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Page: 1/4

Committee on Regional Trade Agreements

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**COMPREHENSIVE ECONOMIC PARTNERSHIP AGREEMENT BETWEEN THE EFTA STATES  
AND ECUADOR (GOODS AND SERVICES)**

QUESTIONS AND REPLIES

The following communication, dated 15 September 2023, is being circulated at the request of the delegations of the EFTA States (Iceland, Liechtenstein, Norway and Switzerland) and Ecuador.

**Questions from Argentina**

**Rules of origin**

**1.1. Paragraph 3.18: "In addition to bilateral cumulation, diagonal cumulation is authorized with Ecuador's Andean Community partners, Colombia and Peru."**

**Does Ecuador believe that the diagonal cumulation provided for in the Agreement has helped to stimulate trade with its partners in the Andean Community?**

Joint from the Parties

Ecuador can mention the following points as an experience of applying diagonal cumulation with its partners in the Andean Community:

It is considered that, with diagonal cumulation it has been possible to stimulate intraregional trade with the Andean Community countries; since by importing inputs from Colombia and Peru with tariff preferences to incorporate said inputs into the final export product, it has helped to the products made or processed in our country to comply with the rules of origin stipulated in the CEPA with European Free Trade Association (EFTA) countries.

Another benefit of applying diagonal cumulation is that operating costs can be reduced in the production of final goods for export; by importing inputs originating and with tariff preferences from the Andean Community, makes the final product more competitive with respect to its main competitors.

This question does not concern the EFTA States.

**Sanitary and Phytosanitary Measures**

**1.2. Paragraph 3.24. "Additional substantive SPS disciplines (Article 2.12) include:**

**... c. upon request, to negotiate the extension to each other of SPS treatment equivalent to that in force between each Party and the European Union. A footnote clarifies that "equivalent" is not to be understood as "equivalence";"**

**Has any Party sought to negotiate this type of extension of reciprocal treatment while the Agreement has been in force?**

Joint response from the Parties

No Party has sought to negotiate extensions of reciprocal treatment since the Agreement has entered into force.

**Questions from the European Union****Tariff rate quotas**

**1.3. The factual presentation of the CEPA EFTA-Ecuador refers in Chapter 3.1.4 (page 12) on TRQs to a price band system by Ecuador (the corresponding footnote does not contain additional information), to which 5 out of the 6 tariff lines included in a TRQ a subject.**

**What type of price band system does Ecuador operate? What's the price band applied?**

Joint response from the Parties

Ecuador maintains the mechanism of the Andean Price Band System (APBS), adopted by Decision 371 of the Andean Community, included in the Comprehensive Economic Partnership Agreement between the EFTA States and Ecuador in Article 2.9 of the Market Access chapter; as well as in the Multiparty Agreement between the European Union and the Andean Countries under Article 30, subparagraph (a).<sup>1</sup>

This question does not concern the EFTA States.

**Sanitary and phytosanitary measures**

**1.4. The EU would like to ask for a clarification concerning the following provision in the SPS part (page 13): 3.24.b."Prohibition on goods subject to random and routine checks being detained at the border pending test results."**

**Our interpretation of this provision is that Ecuador and EFTA have agreed to allow the entry of products into their territories while the results of tests, which are carried out at the border control posts, are still pending.**

**In light of the fact that some EFTA countries are acting as an EU border for veterinary controls, the EU would like to ask about the scope of this provision, how it will be implemented, and what measures are planned by the EFTA countries to avoid that these products enter the EU market in case of unfavourable results of the tests.**

Joint response from the Parties

Iceland and Norway (the EEA EFTA States) are bound by the EEA Agreement, whereby SPS rules of the EU apply to imports from third countries. Due to its customs union with Switzerland, Liechtenstein applies the veterinary provisions laid down in the Swiss-EU Agreement on trade in agricultural products. The EEA Agreement has a dynamic character and common rules are continuously updated. It does not include the EU Common Agricultural Policy and the Common Fisheries Policy.

As regards products of animal origin, they have to go through a Border Control Post (BCP) where veterinary checks take place. Veterinary checks only occur during the first entry into the EU/EFTA area. Once consignments have been cleared by a BCP the goods are released for free circulation within the EU/EFTA area. Apart from Liechtenstein, all EFTA states have BCPs at the external border which check products of animal origin that are going to enter the EU/EFTA market. For Switzerland, third country veterinary import products are only controlled at Zurich and Geneva airports, since Switzerland is surrounded by the EU.

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<sup>1</sup> *Note by the Secretariat:* Additional information on the price band system can be found in the Factual Presentation (WT/REG463/1), paragraphs 3.10 and 3.12, Chart 3.4, paragraph 6 of Annex 1 and Annex 2 on TRQs.

This question does not concern Ecuador.

### **Intellectual property rights**

**1.5. The document also refers in Chapter 5.9 (page 37) to IPR provisions in the Agreement, however, nothing is said about geographical indications.**

**Does the agreement contain any provisions regarding the protection of geographical indications be it through the Agreement or be it by reference to the Lisbon Agreement (Geneva act) of WIPO or any other multi-lateral instrument or domestic protection system?**

#### Joint response from the Parties

Yes, the Agreement contains an article on the protection of geographical indications in Article 8 of Annex XVI on Protection of Intellectual Property. This Article defines geographical indications, ensures their adequate protection, and commits the Parties to provide the legal means to prevent the use of a geographical indication for agricultural products and foodstuffs for identical or comparable products not originating in the indicated geographical area.

While not in a geographical indication specific context, the Parties reaffirm their obligations set out in the TRIPS Agreement. The Agreement does not reference the Lisbon Agreement (Geneva Act) of WIPO.<sup>2</sup>

### **Questions from the United Kingdom**

#### **Denial of Benefits**

**1.6. Paragraph 4.5: Could the Parties please explain why the Agreement does not contain a specific provision on denial of benefits?**

#### Joint response from the Parties

The Parties consider this aspect is sufficiently covered by the exception clauses, thus, no such clause was necessary.

#### **Liberalisation commitments**

**1.7. Paragraph 4.16:**

- a. Could the Parties please explain why a positive list approach was pursued?**
- b. Could the Parties please explain why the periodic review has not taken place yet? When do the Parties anticipate to undertake it?**

#### Joint response from the Parties

- a. a positive list approach has been adopted as this was the approach agreed upon by the Parties during the negotiation. Furthermore, EFTA indicates that it is its general practice to use a positive list approach for services commitments.
- b. regular reviews of commitments take place during Joint Committee meetings. The first Joint Committee meeting between EFTA and Ecuador was held on 14 December 2021. The review of services commitments was part of the agenda of the meeting, and the Parties concluded that no changes are warranted for the time being. The periodic review specified by the review clause is to be carried out every three years and the Parties consider that a periodic review was completed during the first Joint Committee.

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<sup>2</sup> Note by the Secretariat: Paragraph 5.26 of the Factual Presentation refers to geographical indications.

**Domestic regulation**

**1.8. Paragraph 4.85: The paragraph states that as of June 2023, Ecuador was not a party to the Joint Statement Initiative at the WTO.**

**Could Ecuador please explain if it has any plans to join the initiative?**

Joint response from the Parties

Although Ecuador is not currently part of the Joint Statement Initiative at the WTO, it is important to note that the required procedures are being carried out internally to assess the feasibility of Ecuador's participation in this Initiative.

This question does not concern the EFTA States.

**Other provisions on investment**

**1.9. Paragraph 4.92: The paragraph states that a review clause foresees periodical reviews of Chapter 4 in the Joint Committee.**

**Could the Parties please explain how frequent the reviews are intended to be, and will minutes be published?**

Joint response from the Parties

The review takes place during the Joint Committee meetings, which are usually held every two years. The minutes of Joint Committee meetings are not public; however, a Joint Statement agreed between the Parties describing the most relevant issues is issued at the conclusion of the Joint Committee meeting.

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