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ACCESSION OF ECUADOR TO THE GATT

Questions and Replies to the Memorandum on Foreign Trade Régime
(L/7202)

In a communication received on 18 September 1992, circulated as L/7086, the Government of Ecuador applied for accession to the General Agreement pursuant to Article XXXIII. At its meeting on 9 September-1 October 1992, the Council set up a Working Party to examine the application for accession of Ecuador. The terms of reference of the Working Party are reproduced in document L/7100/Rev.1. In document L/7202 and in GATT/AIR/3473, contracting parties were invited to submit questions in writing concerning the foreign trade régime of Ecuador. Questions submitted by contracting parties in connection with the foreign trade régime of Ecuador and the replies thereto provided by the authorities of Ecuador are reproduced hereunder. Further questions and replies will be circulated in due course.

Delegations wishing to raise additional questions concerning the foreign trade régime of Ecuador might inform the delegation of that country (with a copy to the Secretariat) of such questions in advance of the meeting of the Working Party, so that considered replies can be made available by Ecuador to members at the time of the Working Party meeting.

ACCESSION OF ECUADOR TO THE GATT

Questions and Replies to the Memorandum on Foreign Trade Régime¹

Chapter I

Introduction

1. With regard to the special allowances made for developing countries under the GATT, what expectations are held by Ecuador in relation to its Protocol of Accession?

Ecuador is a developing country in which considerable disparities subsist in the economic growth of the various sectors. The structural reforms which have been introduced, together with the macroeconomic policies which have been implemented, aim to correct these problems. One of the cornerstones of this strategy is precisely the redefinition of the modalities for Ecuador's insertion in the international economy. The success of such efforts depends largely on a trade environment which would permit Ecuador to increase its exports to world markets. Joining the GATT is of primary importance in this respect.

Upon completing its accession to the GATT, Ecuador will be in a position to use all of the mechanisms provided for in the General Agreement on Tariffs and Trade, in particular those mentioned in Part IV of that Agreement.

Thus, it will try to take advantage of all of the special concessions provided for in the General Agreement to promote its potential exports and to consolidate the presence of its products on the world market.

Ecuador hopes that its accession to the General Agreement will favour the efforts undertaken to redefine its economic structure and the modalities for its linkage to the international economy.

2. Ecuador has elected to foster efficient allocation of resources through market mechanisms so as to encourage private initiative. What specific measures have been taken or are contemplated for this purpose?

Various measures have been taken, some of which are described in detail in document L/7202 and in the replies to questions of other contracting parties. Essentially, efforts have been made, inter alia, to scale down public involvement in the economy, eliminate specific grants and subsidies, simplify procedures in the field of foreign trade and foreign investment and favour an opening-up of the economy, rationalize and reduce tariffs, privatize enterprises in which the State has been directly involved, eliminate price controls, implement a transparent exchange policy and to bring the financial deficit under control in order to favour management by private economic agents. The choice of Government policy is clear in this respect: it aims to restore the market as the basic instrument for the allocation of resources, eliminating all protectionist elements, whatever their nature.

¹All of the questions as well as all references to page numbers and paragraphs correspond to document L/7202. The annexes are available in the Secretariat (Special Adviser to the Director-General, office No. 2017).

Chapter III

The Economy in 1993

3. Are there any forms of assistance in place for Ecuador's exports? In particular are there any subsidy schemes, tax incentives, etc, which would fall within the Illustrative List annexed to the GATT Subsidies Code?

The application of protectionist measures and export subsidies, whatever their nature, is not Government policy.

As indicated in document L/7202, the Government of Ecuador has launched a process of modernization of the economy which tends to redefine the rôle of the State in the management of the economy and society, specifying its areas of influence in line with current conditions. Government strategy favours competition as a key factor of progress, the free interaction of supply and demand, the existence of transparent and competitive markets and optimum allocation of resources with a view to achieving a balanced economy.

In 1990, Ecuador began to implement a policy of eliminating export subsidies on the grounds that they were not compatible with the economic policy it had adopted. At the same time it recognized the importance for the economic development programmes of developing countries, as confirmed in Article 14 of the GATT Code on Subsidies and Countervailing Duties, of policies to assist industries, including those in the export sector.

For the moment no benefits are granted under any specific development laws, and there are no export or credit subsidies or tax incentives.

4. The Macroeconomic Stabilization Plan is aimed at prudent fiscal management in order to control and reduce inflation, whose rates have fluctuated in recent years around 50 per cent. In this respect, what measures have been taken to control consumer prices? For example, maximum selling prices? Do these measures affect imported products in the same way as domestic products?

There are no price controls, and consequently, no maximum selling prices are applied for any goods or services. The only prices controlled by the State are internal prices of certain oil and gas products for domestic consumption. There is no discrimination between domestic and imported products.

Chapter IV

Balance of Payments: Outlook

5. Does Ecuador plan to impose measures on imports for balance-of-payments reasons? If so, what type of measures are envisaged?

Ecuador has not resorted to any drastic measures in this respect. Should the economic situation require the imposition of exceptional measures, Ecuador will take due account of the Declaration on Trade Measures Taken for Balance-of-Payments Purposes adopted on 28 November 1979 (L/4904). However, this option has not been considered.

6. Document L/7202 (page 13) states that demand substitution in favour of foreign goods has increased, but by 1992 there had been two years of accumulation of stocks, the bulk being of imported products. We find it hard to understand why stocks of imported products would increase, unless there is some restraint on their sale. Can Ecuador elaborate please?

The increase in stocks of imported goods is largely explained by the economic growth trends themselves during the years under consideration. In an economy which depends on external supply of inputs, raw materials and capital goods in order to sustain its economic growth, this tendency is understandable. The GDP experienced a significant overall recovery in 1991 and 1992.

However, there also exists a certain anticipatory element which may have played a part in the development of stocks of imported goods: expectations in connection with the political changes which took place in 1992 (presidential elections) may have led entrepreneurs to overstock, in a context of relative uncertainty as to the possible modification of exchange and tariff policies as a result of a change in Government.

In any case it should be made clear that there are no restrictions of any kind on the domestic sale and marketing of legally imported products, except those aimed at safeguarding and preserving the health and life of persons and public morality.

7. It is stated that "the major problems facing the balance of payments stem from the foreign debt and the flow of capital towards the international financial system" (paragraph 1, page 11). Is there any specific plan to deal with such problems? What is Ecuador's intention to tackle the balance-of-payment difficulties in the future?

The Government has proposed that the talks with creditors to conclude an agreement for the renegotiation of the public debt be continued. In this respect, various steps have been taken with the support of the International Monetary Fund. Ecuador has declared as a fundamental principle that it will comply with its commitments towards the Bank and other financial institutions. It does not intend to impose import restrictions as a means of solving its balance-of-payment difficulties.

Chapter V

Government Economic Policies

8. In the same context, Ecuador has taken steps to increase fiscal revenue (part VI 1. Fiscal Policy). Do these measures include taxes on consumption? What products are affected? Are these both imported and domestic products?

Fiscal policy and the balancing of public accounts are based on the rationalization of Government expenditures and not on the regulation of consumption or increases in internal taxes. The rôle of the public sector has been streamlined and a policy has been adopted to eliminate subsidies and obtain forced savings within the State structure in order to achieve the desired results. The measures adopted made it possible to reduce the public deficit to 2.5 per cent of the GDP this year, as against 7 per cent for 1992.

9. Reference is made to various exchange rates, official, intervention, and a free exchange rate. Will exchange rates be unified? If so, by what means and within what timeframe?

The policy applied by the Government of Ecuador in respect of exchange rates is a transparent one, dictated by the objectives of stabilization and economic recovery set forth in the Macroeconomic Plan.

On 1 September 1993 the country's monetary authorities adopted Resolution 858/93, which simplified the exchange system by eliminating the US dollar fluctuation band in force in the intervention market of the Central Bank of Ecuador for public sector transactions. The Central Bank exchange rate for public-sector foreign exchange transactions is set weekly at a rate equal to the average free-market rate for the preceding week.

Thus, a free exchange system has been adopted in which the private sector acquires the foreign exchange it needs for its activities at the market rate, and cannot engage in transactions of foreign exchange earned from foreign trade in the Central Bank of Ecuador. This system is different from that described in document L/7202.

10. Are any limits imposed on the amounts of foreign exchange sold and purchased? If so, how are these limits determined, and when will they be removed?

There are no such restrictions.

Chapter VI

Ecuador's Main Markets

11. Would it be possible to make an analysis of changing trends in Ecuador's trade with its principal partners? In that connection, would it be possible for Ecuador to provide rates of growth in the value of exports for each main export market and rate of growth of value of imports by country of origin for the period 1985-1992? What is the percentage share of each market in the value of imports and exports respectively in 1986 and 1992?

Document L/7202, Section IV, contains an analysis of foreign trade trends. In addition, Ecuador has provided the GATT Secretariat with detailed information on import and export flows (see Annex No. 4).

12. Ecuador itself acknowledges (Part VI, paragraph 1) a "heavy dependence on a few export markets". What measures have been taken by Ecuador to diversify the destination of its exports? What are the reasons why the Japanese market no longer has the same importance for Ecuadorian exports?

Export markets are indeed rather limited. An export promotion policy was implemented which essentially consisted in combining the activities of the public and private sectors in a joint attempt to promote the exports which it has to offer on potential buyer markets. It was nevertheless essential to orient economic policy in order to stimulate productivity as a means of actively winning markets. As regards the Japanese market, it should be noted that efforts are under way to stimulate Ecuador's exports. The export products are fresh fish, frozen fish, prawns, bananas, non-decaffeinated coffee, cardamum, fats, wood, hats, plastic buttons and corozo nuts.

Chapter VII

Trade Policy

13. It is stated that "the Ministry of Finance is responsible for the prior qualification and authorization of duty-free imports of goods by public or private entities eligible for such exemptions....". Could the Government of Ecuador please list the entities and products currently eligible for this exemption? Could the Government also please indicate how such imports are defined and identified?

Please refer to pages 26 to 28 of document L/7202. It should be borne in mind that persons or entities eligible for exemptions both in the public and private sectors are only granted such exemptions subject to the fulfilment of certain requirements with respect to the use and destination of the imports indicated in the Customs Law and its Regulations. Persons or entities eligible for exemptions in the public and private sector are defined in general terms in that Law.

Exemptions are not granted on the basis of a pre-established list of products, but rather on the basis of the "specific individual purposes" of each institution or enterprise.

14. Is it Ecuador's intention to continue to liberalize its tariff system? Is there any specific plan to further reduce its tariff rates? Are there any products, tariff rate of which are difficult to reduce? If any, please indicate these products and the reasons for the difficulties.

Ecuador intends to proceed gradually in that direction. Its tariff levels are low; any future variations in Ecuadorian tariffs will be attributable to modifications made in the Common External Tariff of the Cartagena Agreement. The Andean Group has informed the contracting parties of the features of the Common External Tariff on previous occasions.

15. Concerning tariff rates used, Ecuador mentions that the simple average tariff is 9.3 per cent and the weighted average 6.8 per cent. At the same time Ecuador is a party to the Cartagena Agreement which lays down a common external tariff of 5, 10, 15 and 20 per cent. Would Ecuador be prepared to bind the totality of its tariffs at the rates laid down in the Cartagena Agreement?

Please refer to the preceding reply.

16. Will Ecuador bind its tariff on accession to the GATT? If so, at what level? Will Ecuador seek exceptions for any product sectors?

Liberalization of trade is an important aspect of Ecuador's economic policy. In any case, it should be stressed that Ecuador has taken steps aimed at the unilateral liberalization and rationalization of tariffs which are consistent with the General Agreement. In 1992, the tariff ceiling in force was reduced from 290 per cent to 27 per cent, and tariff levels were cut from 30 to 10 (see document L/7202, page 31, and the information provided to the contracting parties by the Secretariat).

Along with liberalization of trade, various efforts have been made to negotiate better access for national exports to certain markets and introduce legal and administrative reforms needed to simplify general procedures in respect of foreign trade and national and foreign investment.

In this context Ecuador, with due regard for its development requirements, is ready to confirm its commitment to the multilateral system by binding some of its tariffs as a contribution to the objectives set forth both in the General Agreement and in the Uruguay Round of multilateral trade negotiations, thus supporting efforts to achieve greater liberalization and expansion of world trade in a more just and stable environment.

17. The Community has taken careful note of Ecuador's objectives in seeking to become a contracting party to the GATT. The Community wonders if Ecuador also plans to strengthen the trading system by improving access to its market and what contributions Ecuador intends to make in this area. Does Ecuador intend to sign the Codes relating to Articles of the GATT such as: the Customs Valuation Code; the Import Licensing Code; Anti-dumping; Subsidies; Government Procurement; Civil Aircraft and Technical Barriers to Trade?

In this context Ecuador, with due regard for its development requirements, is ready to confirm its commitment to the multilateral system by binding some of its tariffs as a contribution to the objectives set forth both in the General Agreement and in the Uruguay Round of multilateral trade negotiations, thus supporting efforts to achieve greater liberalization and expansion of world trade in a more just and stable environment.

Ecuador is currently assessing the implications of joining the various Tokyo Round Codes.

18. It is indicated in pages 29-30 that certain categories of persons or entities are exempted from the payment of customs duty for importation for "their own specific purposes" (paragraph 5, page 29). Please provide further explanation on "their own specific purposes".

The only purpose of exemptions from payment of customs duties for specific categories of economic agents or institutions is to make it easier for them to carry out their specific function. In order to ensure that these exemptions do not affect free competition, goods entering the country under such exemptions can only be marketed freely within the country once a certain period of time has lapsed and the fees from which they were originally exempted have been paid, in full or in part depending on the particular case.

19. Does Ecuador have any import surcharges? If so, please indicate the specific scope of the products subject to import surcharges and their levels.

Under the tariff system currently in force, import surcharges have been eliminated.

20. Please explain the relationship between the ad valorem (0.5 per cent and 1 per cent) control fees and Article 8 of GATT.

There is a direct relationship. The two fees are payments for services rendered and constitute neither a direct or indirect protective measure in favour of national products, nor a fiscal tax on imports.

21. Do the customs fees (control fee, storage fee and transit fee) described apply to agricultural or agri-food products? What assurances can the Government of Ecuador give the contracting parties that revenues collected from control, storage and transit fees only cover the costs incurred in providing these services? The Memorandum indicates that the Ministry of

Finance and Public Credit now employs the rules of the GATT Customs Valuation Code for calculating the taxable base of ad valorem taxes on imports. Does the Government of Ecuador intend to accede to the GATT Customs Valuation Code?

Any service rendered by the customs services carries a fee. These fees are charged for general services rendered and, as such, cover only the cost of the services in question. Imports of agricultural and food products are not exempted from the payment of these fees.

Ecuador has followed the principles of the Customs Valuation Code and is currently assessing the implications of joining the Code.

22. Does Ecuador consider that the control, storage and transit fees applied to imported products are compatible with the provisions of the GATT?

The so-called "customs taxes", whether on control, storage or transit, do not constitute import restrictions; they are simply payment for services which are actually provided by customs. These fees are charged for general services rendered and, as such, cover only the cost of the services in question. Thus, they are compatible with the provisions of the GATT.

23. The expressed destination of the proceeds from the levies of 1 per cent and 2 per cent is to the Central Bank of Ecuador and the National Institute of the Child and Family. These levies clearly represent "taxation of imports for fiscal purposes" in contravention of GATT Article VIII. Will Ecuador modify its method of financing these bodies? Are these levies over and above the customs fees of 0.5 per cent and 1 per cent?

In line with Article VIII of the General Agreement, Ecuador has begun a process of progressive reduction of fees and charges other than import duties. The National Congress has already received for discussion the draft National Customs Service Law which aims to regulate this situation.

In keeping with the development needs of the most vulnerable groups among the children of Ecuador, a 1 per cent levy of c.i.f. value of imports is paid into the Children's Development Fund (FODINFA). This levy is of a strictly social nature, and contributes to aid programmes aimed at meeting the basic needs of Ecuadorian children. The levy of 2 per cent goes exclusively towards child nutrition and protection programmes, including prenatal programmes, run by the National Fund for Nutrition and Protection of Ecuadorian Children (FONNIN).

Thus, it must be repeated that these taxes are applied strictly on the basis of social and service considerations, in keeping with the principle set forth in Article XVIII of the General Agreement. Through such taxes, the State is able to ensure the development of the deprived children of the country and contribute to raising their standard of living.

24. Do the levies of 1 per cent and 2 per cent on the c.i.f. value of goods allocated to the Central Bank of Ecuador and the National Institute for Children and the Family correspond to similar levies on the value of products of domestic origin?

These levies are charged on the c.i.f. values of imports, strictly on the basis of social and service considerations, in keeping with the principle set forth in Article XVIII of the General Agreement. Through such taxes, the State is able to ensure the development of the deprived children of the country and contribute to raising their standard of living.

25. Are the ad valorem import taxes applied f.o.b. or c.i.f.?

Import taxes are ad valorem and are applied on the basis of the c.i.f. value, in conformity with Article 3 of the Tariff Law.

26. Do the import taxes indicated in the table reflect bound rates?

During the bilateral negotiations, Ecuador will evaluate forms of binding in the light of its development needs and will comply with all of its commitments arising from its accession to the GATT.

27. It is indicated that there exist "non-tariff taxes and restrictions" (paragraph 4, page 28). What is meant by "non-tariff taxes"? Please provide an exhaustive list of the "non-tariff taxes". What is meant by "non-tariff restrictions"? Please provide an exhaustive list of the "non-tariff restrictions".

Please elaborate the statement "the 1 per cent levy on c.i.f. value ... and the 2 per cent of c.i.f. value ... are to be replaced by financing sources different from the present non-tariff sources" (paragraph 4, page 28).

The phrase "non-tariff taxes and restrictions" refers exclusively to the 1 per cent and 2 per cent levies on c.i.f. value created respectively by Supreme Decree No. 185 and Law No. 14, both dated March 1973, paid into the Children's Development Fund and the National Fund for Nutrition and Protection of Ecuadorian Children, respectively.

In conformity with the provisions of Article VIII of the General Agreement, the National Congress will examine the draft National Customs Service Law, which aims to reduce all fees and charges of whatever character other than import and export duties.

28. Notwithstanding the reforms implemented to date in the external sector, Ecuador still has a wide range of measures used to restrict imports; e.g. control fees, levies, transit fees and import prohibitions. What is the trade policy justification for these measures? To which products do these measures apply, and what proportion of the total value of imports do these products represent? Does the Government of Ecuador consider these measures compatible with the GATT, in particular Article III? Could the Government of Ecuador indicate the circumstances under which they would envisage eliminating or reducing the discriminatory effect of these measures?

Ecuador's trade policy does not include any particular restrictions on imports and exports and is consistent with the provisions of the General Agreement, in particular with Article III.

The so-called "customs taxes", whether on control, storage or transit, do not constitute import restrictions; they are simply payment for services which are actually provided by customs.

For the remaining points, please refer to the replies to the preceding questions.

29. Has Ecuador maintained any quantitative restriction on any products? If so, please list all the product items based on the HS tariff lines with the GATT justification.

Please refer to page 27 of document L/7202.

30. It is stated that "a few import prohibitions remain". Please provide a list of all the product items subject to import prohibition, based on the HS tariff lines with the GATT justification.

The list of product items subject to import prohibitions pursuant to Articles XVIII and XXI of the General Agreement appears in Annex No. 2.

31. It is indicated that Ecuador has "certain prior authorizations, etc." Please specify the system and procedures of "certain prior authorizations" and the items subject to the system. Also, please explain what systems or procedures are implied by "etc." Please specify the nature and scope of such systems or procedures and the items subject to these systems.

The prior authorization system consists in obtaining the approval of certain official bodies in order to protect social and security interests. In such cases, the importer or interested party submits an application containing the required information for consideration by the competent body.

Examples of such cases would be applications for the importation of explosives, which require authorization by the National Defence Ministry, or applications for the importation of psychotropic substances and narcotic drugs, which require prior authorization by the National Council for the Control of Narcotic Drugs and Psychotropic Substances (CONSEP).

The items subject to this system are listed in Annex No. 3.

32. We would be grateful if Ecuador could provide a list of goods which are still subject to "certain prior authorizations, etc.", as referred to in L/7202, page 34.

Please refer to the reply to question No. 30.

33. Could Ecuador provide the list of products whose import is prohibited? Are there any quantitative restrictions on the import of any products? If so, which?

Please refer to the reply to question 30.

34. Can Ecuador confirm our understanding that there are no quantitative restrictions, prohibitions, or licensing imposed on imports or exports (other than those mentioned on page 34)?

The prior authorization and prohibitions concern only those goods which might be used for undesirable purposes, and are in conformity with Articles XVIII and XXI of the General Agreement.

35. Please identify and describe any health or phytosanitary requirements applicable to agricultural or agri-food imports. If import licences or certificates are required to ensure these requirements have been met, please explain the criteria required for the securing of such licences and certificates and identify the responsible government agency.

The importation of agricultural and food products is subject to a "Phytosanitary Import Licence" granted by the Ministry of Agriculture. The Law on Plant Health and its Regulations, issued on 14 January 1974, the Community Phytosanitary Standards for the Andean Sub-Region and the International Plant Protection Convention constitute the legal framework for the establishment of the criteria for the granting of this Licence. Note is taken, upon issuing the Phytosanitary Import Licence,

of the plant diseases that could reappear in the imported product subject to quarantine or that are exotic to Ecuador and should therefore not be present in the product in question. The community regulations contain a list of products which are prone to certain diseases depending on their country of origin.

36. Are Ecuador's technical standards and regulations based on relevant international standards? Are these regulations and standards published in such a manner as to enable interested parties to become acquainted with them? Do they apply equally to imported and domestically produced goods?

International standards in this field have, indeed, served as a basis. In no case do they affect the transparency of trade. The procedures involved are public knowledge and are generally applied. The Ecuadorian Institute of Standardization (INEN) is responsible for preparing standards.

37. What per cent of total imports is made through the temporary admission system in recent years? If there are no such statistics available, please indicate rough figures. Is the temporary admission system applied on an m.f.n. basis?

Imports under the temporary admission system represent about 8.59 per cent of Ecuador's total imports in 1992.

The temporary admission system is applied on an m.f.n. basis.

38. We note that the duty drawback procedure has yet to be implemented. Could the Government of Ecuador please elaborate on the details of the scheme; which sectors and products are involved? When does the Government of Ecuador expect to implement the programme? The Memorandum indicates that in general the public sector and State-owned enterprises are exempted from customs duties. What is the total value of imports entering Ecuador under these exemptions? Are the exemptions applied on a most-favoured-nation (m.f.n) basis?

At the time document L/7202 was being drawn up, the drawback mechanism was not being applied. It was subsequently introduced through Executive Decree No. 762, published in Official Register No. 193 on 19 May 1993. The mechanism benefited only natural or legal persons whose activity was oriented towards the exportation of products comprising imported foreign components. Its application requires the beneficiary to comply with the conditions set forth in the Law and its regulations.

No statistics are available on imports entering Ecuador under exemptions from customs duties granted to the public sector.

The m.f.n. clause is a principle which is respected by Ecuador.

39. Could the Government of Ecuador please provide detailed information and data on Government measures intended to support the domestic production and increase the export of agricultural and agro-industrial products, particularly in respect of subsidies (including details on availability and levels) and price supports (including total level of support by product)? Would the Government of Ecuador please include measures that are used to reserve the internal market for domestic production, to promote or subsidize exports, and/or to determine the domestic or import price of agricultural products.

It is not the policy of the Government of Ecuador to grant subsidies to the production and/or exportation of goods in general. Agricultural products are no exception to this policy. Prices are freely determined by the market and there are no restrictions or official prices. Agricultural exports are subject to the general régime.

Macroeconomic and exchange policies, in particular, have made it possible to compete in the international market without barriers or restrictions.

There are no measures reserving the internal market for domestic production.

40. How does the special régime governing the exemption from VAT on transfers of goods for export function? Is the VAT replaced with preferential rates? What are the criteria for determining which raw materials and goods to be exported are included in this programme? Is the VAT exemption extended on an m.f.n. basis to imported raw materials?

The exemption of exported products from the value-added tax (VAT) is universal and without discrimination. Any good which is exported is exempted from VAT by its transfer outside the country. The exemption is not subject to any discrimination on the basis of the origin of the raw materials or on any other basis. There is no special treatment in respect of exemption from VAT on the basis of m.f.n. status or the origin of the raw material imported.

Chapter VIII

Other Trade Policy Instruments

41. One of the stated objectives of the in-bond industry is "increasing the percentage of national components in in-bond processes". What are national and international policy considerations which led to the adoption of this strategy? Does the Government have specific goals in mind (i.e.: percentage of domestic market)?

On 24 July 1990, Ecuador promulgated Law No. 90 with a view to introducing an in-bond industry ("maquila") after evaluating its socioeconomic characteristics and examining the experience gained and the positive results achieved in other developing countries in the region, especially as regards the stimulation of foreign investment, technology transfer and the development of industrial activities generating employment and foreign exchange for the benefit of the country.

42. Reference is made to Chapter VIII of the Cartagena Agreement and the adoption of rules necessary for the prevention or elimination of practices that could distort trade competition within the Andean sub-region. Are we correct in our interpretation that this could lead for example to the imposition of Ecuador of dumping duties on products the importation of which was affecting the competitive position of Andean Group members?

Ecuador complies with the decisions adopted by the Commission of the Cartagena Agreement and has incorporated into its domestic legislation all of the decisions of that regional body which aim at the prevention and elimination of practices that could distort trade competition.

These rules are part of the Ecuadorian legislation with a view to the establishment of an Andean Free-Trade Area. However, Ecuador's commitments in connection with the integration process, which aims to consolidate the customs union, could lead to the imposition of anti-dumping duties on third countries in order to correct distortions in trade competition in the sub-regional market

pursuant to the provisions of Article 2, sub-paragraphs (c) and (d) of Decision No. 283 of the Commission of the Cartagena Agreement.

43. The Memorandum notes that the laws dealing with dumping "embody the precepts of the GATT Tokyo Round Anti-Dumping Code". The GATT Code on Anti-Dumping provides for the application of anti-dumping duties if the dumped product causes or threatens to cause material injury. The sub-regional rules to which reference is made in the Memorandum permit the application of anti-dumping duties in the event of serious injury, which may be a less exacting test. Could the Government of Ecuador please elaborate on the methodology employed in determining serious injury, particularly in the context of the requirements set out in GATT Article VI and the Anti-Dumping Code? It is noted that the Commission established to recommend to the Minister of Finance the imposition of anti-dumping duties includes "representatives of the industry producing the goods affected by the unfair business practices". Does this not suggest potential for conflict of interest? Are hearings open to all interested parties? Is there opportunity to participate in the process (attending meetings, submission of written briefs etc.) prior to the issuance of the report? Is the final report available to the public? What assurances can the Government of Ecuador give to contracting parties that all concerned parties will be given the opportunity to present their position before the Commission? Finally, will the Government of Ecuador accede to the GATT Anti-Dumping Code upon accession to the GATT?

Pursuant to the regulations for the prevention and correction of the practices of dumping and subsidization introduced through Decree 2722-A, published in Official Journal No. 780 of 30 September 1991, a party affected by the importation of dumped or subsidized products may request the competent authority (Ministry of Finance) to carry out an investigation and apply preventive or corrective measures.

Determination of the existence of serious injury or threat of serious injury is based on the examination of:

- (a) The volume of imports subject to such practices in order to determine, in particular, if it has increased to any significant extent either in absolute terms or in comparison with Ecuador's domestic production, consumption and imports;
- (b) the prices of imports subject to dumping or subsidies in order to determine, in particular, if they are considerably lower than the prices of like products as a result of unfair trade practices;
- (c) the effects on domestic industry as revealed by the trends in domestic production and sales, market share, profits, productivity, return on investments, utilization of installed capacity, actual or potential negative effects on cash flow, stocks, employment, wages, growth and investment capacity.

When the damage or threat of damage is so serious that it requires provisional or preventive corrective measures, an investigation is carried out beforehand on the basis of the information available and within a period not exceeding twenty days from the acceptance of the request and, within five working days, the Special Commission takes a decision as to the adoption of corrective measures (Decree Article 2722-A, Article 19).

There is no way that the presence of a representative of the industry producing the goods affected by the unfair trade practice can give rise to a conflict of interest, since he only intervenes at the investigation stage.

In accordance with the above-mentioned regulations, the competent authority gives priority to the holding of meetings between the parties concerned in order that they may present their views and try to reach a direct settlement among themselves.

Thus, the parties are informed of the investigation which is being initiated and asked to provide the information required to investigate the producer, exporter or government, as appropriate, of the product subject to unfair practices. During the investigation, access is afforded only to information and documents of a general, non-confidential nature, as well as to summaries and analyses of the available evidence. The competent bodies, authorities and officials cannot disclose any confidential evidence and information which they have received for the purposes of the investigation.

Ecuador will assess the advisability of joining the GATT Anti-Dumping Code.

44. In relation to the prevention of unfair business practices, referred to in Section 1, page 40, of document L/7202, is it Ecuador's intention to become a signatory to the GATT Anti-Dumping, Subsidies and Countervailing Duties Codes, and if so, when?

Ecuador is currently assessing the implications of joining the various Tokyo Round Codes.

45. With regard to document L/7202, page 40, do the Ecuadorian authorities concerned distinguish between specific subsidies and generally available subsidies when carrying out investigations into alleged subsidization of imports?

Both Executive Decree 2722-A of 13 November 1991 published in Official Journal No. 780 of the same month and year and Decision 283 of the Commission of the Cartagena Agreement stipulate that an import is subsidized when the production, manufacture, transport or export of the imported product or its raw materials or inputs has directly or indirectly received any premium, aid, bounty or subsidy in the country of origin or of exportation.

46. The document indicates that no free-trade zones have yet been established in Ecuador. What are the Government's plans in this regard? Is the Government of Ecuador considering the establishment of such zones in the future?

In view of Ecuador's commitment to accelerating the liberalization of its economy and of its transactions with the rest of the world, this matter is less urgent under current circumstances; this does not mean, however, that it has been discarded.

47. We understand that a licence issued by the Ecuadorian Bank is required to import telecommunications equipment into Ecuador. Could the Government of Ecuador please elaborate on the rationale for the licensing requirements in this sector (and the requirements that must be met by companies seeking them)? We note that the draft Law on the Modernization of the State is intended to modify the rôle of the State in a number of sectors, including communications. Will this include consideration of the elimination of licensing requirements in this sector (as well as others)?

Telecommunications constitute a public necessity and utility and are essential to public security. They are exclusively the responsibility of the State. Consequently, it falls to the State to manage, regulate and control all telecommunication activities, as laid down in the Constitution and the Special Law No. 184 on Telecommunications of 8 August 1992 (Official Journal No. 996 of 10 August 1992).

The import of certain items of telecommunications equipment requires a licence issued by the Department of Telecommunications, and the enterprise must obtain a special concession in order to install the equipment.

48. We understand that Ecuador is now engaged in a significant upgrade of its telecommunications infrastructure. In such an enterprise, standards play a major rôle in determining everything from equipment employed (and procured) to service providers. Can the Government of Ecuador please elaborate on the standard setting process in place? What is the current status of this exercise, and have any standards been established? What assurances can the Government of Ecuador provide contracting parties that the standards eventually set are fully consistent with international standards? Is the process open to all concerned parties? Does the Government of Ecuador intend to adhere to the GATT Agreement on Technical Barriers to Trade?

Ecuador has introduced a legal framework in keeping with the importance, complexity, magnitude, technological level and specificity of telecommunication services. It promulgated the Special Law on Telecommunications in 1992, creating the State Telecommunications Company, EMETEL, with its own legal status, capital and resources, and administrative, economic, financial and operational autonomy. Company management is subject to the above-mentioned Law, to the regulations issued for that purpose, to the standardization, certification and control of the Department of Telecommunications as well as to the other operational standards laid down by the various organs of the State company.

The Executive Commission of EMETEL is responsible for setting and approving standards and administrative, financial and technical procedures, and the Executive Director is responsible for the planning and development of the company's telecommunication systems. The technical standards applied by EMETEL for the procurement of goods and services are based on the standards laid down by the CCITT and the CCIR.

According to the mentioned Law, the contracts concluded by EMETEL are not subject to the legal rules and regulations in respect of government procurement; in other words, the company's activities are based on business management criteria.

Ecuador assures the contracting parties that its standards are consistent with international standards within the framework of the International Telecommunications Union.

As regards the Code on Technical Barriers to Trade, Ecuador is currently evaluating the implications of joining.

49. It is our understanding that EMETEL (the State telephone company) and the Ecuadorian military are exempted from the Public Contract Law. Would the Government of Ecuador please indicate what rules are applicable to procurement by these two institutions? Is the bidding open and transparent? Will the Government of Ecuador please provide more information on the scope and procedures of the government procurement committees?

The mechanisms and regulations which apply to purchases in the military field are subject to national security policies and standards applied by the Government, and are consistent with the provisions of Article XXI of the General Agreement.

As regards EMETEL procurement, please refer to the preceding reply.

50. What proportion of the economy is currently subject to State control? Can Ecuador advise how long it expects to take to eliminate State monopolies and privatize State activities? Can Ecuador confirm that all enterprises which have been accorded privileges by the State operate solely on a commercial basis? Are there any enterprises in Ecuador which would be covered by Article XVII of the GATT?

According to recent data of Ecuador's national accounts, the share of the State sector in the country's GDP for 1992 was 7.2 per cent, a decrease from the average for the previous decade (8.9 per cent). The Government's economic policy seeks to moderate the scope of State intervention in the economy in the medium term so that the distribution of resources can be fundamentally determined by a market free of barriers.

Accordingly, Congress is currently examining a draft Law on the Modernization of the State, which lays the legal foundations for the rationalization and simplification of the administrative structure and economy of the State sector; decentralization and lesser concentration of State-controlled economic activities; the privatization of public services through the elimination of State monopolies, free competition and transfer of services and activities attributed to the State under the Constitution; and transfer of the State share in enterprises.

As regards commercial enterprises that are wholly or partly State-owned and are covered by Article XVII of the General Agreement, it should be repeated that they fully observe the principle of non-discrimination both for their procurement and for their sales involving imports or exports.

51. Please indicate Ecuador's future plan and priority concerning the transferring of the State's share in State-owned enterprises to the private sector.

The efforts which Ecuador has undertaken within the framework of its economic and social modernization strategy are aimed at stimulating free initiative on the part of private entrepreneurs; increasing the competitiveness of the economy with a view to firmly integrating the country in the world economy, making use of its comparative advantages and of the growth opportunities generated by international trade; and fostering its industrialization process.

The main elements of the economic and social modernization strategy are: reorganization of public finances, deregulation of the economy, restructuring and privatization of State enterprises, reform of the financial system and liberalization of trade.

What per cent of the total trade is conducted by the State-owned enterprises in recent years?

The share of these enterprises in total imports amounted to approximately 2 per cent in 1992.

Does Ecuador have any State trading enterprises as defined in Article XVII of GATT? If so, please list such enterprises.

All of the commercial enterprises which are wholly or partially owned by the Ecuadorian State fully observe the principle of non-discrimination both for their procurement and for their sales involving import or export.

52. The Government of Ecuador should be commended for its new investment regulations passed on 8 January 1993. Article 46 of the Ecuadorian Constitution reserves to the public sector strategic enterprises as determined by individual laws. Could the Government of Ecuador please provide to contracting parties a current list of those sectors considered strategic within the context of Article 46 of the Ecuadorian Constitution?

The economic sectors reserved for the State are: non-renewable natural resources and, in general, the products of the subsoil and all minerals and substances which are, by their nature, distinct from the soil; and the drinking water and electricity networks, railways, petroleum transport and telecommunications.

53. Are there any State entities or enterprises, or State sanctioned monopolies or enterprises with special privileges, that have been established or are maintained by the Government of Ecuador in the area of agriculture or agro-industrial products whose sales or purchases involve exports or imports? Will Ecuador commit to the notification and operation of such entities and enterprises after accession in conformity with the provisions of GATT Article XVII?

As explicitly mentioned in document L/7202, commercial enterprises that are wholly or partially State-owned "fully observe", in their activities and decisions aimed at generating goods and services, "the principle of non-discrimination, both for their procurement and for their sales involving import or export." Thus, as a GATT contracting party Ecuador will continue to observe the principle set forth in Article XVII.

54. Document L/7202, page 44, section 7 refers to State-owned enterprises. Could Ecuador please clarify whether State-owned enterprises operate in the meat and dairy products sectors. We would also be interested to know if the importation of these products occurs freely, or whether State-owned enterprises have a monopoly over the importation and/or sale of these items.

There are no State enterprises operating in the meat and dairy products sectors.

55. Document L/7202, page 44, section 7 mentions a draft law on the modernization of the State, which will provide the basis for the transfer of the Government's holdings in State-owned enterprises to the private sector. Could Ecuador please indicate what actions are likely to be taken in this regard?

Once the Law on the Modernization of the State has entered into force, the Government of Ecuador will draw up a programme and a set of supplementary regulations governing the transfer to the private sector of State enterprises operating in areas which are not under exclusive State control. In order to ensure the transparency of the process, the programme will have to be based on the sale of share packages through the country's stock exchanges.

Chapter IX

Participation in Integration Agreements and other Preferential Arrangements

56. What is the relationship between the Free-Trade Area and Article XXIV of GATT?

57. What is the relationship between Partial-Scope and Regional-Scope Agreements and Article XXIV of GATT?

The Latin American Integration Association (LAIA) is consistent with the General Agreement and its provisions have been notified in conformity with the 1979 Enabling Clause. The LAIA Secretariat periodically informs GATT of the activities of the member countries of the Association.

58. Could the Government of Ecuador please elaborate more fully on the functioning of the financial mechanism for assisting foreign trade among LAIA members? Is this mechanism available to all commercial enterprises operating in Ecuador, irrespective of ownership? Are interest charges applied to the outstanding balances prior to payout of the final balance? If so, how are the rates of interest fixed, and how do they vary over time?

The LAIA submits periodic reports to the GATT on the progress of the regional integration process. The contracting parties may, if they deem it necessary, request information on the payments convention concluded between the central banks of the LAIA member countries.

Within the framework of this convention, only the payments for commercial transactions are settled, at the end of each four-month period. This mechanism is open to all enterprises. Outstanding balances are subject to interest computed on the basis of international interest rates.

59. How was the market-opening list on behalf of Ecuador decided? Is the list to be revised or abolished depending on economic development of Ecuador?

Chapter III of the Treaty of Montevideo of 1980, by which the LAIA was established, created the system of support for the relatively less-developed countries (Bolivia, Ecuador and Paraguay). As part of this system, Article 18 stipulates that each of the member countries shall approve a negotiated schedule of products, preferably industrial, from each of the relatively less-developed countries, for which all customs duties or other restrictions shall be eliminated by all the other countries of the Association without requiring reciprocity.

In application of this article, the member countries established the procedures necessary to permit the progressive extension of these market-opening lists. No suspension or review of these lists is planned.

60. It is stated that "tariff reductions may be total or partial, and quotas also exist" (paragraph 4, page 48). What is the justification of such partial tariff reduction under Articles of GATT? Also, how can such quotas be justified under Articles XI and XXIV?

Ecuador considers the Treaty of Montevideo to be compatible with the provisions of the Decision of 28 November 1979 on the Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries (Enabling Clause).

61. Page 46: We note the market-opening agreements amongst Bolivia, Paraguay and Ecuador and in particular that Ecuador has approved concessions (for 37 NALADI headings) on behalf of Paraguay. GATT Article XXIV states that free-trade agreements must cover substantially all trade between participating countries. What percentage of trade between Paraguay and Ecuador is covered by this arrangement? The Regional Agreement for the Recovery and Expansion of Trade calls for a basic regional tariff preference for products currently marketed in the region. Negotiations for the respective list of products have yet to be conducted. Could the Government of Ecuador please indicate the number of goods that will be included in this Agreement, and the status of negotiations?

Pursuant to the provisions of the General Agreement, the LAIA submits periodic reports to the GATT on the progress of the regional integration process, in which it includes ample information on the trade agreements concluded by the member countries of the Association. The granting of preferences between Ecuador and Paraguay, two of the relatively less-developed countries of the LAIA, is based on provisions which are in keeping with the General Agreement.

As regards the Regional Agreement for the Recovery and Expansion of Trade (PREC), the Ecuadorian Government will supply the list of products within the LAIA when the negotiations so require, since these negotiations have not yet been concluded.

62. Will Ecuador provide notification to the GATT of the agreements that provide for preferential access to its markets? Of the three market opening agreements signed by Ecuador, will Ecuador please identify the concessions granted for food and raw materials of agricultural origin? Similarly for the Regional Agreement for the Recovery and Expansion of Trade, the Regional Tariff Preference, and other intra-regional agreements listed on pages 48-49 of the Memorandum, will Ecuador please identify the concessions granted for food and raw materials of agricultural origin?

Ecuador has no objection to the continued notification, by the integration associations of which it is a member, of the activities of member countries, inter alia in respect of market opening.

63. It is stated that "negotiations for the respective list of products have not yet been conducted" (paragraph 3, page 47). What is the current status of these negotiations? When is the list of products expected to take effect?

In order for the Regional Agreement for the Recovery and Expansion of Trade to function, all member countries must be prepared to start negotiations. So far, these negotiations have not advanced and efforts have been made within the regional and sub-regional framework to strengthen other mechanisms favouring the liberalization of trade. It is therefore impossible to say exactly when the mentioned list will enter into force.

64. It is indicated in paragraph 7, page 48, that Ecuador is not involved in any of the thirty LAFTA Complementarity Agreements. Please indicate the reasons for this non-involvement. What is Ecuador's intention on future participation in these agreements?

The trade agreements are concluded by the countries on a bilateral or multilateral basis and deal with specific sectors in which Ecuador has not, thus far, had any interest in opening negotiations. However, pursuant to Article 8 of Resolution 1 of the Council of Ministers of the LAIA, as a relatively less-developed country Ecuador can, through negotiation, join these agreements.

65. With regard to agricultural agreements under the LAIA, document L/7202, page 49, states that "Agricultural agreements have been signed for promoting and regulating intra-regional trade in specific products". We would be grateful for details of the nature of the specific products concerned.

The reference to agricultural agreements in document L/7202 was made in the context of a listing of the various LAIA mechanisms. Ecuador has decided to participate in the Agreement for the Liberalization and Expansion of Intra-regional Trade in Seeds. The lists of seeds to be covered by this trade have not yet been negotiated.

66. Could Ecuador also supply details of products within these agreements which are subject to quota, from which they will receive concessions.

Please refer to the preceding reply.

67. What is the relationship between the Common External Tariff and Article XXIV of GATT?

Ecuador considers the Cartagena Agreement and its Protocols to be compatible with the provisions of the Decision of 28 November 1979 on the Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries (Enabling Clause).

68. Is it the Andean Group's intention to develop the current combination of free-trade area and the Common External Tariff into a customs union as stipulated in Article XXIV of GATT?

It is indeed Ecuador's intention to support all efforts towards achieving a customs union.

69. (Page 51) Reference is made to variable specific levies being imposed on certain agricultural products under the Cartagena Agreement. Can Ecuador please elaborate the conditions under which such levies are imposed and the products involved?

The international market for agricultural products and their derivatives is subject to price instability and distortions in the price formation process. Production in Ecuador has also been affected by these factors, which cause severe domestic price fluctuations and have serious consequences for domestic producers.

Faced with these conditions the Government of Ecuador, like other governments, issued Decree No. 409-A dated 5 January 1993 and published in Official Journal No. 103 of 8 January 1993, providing for the application of specific levies in addition to the ad valorem levies laid down in Article 2 of the Custom Tariff Law and the Import Tariff, only in cases where the cost of importation is lower than a minimum reference import value for agricultural products and their derivatives. When the cost of importation exceeds a maximum value, the Decree provides for the modification of the import tariff, reducing the ad valorem value to zero. The specific levies are collected when the imports in question are assessed, on the basis of a c.i.f. reference price valid for the fortnight in which

the imports are assessed. The reference price is a fortnightly average of daily prices observed on the world market.

The products subject to this mechanism are listed in Annex No. 1.

70. L/7202, page 51 refers to the Common External Tariff (CET) as it affects agricultural products. Could Ecuador specify which agricultural products are included, and provide a detailed explanation of the mechanism for the calculation and application of the price-band system?

Please refer to the previous reply.

71. Why are tariff rates for motor vehicles higher than those of other products?

Like other developing countries, Ecuador maintains a suitable level of protection for its infant automobile industry, particularly because of the multiplier effect on production and the level of employment. However, attention should be drawn to the efforts made by the country towards reducing customs duties.

72. Page 51: We note that in the establishment of the Common External Tariff (CET) by the Commission of the Cartagena Agreement, Ecuador will be permitted to maintain a difference of five points relative to CET levels for about 1,000 products, mostly raw materials. What was the 1992 total value of trade and the percentage of Ecuador's total trade with the other member countries for the products falling under this exemption?

According to provisional data, imports of the 1,000 products mentioned represented approximately 45 per cent to 50 per cent of total imports for 1992.

73. Page 51: What is the Andean CET for agricultural products and will such tariffs be bound? Which agricultural products are included in the list of 1,000 products on which Ecuador will maintain a difference of 5 per cent above CET? Which agricultural products are being targeted and how will the variable specific levies (price-band system) be applied? Would these measures be subject to tariffication consistent with the proposed MTN Draft Final Act?

Ecuador is currently negotiating its accession to the General Agreement. Consequently, its commitments in respect of tariffs must reflect its specific situation and not the situation of the other member countries of the Andean Group.

Article 3 of Decision 335 of the Commission of the Cartagena Agreement stipulates that Ecuador will be able to maintain a temporary difference of 5 per cent in the CET levels for a list of products, subject to review by 31 December 1996 at the latest.

The price-band system has been explained above. Please refer to the reply to question No. 70

74. Please specify the scope and nature of "unfair trade competition" (paragraph 7, page 50)?

The expression "unfair trade competition" refers to dumping or subsidization of exports causing serious injury or threat of injury to the domestic industry.

Article 2 of Decision 283 of the Commission of the Cartagena Agreement provides for the

possibility of adopting sub-regional standards aimed at preventing or eliminating distortions in trade competition when the practices applied in the territory of a member country or a country outside the sub-region cause or threaten to cause severe damage to the domestic industry.

75. Also, please explain "the Common Régime for the treatment of foreign capital and trade marks, patents, licences and royalties" (paragraph 7, page 50)?

This is the title of Decision 291 of the Commission of the Cartagena Agreement which provides for uniform treatment within the Andean sub-region of foreign capital and trade marks, patents, licences and royalties. It is to this Common Régime that Chapter X of document L/7202 refers.

Chapter X

Foreign Investment and Technology

76. Does Ecuador apply investment measures which are mandatory or enforceable under domestic law or under administrative rulings or compliance with which is necessary to obtain an advantage, and which requires: (a) the purchase or use by an enterprise of products of domestic origin or from any domestic source, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production; (b) that an enterprise's purchases or use of imported products be limited to an amount related to the volume or value of local products that it exports.

There are no restrictions of any kind in this respect.

77. It is stated that "subregional and neutral foreign investors enjoy equal rights and have the same treatment as national investors" (paragraph 6, page 53). What is the meaning of "the same treatment"? Through what legal and institutional mechanism and in what way is "the same treatment" ensured?

This expression signifies that both the national investor and the foreign investor must comply with the same requirements and have the same rights and obligations. The Constitution and Ecuadorian legislation guarantee such treatment.

The relevant legal mechanism is Decision 291 of the Commission of the Cartagena Agreement, extensively referred to in Chapter X of document L/7202.

78. Is there any limitation or restriction on foreign investors' remittance of their profit to outside Ecuador? If any, please describe such limitation or restriction.

Ecuadorian legislation does not provide for any limitation or restriction on foreign investors' remittance of their profit to outside Ecuador.

79. Foreign investors are subjected to a withholding tax of 25 per cent, and are penalized an additional 11 per cent if none of the earned profits are re-invested in Ecuador. Given that the MTN TRIMS text provides for national treatment, could the Government of Ecuador please elaborate on how quickly it will pass legislation ensuring equal treatment of foreign and domestic firms with respect to tax treatment?

The Law on the Internal Taxation System of Ecuador does not provide for the penalization of foreign investors who do not reinvest their earned profits in Ecuador. With the entry into force of the new Law on the Securities Market, published in the Supplement to Official Journal No. 199 of 28 May 1993, any investor, whether national or foreign, will have to pay the same percentage of income tax on dividends received.

80. One of the objectives of Law No. 56 (published 22 December 1989) is the creation of "conditions for establishing a single progressive tax". Can the Government of Ecuador please provide details of the progress it has made in achieving this goal?

Ecuador is currently in the process of defining the most suitable ways of carrying out an extensive tax reform.

Chapter XI

Intellectual Property, Services and Environment

81. Article 7 of the Ecuadorian Copyright Law considers a computer programme to be a literary work and thus "effectively covered by the law". Under which circumstances would a computer programme not be considered protected under the Copyright Law? We note that the penalties for piracy include the levying of fines "ranging from five to twenty times the minimum living wage". What is the current minimum living wage in Ecuador, and how is it established? How does linking intellectual property piracy to the minimum living wage act as an effective deterrent to future acts of infringement? How many cases of piracy were prosecuted in the past year, what was the average penalty, and what was the total amount of sales (in US dollars, if possible) for each infraction? How prevalent is recidivism under this system?

Computer programmes are protected under Ecuadorian law as literary works - that is in formal or physical terms, and not in terms of their industrial and commercial use, which is covered by the Bern Convention, to which Ecuador acceded in October 1991.

The minimum living wage in Ecuador, as of September 1993, was 66,000 sucres, which is equivalent to US\$35.00. The Consejo Nacional de Salarios (CONADES) is responsible for establishing the level of the minimum living wage on a six-monthly basis, taking account of the main variables in the cost of living.

Cases of piracy are brought before the courts by the individuals concerned; the courts deal with such suits according to the law. The draft Law on the Modification of Decree 2821 provides for prison sentences for offenders ranging from two to five years and penalties fixed in terms of minimum living wages in order to ensure that the penalties are kept up-to-date in a country which is still experiencing inflation.

82. To what extent would Ecuador be prepared to bring its intellectual property rights and services legislation into conformity with the proposed MTN TRIPS Agreement should a successful outcome be achieved?

Ecuador will assume its commitments arising from its accession to the General Agreement, as well as those arising from the possible and desirable conclusion of the Uruguay Round, in due form and as appropriate.

83. Page 59: The Memorandum indicates the growing rôle of services in the Ecuadorian market. However, there is no indication as to how Ecuador will treat trade in services, except that the Board of the Cartagena Agreement will use GATS as "a reference framework". How, specifically, will it deal with the issue of market access? Will it allow non-nationals to compete for contracts (public and non-public), what will be the effective tax treatment, etc.?

Ecuador will assume the obligations laid down in the General Agreement as a condition for accession to the GATT, as well as those which could subsequently arise from the hoped-for conclusion of the Uruguay Round, in due form and as appropriate.

84. Does Ecuador intend to be a signatory to the 1978 or 1991 International Convention for the Protection of New Varieties of Plants (UPOV Convention)?

Ecuador is currently analysing the advisability of participating as an observer in the meetings of the Council of the International Convention for the Protection of New Varieties of Plants (UPOV) on the understanding that the Convention aims to define the scope, recognition and granting of rights of the breeder to certain plant varieties considered new, distinguishable, homogeneous and stable. For the moment, no decision has been taken to sign this international instrument.

Chapter XIII

Other Matters

85. Could the Government of Ecuador please provide the contracting parties with recent (1992 and 1991) import levels of fish, as well as the sources of these imports? Could the Government of Ecuador please indicate its licensing and inspection requirements regarding fish imports?

The trade statistics requested are at the disposal of the contracting parties at the GATT Secretariat.

86. Could the Government of Ecuador please confirm that the information contained and the documentation referred to in the Memorandum is still up-to-date? If not, could the Government of Ecuador please provide full information on any new restrictions currently applied to imports, including prohibitions, quantitative restrictions and licensing requirements with respect to all products and in particular agricultural products?

Ecuador has launched a dynamic modernization process which has brought about certain internal transformations that are described in detail in each of the replies to the questions on document L/7202. However, it can be stated quite categorically that no import restrictions have been introduced.