

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

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WORKING PARTY ON THE ACCESSION OF ECUADOR

The information hereunder had been submitted by the Permanent Mission of Ecuador in response to questions raised at the Working Party of 17 January 1994.

Replies to Pending Questions, Meeting of 17 January 1993

Anti-dumping régime

The anti-dumping régime applied in Ecuador is based on the rules established by the Andean Group and Ecuadorian law, in keeping with the spirit of the General Agreement on Tariffs and Trade (GATT) of 1947.

Ecuador's legislation in this respect does not assess exporting countries on a cumulative basis in the procedure for the determination of the existence of dumping; nevertheless, once it accedes to the General Agreement, Ecuador will ensure that its legislation is brought into line with the Agreement on Implementation of Article VI of the GATT 1994.

Investigation in external markets to determine the existence of dumping

Ecuador's Foreign Service and other offices of the Ministry of External Affairs accredited to foreign governments are responsible for providing the required information to back up the relevant investigations, determinations or studies. The Central Bank of Ecuador provides information on exchange rates required for specific cases. Information may also be obtained on trade transactions concerned by dumping practices through legally formed domestic or foreign specialized enterprises.

Information on the producer or exporter, where appropriate, may also be requested from the embassy, consulate or trade office of the country of origin.

Availability of the dumping investigation report

A summary or analysis of the evidence or information may be provided when it is not considered confidential by those who requested the investigation or those who provided the information. This means that it will not be disclosed without express authorization.

Distinction between specific subsidies and subsidies that exist generally when investigations are carried out on alleged import subsidies

Taking into consideration that under the recent Uruguay Round Agreement on subsidies and countervailing measures the distinction implicit in the question has been broadened, Ecuador will take account of this to supplement its legislation after acceding to the General Agreement.

Price setting for locally produced medicaments and imported medicaments

The National Council for the Setting of Price Medicaments for Human Use is responsible for setting the prices of medicaments.

In order to establish the prices of imported products, the following procedures are carried out on a product-by-product basis: to the f.o.b. price are added international transport and import, entry and internal transport costs, which amounts to the cost up to the warehouse. Operating, administrative, selling, promotion and financial costs are then added to the warehouse cost.

In order to establish the pharmacy selling price, a profit margin of up to 20 per cent of the cost is taken into account, and to establish the maximum selling price to the public, a profit margin of 25 per cent is added to the maximum pharmacy selling price.

In order to establish the prices of locally manufactured products, the following procedure is carried out on a product-by-product basis: the f.o.b. price of the main imported active principles is considered, and to the f.o.b. value of the imported raw materials and excipients are added international transport, importation or entry costs and transport costs to the manufacturer's warehouse. A percentage is also added for loss or waste in the production process for each product. In establishing the production cost, account is taken of direct and indirect labour costs and other indirect production costs of the most representative enterprises of the sector established in the country.

Operating costs are added to the production costs, which gives the commercial cost. In order to establish the pharmacy selling price, a profit margin of up to 20 per cent of the commercial cost is taken into account, and to set the maximum selling price to the public a profit margin of 25 per cent of the maximum pharmacy selling price is added for each product.

Pharmaceutical products subject to price setting are listed in the documents provided herewith.

With regard to statistical data on consumption of imported medicaments, such consumption totalled roughly 85 million dollars in 1992.

Policy to extend the price setting policy to new sectors

The Ministry of Energy sets prices of fuels and gas for household use. Ecuador does not intend to extend this policy to other sectors.

Licences for the import of telecommunications equipment

Importation of telecommunications equipment requires prior authorization from the Telecommunications Supervision Department (Superintendencia de Telecomunicaciones) and not from the Central Bank of Ecuador. The rôle of the Central Bank of Ecuador is confined to registration of imports for statistical purposes.

Private enterprises may obtain the necessary licence to import telecommunications equipment for their own use.

With regard to the provision of telecommunications services, Ecuador will begin studying the commitments stemming from the recent GATS negotiations.

Assimilation of EMETEL under the rules of GATT Article XVII

With regard to the specific question of whether Ecuador will notify EMETEL as a State-trading enterprise within the meaning of Article XVII of GATT, the answer is yes. We repeat that EMETEL procurement is guided exclusively by commercial considerations, without discrimination of any kind; for enterprises of other contracting parties this ensures transparency in the conditions of free competition governing tenders.

Application of Article XXI

In the reply to question 49 in document L/7301, reference is made to Article XXI of the GATT for purchases in the military field and not for procurement by EMETEL, whose procedures are thoroughly explained in the reply to question 48 of the same document (page 15 of the English text)

Intellectual property

Yes. Ecuador does authorize the patentability of pharmaceutical and agrochemical processes.

Yes. Patents are available for such inventions.

Ecuador does indeed give protection to plants and micro-organisms, and a process is under way to establish regulations on this subject.

There are no compulsory licences and there is no obligation to give such licences. Furthermore, there is no such concept as a compulsory licence in Ecuadorian law.

Ecuador allows intellectual property rights for software, and if the software is part of a patentable process it is protected by the Patents Law.

Ecuador does intend to protect trademarks relating to the place of manufacture or denomination of origin.