



EUROPEAN  
COMMISSION

HIGH REPRESENTATIVE  
OF THE UNION FOR  
FOREIGN AFFAIRS AND  
SECURITY POLICY

Brussels, 3.2.2016  
JOIN(2016) 4 final

2016/0025 (NLE)

Joint Proposal for a

**COUNCIL DECISION**

**on the conclusion of a Political Dialogue and Cooperation Agreement between the European Community and its Member States, of the one part, and the Andean Community and its Member Countries (Bolivia, Colombia, Ecuador, Peru and Venezuela), of the other part**

## EXPLANATORY MEMORANDUM

The attached proposal constitutes the legal instrument for the conclusion of the Political Dialogue and Cooperation Agreement between the European Community and its Member States of the one part, and the Andean Community and its Member Countries (Bolivia, Colombia, Ecuador, Peru and Venezuela), of the other part ('the Agreement').

The EU – Andean Community Political Dialogue and Cooperation Agreement was signed on 15 December 2003 in Rome.

The Agreement focuses solely on political dialogue and cooperation and does not contain a trade component. The main objectives of the Agreement are to strengthen EU-Andean Community relations by developing political dialogue and reinforcing cooperation, and to create the conditions under which, building on the outcome of the Doha Work Programme, a feasible and mutually beneficial Association Agreement, including a free trade agreement, could be negotiated between the parties.

The Agreement institutionalises and strengthens the political dialogue based until now on an informal arrangement known as the Rome Declaration (1996) and broadens cooperation to include new areas such as human rights, conflict prevention, migration as well as the fight against drugs and terrorism. Special emphasis is placed on cooperation in support of the process of regional integration in the Andean Community. The Agreement builds upon and will replace the 1993 Framework Cooperation Agreement between the two regions as well as the Rome Declaration when it comes into force.

Due to the mixed nature of the Agreement, Member States had to ratify it. By January 2013, the 15 EU Member States that signed it and all Andean Member Countries had ratified the Agreement, except for Venezuela which withdrew from the Andean Community in 2006.

The Agreement has not been concluded until today due to the internal political and institutional crisis the organization went through since the departure of Venezuela in 2006. In 2011 the CAN initiated a process of structural reforms with the objective of increasing its cost-effectiveness and efficiency, re-focus on trade and economic integration, the interconnection of electricity grids, and the social aspects of integration (free movement of people, promotion of the Andean identity). It has also promoted greater convergence and complementarity with other regional organisations particularly Unasur. In 2013 the EU signed a multi-party Free Trade Agreement with Colombia and Peru, which has recently been extended to Ecuador. With the conclusion of the Political Dialogue and Cooperation Agreement, the EU will complement the multi-party agreement and provide a framework for regional policy dialogue in areas of mutual interest. The Agreement also contains a readmission clause in article 49 that is important in the context of the short stay visa waiver agreements that the Commission has signed with Colombia and will sign with Peru in the coming months.

To ensure the entry into force of the Agreement, the conclusion on behalf of the European Union needs to be completed.

Due to the enlargements that took place after the signing of the Agreement, a Protocol taking into account the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union on 1 May 2004, the accession of the Republic of Bulgaria and Romania to the European Union on 1 January 2007, and the accession of the Republic of Croatia to the European Union on 1 July 2013, needs to be adopted.

The Commission notes that the Agreement contains the following Declaration of the Commission and the Council of the European Union on the clause concerning the definition of the parties (Article 53):

*'The provisions of this Agreement that fall within the scope of Part III, Title IV of the Treaty establishing the European Community bind the United Kingdom and Ireland as separate Contracting Parties, and not as part of the European Community, until the United Kingdom or Ireland (as the case may be) notifies the Andean Community Party that it has become bound as part of the European Community in accordance with the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and the Treaty establishing the European Community. The same applies to Denmark, in accordance with the Protocol annexed to those Treaties on the position of Denmark.'* As the Proposal for a Council Decision on the conclusion of the Agreement is not based on any legal basis of Title V of Part III of the TFEU, the Commission considers that the Unilateral Declaration above has become devoid of purpose. The Commission therefore considers that, at the occasion of the adoption of the Council Decision on the conclusion, the Council and the Commission should make the following joint declaration:

*'The Council and the Commission note that the decision to conclude the Agreement is adopted on the basis of Article 207 and 209 TFEU and not "pursuant to Title V of the Part Three of the TFEU". Therefore, the Unilateral Declaration made by the Commission and the Council of the European Union on the clause concerning the definition of the parties (Article 53) at the occasion of the signature of the Agreement has become devoid of purpose.'*

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, in particular Article 37 thereof,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 207 and 209, in conjunction with article 218 (6) (a) and the second subparagraph of Article 218(8) thereof,

Having regard to the proposal from the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy<sup>1</sup>,

Having regard to the consent of the European Parliament,

Whereas:

- (1) On 18 March 2003 the Council authorised the Commission to open negotiations for a Political Dialogue and Cooperation Agreement between the European Community and its Member States, of the one part, and the Andean Community and its Member Countries (Bolivia, Colombia, Ecuador, Peru and Venezuela), of the other part ('the Agreement').
- (2) The Agreement was signed on 15 October 2003.
- (3) According to Article 54(1) the Agreement shall enter into force on the first day of the month following that in which the Parties notify each other of completion of the procedures necessary for this purpose.
- (4) The Agreement should be approved on behalf of the European Union.

HAS ADOPTED THIS DECISION:

*Article 1*

The Political Dialogue and Cooperation Agreement between the European Community and its Member States, of the one part, and the Andean Community and its Member Countries (Bolivia, Colombia, Ecuador, Peru and Venezuela), of the other part, is hereby approved on behalf of the European Union.

The text of the Agreement is attached to this Decision.

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<sup>1</sup> OJ C [...] [...], p. [...]

*Article 2*

The High Representative of the Union for Foreign Affairs and Security Policy shall chair the Joint Committee provided for in Article 52 of the Agreement.

The Union or, as the case may be, the Union and the Member States, shall be represented in the Joint Committee depending on the subject matter.

*Article 3*

The President of the Council shall designate the person empowered to proceed, on behalf of the European Union, to the notification provided for in Article 54 of the Agreement, in order to express the consent of the European Union to be bound by the Agreement.

*Article 4*

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

Done at Brussels,

*For the Council  
The President*