

DECISION No 4/2014 OF THE EU-COLOMBIA-PERU TRADE COMMITTEE

**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"), 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:

- . 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 7 October 2014

Done at Lima on 16 May 2014

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*

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 report 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.
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