

**GENERAL AGREEMENT  
ON TARIFFS AND TRADE**

**RESTRICTED**  
**Spec(94)1/Add.1**  
**21 February 1994**

(94-0333)

Original: Spanish

**WORKING PARTY ON THE ACCESSION OF ECUADOR**  
**Questions and Replies**

The following information has been provided by the representatives of Ecuador in response to questions raised by contracting parties at the meeting of the Working Party held on 17 January 1994.

**Introduction**

The delegation of Ecuador is replying herewith to questions regarding trade in agricultural products in particular and to concerns related to foreign trade in general.

In January 1993, the framework within which Ecuador's trade in agricultural products was to be developed was implemented. The underlying principle was Ecuador's integration in global trade and for this purpose all of the quantitative restrictions which had existed until then in the form of prohibitions, quotas, prior licences, etc. were eliminated.

The tariff adjustment mechanism represented a temporary response on the part of the authorities which had to deal with a legal system that did not permit the free operation of market forces. Ecuador has legislation under which, for the purposes of protecting domestic production, in some cases it is obligatory and in others it is permissible to impose quantitative restrictions through quotas and prior licences and to fix minimum producer prices and maximum consumer prices. The Government was aware of the importance of liberalizing the market so as to improve production and apply real prices and decided to end interference in the markets which had been distorted by official intervention and bring Ecuador's agriculture into the global market.

As is well known, the deadlock in the Uruguay Round was largely due to the discussions on agricultural subsidies which distort the international market and do not allow countries such as Ecuador, whose Equivalente de Subsidio al Productor (Producers' Subsidy Equivalent) is zero for the most part and in the remaining instances is negative:

- to compete in these markets;
- to ensure that when these international subsidies are imported into Ecuador they do not destabilize the productive capacity of farmers.

In Ecuador's case, we can affirm that almost all production units are made up of the following:

- Small production units with scarce economic resources which should receive the full attention of the Government because they constitute the crux of Ecuador's serious socio-economic problems.

This situation incited the Government to take responsible action by formulating and adopting a mechanism which will eliminate the import of international distortions in the market in agricultural products and will at the same time stabilize domestic prices within the framework of free competition.

The tariff adjustment mechanism, also known as the price band, is therefore:

- a transitory mechanism to stabilize domestic production, as its structure allows;
- clear and transparent, allowing non-discretionary and real signals to be transmitted to economic operators so that they can make appropriate plans for their agriculture campaign;
- based on effective observation of the market and, as a result of its operational mechanism, it has the momentum to update as a result of observing the agricultural markets relevant for Ecuador's imports;
- a dynamic tariff response which eliminates State intervention in fixing prices, and also does away with the expectations of rent-seekers who benefit from these market defects.

**1. It is understood that Ecuador has harmonized its price band systems with its Andean Pact member countries and that 130 products are covered by the new system. In light of this development, would Ecuador provide by tariff line number all subject to the price band system? Does this list of products differ from the products listed in Annex 1?**

Tariff items subject to the tariff adjustment mechanism in Ecuador (price band) are shown with their respective ad valorem tariffs on the diskette which we have transmitted to the GATT Secretariat. This list differs from that shown in Annex 1 referred to in the question because Ecuador currently has fewer products subject to the mechanism than those proposed in the harmonized band system.

**2. When did this new "harmonized" price band system become effective? If not effective now, when will it be fully implemented?**

The Andean price band system was approved after three years of intensive negotiations by the Ministers for Agriculture and Livestock of the member countries of the Andean Pact. This document is available to any contracting party interested. At present, we are awaiting the meeting of plenipotentiary Ministers at which the document will be signed and this is envisaged for the end of February this year.

**3. Can Ecuador provide us with a scheduled (table) by tariff line number of the range of surcharges which can be applied to products imported under the price band mechanism? For example, can Ecuador provide us with the corresponding surcharge for each product subject to the price band mechanism?**

The tariff duty, called surcharge in the question, is a tariff duty calculated in monetary units by units of measure.

It is viable; an outline of the mechanism can be obtained from the same diskette which has been submitted and it shows the minimum and maximum values of tariffs applied since the implementation of the tariff adjustment mechanism in Ecuador. It should be emphasized that this tariff is only determined for ten so-called "marker" products. Each marker has its own linked products and the marker tariff is the tariff for the linked products.

**4. Under the "harmonized" price band system does Ecuador utilize the actual import price or some other reference price to determine what surcharge to apply to an imported product? If reference prices are used, please describe what prices are used for each product subject to the price band mechanism.**

An updated reference price is used.

The prices which Ecuador uses to determine tariffs are those on the major commodity exchanges for agricultural products, for example, Chicago, Rotterdam, Thailand, Germany, Argentina and others recognized at the global level whose data is widely available through specialized electronic media. The procedure for collecting prices is clear and transparent and the prices are published fortnightly in the main written communication media.

The reference markets utilized for the various products are:

- rice: commodity exchange of Thailand;
- maize, soya, soya oil, wheat: Chicago commodity exchange;
- palm oil: Rotterdam exchange;
- meat: Credit Commodity Corporation;
- poultry meat: Urner Barry Publication;
- barley: prices in Portland;
- sugar: Contract 5 on the London exchange.

**5. Can Ecuador describe in detail how the surcharge is calculated for products such as poultry and pork meat as well as other "linked" products?**

For poultry, pork and other products, it has always been calculated as the difference between the minimum import price and the price of the product on the reference market.

**6. On several occasions, Ecuadorian officials have told us that Ecuador's price band system is a transitional programme. Does Ecuador have plans to phase out the system? If so, what is the time schedule for this phase out?**

The tariff adjustment mechanism is a temporary one both as regards its original concept applied in Ecuador and its practical application within the framework of the Andean Pact. The objective of the system is to strengthen domestic agricultural production so as to minimize the risk caused by the uncertainty of international agricultural markets currently suffering from the direct and indirect subsidies discussed at length in the Uruguay Round and which do not allow the global agricultural market to be transparent. Ecuador, like its trade partners in the Andean Pact, has defined a minimum transitional period of two years to tariff the specific duty on products subject to the price band. GATT's decision on the accession of Ecuador will determine whether this period can be as short as possible.

**7. In recent months, the Ecuadorian Agricultural Ministry has periodically blocked the importation of United States poultry products by refusing to issue import certificates and zoo sanitary permits. What were the reasons for these actions? What assurances can Ecuador provide that these types of action will not occur in the future?**

Ecuador, like other countries, has the obligation and the right to protect its production as far as health is concerned. In the case of poultry mentioned in this question, in the United States there are diseases unknown in Ecuador and if they entered the country they could cause irreparable damage to the national poultry industry and the agricultural sector underpinning it. The inter-relationship between the maize and soya sector and the poultry sector is underlined by the fact that 80 per cent of poultry processing utilizes these commodities.

In 1993, the Latin American Poultry Breeders' Association, the Government of the Republic of Colombia and the North American Association of Poultry Producers reported the presence of diseases unknown in Ecuador and if their entry into Ecuador was not controlled they would destroy the Ecuadorian poultry industry; for this eminently technical reason, the Ecuadorian Government undertook an investigation which temporarily prevented the entry of poultry meat into Ecuador.

At present, there are no restrictions on the entry of American poultry into Ecuador, but if there is a new risk of contagion, the relevant health measures will be taken regarding poultry or any other product which endangers agricultural health or human health.

**8. It is understood that poultry meat is now subject to the price band mechanism, but that its importation is still subject to the discretion of the Ministry of Agriculture. Is this true? If true, on what basis does the Ministry of Agriculture take such actions? Does Ecuador plan to abolish this apparent non-tariff trade barrier? If so, when?**

Ecuador's Minister for Agriculture must observe the law in carrying out his functions.

Among the laws regulating agricultural trade are the following: the Law on the Creation of the MAG, and the Law on Agricultural Development. The common denominator of these and other laws not mentioned is to safeguard national agricultural production.

The Constitution of the Republic guarantees the free market. Consequently, for the Minister for Agriculture to invoke any law which goes against the principle established in the Constitution he would have to provide irrefutable proof of the injury caused or likely to be caused. The Minister's authority to intervene in the market is, therefore, not discretionary.

**9. It is understood that Ecuador uses a reference price for whole broiler chicken to establish the price band for chicken legs. This results in higher floor and ceiling prices and, consequently, higher applied surcharges when the reference price for imported chicken legs falls below the floor prices.**

The price band is indeed defined by using the whole chicken and the reference price is derived from the price of chicken legs since they are the product of most interest to the Ecuadorian market. This price is not, as stated, the highest price but is in fact the lowest price. In fact, we consider that we should ask why this price should not be used since the legs are part of the chicken and to date we do not know of any chicken that can be produced without legs and wings.

**10. Are there any agricultural products subject to import prohibitions? If so, please provide us with all such products by tariff line number.**

Ecuador abolished all para-tariff restrictions, including licences, quotas and prohibited imports of agricultural products in the same Executive decree which implemented the tariff adjustment mechanism (price band).

**11. It is understood that last September Ecuador reimposed the sanitary registration requirement on food products or additives, medicines in general, drugs or medical apparatus, cosmetics, sanitary products or perfumes, and pesticides for domestic, industrial and agricultural uses. This registration law had not been enforced previously and was reimposed after tariffs had been reduced and imports surged. Can Ecuador provide a copy of the law? What assurances can Ecuador provide that this recent action was not a protectionist measure to mitigate the importation of the products mentioned above?**

There is a Health Code in force in Ecuador which makes it obligatory to register all products for human consumption in order to guarantee their innocuity for consumption in Ecuador. When the Government abolished prior licences, quotas and import prohibitions in January 1993, there was a temporary lack of synchronization between the provisions of the law and the State's capacity to ensure its observance.

This resulted in the mass import of products whose consumption dates had expired or were close to expiry, leading to a serious risk for the health of people in Ecuador.

The statement that this is a protectionist measure is probably due to the confusion caused by the above-mentioned situation, but we wish to state specifically that it is a fundamental qualitative standard to protect human and animal health and it should in no way be confused with a restrictive trade measure, particularly since, as we indicated, the Government itself took the initiative to open up agricultural trade fully.

Ministerial Agreement No. 8022 of the Ministry of Public Health, which regulates health registration, was transmitted to the GATT Secretariat as Annex 391 to document L/7202 and it is available to contracting parties.