

**EXPLANATORY MEMORANDUM ON THE PROTOCOL OF ACCESSION TO THE TRADE AGREEMENT BETWEEN THE EUROPEAN UNION AND ITS MEMBER STATES, OF THE ONE PART, AND COLOMBIA AND PERU, OF THE OTHER PART TO TAKE ACCOUNT OF THE ACCESSION OF ECUADOR**

**TITLE OF TREATY** 9644

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

**Command Paper Number:**

**SUBJECT MATTER**

1. The Agreement presented by this legislative instrument covers Ecuador's accession to the Free Trade Agreement (FTA) concluded between the EU, its Member States and Colombia and Peru (otherwise known as the EU-Andean FTA). It represents the final outcome of the FTA negotiations undertaken by the European Commission on behalf of the European Union and its Member States.
2. On 23 April 2007, the European Council authorised the European Commission to open negotiations with the Andean Community (Colombia, Bolivia, Peru and Ecuador) for a regional Association Agreement. These negotiations were suspended in June 2008 and were superseded on 19 January 2009 when the Council authorised the Commission to negotiate a multiparty trade agreement. Ecuador suspended its participation in July 2009. Subsequently the trade negotiations with Colombia and Peru were concluded in 2011 with final signature on 26 June 2012. The trade provisions of this EU-Andean Agreement have been provisionally applied with Peru since 1 March 2013 and with Colombia since 1 August 2013. The UK notified the EU that it had completed its ratification processes for the EU-Andean agreement (originally only agreed with Colombia and Peru) on 13 May 2014.
3. In January 2014, Ecuador reopened negotiations to enter the multiparty trade agreement already agreed with Colombia and Peru. The Ecuador accession protocol was signed by all parties on 11 November 2016 and has been provisionally applied since 1 January 2017.
4. The UK Government is proceeding to ratify this accession Agreement in line with agreed policy that the UK should continue to ratify signed third country agreements with the EU before the UK exits the EU.

## **NATURE OF THE AGREEMENT**

5. In line with existing form of the Agreement already concluded with Colombia and Peru, Ecuador's Protocol of Accession is a Multi Party Trade Agreement or "mixed agreement" which includes specific elements that fall under the competency of EU Member States. This means that all Member States are Parties to the Agreement and must ratify it in their own right in their respective national and regional parliaments.
6. The Agreement includes sections on the following areas: Trade in Goods, Trade Remedies, Technical Barriers to Trade, Trade in Services, Establishment and E-Commerce, Government Procurement, Intellectual Property Rights, Competition, Transparency, Trade and Sustainable Development and Dispute Settlement.
7. The Agreement includes information on tariff elimination schedules, details of the elimination of customs duties, details of special provisions on administrative cooperation, details of agricultural safeguard measures and sanitary and phytosanitary measures. The provisions in the Agreement are set to be phased in over time, with Ecuador committing to fully liberalise trade within 10 years. In some sectors, such as the alcoholic beverage sector full liberalisation will happen on entry into force.
8. In line with the existing EU-Andean Agreement, the accession protocol includes far-reaching agreement on the protection of human rights and the rule of law and commitments to effectively implement international conventions on labour rights and environmental protection.

## **MINISTERIAL RESPONSIBILITY**

9. The Secretary of State for International Trade has primary responsibility for trade policy. Other Secretaries of State with an interest in this policy area include the Chancellor of the Exchequer and the Secretaries of State for Foreign and Commonwealth Affairs, Environment Food & Rural Affairs, Home Affairs, and Transport.

## **POLICY CONSIDERATIONS**

### **(i) General**

10. The Agreement represents the outcome of the FTA negotiations undertaken by the European Commission (acting on behalf of the European Union and its Member States with Ecuador).
11. The UK Government is committed, in line with agreed government policy, to ratify and implement this Agreement which is designed to improve trade and investment and act as driver for economic and social

development. The Government is fully committed to supporting FTAs whilst we remain EU members. Any interim arrangements after we leave the EU will be subject to negotiation.

12. Until 29 March 2019, the UK remains a full member of the EU and all the rights and responsibilities of EU membership remain in force. During this period, the Government will also continue to implement and apply EU legislation and third country agreements. The Government therefore proposes to move ahead with ratification.
13. The Agreement is consistent with the UK's objectives in trade policy for free, fair and open markets and with relevant wider policy goals. The agreement with Ecuador broadly matches the text of the trade agreement with Colombia and Peru, with the exception of certain specific annotations made to the Annex on the Rules of Origin (RoO).
14. Key benefits of the Ecuador Protocol of Accession include:
  - a) Ecuador's accession to the EU-Andean FTA gives EU and UK companies' full tariff liberalisation on wines and spirits. It also offers significant market access improvements in the automotive, dairy, pork, machinery and chemicals.
  - b) Ecuador will fully liberalise within 10 years, 96.8% of tariff lines and 99.5% of average Ecuador imports from the EU for the reference period 2005-2007.
  - c) When the Agreement enters into force, Ecuador will liberalise 59.9% of its tariff lines. This includes:
    - a. Full liberalisation of industrial products within 10 years. 61.3% of tariff lines representing 64.8% of imports will be liberalised on entry into force. This will particularly be beneficial for UK exporters since the main UK trade with Ecuador is in chemical products and machinery sectors.
    - b. All imports and tariff lines for fish and fishery products being liberalised on entry into force.
    - c. Imports of all alcoholic beverages will be fully liberalised at entry into force. This marks a considerable change and opportunity for exporters, given that previously Ecuador imposed a customs tariff of 40% on alcoholic goods imported from outside the Andean community.
    - d. Full liberalisation for most processed food exports within 3 to 5 years (such as sugar confectionary, pastas, biscuits, infant food and most other food preparations) with the exception of high-sugar content products subject to a Tariff Rate Quota (TRQ). Chocolates will be fully liberalised over a transitional 10 year time period.
    - e. In terms of the dairy sector, Ecuador has agreed to open three duty-free TRQs representing a total of 1500 tonnes of dairy produce. These TRQs will grow 5% per year, indefinitely.

Additionally, the EU also secured full linear tariff liberalisation on key lines of cheeses over a 17 year transition period along with an immediate opening of a transitory 1000 tonne duty-free TRQ.

- d) In terms of market access for services, the Agreement matches the level of ambition of Peru and Colombia, particularly in the area of public procurement, with the equivalent of a reduction in tariffs of between 3.2% and 3.9% in services trade.

#### 15. UK– Ecuador bilateral trade

- a) The UK's economic interests in the Agreement are modest. UK trade with Ecuador represents around 0.1% of total UK trade. Trade was decreasing in the years immediately before Ecuador provisionally joined the FTA in 2017.
- b) Total UK trade in goods with Ecuador was worth £153m in 2016.<sup>13</sup> UK goods exports were worth £41m. Exports were most commonly chemical products and machines. Goods imports were worth £112m, almost exclusively in agricultural products (vegetable products, foodstuffs and animal products). UK service exports to Ecuador were worth £26m and imports worth £8m in 2016.

#### (ii) Financial

- 22. There are no direct financial implications for the UK as a result of this FTA.

#### (iii) Reservations and Declarations

- 23. None

### IMPLEMENTATION

- 24. The Agreement will enter into force on the first day of the month following the date on which the Parties notify each other of the completion for the procedures necessary for that purpose, unless the UK's withdrawal date from the EU precedes this date.
- 25. As a mixed Agreement, it will need to be specified as an EU Treaty by Order in Council in accordance with section 1(3) of the European Communities Act 1972 in order to have legal effect in the UK. It will not require any further new legislation to be introduced by the United Kingdom and no other implementation is required.

## **CONSULTATION**

26. The Parliamentary Scrutiny and Select Committees have been consulted on the proposals relating to signature, provisional application and conclusion of this Agreement.
27. Throughout the negotiations for this FTA, DIT and its predecessor department, the Department for Business, Innovation and Skills (BIS) has actively engaged and consulted with business, across Government, and has represented agreed policy to the European Commission.
28. This Explanatory Memorandum has also been cleared across Whitehall with the relevant Government departments. UK representatives in Ecuador and in Brussels have also been consulted.

A handwritten signature in black ink, appearing to read 'George', with a stylized, cursive flourish extending from the end.

**GEORGE HOLLINGBERY, MINISTER FOR TRADE**

**DEPARTMENT FOR INTERNATIONAL TRADE**