GENERAL AGREEMENT

ON TARIFFS AND TRADE

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Information Concerning the Uruguay Round Multilateral Trade Agreements

The following communication dated 12 July 1994 has been received from the Permanent Mission of Ecuador.

In the context of the procedure for accession to GATT 1947 and with a view to membership of the World Trade Organization - GATT 1994 - Ecuador declares that the Multilateral Agreements on Trade in Goods contained in Annex 1A of the Final Act embodying the results of the Uruguay Round of Multilateral Trade Negotiations will become an integral part of its domestic legislation. With regard to the individual agreements, the following information should be noted;

1. Technical barriers to trade

(a) Standards, evidence and certification

Ecuador's standards and technical regulations are based on internationally agreed rules. The principle of national treatment is applied, consequently imported goods are treated in the same way as domestically produced goods.

Technical regulations and standards are defined according to the characteristics shown by the product when used, its design and the features described.

Ecuador's standards and technical regulations do not constitute a barrier to trade and do not therefore affect the transparency of trade.

The legal documents and procedures are publicly known and generally applied. They are enacted through publication of the relevant ministerial agreement in the Official Journal (Registro Oficial). Their implementation is the responsibility of the Ecuadorian Institute of Standardization (INEN), a government body attached to the Ministry of Industry, Trade, Integration and Fisheries.

The time elapsing between adoption of a technical regulation or standard and its enactment varies according to its complexity and can range from six to 18 months in order to allow producers in exporting countries the time to adapt their products or production methods to the new requirements. Once enacted, it is immediately applied.

In conformity with the guidelines established at the international level by ISO, Ecuador has put into effect technical standardization regulations which describe the procedure for the elaboration, review and approval formalities, as well as the INEN technical standard which establishes the content and format of the legal documents.

Since the creation of INEN, Ecuador has been a member of the Panamerican Technical Standardization Council (COPANT).

Ecuador accepts conformity certificates or marks granted by the competent institutions in the exporting country. It does not accept certification by the producer alone. It is prepared to conclude agreements with exporting countries or groups of countries within the international legal framework.

There are no legal or technical obstacles to application of the Code's regulations in Ecuador.

(b) Sanitary and phytosanitary measures

The import, marketing, storage or transport of processed food products or additives, medicines in general, drugs or medical apparatus, cosmetics, sanitary products or perfumes, fertilizers and pesticides for domestic, industrial or agricultural uses are subject to the appropriate sanitary registration which guarantees that their consumption or use is not harmful to public health.

The import of agricultural or agri-food products also requires a phytosanitary import permit from the Ministry of Agriculture and Livestock. The Law on Plant Health and its Regulations, which entered into force on 14 January 1974, the phytosanitary community standards of the Andean subregion and the International Plant Protection Convention (IPPC) constitute the legal basis on which the criteria for granting the permit have been fixed. When a phytosanitary import permit is issued, the diseases which might make the imported product subject to quarantine or which are not endemic to Ecuador are noted and the imported product must be free of them. The community standard defines a list of products subject to certain diseases in accordance with the country of origin of such products.

(c) Marking, labelling and packaging

The relevant regulations provide that marking, labelling or packaging must not constitute a trade barrier. The Consumer Protection Law requires that labels should clearly show in Spanish the composition, dates of manufacture and expiry of the product, and its selling price to the public.

The Government of Ecuador therefore guarantees that there is no legal or technical impediment to adoption of the rules in the Uruguay Round Agreement on Technical Barriers to Trade.

2. Anti-Dumping Code and Code on Subsidies and Countervailing Duties

In connection with the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (Anti-Dumping Code) and the Agreement on Implementation of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (Code on Subsidies and Countervailing Duties), Ecuador wishes to point out the following:

Ecuadorian legislation and subregional rules, which have force of law in Ecuador[1], incorporate the provisions of the Anti-Dumping Code and the Code on Subsidies and Countervailing Duties of the Tokyo Round of Multilateral Trade Negotiations in GATT, they define the scope of application and also determine the time-limits, procedures and competent bodies for dealing with these questions.

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[1]Decision No. 283 of the Commission of the Cartagena Agreement sets out the rules for preventing or eliminating distortions in competition caused by dumping or subsidies. As a member State, Ecuador is obliged to apply these rules. Executive Decree No. 2722-A of 13 November 1991, published in Official Journal No. 780 of 30 November 1991, contains the relevant regulations.

In Ecuador, the Ministry of Finance and Public Credit is empowered to adopt measures to prevent and eliminate the practices of dumping or subsidies after the Special Commission of the Tariff Committee has given its opinion.

In accordance with the national regulations to prevent or eliminate the practices of dumping or subsidies, the producer concerned must submit for his industry or on its behalf an application in writing requesting the initiation of the corresponding investigation and the application of preventive or corrective measures. The application must contain sufficient evidence of the existence of dumping or subsidies and show that these practices cause injury to industry.

Five days after receipt of the request, the MICIP[2] contacts the parties concerned directly and requests them to provide the necessary information in order to commence the investigation into the producer or exporter of the product concerned.

During the investigation, general information and non-confidential documents, as well as the summaries or analyses of evidence, may be consulted. The competent bodies, authorities and officials may not disclose the evidence and information received in connection with the investigation when these are of a confidential nature.

In accordance with domestic legislation, the competent authority first of all convenes meetings between the parties involved so that they may present their points of view and a direct solution may be found.

The time-limit for carrying out the investigation is four months from the date of receipt of the application, but this may be extended by a further two months at the discretion of the Special Commission. In such a case, the Special Commission may recommend the application of provisional or preventive measures until the Minister for Finance adopts the final measures decided upon.

When the prejudice or the likelihood of causing prejudice is sufficiently serious to warrant the adoption of provisional or preventive corrective measures, a prior investigation is carried out on the basis of the information available within a period not exceeding twenty days from the date of receipt of the application and, in addition, the Special Commission is convened within the following five working days so that it can express its views on the adoption of corrective measures.

The final decisions on whether or not such practices have led to dumping or subsidy and injury to domestic industry, together with decisions on the reduction or suspension of their application, are published in the Official Journal. In the case of dumping, domestic legislation provides for the application of duties on the imports concerned equivalent to the margin of dumping determined or a lower amount when this is sufficient to counter the threat of prejudice or the prejudice caused.

In the case of subsidies, countervailing duties are imposed on the imports concerned for an amount equivalent to the subsidy or a lower amount when this is sufficient to counter the threat of prejudice or the prejudice caused.

Corrective measures to prevent or eliminate distortions due to dumping and subsidies are not applied simultaneously to the same product. Anti-dumping or countervailing duties can remain in force for a period of up to two years.

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[2]Ministry of Industry, Trade, Integration and Fisheries, National Department of Foreign Trade.

Ecuador's Foreign Service and other offices of the Ministry of External Relations accredited to governments abroad can provide information to complete the investigations, advice or studies in foreign markets in order to determine the existence of dumping. Information on trade operations subject to dumping can be obtained from legally constituted domestic or foreign specialized enterprises.

The determination of serious prejudice or the threat of serious prejudice is based on consideration of the following:

(a) The volume of imports subject to the practice, so as to determine if they have increased to a significant extent both in absolute terms and in relation to Ecuador's production, consumption and imports;

(b) The price of imports subject to dumping or the granting of subsidies, to determine in particular if they are considerably lower than the prices of similar products as a result of unfair trade practices;

(c) The effects on domestic industry determined on the basis of trends in production, domestic sales, market share, profits, productivity, return on investments, utilization of installed capacity, actual or potential negative effects on cash flow, inventories, employment, wages, growth and investment capacity.

Ecuadorian legislation provides for administrative appeal procedures. All interested parties may utilize such procedures.

To date, Ecuador has not applied any countervailing or anti-dumping duties.

At the moment, Ecuadorian legislation does not distinguish between specific subsidies and general subsidies. However, given that the specific nature of subsidies is defined for the first time in the Agreement on Subsidies and Countervailing Measures in GATT 1994, which has not yet entered into force, Ecuador will revise its legislation to bring it into line with the commitments arising from its entry into the WTO, using the definition given in that Agreement.

Since 1990, Ecuadorian policy has been to eliminate production and export subsidies. Article 14 of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade recognizes the importance of policies to assist production, including export promotion policies, for the economic development programmes of developing countries.

At present, the legislation which specifically promotes industrial and agricultural production does not confer benefits or advantages; there are no export or credit subsidies and no tax incentives or encouragement. There are no production subsidies in the form of artificial public service tariffs.

3. Customs Valuation Code

With regard to the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (Customs Valuation Code), Ecuador's domestic legislation[3] specifies that, for the purposes of customs valuation, the provisions of the aforementioned Agreement apply.

[3]Ministerial Decree No. 447, published in Official Journal No. 767 of 11 September 1991, and Decision 326 of the Commission of the Cartagena Agreement on Customs Valuation.

When it accedes to the World Trade Organization, Ecuador will notify the Director-General of its decision to make use of the reservations provided for developing countries, especially in connection with delayed implementation of the computed value method.

When applying the deductive value method, Ecuador follows the provisions of the interpretative note to Article 5 of the Code, whether or not requested by the importer, when the goods imported or other identical or similar imported goods are not sold domestically in the same condition as imported. The customs value is determined on the basis of the unit price corresponding to the greatest quantity of goods sold, after further processing, to buyers in the Andean subregion who are not related to the importer. For this purpose, the value added for processing is taken into account, together with the deductions mentioned in subparagraph 1(a) of Article 5 of the GATT Customs Valuation Agreement.

In conformity with the provisions of Decision 326 of the Cartagena Agreement and paragraph 2 of Annex III to the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade of 1994, Ecuador temporarily applies on a limited basis minimum or reference prices to certain products. Consequently, it recognizes that, when appropriate, it will have to agree on the conditions for continuing to do so with the members of the WTO.

Finally, with regard to the procedure for the settlement of disputes, Ecuador will inform the Director-General that, for intra-subregion Andean relations, the provisions of the Treaty on the Creation of the Court of Justice of the Cartagena Agreement apply.

4. Import licensing procedures

The regime is currently the following:

(a) The State of Ecuador guarantees the right of any natural or legal person residing in Ecuador to carry out foreign trade operations. Before obtaining an import licence, it is necessary to complete a declaration on the appropriate form and submit it to the Central Bank of Ecuador, together with a note or letter requesting a licence.

The import licence regime has been duly publicized and is well known to agents involved in foreign trade. Its objective is not to restrict the quantity or value of imports.

Licences apply to imports from any origin and they are automatically approved before the dispatch of imported goods.

(b) Any importer who meets the requirements necessary to obtain an import licence for goods subject to prior authorization by the competent public bodies may import such goods. The Central Bank of Ecuador requires the submission of the authorization given by the competent authority. If the competent public bodies consider that the use of such products does not present an undue risk for health, security and the environment, they will issue the authorization.

The import of goods which are dangerous to human or animal health, arms and ammunition, and products which have an adverse environmental impact, require a prior authorization. There is no intention whatsoever to restrict the quantity or value of such goods.

(c) Because there is a free import regime, the import licence is used primarily for statistical purposes.

(d) The Central Bank of Ecuador issues the import licence not more than three working days after it has been applied for.

(e) Goods which arrive in a port without an import licence may be cleared by customs subject to payment of a fine equivalent to 10 per cent of the c.i.f. value of the goods.

(f) Customs clearance of goods in warehouses or on the site of trade fairs does not require an import declaration endorsed by the Central Bank of Ecuador.

(g) Import licences must obligatorily be obtained before the goods are shipped and not afterwards.

(h) The Central Bank is the only body which issues import licences and there are no restrictions regarding the period of the year during which an import licence may be applied for.

(i) Import licences are not refused because of slight errors in the documentation. They are returned to the importer if they contain important errors, for example, relating to the signatures, the numbers in the Single Register of Taxpayers, the identity number or land register number of the importer, according to the circumstances; in connection with tariff headings, they are also returned for incorrect calculations or inaccurate description of the goods. Once the errors have been rectified, the importer may resubmit the application.

(j) The Central Bank does not publish the names of the natural or legal persons importing goods listed in its registers.

(k) Importers may only register with the Central Bank and to do so they have to fill out forms showing their domicile, their citizenship and tax registration details, together with the signatures of the persons responsible for endorsing the import documents.

(l) In order to clear the goods, the importer must submit to the customs, in addition to the documentation from the Central Bank, a final verification formula, called the "Customs Declaration", which is used to calculate and subsequently pay the tariff duties.

(m) The import licence form costs US$0.20 and no deposit or prior payments are required in order to obtain an import licence.

(n) Import licences are usually valid for 180 days following the date of issue. This period may be extended for up to two years.

(ñ) There are no sanctions for non-utilization or part utilization of the import licence. If the licence is not used within the period of validity, the importer may request cancellation of the licence and must rapidly return all the documents to the Central Bank of Ecuador.

(o) An importer who has obtained the corresponding import licence may request its extension for the totality or the unutilized part provided that he does so within the period of validity of the import declaration and only if the dispatch or shipping has not been effected.

(p) The regulations do not provide for the transfer or assignment of licences among importers.

(q) Importers may obtain the foreign currency necessary for their activities on the free exchange market; the exchange regime is free and there are no restrictions on access.