'
17.1	Food supplements supplied in a solid form including capsules and tablets and similar forms				
	'E 969	Advantame	20'		
17.2	Food supplements supplied in a liquid form				
	'E 969	Advantame	6'		
17.3	Food supplements supplied in a syrup-type or chewable form				
	'E 969	Advantame	55'		

ANNEX II

In the Annex to Regulation (EU) No 231/2012, the following new entry is inserted after the entry for food additive E 968:

E 969 ADVANTAME**Synonyms****Definition**

Advantame (ANS9801) is produced by chemical synthesis in a three-step process; production of the principal manufacturing intermediate, 3-hydroxy-4-methoxycinnamaldehyde (HMCA), followed by hydrogenation to form 3-(3-hydroxy-4-methoxyphenyl) propionaldehyde (HMPA). In the final step, the HMPA methanol solution (filtrate) is combined with aspartame to give the imine that under selective hydrogenation forms advantame. The solution is allowed to crystallise and crude crystals are washed. The product is re-crystallised and crystals are separated, washed and dried.

CAS No.

714229-20-6

Chemical name

N-[N-[3-(3-hydroxy-4-methoxyphenyl) propyl]-α-aspartyl]-L-phenylalanine 1-methyl ester, monohydrate (IUPAC);
L-phenylalanine, N-[3-(3-hydroxy-4-methoxyphenyl)propyl]-L-α-aspartyl-, 2-methyl ester, monohydrate (CA)

Molecular formula

C₂₄H₃₀N₂O₇·H₂O

Molecular weight

476,52 g/mol (monohydrate)

Assay

Not less than 97,0 % and not more than 102,0 % on an anhydrous basis

Description

White to yellow powder

Identification

Melting Point

101,5 °C

Purity

N-[N-[3-(3-hydroxy-4-methoxyphenyl)propyl-α-aspartyl]-L-phenylalanine (ANS9801-acid)

Not more than 1,0 %

Total other related substances

Not more than 1,5 %

Residual Solvents

Isopropyl acetate: Not more than 2 000 mg/kg
Methyl acetate: Not more than 500 mg/kg
Methanol: Not more than 500 mg/kg
2-Propanol: Not more than 500 mg/kg

Water content

Not more than 5,0 % (Karl Fischer method)

Residue on ignition

Not more than 0,2 %

Arsenic

Not more than 2 mg/kg

Lead

Not more than 1 mg/kg

Palladium

Not more than 5,3 mg/kg

Platinum

Not more than 1,7 mg/kg'

COMMISSION IMPLEMENTING REGULATION (EU) No 498/2014**of 14 May 2014****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾,

Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ⁽²⁾, and in particular Article 136(1) thereof,

Whereas:

- (1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto.
- (2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 14 May 2014.

*For the Commission,
On behalf of the President,*

Jerzy PLEWA
Director-General for Agriculture and Rural Development

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

ANNEX

Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	MA	44,6
	MK	68,0
	TN	49,2
	TR	69,9
	ZZ	57,9
0707 00 05	AL	32,3
	MK	39,0
	TR	124,7
0709 93 10	ZZ	65,3
	TR	111,3
	ZZ	111,3
0805 10 20	EG	39,7
	IL	74,2
	MA	46,5
	TN	68,6
	TR	41,5
	ZZ	54,1
	TR	103,0
	ZZ	103,0
0808 10 80	AR	95,1
	BR	90,8
	CL	102,6
	CN	98,7
	MK	32,3
	NZ	136,0
	US	183,0
	UY	78,1
	ZA	93,2
	ZZ	101,1

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

DECISIONS

COUNCIL DECISION

of 6 May 2014

on a position to be taken, on behalf of the European Union, within the Trade Committee set up by the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, as regards the adoption of the Rules of Procedure for the Trade Committee, the Rules of Procedure and Code of Conduct for arbitrators, the establishment of the lists of arbitrators and the list of experts of the Group of Experts, and the adoption of the Rules of Procedure for the Group of Experts on Trade and Sustainable Development

(2014/277/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4), in conjunction with Article 218(9), thereof,

Having regard to the proposal from the European Commission,

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.
- (2) These negotiations have been concluded and the Trade Agreement between the European Union its Member States, of the one part, and Colombia and Peru, of the other part ('the Agreement') ⁽¹⁾ was signed in Brussels on 26 June 2012.
- (3) Pursuant to Article 330(3) of the Agreement, the Agreement has been provisionally applied with Peru since 1 March 2013 and with Colombia since 1 August 2013, subject to its conclusion at a later date.
- (4) Article 12 of the Agreement establishes a Trade Committee which is to, inter alia, ensure that the Agreement operates properly.
- (5) Point (j) of Article 13(1) of the Agreement provides that the Trade Committee is to adopt its own Rules of Procedure.
- (6) Point (h) of Article 13(1) and Article 315 of the Agreement provide that the Trade Committee is to adopt, at its first meeting, the Rules of Procedure and the Code of Conduct for arbitrators.
- (7) Article 304(1) and (4) of the Agreement provide that the Trade Committee is to establish, at its first meeting, a list of 25 individuals to serve as arbitrators and an additional list of 12 individuals with sectorial experience on specific subjects covered by the Agreement.
- (8) Article 284(3) of the Agreement provides that the Trade Committee is to endorse, at its first meeting, a list of at least 15 persons with expertise on issues covered by Title IX of the Agreement to serve in the Group of Experts.

⁽¹⁾ OJ L 354, 21.12.2012, p. 3.

- (9) Article 284(6) of the Agreement stipulates that the Trade Committee is to adopt, at its first meeting, Rules of Procedure for the Group of Experts.
- (10) The Union should determine the position to be taken with regards to the adoption of the Rules of Procedure of the Trade Committee, the Rules of Procedure and Code of Conduct for arbitrators, the establishment of the lists of individuals to serve as arbitrators and of the list of persons with expertise on issues covered by Title IX of the Agreement, as well as the adoption of the Rules of Procedure for the Group of Experts,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on behalf of the Union within the Trade Committee, set up by the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, as regards the adoption of the Rules of Procedure of the Trade Committee, the Rules of Procedure and Code of Conduct for arbitrators, the establishment of the lists of individuals to serve as arbitrators and the list of persons with expertise on issues covered by Title IX of the Agreement, as well as the adoption of the Rules of Procedure for the Group of Experts, shall be based on the draft decisions of the Trade Committee attached to this Decision.

Minor technical corrections to the draft decisions of the Trade Committee may be agreed to by the representatives of the Union in the Trade Committee without further decision of the Council.

Article 2

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

Done at Brussels, 6 May 2014.

For the Council
The President
G. STOURNARAS

ANNEX I

DRAFT

DECISION No .../2014 OF THE EU-COLOMBIA-PERU TRADE COMMITTEE**of ...**

on the adoption of the Rules of Procedure of the Trade Committee referred to in point (j) of Article 13(1) 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 TRADE COMMITTEE,

Having regard to the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part ('the Agreement') ⁽¹⁾, signed in Brussels on 26 June 2012, and in particular point (j) of Article 13(1) thereof,

Whereas:

- (1) The Trade Committee shall adopt its own Rules of Procedure and shall supervise the work of all specialised bodies established under the Agreement.
- (2) The Trade Committee has the exclusive authority to evaluate and adopt decisions as envisaged in the Agreement regarding any subject matter which is referred to it by the specialised bodies established in accordance with the the Agreement,

HAS ADOPTED THIS DECISION:

1. The Rules of Procedure of the Trade Committee are established as set out in the Annex.
2. This Decision shall enter into force on ...

Done at ...on ...

For the Trade Committee

*Minister for Trade, Industry and Tourism
of Colombia*

*Commissioner for Trade of the European
Commission*

*Minister for Foreign Trade and Tourism
of Peru*

⁽¹⁾ OJ L 354, 21.12.2012, p. 3.

Annex to Decision No .../2014 of the EU-Colombia-Peru Trade Committee

RULES OF PROCEDURE OF THE TRADE COMMITTEE

Article 1

Composition and Chair

1. The Trade Committee that is established in accordance with Article 12 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 Agreement') ⁽¹⁾, shall perform its duties as provided for in Article 12 of the Agreement and take responsibility for the operation and correct application of the Agreement.
2. As provided for in Article 12(1) of the Agreement, the Trade Committee shall be composed of the representatives of the EU Party and representatives of each signatory Andean Country.
3. The Trade Committee shall be chaired on a rotational basis for a period of one year by the Minister for Trade, Industry and Tourism of Colombia, the Minister for Foreign Trade and Tourism of Peru, or the Member of the European Commission responsible for Trade. The first period shall begin on the date of the first Trade Committee meeting and end on 31 December of the same year. The Chairperson may arrange to be represented by respective designees as provided for in Article 12(2) of the Agreement.
4. The Trade Committee may meet in sessions where only the EU Party and one signatory Andean Country participate, regarding matters which relate exclusively to their bilateral relationship or which have been referred to the Trade Committee after being discussed within a specialised body in which only those two Parties participated. Such sessions will be co-chaired by the EU Party and the signatory Andean Country concerned. Other signatory Andean Countries may participate in such sessions subject to prior agreement of the EU Party and the signatory Andean Country concerned.
5. Reference to the Parties in these Rules of Procedure is in accordance with the definition provided for in Article 6 of the Agreement.

Article 2

Representation

1. A Party shall notify in writing to the other Parties of the list of its members of the Trade Committee. The list shall be administered by the Secretariat of the Trade Committee, as provided for in Article 6.
2. A Party wishing to be represented by an alternate representative shall notify the other Parties the name of his or her alternate representative before the meeting at which he or she is to be so represented. The alternate representative of a member of the Trade Committee shall exercise all the rights of that member.

Article 3

Meetings

1. The Trade Committee shall meet once a year or at the request of either Party, as provided for in Article 12(2) of the Agreement. The meetings shall be held on a rotational basis, in Bogota, Brussels and Lima, unless the Parties agree otherwise.
2. By way of exception and if the Parties agree, the meetings of the Trade Committee may be held by any agreed technological means.

⁽¹⁾ OJ L 354, 21.12.2012, p. 3.

3. Each meeting of the Trade Committee shall be convened by the Secretariat of the Trade Committee at a date and place agreed by the Parties. The convening notice of the meeting shall be issued by the Secretariat of the Trade Committee to the members of the Trade Committee no later than 28 days prior to the start of the session, unless the Parties agree otherwise.

Article 4

Delegation

The members of the Trade Committee may be accompanied by officials. Before each meeting, the Parties shall be informed of the intended composition of the delegations attending the meeting.

Article 5

Observers

The Trade Committee may decide to invite observers on an *ad hoc* basis.

Article 6

Secretariat

The coordinators designated by the Parties, in accordance with Article 16 of the Agreement, shall jointly act as the Secretariat of the Trade Committee.

Article 7

Documents

Where the deliberations of the Trade Committee are based on written supporting documents, such documents shall be numbered and circulated by the Secretariat of the Trade Committee as documents of the Trade Committee.

Article 8

Correspondence

1. Correspondence to the Chairperson of the Trade Committee shall be forwarded to the Secretariat of the Trade Committee for circulation to the other Parties.
2. Correspondence from the Chairperson of the Trade Committee shall be sent to the recipients by the Secretariat of the Trade Committee and be numbered and circulated, where appropriate, to the other Parties.
3. For matters which relate exclusively to a bilateral relationship between the EU Party and one signatory Andean Country, the correspondence will be done between those two Parties, keeping the other signatory Andean Countries fully informed, as appropriate.

Article 9

Agenda for the Meetings

1. A provisional agenda for each meeting shall be drawn up by the Secretariat of the Trade Committee on the basis of proposals made by the Parties. It shall be forwarded, together with the relevant documents, to all the Parties no later than 14 days before the beginning of the meeting as documents referred to in Article 7 of these Rules of Procedure.
2. The provisional agenda shall include items in respect of which the Secretariat of the Trade Committee has received a request for inclusion in the agenda by a Party, together with the relevant documents, no later than 21 days before the beginning of the meeting.

3. The agenda shall be adopted by the Trade Committee at the beginning of each meeting. Items other than those appearing on the provisional agenda may be placed on the agenda if the Parties so agree.
4. The Chairperson of the Trade Committee may, upon agreement of the other Parties, invite experts to attend its meetings in order to provide information on specific subjects.
5. The Chairperson of the Trade Committee may, upon agreement of the other Parties, reduce the time periods specified in paragraphs 1 and 2 in order to take account of the requirements of a particular case.

Article 10

Minutes

1. Draft minutes of each meeting shall be drawn up by the Secretariat of the Trade Committee, normally within 21 days from the end of the meeting. The first draft will be prepared by the Party acting as the Chairperson within 10 days from the end of the meeting.
2. The minutes shall, as a general rule, summarise each item on the agenda, specifying where applicable:
 - (a) the documents submitted to the Trade Committee;
 - (b) any statement that a member of the Trade Committee has asked to be entered; and
 - (c) the decisions adopted, recommendations made, statements agreed upon and conclusions adopted on specific items.
3. The minutes shall also include a list of members of the Trade Committee or their alternate representatives who took part in the meeting, a list of the members of the delegations accompanying them and a list of any observers or experts to the meeting.
4. The minutes shall be approved in writing by the Parties within 28 days of the date of the meeting. Once approved, copies of the minutes shall be signed by the Secretariat of the Trade Committee and each of the Parties shall receive one original copy of those authentic documents.

Article 11

Decisions and Recommendations

1. The Trade Committee shall adopt decisions and recommendations by consensus.
2. In the period between meetings, the Trade Committee may adopt decisions or recommendations by written procedure if the Parties so agree. For that purpose, the text of the proposal shall be circulated in writing in a correspondence from the Chairperson to the members of the Trade Committee pursuant to Article 8, with a time limit no less than 21 days within which members must make known any reservations or amendments they wish to make.

In the course of the written procedure, any member of the Trade Committee may request by writing to the Chairperson that the proposal be discussed in the next Trade Committee meeting. Such request automatically suspends the writing procedure.

A proposal on which no Party has made a reservation within the time limit set for a written procedure shall stand adopted by the Trade Committee. The Chairperson of the Trade Committee shall then inform the Members, upon report from the Secretariat that agreement has been given by the Parties.

Proposals adopted shall be communicated pursuant to Article 8 once the time limit has elapsed. Adopted proposals shall be recorded in the minutes of the next meeting.

3. Where the Trade Committee is empowered under the Agreement to adopt decisions or recommendations, such acts shall be entitled 'Decision' or 'Recommendation' respectively. The Secretariat of the Trade Committee shall give any decision or recommendation a serial number, the date of adoption and a description of their subject-matter. Each decision shall provide for the date of its entry into force.

4. Decisions and recommendations adopted by the Trade Committee shall be authenticated by making an authentic copy signed by the Chairperson of the Trade Committee available for each Party.

Article 12

Languages

1. The official languages of the Trade Committee shall be the official languages of the Parties.
2. Unless otherwise decided, the Trade Committee shall normally base its deliberations on documentation and proposals prepared in the languages referred to in paragraph 1.

Article 13

Publicity and Confidentiality

1. Unless otherwise decided, the meetings of the Trade Committee shall not be public.
2. When a Party submits information considered as confidential under its laws and regulations to the Trade Committee, specialised committees, working groups or any other bodies, the Parties shall treat that information as confidential according to the rules described in Article 290(2) of the Agreement.
3. Each Party may decide on the publication of the decisions and recommendations of the Trade Committee in its respective official publication.

Article 14

Expenses

1. Each Party shall meet any expenses it incurs as a result of participating in the meetings of the Trade Committee, both with regard to staff, travel and subsistence expenses and with regard to postal and telecommunications expenses.
2. Expenses in connection with the organisation of meetings and reproduction of documents shall be borne by the Party hosting the meeting.
3. Expenses in connection with the interpretation at meetings and translation of documents into or from Spanish and English shall be borne by the Party hosting the meeting. Interpretation and translation into or from the other languages shall be borne by the requesting Party.

Article 15

Specialised Committees and Working Groups

1. The Trade Committee shall be assisted in the performance of its duties by the specialised bodies established under the auspices of the Trade Committee. Unless otherwise provided by the Agreement or agreed by this Trade Committee or the relevant specialised body created by the Agreement adopting its decision, the present Rules of Procedures shall be applied *mutatis mutandis* by the specialised bodies (i.e. sub-committees, working groups, etc.).
2. The Trade Committee shall be informed of the contact points designated by each specialised body. All relevant correspondences, documents and communications between the contact points of each specialised body shall be forwarded to the Secretariat of the Trade Committee simultaneously.

3. The Trade Committee at each regular meeting shall receive reports from each specialised body on its activities.
4. Specialised body may establish its own rules of procedure, as provided for in the Agreement, which shall be reported to the Trade Committee.

Article 16

Amendment of Rules of Procedure

The Rules of Procedure may be amended according to the provisions of Article 11.

ANNEX II

DRAFT

DECISION No .../2014 OF THE EU-COLOMBIA-PERU TRADE COMMITTEE**of**

on the adoption of the Rules of Procedure and Code of Conduct for arbitrators referred to in point (h) of Article 13(1) and Article 315 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 TRADE COMMITTEE,

Having regard to the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part ('the Agreement') ⁽¹⁾, signed in Brussels on 26 June 2012, and in particular point (h) of Article 13(1) and Article 315 thereof,

Whereas:

- (1) The Trade Committee shall adopt at its first meeting the Rules of Procedure and the Code of Conduct for arbitrators.
- (2) The Trade Committee has the exclusive authority to evaluate and adopt decisions as envisaged in the Agreement regarding any subject matter which is referred to it by the specialised bodies established according to the Agreement,

HAS ADOPTED THIS DECISION:

1. The Rules of Procedure and the Code of Conduct for arbitrators are established as set out in the Annex.
2. This Decision shall enter into force on ...

Done at ...on ...

For the Trade Committee

*Minister for Trade, Industry and Tourism
of Colombia*

*Commissioner for Trade of the European
Commission*

*Minister for Foreign Trade and Tourism
of Peru*

⁽¹⁾ OJ L 354, 21.12.2012, p. 3.

Annex to Decision No .../2014 of the EU-Colombia-Peru Trade Committee

RULES OF PROCEDURE

General Provisions

1. Pursuant to Title XII (Dispute Settlement) and under these rules:
 - (a) 'the Agreement' means the Trade Agreement between Peru and Colombia, of the one part, and the European Union and its Member States, of the other part, signed in Brussels on June 26 2012;
 - (b) 'adviser' means a person retained by a disputing party to advise or assist that party in connection with the proceedings before an arbitration panel;
 - (c) 'arbitrator' means a member of an arbitration panel effectively established under Article 303 (Establishment of an Arbitration Panel) of the Agreement;
 - (d) 'assistant' means a person who, under the terms of appointment by an arbitrator, conducts, researches or provides assistance to that arbitrator;
 - (e) 'complaining Party' means any Party that requests the establishment of an arbitration panel under Article 302 (Initiation of the Arbitration Proceedings) of the Agreement;
 - (f) 'Party complained against' means the Party that is alleged to be in violation of the provisions referred to in Article 299 (Scope of Application) of the Agreement;
 - (g) 'arbitration panel' means a panel established under Article 303 (Establishment of an Arbitration Panel) of the Agreement;
 - (h) 'representative of a Party' means an employee or any person appointed by a government department or agency or any other public entity of a party to the dispute;
 - (i) 'day' means a calendar day;
 - (j) 'third party' means a Party that is not a disputing party, but who participates in the consultations and/or arbitration proceedings, as the case may be, in accordance with Articles 301 (Consultations), paragraph 10, and/or 302 (Initiation of Arbitration Proceedings), paragraph 4 of the Title XII (Dispute Settlement) of the Agreement.
2. The Party complained against shall be in charge of the logistical administration of dispute settlement proceedings, in particular the organization of hearings, unless otherwise agreed. However, both disputing Parties shall share the costs derived from the organization of the arbitration procedures, including the expenses of the arbitrators. The arbitration panel may, however, decide that these administrative costs, with the exception of the expenses of the arbitrators, be distributed differently taking into account the particulars of the case and other circumstances that may be deemed relevant.

Notifications

3. The parties to the dispute and the arbitration panel shall transmit any request, notice, written submission or other document by delivery against receipt, registered post, courier, facsimile transmission, telex, telegram or any other means of telecommunication that provides a record of the sending thereof.
4. Each disputing party shall provide the other disputing party, any third party in the dispute and each of the arbitrators with a copy of each of its written submissions. A copy of the document shall also be provided in electronic format.
5. All notifications shall be addressed to the Agreement Coordinators.
6. Minor errors of a clerical nature in any request, notice, written submission or other document related to the arbitration panel proceedings may be corrected by delivery of a new document clearly indicating the changes.
7. If the last day for delivery of a document falls on a legal holiday of Colombia, Peru or of the EU, the document may be delivered on the next business day.

Initiation of Arbitration Procedures

8. When asserting that a measure constitutes a violation of the provision of the Agreement, in accordance with Article 302(2) (Initiation of Arbitration Proceedings), the complaining party shall explain how that measure constitutes a violation of the provisions of the Agreement in a manner that clearly presents the legal grounds for the complaint so as to allow the respondent to present its defense.

Third Parties

9. In accordance with Article 302(4) (Initiation of Arbitration Proceedings) of the Agreement, any third party may file a written submission to the arbitration panel, with a copy to the parties to the dispute and any third party.

10. Any third party may also participate in the hearing(s) of the arbitration panel and they shall be invited in writing by the arbitration panel to present their opinions during such hearing(s).

List of Arbitrators

11. When a Party nominates candidates for the list of arbitrators under Article 304 (List of Arbitrators) of the Agreement, the other Parties may only object to such nominations if such nominees do not comply with the requirements set out in Article 304(3) (List of Arbitrators) of the Agreement and the Code of Conduct for members of an arbitration panel.

12. When any candidate nominated by a Party is no longer part of the list, such Party shall nominate a new candidate. In case of candidates for president of the arbitration panel, the Parties shall agree on a replacement.

Establishment of an Arbitration Panel

13. If pursuant to Article 303 (Establishment of an Arbitration Panel) of the Agreement any member of the arbitration panel is selected by lot, representatives of both disputing parties shall be invited with due anticipation to be present when lots are drawn. In any event, the lot shall be carried out with any disputing party present at the time, and within 5 days following the request for the selection of the arbitrator by the Chairperson of the Trade Committee.

14. The disputing parties shall notify arbitrators of their appointment.

15. An arbitrator who has been appointed according to the procedure established under Article 303 (Establishment of an Arbitration Panel) of the Agreement shall notify his/her acceptance to the Trade Committee within 5 days of the date in which he/she was informed of his/her appointment.

16. Unless the disputing parties agree otherwise, these parties shall meet with the arbitration panel within 7 days of its establishment in order to determine such matters that the disputing parties or the arbitration panel deem appropriate. In case the Trade Committee has not established the remuneration and the expenses to be paid to the arbitrators, such remuneration and expenses shall be determined in conformity with WTO practice.

17. (a) Unless the disputing parties agree otherwise, within 5 days from the date of the selection of the arbitrators, the terms of reference of the arbitration panel shall be:

‘to examine, in the light of the relevant provisions of the Agreement invoked by the disputing parties, the matter referred to in the request for establishment of the arbitration panel, to rule on the compatibility of the measure in question with the provisions referred to in Article 299 (Scope of Application) and to make a ruling in accordance with Article 307 (Arbitration Panel Ruling) of the Agreement.’.

(b) The disputing parties must notify the agreed terms of reference to the arbitration panel within 2 days after reaching the agreement.

Initial Submissions

18. The complaining Party shall deliver its initial written submission no later than 20 days after the date of establishment of the arbitration panel. The Party complained against shall deliver its written counter-submission no later than 20 days after the date of delivery of the initial written submission.

Operation of Arbitration Panels

19. The chairperson of the arbitration panel shall preside at all its meetings. An arbitration panel may delegate to the chairperson authority to make administrative decisions regarding the proceedings.

20. Unless otherwise provided in the Agreement or in these Rules of Procedure, the arbitration panel may conduct its activities by any means, including telephone, facsimile transmissions or computer links.

21. Only arbitrators may take part in the deliberations of the arbitration panel, but the arbitration panel may authorize its assistants to be present at its deliberations.

22. The drafting of any arbitration panel ruling shall remain the exclusive responsibility of the arbitration panel and may not be delegated.

23. Where a procedural question arises that is not covered by the provisions of the Agreement and its Annexes, an arbitration panel may adopt an appropriate procedure that is compatible with those provisions.

24. When the arbitration panel considers it is necessary to modify any period of time applicable to the proceedings or to make any other procedural or administrative adjustment, it shall inform the disputing parties in writing of the reasons for the change or adjustment, indicating the period of time or adjustment needed. The time limits set out in Article 307(2) (Arbitration Panel Ruling) shall not be modified.

Recusal and Removal

25. A request by a disputing party for the recusal or removal of an arbitrator as provided for in Article 305(1) (Recusal, Removal and Replacement) of the Agreement, shall be made in writing and shall include the basis as well as the evidence that sustains the material violation by the arbitrator of the Code of Conduct. That request shall be transmitted to the other disputing party, with a copy to the Trade Committee within 10 days from the date in which the Party obtained evidence of the circumstances that gave rise to the request for recusal of the arbitrator.

26. Within 5 days after the receipt of the request, the disputing parties shall consult each other. In case of agreement, a new arbitrator shall be selected according to the procedure set out in Article 303 (Establishment of an Arbitration Panel) of the Agreement.

27. In the absence of an agreement between the disputing parties on the need to have an arbitrator removed, any of those parties may request that the matter be decided by the chairperson of the arbitration panel, whose decision shall be final.

28. If the chairperson of the arbitration panel or his/her delegate finds that an arbitrator does not comply with the requirements of the Code of Conduct, he/she shall select a new arbitrator by lot. If the original arbitrator was selected by the disputing parties in accordance with Article 303(2) (Establishment of the arbitration panel) of the Agreement the replacement shall be selected by lot from the members of the list referred to in Article 304 (List of Arbitrators) of the Agreement, which were proposed by the Party which selected the original arbitrator. If, to the contrary, the original arbitrator was selected by the disputing parties in accordance with Article 303(5) (Establishment of the Arbitration panel) of the Agreement, the lot shall be made from all the members of the referred list. The selection shall be made in accordance with Rule 12, *mutatis mutandis*, and within 5 days following the date of the request to the chairperson of the arbitration panel.

29. If the disputing parties fail to agree on the need to replace the chairperson of the arbitration panel, any of those parties may request that such matter be referred to one of the remaining members of the list of individuals selected to act as chairpersons under Article 304(1) (List of Arbitrators) of the Agreement. Her or his name shall be drawn by lot by the Chair of the Trade Committee or the Chair's delegate. This selection shall be made in accordance with rule 12 and within 5 days following the date of the request to the Chair of the Trade Committee. The decision by such person on the need to replace the chairperson shall be final.

30. If this person decides that the original chairperson does not comply with the requirements of the Code of Conduct, she or he shall select a new chairperson by lot among the remaining pool of individuals referred to in Article 304 (List of the arbitrators) of the Agreement who may act as chairperson. This selection of the new chairperson shall be done in accordance with Rule 12, *mutatis mutandis* and within 5 days following the date on which the designated person has taken the decision on the recusal.

31. The arbitration panel proceedings and the applicable time limits shall be suspended while a request for recusal of an arbitrator, and his/her removal and replacement are being decided, as the case may be.

Hearings

32. The chairperson shall fix the date and time of the hearing, in consultation with the disputing parties and the other members of the arbitration panel, and shall notify them in writing to the Parties accordingly. The Party in charge of the logistical administration of the proceedings shall make such information publicly available unless the hearing is closed to the public.

33. Unless the disputing parties agree otherwise, the hearing shall be held in Brussels if the complaining Party is Colombia or Peru and in Bogota or Lima, as the case may be, if the complaining Party is the EU.

34. The arbitration panel may convene additional hearings if the Parties so agree.

35. All arbitrators shall be present during the entirety of any hearing.

36. The following persons may attend the hearing, irrespective of whether the hearing is closed to the public or not:

- (a) representatives of the disputing parties and any third party;
- (b) advisers to the disputing parties and any third party;
- (c) administrative staff, interpreters, translators and court reporters and arbitrators' assistants.

37. Only the representatives and advisers of the disputing parties and any third party may address the arbitration panel.

38. No later than 5 days before the date of a hearing, each disputing party shall deliver to the arbitration panel a list of the names of persons who will make oral arguments or presentations at the hearing on behalf of that party and of other representatives or advisers who will be attending the hearing.

39. Subject to Rules 46, 47, 48 and 49, the hearings of the arbitration panels shall be open to the public, unless the disputing parties decide that the hearings shall be partially or completely closed to the public.

40. The arbitration panel shall conduct the hearing in the following manner, ensuring that the complaining Party and the Party complained against are afforded equal time:

Argument

- (a) argument of the complaining Party;
- (b) argument of the Party complained against.

Rebuttal Argument

- (a) argument of the complaining Party;
- (b) counter-reply of the Party complained against.

41. The arbitration panel may direct questions to either disputing party at any time during the hearing.

42. The arbitration panel shall arrange for a transcript of each hearing to be prepared and delivered as soon as possible to the disputing parties.

43. Each disputing party may deliver a supplementary written submission concerning any matter that may have arisen during the hearing within 10 days of the date of the hearing.

Questions in Writing

44. The arbitration panel may at any time during the proceedings address questions in writing to one or both disputing parties and to any third party. The disputing parties and any third party shall receive a copy of any questions put forward by the arbitration panel. When answering a question is not possible within a hearing, Arbitration Panels should provide the disputing parties with the appropriate time to answer those questions.

45. Each disputing party or any third party shall also provide a copy of its written response to the arbitration panel's questions to the other disputing party and any third party. Disputing parties shall be given the opportunity to provide written comments on the reply of the other disputing party and to the replies of any third party within 5 days of the date of delivery.

Confidentiality

46. Each disputing party, any third party and their advisors shall treat as confidential any information submitted by the other disputing party to the arbitration panel which that party has designated as confidential.

47. Where a disputing party submits a confidential version of its written submissions to the arbitration panel, it shall also, upon request of the other disputing party, provide a non-confidential summary of the information contained in its submissions no later than 15 days after the date of either the request or the submission of the confidential version, whichever is later.

48. Written submissions made to the arbitration panel shall be considered confidential but shall be provided to the disputing parties and any third party. Nothing in these Rules of Procedure shall preclude a disputing party from disclosing statements of its own positions to the public to the extent that they do not contain confidential information.

49. The arbitration panel shall meet in closed session when the submission and arguments of any disputing party contain confidential information.

50. The disputing parties and their advisers shall maintain the confidentiality of the arbitration panel hearings where the hearings are held in closed session, in accordance with Rule 39.

Ex Parte Contacts

51. The arbitration panel shall not meet or contact a disputing party in the absence of the other disputing party.

52. No member of the arbitration panel may discuss any aspect of the subject matter of the proceedings with one or both disputing parties or any third party in the absence of the other arbitrators.

Amicus curiae submissions

53. Any interested natural or juridical person established in the territory of a disputing party and which is not part of the government of any of the disputing parties, may make a written request to the arbitration panel, with a copy to the parties to the dispute, to be authorised to submit an *amicus curiae* brief within 10 days from the date of establishment of the arbitration panel. Such request shall:

- (a) contain a description of the person making the submission, including its place of establishment and other contact information, the nature of its activities and, in the case of a juridical person, information on its members, its legal status and its general objectives;
- (b) identify the specific factual and legal issues which will be addressed in the submission;
- (c) specify the nature of its interest and its relevance for the proceedings and how the submission would assist the arbitration panel in the determination of a factual or legal issue related to the dispute;

- (d) disclose any direct or indirect relationship that the person making the submission has or has had with a disputing party, as well as its source of financing;
- (e) state whether it has received or will receive any financial or other kind of support from a disputing Party, a person or other organisation, in the preparation of the request for authorisation to submit a brief or the preparation of the brief itself.
- (f) not be longer than 5 pages typed with double space; and
- (g) be written in the languages of the procedure.

54. The arbitration panel shall establish an appropriate date by which the disputing parties can comment on the application for authorization.

55. The arbitration panel shall review and take into consideration the application for authorization, the veracity of the information provided therein and any comment made by the disputing parties and shall take a decision without delay about granting authorization for making a written submission by an interested natural or juridical person. An authorization by an arbitration panel to make a written submission does not imply that the arbitration panel shall examine in its ruling the legal arguments presented in the submission.

56. *Amicus curiae* submissions shall be transmitted to the arbitration panel, with a copy to the disputing parties, within 5 days following the date of the authorisation by the arbitration panel to make such submission. The submission shall:

- (a) be dated and signed by the person making the submission or his/her representative;
- (b) be concise and in no case longer than 15 pages typed at double space, including any annexes;
- (c) not introduce new issues to the dispute, and cover only those issues relevant to the issues of fact and law subject to the consideration of the arbitration panel and identified by in the request for authorization to make a submission, explaining how the submission helps the arbitration panel in the determination of those issues;
- (d) be submitted in the languages of the procedure.

57. The arbitration panel shall ensure that the disputing parties have the opportunity to reply in writing to any *amicus curiae* submissions before the date of the hearing.

58. The arbitration panel shall include in its ruling a list of all the *amicus curiae* submissions that it has received. The arbitration panel shall not be obliged to address in its ruling the arguments made in those submissions.

59. In taking into consideration requests for authorisation to make a submission or *amicus curiae* submissions themselves, the arbitration panel shall avoid interrupting the proceedings and shall ensure the equality of the disputing parties.

Information and Technical Advice

60. The arbitration panel shall notify to the disputing parties of its intention to seek information or technical advice from experts as set out in Article 316 (Information and Technical Advice) of the Agreement.

61. The arbitration panel shall provide to the disputing parties with a copy of the information or technical advice received and shall grant a reasonable time for the disputing parties to present their comments. The opinion of the experts shall have a merely consultative nature.

62. When the arbitration panel takes under consideration the received information or technical advice, it shall also take into consideration any comment or observation presented by the disputing parties in relation to such information or technical advice.

63. The arbitration panel shall ensure that when gathering information and seeking technical advice it shall do so from accredited persons with experience in the relevant field. In addition, the experts shall be independent, impartial, shall not be affiliated to or be directly or indirectly dependent on any of the disputing parties, and shall not receive instructions from them or any organization.

Cases of Urgency

64. In cases of urgency referred to in Article 307(2) (Arbitration Panel Ruling) of the Agreement, the arbitration panel shall adjust the time limits referred to in these Rules of Procedure, as appropriate.

Translation and Interpretation

65. The disputing parties shall have the right to present and receive written submissions, and to present and hear oral arguments in the language of their choice. Each disputing party shall expeditiously arrange for and bear the costs of the translation of its written submissions into the language chosen by the other disputing Party. The Party complained against shall arrange for the interpretation of oral submissions into the languages chosen by the disputing parties.

66. Arbitration panel rulings shall be notified in the languages chosen by the disputing parties.

67. The costs incurred for translation of an arbitration ruling shall be borne equally by the disputing parties.

68. Any disputing party may provide comments on any translated version of a document drawn up in accordance with these Rules of Procedure.

Computation of Time Limits

69. Where, by reason of the application of Rule 7, a disputing party receives a document on a date other than the date on which this document is received by the other disputing Party, any period of time that is calculated on the basis of the date of receipt of that document shall be calculated from the last date of receipt of that document.

Other Procedures

70. These Rules of Procedure are also applicable to procedures established under Article 308(3) (Implementation of the Arbitration Ruling); Article 309(2) (Review of Any Measure adopted to Comply with the Arbitration Panel Ruling); Article 310(4) (Temporary remedies in case of Non-Compliance); and Article 311(2) (Review of Any Measure Adopted After the Suspension of Benefits of compensation for Non-Compliance). However, the time-limits laid down in these Rules of Procedure shall be adjusted in line with the special time-limits provided for the adoption of a ruling by the arbitration panel in those other procedures.

CODE OF CONDUCT

Definitions

1. For purposes of this Code of Conduct:

- (a) 'arbitrator' means a member of an arbitration panel effectively established under Article 303 (Establishment of the Arbitration Panel) of the Agreement;
- (b) 'mediator' means a person who conducts a mediation procedure in accordance with Article 322 (Mediation Mechanism) and the Annex XIV (Mediation Mechanism on Non-Tariff Barriers) of the Agreement;
- (c) 'candidate' means an individual whose name is on the list of arbitrators referred to in Article 304 (List of Arbitrators) of the Agreement and who is under consideration for selection as a member of an arbitration panel under Article 303 (Establishment of the Arbitration Panel) of the Agreement;
- (d) 'expert' means any person with technical knowledge or specialised in certain areas covered by the different Titles of the Agreement;
- (e) 'assistant' means a person who, under the terms of appointment of an arbitrator, conducts, researches or provides assistance to the arbitrator;
- (f) 'proceedings', unless otherwise specified, means an arbitration panel proceedings under the Agreement; and
- (g) 'staff', in respect of an arbitrator, means persons under the direction and control of the arbitrator, other than assistants.

Responsibilities to the process

2. Every candidate and arbitrator shall avoid impropriety and the appearance of impropriety, shall be independent and impartial, shall avoid direct and indirect conflicts of interests and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement mechanism is preserved. Former arbitrators must comply with the obligations established in paragraphs 15, 16, 17 and 18 of this Code of Conduct.

Disclosure obligations

3. Prior to confirmation of her or his selection as an arbitrator under the Agreement, a candidate shall disclose any interest, relationship or matter that is likely to affect his or her independence or impartiality or that might reasonably create an appearance of impropriety or bias in the proceedings. To this end, a candidate shall make all reasonable efforts to become aware of any such interests, relationships and matters.

4. Once selected, an arbitrator shall continue to make all reasonable efforts to become aware of any interests, relationships or matters referred to in paragraph 3 of this Code of Conduct and shall disclose them. The disclosure obligation is a continuing duty which requires an arbitrator to disclose any such interests, relationships or matters that may arise during any stage of the proceedings.

5. A candidate or arbitrator shall communicate matters concerning actual or potential violations of this Code of Conduct to the Trade Committee for consideration by the Parties.

Duties of arbitrators

6. Upon selection an arbitrator shall perform her or his duties thoroughly and expeditiously throughout the course of the proceedings, and with fairness and diligence.

7. An arbitrator shall consider only those issues raised in the proceedings and necessary for a ruling and shall not delegate this duty to any other person.

8. An arbitrator shall be responsible of taking all appropriate steps to ensure that his or her assistant and staff are aware of, and comply with, this Code of Conduct, as applicable.

9. An arbitrator shall not engage in *ex parte* contacts concerning the proceedings.

Independence and impartiality of arbitrators

10. An arbitrator must be independent and impartial and avoid creating an appearance of impropriety or bias and shall not be influenced by self-interest, outside pressure, political considerations, public clamour, and loyalty to a Party or fear of criticism.

11. An arbitrator shall not, directly or indirectly, incur any obligation or accept any benefit that would in any way interfere, or appear to interfere, with the proper performance of her or his duties.

12. An arbitrator may not use her or his position on the arbitration panel to advance any personal or private interests and shall avoid actions that may create the impression that others are in a special position to influence her or him.

13. An arbitrator may not allow financial, business, professional, family, personal or social relationships or responsibilities to influence her or his conduct or judgement.

14. An arbitrator must avoid entering into any relationship or acquiring any financial interest that is likely to affect her or his impartiality or that might reasonably create an appearance of impropriety or bias.

Obligations of former arbitrators

15. All former arbitrators must avoid actions that may create the appearance that they were biased in carrying out their duties or derive advantage from the decision or ruling of the arbitration panel.

Confidentiality

16. No arbitrator or former arbitrator shall at any time disclose or use any non-public information concerning proceedings or acquired during proceedings except for the purposes of those proceedings and shall not, in any case, disclose or use any such information to gain personal advantage or advantage for others or to adversely affect the interest of others.

17. No arbitrator shall disclose any arbitration panel ruling or parts thereof prior to its publication in accordance with Article 318(4) (Arbitration Panel Decisions and Rulings) of the Agreement.

18. No arbitrator or former arbitrator shall disclose at any time the deliberations of an arbitration panel, or any arbitrator's views.

Mediators, experts

19. The provisions described in this Code of Conduct as applying to arbitrators or former arbitrators shall apply, *mutatis mutandis*, to mediators and experts.

ANNEX III

DRAFT

DECISION No .../2014 OF THE EU-COLOMBIA-PERU TRADE COMMITTEE**of****on the establishment of the lists of arbitrators referred to in Article 304(1) and (4) 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 TRADE COMMITTEE,

Having regard to the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part ('the Agreement') ⁽¹⁾, signed in Brussels on 26 June 2012, and in particular Article 304 (1) and (4) thereof,

Whereas:

- (1) The Trade Committee shall establish at its first meeting a list of 25 individuals to serve as Arbitrators and additional lists of 12 individuals with sectorial experience on specific subjects covered by the Agreement.
- (2) The Trade Committee has the exclusive authority to evaluate and adopt decisions as envisaged in the Agreement regarding any subject matter which is referred to it by the specialised bodies established according to the Agreement,

HAS ADOPTED THIS DECISION:

1. The lists of individuals who may serve as arbitrators for the purposes of Article 304(1) and (4) of the Agreement are set out in the Annex to this Decision.
2. This Decision shall enter into force on ...

Done at ...on ...

For the Trade Committee

*Minister for Trade, Industry and Tourism
of Colombia*

*Commissioner for Trade of the European
Commission*

*Minister for Foreign Trade and Tourism
of Peru*

⁽¹⁾ OJ L 354, 21.12.2012, p. 3.

Annex to Decision No .../2014 of the EU-Colombia-Peru Trade Committee

LIST OF ARBITRATORS

referred to in Article 304(1) of the Agreement

Arbitrators proposed by Colombia

1. Eric Tremolada Álvarez
2. Olga Lucía Lozano Ferro
3. Adriana Zapata de Arbeláez
4. Silvia Anzola de González
5. Boris Darío Hernández Salame

Arbitrators proposed by the EU

1. Giorgio Sacerdoti
2. Ramon Torrent
3. Pieter Jan Kuijper
4. Claus-Dieter Ehlermann
5. Claudio Dordi

Arbitrators proposed by Peru

1. Alfredo Ferrero Diez Canseco
2. Diego Calmet Mujica
3. Fernando Piérola
4. Mercedes Araoz Fernández
5. Manuel Monteagudo Valdez

Chairpersons

1. Bradly Condon (Canada)
2. Álvaro Galindo (Ecuador)
3. Shotaro Oshima (Japan)
4. Merit Janow (US)
5. Luiz Olavo Baptista (Brazil)
6. Pierre Pettigrew (Canada)
7. Ricardo Ramírez Hernández (Mexico)
8. Jorge Miranda (Mexico)
9. Maryse Robert (Canada)
10. María Luisa Pagán (Puerto Rico)

ADDITIONAL LIST OF ARBITRATORS WITH SECTORIAL EXPERIENCE ON SPECIFIC SUBJECTS COVERED BY THE AGREEMENT

referred to in Article 304(4) of the Agreement

Trade in Goods experts

Arbitrators proposed by Colombia

1. Juan Carlos Elorza
2. Ramón Madriñan
3. María Clara Lozano

Arbitrators proposed by the EU

1. Hannes Schoemann
2. Jan Bourgeois
3. Maurizio Mensi

Arbitrators proposed by Peru

1. Jose Antonio de la Puente
2. Marcela Zea
3. Julio Guadalupe

Chairpersons

1. Rafael Cornejo
2. Kirsten Hilman
3. Mario Matus

Experts in areas of Trade in Services, Establishments, Competition, Intellectual Property Rights or Government Procurement

Arbitrators proposed by Colombia

1. Eduardo Silva
2. Ernesto Rengifo
3. Ricardo Metke

Arbitrators proposed by the EU

1. Jan Wouters
2. Kim Van der Borgh
3. Alexander Belohlavek

Arbitrators proposed by Peru

1. Luis Alonso Garcia
2. Ricardo Paredes
3. Benjamin Chavez

Chairpersons

1. Luis González García
 2. Luzius Wasescha
 3. Thomas Cottier
-

ANNEX IV

DRAFT

DECISION No .../2014 OF THE EU-COLOMBIA-PERU TRADE COMMITTEE**of****on the adoption of the Rules of Procedure for the Group of Experts in Trade and Sustainable Development referred to in Article 284(6) 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 TRADE COMMITTEE,

Having regard to the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part ('the Agreement') ⁽¹⁾, signed in Brussels on 26 June 2012, and in particular Article 284 (6) thereof,

Whereas:

- (1) Article 284 of the Agreement provides that a Party may request that a Group of Experts be convened to examine a trade and sustainable development matter that has not been satisfactorily addressed through governmental consultations under Article 283 of the Agreement.
- (2) At its first meeting the Trade Committee shall adopt Rules of Procedure for the functioning of the Group of Experts.
- (3) The Trade Committee has the exclusive authority to evaluate and adopt decisions as envisaged in the Agreement regarding any subject matter which is referred to it by the specialised bodies established according to the Agreement,

HAS ADOPTED THIS DECISION:

1. The Rules of Procedure for the Group of Experts are established as set out in the Annex.
2. This Decision shall enter into force on ...

Done at ...on ...

For the Trade Committee

*Minister for Trade, Industry and Tourism
of Colombia*

*Commissioner for Trade of the European
Commission*

*Minister for Foreign Trade and Tourism
of Peru*

⁽¹⁾ OJ L 354, 21.12.2012, p. 3.

Annex to Decision No .../2014 of the EU-Colombia-Peru Trade Committee

RULES OF PROCEDURE FOR THE GROUP OF EXPERTS OF THE TRADE AND SUSTAINABLE DEVELOPMENT TITLE

General Provisions

1. In Title IX (Trade and Sustainable Development) of the Agreement and under these rules:
 - (a) 'the Agreement' means the Trade Agreement between Colombia and Peru, of the one part, and the European Union and its Member States, of the other part, signed on 26 June 2012.
 - (b) 'day' means a calendar day.
 - (c) 'expert' means a person with expertise on the issues covered by Title IX (Trade and Sustainable Development), who is suitable to be appointed to serve in a Group of Experts, in accordance with Article 284 of the Agreement.
 - (d) 'Group of Experts' means a group convened in accordance with the procedures set out in Article 284 of the Agreement.
 - (e) 'Party to a procedure' shall be understood as a consulting Party which participates in a procedure before a Group of Experts.
 - (f) 'requesting Party' means any consulting Party which requests that a Group of Experts be convened pursuant to Article 284(1) of the Agreement.
2. The requesting Party shall be in charge of the logistical administration of proceedings, unless otherwise agreed. The Parties to a procedure shall equally share the costs derived from the organisation of a procedure of the Group of Experts, including the expenses of the experts. The Parties to a procedure may, however, decide that these costs, with the exception of the expenses of the experts, be distributed differently taking into account the particulars of the case and other circumstances that may be deemed relevant.

Notifications

3. The Parties shall transmit any request that a Group of Experts be convened, or any notice, written submission or other document by delivery against receipt, registered post, courier, facsimile transmission, telex, telegram or any other means of telecommunication that provides a record of the sending thereof.
4. Each Party to a procedure shall provide the other Party and each of the members of the Group of the Experts with a copy of each of its written submissions. A copy of the document shall also be provided in electronic format.
5. Minor errors of a clerical nature in any request, notice, written submission or other document related to the Group of Experts may be corrected by delivery of a new document clearly indicating the changes.
6. For the purposes of calculating a period of time under Articles 284 and 285 of the Agreement and these rules, such period shall begin to run on the day following the day when a notice, written submission or other document is received. If the last day of such period is an official holiday or a non-work day for any of the Parties to a procedure, the period is extended until the first work day which follows. Official holidays or non-work days occurring during the running of the period of time are included in calculating the period.
7. Where a Party to a procedure receives a document on a date other than the date on which this document is received by the other Party, any period of time that is calculated on the basis of the date of receipt of that document shall be calculated from the last date of receipt of that document.

Establishment of a Group of Experts

8. If pursuant to Article 284 of the Agreement the Chairperson is selected by lot from the list of non-nationals of any Party to the Agreement, representatives of both Parties to a procedure shall be invited with due anticipation to be present when lots are drawn.
9. The Parties to a procedure shall notify experts regarding their appointment.

10. An expert who has been appointed according to the procedure established under Article 284 of the Agreement shall notify his/her acceptance to the Sub-committee on Trade and Sustainable Development within five days of the date in which he/she was informed of his/her appointment.

Initiation of the Group of Experts

11. Unless the Parties to a procedure agree otherwise, these Parties shall meet with the Group of Experts within fourteen days of its establishment in order to determine such matters that such Parties or the Group of Experts deem appropriate.

12. (a) Unless the Parties to a procedure agree otherwise, within seven days from the date of establishment of the Group of Experts, the terms of reference of the Group of Experts shall be:

‘to examine, in the light of the relevant provisions of the Trade and Sustainable Development Title, the matter referred to in the request for the establishment of the Group of Experts, and to issue a report, in accordance with Article 285 of Title IX (Trade and Sustainable Development) of the Agreement, making recommendations for satisfactorily addressing the matter.’.

(b) The Parties to a procedure must notify the agreed terms of reference to the Group of Experts within two days after reaching the agreement.

Submissions

13. The Parties to a procedure may present submissions to the Group of Experts at any stage of the process. The Group of Experts may request and receive written submissions or any other information from organisations, institutions, and persons with relevant information or specialised knowledge, including written submissions or information from the relevant international organisations and bodies, on matters concerning the international conventions and agreements referred to in Articles 269 and 270 of the Agreement.

14. Once the Group of Experts has decided on the list of institutions, organisations and persons it will request information from, it will provide this list to the Parties to a procedure for their information. The Group of Experts shall notify the Parties to a procedure of any institutions, organisations, or persons it subsequently chooses to approach or of those making submissions to the Group of Experts on their own initiative.

Operation of the Group of Experts

15. The chairperson of the Group of Experts shall preside at all its meetings. The Group of Experts may delegate to the chairperson authority to make administrative decisions regarding the proceedings.

16. The chairperson shall inform the Parties to a procedure of administrative decisions; such administrative decisions will apply unless otherwise agreed by the Parties to a procedure.

17. Unless otherwise provided in the Agreement or in these Rules, the Group of Experts may conduct its activities by any means, including telephone, facsimile transmissions or computer links.

18. Only members of the Group of Experts may take part in the deliberations of the Group of Experts.

19. The drafting of any Group of Experts ruling shall remain the exclusive responsibility of the Group of Experts and may not be delegated.

20. Subject to the provisions of the Agreement and these Rules, where a procedural question arises that is not covered therein, the Group of Experts may adopt its own procedures to address such a question. Where a procedural question arises that is not covered by the provisions of the Agreement or in these Rules, a Group of Experts may adopt an appropriate procedure that is compatible with those provisions.

21. When the Group of Experts considers it is necessary to modify any period of time applicable to the proceedings or to make any other procedural or administrative adjustment, it shall inform the Parties to a procedure in writing of the reasons for the change or adjustment, indicating the period of time or adjustment needed. Such adjustment will apply unless otherwise agreed by the Parties to the procedure.

22. Consistent with Articles 284 and 285 of the Agreement and these rules, the Group of Experts shall conduct all proceedings in such a manner as it considers appropriate, provided that the Parties to a procedure are treated with equality, and that subject to Article 284(5) of the Agreement, each Party to a procedure is given a full opportunity to present its case.

23. Consistent with Articles 284 and 285 of the Agreement and these rules, the Parties to a procedure may request meetings with the Group of Experts after the initial report has been presented and prior to the presentation of the final report.

Confidentiality

24. Each Party to a procedure shall treat as confidential any information submitted by the other Party to the Group of Experts which that Party has designated as confidential.

25. Where a Party to a procedure submits a confidential version of its written submissions to the Group of Experts, it shall also, upon request of the other Party, provide a non-confidential summary of the information contained in its submissions no later than fifteen days after the date of either the request or the submission of the confidential version, whichever is later.

26. Written submissions made to the Group of Experts shall be considered confidential but shall be provided to the Parties to a procedure. The Parties to a procedure may issue joint statements of their positions to the extent that they do not contain confidential commercial information.

27. The Group of Experts shall meet in closed session when the submissions and arguments of any Party to a procedure contain confidential commercial information.

Translation and Interpretation

28. The Parties to a procedure shall have the right to present and receive written submissions in the languages of their choice.

29. Each Party to a procedure shall expeditiously arrange for and bear the costs of the translation of its written submissions into English and Spanish. The costs incurred during the deliberations of the Group of Experts for translation and interpretation into or from English and Spanish shall be shared by the Parties to a procedure. Translation and interpretation into or from other languages shall be borne by the requesting Party.

30. Group of Experts reports shall be notified in English and Spanish.

Other Provisions

31. The Code of Conduct established for the List of Arbitrators under the Trade Agreement shall also apply for the Group of Experts.

ANNEX V

DRAFT

DECISION No .../2014 OF THE EU-COLOMBIA-PERU TRADE COMMITTEE**of**

on the establishment of a Group of Experts on issues covered by the Title on Trade and Sustainable Development, referred to in Article 284(3) 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 TRADE COMMITTEE,

Having regard to the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part ('the Agreement') ⁽¹⁾, signed in Brussels on 26 June 2012, and in particular Article 284(3) thereof,

Whereas:

- (1) Article 284 of the Agreement provides that a Party may request that a Group of Experts be convened to examine a trade and sustainable development matter that has not been satisfactorily addressed through governmental consultations under Article 283 of the Agreement.
- (2) At its first meeting the Trade Committee shall endorse a list of at least 15 persons with expertise on issues covered by the Title on Trade and Sustainable Development.
- (3) The Trade Committee has the exclusive authority to evaluate and adopt decisions as envisaged in the Agreement regarding any subject matter which is referred to it by the specialised bodies established according to the Agreement,

HAS ADOPTED THIS DECISION:

1. The lists of individuals who may serve as experts for the purposes of Article 284 of the Agreement are set out in the Annex to this Decision.
2. This Decision shall enter into force on ...

Done at ...on ...

For the Trade Committee

*Minister for Trade, Industry and Tourism
of Colombia*

*Commissioner for Trade of the European
Commission*

*Minister for Foreign Trade and Tourism
of Peru*

⁽¹⁾ OJ L 354, 21.12.2012, p. 3.

Annex to Decision No .../2014 of the EU-Colombia-Peru Trade Committee

LIST OF EXPERTS

referred to in Article 284(3) of the Agreement

List of experts

1. Claudia Martínez
2. Carlos Costa Posada
3. Enrique Borda Villegas
4. Katerine Bermúdez
5. Eddy Laurijssen
6. Jorge Cardona
7. Hélène Ruiz Fabri
8. Geert Van Calster
9. Jorge Mario Caillaux Zazzali
10. Rosario Gómez Gamarra
11. Jorge Toyama Miyagusuku
12. Alfonso de los Heros Pérez Albela

Chairpersons

1. Robert McCorquodale
 2. Dane Ratliff
 3. Jill Murray
 4. Arthur Edmond Appleton
 5. Maryse Robert
 6. Orlando Pérez Gárate
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