

CHAPTER TWO
NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

Article 2.1: Scope and Coverage

Except as otherwise provided in this Agreement, this Chapter shall apply to trade in goods of a Party.

Section A: National Treatment

Article 2.2: National Treatment

1. Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of GATT 1994, including its interpretive notes, and to this end Article III of GATT 1994 and its interpretive notes are incorporated into and made part of this Agreement, *mutatis mutandis*.

2. Paragraph 1 shall not apply to the measures set out in Annex 2-A.

Section B: Elimination of Customs Duties

Article 2.3: Classification of Goods

The classification of goods in trade between the Parties shall be that set out in each Party's respective tariff nomenclature in conformity with the Harmonized System.

Article 2.4: Elimination of Customs Duties

1. Except as otherwise provided in this Agreement, neither Party shall increase any existing customs duty, or adopt any new customs duty, on an originating good.

2. Except as otherwise provided in this Agreement, each Party shall progressively eliminate its customs duties on originating goods in accordance with its Schedule to Annex 2-B.

3. If at any moment a Party reduces its applied most-favored-nation customs duty rate after the date of entry into force of this Agreement, that duty rate shall apply as regards trade covered by this Agreement if and for as long as it is lower than the customs duty rate calculated in accordance with its Schedule included in Annex 2-B.

4. On the request of either Party, the Parties shall hold consultations, to examine the possibility of the acceleration or improvement of tariff commitments set out in their Schedules to Annex 2-B. Agreements in this regard between the Parties shall be adopted through a modification to their Schedules in Annex 2-B, in accordance with Article 23.2 (Amendments).

5. For greater certainty, a Party may:

- (a) raise a customs duty to the level established in its Schedule to Annex 2-B following a unilateral reduction; or
- (b) maintain or increase a customs duty as authorized by the Dispute Settlement Body of the WTO.

Section C: Special Regimes

Article 2.5: Waiver of Customs Duties

1. Neither Party shall adopt any new waiver of customs duties, or expand with respect to existing recipients or extend to any new recipient the application of an existing waiver of customs duties, where the waiver is conditioned, explicitly or implicitly, on the fulfillment of a performance requirement.

2. Neither Party shall, explicitly or implicitly, condition on the fulfillment of a performance requirement the continuation of any existing waiver of customs duties.

Article 2.6: Temporary Admission of Goods

1. Each Party in accordance with its domestic laws and regulations, shall grant duty-free temporary admission for the following goods, regardless of their origin:

- (a) professional equipment, including equipment for the press or

television, software, and broadcasting and cinematographic equipment, necessary for carrying out the business activity, trade, or profession of a person who qualifies for temporary entry pursuant to the domestic laws of the importing Party;

- (b) goods intended for display or demonstration;
- (c) commercial samples and advertising films and recordings; and
- (d) goods admitted for sports purposes.

2. Each Party shall, at the request of the person concerned and for reasons its customs authority considers valid in accordance with its domestic laws and regulations, extend the time limit for temporary admission beyond the period initially fixed.

3. Neither Party shall condition the duty-free temporary admission of a good referred to in paragraph 1, other than to require that the good:

- (a) be used solely by or under the personal supervision of a national or resident of the other Party in the exercise of the business activity, trade, profession, or sport of that person;
- (b) not be sold or leased while in its territory;
- (c) be accompanied by a security in an amount no greater than the charges that would otherwise be owed on entry or final importation, releasable on exportation of the good;
- (d) be capable of identification when exported;
- (e) be exported on the departure of the person referenced in subparagraph (a), or within such other period related to the purpose of the temporary admission as the Party may establish, unless extended;
- (f) be admitted in no greater quantity than is reasonable for its intended use; and
- (g) be otherwise admissible into the Party's territory under its domestic law.

4. If any condition that a Party imposes under paragraph 3 has not been fulfilled, the Party may apply the customs duty and any other charge that would normally be owed on the good plus any other charges or penalties provided for under its domestic law.

5. Each Party shall adopt and maintain procedures providing for the expeditious release of goods admitted under this Article. To the extent possible, such procedures shall provide that when such a good accompanies a national or resident of the other Party who is seeking temporary entry, the good shall be released simultaneously with the entry of that national or resident.

6. Each Party shall permit a good temporarily admitted under this Article to be exported through a customs port other than that through which it was admitted.

7. Each Party shall provide that its customs authority or other competent authority relieves the importer or other person responsible for a good admitted under this Article of any liability for failure to export the good on presentation of satisfactory proof to the customs authority of the importing Party that the good has been destroyed within the original period fixed for temporary admission or any lawful extension.

8. Except as otherwise provided in this Agreement,

(a) each Party shall allow a container used in international traffic that enters its territory from the territory of the other Party to exit its territory on any route that is reasonably related to the economic and prompt departure of such container;

(b) neither Party may condition the release of any obligation, including any security, that it imposes in respect of the entry of a container into its territory on its exit through any particular port of departure; and

(c) neither Party may require that the carrier bringing a container from the territory of the other Party into its territory be the same carrier that takes the container to the territory of the other Party.

Article 2.7: Goods Re-entered after Repair or Alteration

1. Neither Party may apply a customs duty to a good, regardless of its origin, that re-enters its territory after that good has been temporarily exported from its territory to the territory of the other Party for repair or alteration, regardless of whether the repair or alteration could be performed in the territory of the Party from which the good was exported for repair or alteration.

2. Neither Party may apply a customs duty to a good, regardless of its origin, admitted temporarily from the territory of the other Party for repair or alteration.

3. For purposes of this Article, “repair or alteration” does not include an operation or process that:

- (a) destroys a good’s essential characteristics or creates a new or commercially different good; or
- (b) transforms an unfinished good into a finished good.

Article 2.8: Duty-free Entry of Commercial Samples of Negligible Value and Printed Advertising Materials

Each Party shall grant duty-free entry to commercial samples of negligible value, and to printed advertising materials imported from the territory of the other Party, regardless of their origin, but may require that:

- (a) the samples be imported solely for the solicitation of orders for goods, or services provided from the territory, of the other Party or a non-Party; or
- (b) the advertising materials be imported in packets that each contain no more than one copy of each such material and that neither the materials nor the packets form part of a larger consignment.

Section D: Non-Tariff measures

Article 2.9: Import and Export Restrictions

1. Except as otherwise provided in this Agreement, neither Party shall adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of GATT 1994 and its interpretative notes, and to this end Article XI of GATT 1994 and its interpretative notes are incorporated into and made a part of this Agreement, *mutatis mutandis*.

2. Paragraph 1 shall not apply to the measures set out in Annex 2-A.

3. The Parties understand that the GATT 1994 rights and obligations incorporated by paragraph 1 prohibit, in any circumstances in which any other form of restriction is prohibited, a Party from adopting or maintaining:

- (a) export and import price requirements, except as permitted in enforcement of countervailing and antidumping duty orders and undertakings;
- (b) import licensing conditioned on the fulfillment of a performance requirement; or
- (c) voluntary export restraints inconsistent with Article VI of GATT 1994, as implemented under Article 18 of the SCM Agreement and Article 8.1 of the AD Agreement.

4. Neither Party shall, as a condition for engaging in importation or for the importation of a good, require a person of the other Party to establish or maintain a contractual or other relationship with a distributor in its territory.

5. For greater certainty, paragraph 4 does not prevent a Party from requiring a person referred to in that paragraph to designate an agent for the purpose of facilitating communications between its regulatory authorities and that person.

6. For purposes of paragraph 4, **distributor** means a person of a Party who is responsible for the commercial distribution, agency, concession, or representation in the territory of that Party of goods of the other Party.

Article 2.10: Import Licensing

1. Neither Party shall adopt or maintain a measure that is inconsistent with the Import Licensing Agreement.¹

- 2.
- (a) Promptly after the date of entry into force of this Agreement, each Party shall notify the other Party of its existing import licensing procedures, if any. The notification shall:
 - (i) include the information specified in Article 5 of the Import Licensing Agreement; and

¹ For purposes of paragraph 1 and for greater certainty, in determining whether a measure is inconsistent with the Import Licensing Agreement, each Party shall apply the definition of “import licensing” contained in that Agreement.

- (ii) be without prejudice as to whether the import licensing procedure is consistent with this Agreement.
 - (b) Before applying any new or modified import licensing procedure, a Party shall publish the new procedure or modification on an official government Internet site. To the extent possible, the Party shall do so at least 30 days before the new procedure or modification takes effect.
3. Neither Party shall apply an import licensing procedure to a good of the other Party unless the Party has complied with the requirements of paragraph 2 with respect to that procedure.

Article 2.11: Administrative Fees and Formalities

1. Each Party shall ensure that all fees and charges imposed in connection with importation or exportation shall be consistent with its obligations under Article VIII:1 of the GATT 1994 and its interpretive notes, which are hereby incorporated into and made a part of this Agreement, *mutatis mutandis*.
2. Neither Party shall require consular transactions, including related fees and charges, in connection with the importation of any good of the other Party.
3. Each Party shall make available and maintain, preferably through the Internet, a current list of the fees and charges it imposes in connection with importation or exportation.

Article 2.12: Export Duties, Taxes, or Other Charges

Neither Party shall adopt or maintain any duty, tax, or other charge on the export of any good to the territory of the other Party, unless the duty, tax, or charge is also adopted or maintained on the good when destined for domestic consumption.

Article 2.13: State Trading Enterprises

1. The Parties affirm their existing rights and obligations under Article XVII of GATT 1994, its interpretative notes and the Understanding on the Interpretation of Article XVII of GATT 1994, contained in Annex 1A to the WTO Agreement which are incorporated into and made part of this Agreement, *mutatis mutandis*.

2. In the context of the notification submitted by each Party under Article XVII of GATT 1994, where a Party requests information from the other Party on individual cases of state trading enterprises, the manner of their operation and the effect of their operations on bilateral trade, the requested Party should have regard to the need to ensure maximum transparency possible without prejudice to Article XVII.4(d) of GATT 1994 on confidential information.

Section E: Other Measures

Article 2.14: Agricultural Export Subsidies

1. The Parties reaffirm their commitments made in the *Ministerial Decision of 19 December 2015 on Export Competition (WT/MIN(15)/45, WT/L/980)*, adopted in Nairobi on 19 December 2015, including elimination of scheduled export subsidy entitlements for agricultural goods.

2. The Parties share the objective of the multilateral elimination of export subsidies for agricultural goods and shall work together to prevent their reintroduction in any form, once the schedules established in the Ministerial Decision referred to in paragraph 1 are completed.

Article 2.15: Andean Price Band System

1. Ecuador may maintain the Andean Price Band System (hereinafter referred to as “APBS”) established by *Decision 371* on 26 November 1994 of the Andean Community and its modifications, or subsequent systems, with respect to the goods subject to the application of the system and listed in Annex 2-C.²

Article 2.16: Administration and Implementation of Tariff Rate Quotas

A Party that has *Tariff Rate Quotas* (hereinafter referred to as “TRQs”) as set out in Appendix 2-B-1 shall implement and administer these TRQs in accordance with Article XIII of GATT 1994, including its interpretative notes, and the Import Licensing Agreement.

Section F: Institutional Provisions

² According to the Annex 2-B, Ecuador shall maintain the APBS (Andean Price Band System) to the goods subject to the X staging category and listed in the column of APBS.

Article 2.17: Committee on Trade in Goods

1. The Parties hereby establish a Committee on Trade in Goods, comprising representatives of each Party.
2. The Committee shall meet on the request of a Party or the Joint Committee to consider any matter arising under this Chapter.
3. The Committee's functions shall include, *inter alia*:
 - (a) monitoring the implementation and administration of this Chapter;
 - (b) promoting trade in goods between the Parties, including through consultations on acceleration or improvement of tariff commitments under this Agreement and other issues as appropriate;
 - (c) addressing barriers to trade in goods between the Parties, especially those related to the application of non-tariff measures, and, if appropriate, referring such matters to the Joint Committee for its consideration;
 - (d) providing a forum for discussion or the exchange of information on matters related to subparagraph (a) through (c), which may, directly or indirectly affect trade between the Parties with a view to minimizing their negative effects on trade and seeking mutually acceptable alternatives;
 - (e) providing advice and recommendations to the Joint Committee with regards to matters of its competence; and
 - (f) carrying out any other issues related to this chapter as determined by the Joint Committee.
4. The Parties hereby establish an *ad-hoc* Working Group on Trade in Agricultural and Fishery Goods. In order to solve any obstacle to the trade of agricultural and fishery goods between the Parties, the *ad-hoc* Working Group shall meet upon request of a Party. The *ad-hoc* Working Group shall report to the Committee on Trade in Goods.

Section G: Definitions

Article 2.18: Definitions

For purposes of this Chapter:

advertising films and recordings means recorded visual media or audio materials, consisting essentially of images or sound, showing the nature or operation of goods or services offered for sale or lease by a person established or resident in the territory of a Party, provided that such materials are of a kind suitable for exhibition to prospective customers but not for broadcast to the general public;

commercial samples of negligible value means commercial samples having a value or quantity, individually or in the aggregate as shipped, of not more than the amount specified in a Party's domestic laws, regulations, or procedures governing temporary admission, or so marked, torn, perforated, or otherwise treated that they are unsuitable for sale or use except as commercial samples;

consular transactions means requirements that goods of a Party intended for export to the territory of the other Party must first be submitted to the supervision of the consul of the importing Party in the territory of the exporting Party for the purpose of obtaining consular invoices or consular visas for commercial invoices, certificates of origin, manifests, shippers' export declarations, or any other customs documentation required on or in connection with importation;

duty-free means free of customs duty;

goods intended for display or demonstration includes their component parts, ancillary apparatus, and accessories;

goods admitted for sports purposes means sports requisites for use in sports contests, demonstrations, or training in the territory of the Party into whose territory such goods are admitted;

import licensing means an administrative procedure requiring the submission of an application or other documentation (other than that generally required for customs clearance purposes) to the relevant administrative body as a prior condition for importation into the territory of the importing Party;

performance requirement means a requirement that:

- (a) a given level or percentage of goods or services be exported;

- (b) domestic goods or services of the Party granting a waiver of customs duties or an import license be substituted for imported goods;
- (c) a person benefiting from a waiver of customs duties or an import license purchase other goods or services in the territory of the Party granting the waiver of customs duties or the import license, or accord a preference to domestically produced goods;
- (d) a person benefiting from a waiver of customs duties or an import license produce goods or supply services, in the territory of the Party granting the waiver of customs duties or the import license, with a given level or percentage of domestic content; or
- (e) relates in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows;

but does not include a requirement that an imported good be:

- (f) subsequently exported;
- (g) used as a material in the production of another good that is subsequently exported;
- (h) substituted by an identical or similar good used as a material in the production of another good that is subsequently exported; or
- (i) substituted by an identical or similar good that is subsequently exported.

printed advertising materials means those goods classified in Chapter 49 of the Harmonized System, including brochures, pamphlets, leaflets, trade catalogues, yearbooks published by trade associations, tourist promotional materials, and posters, that are used to promote, publicize, or advertise a good or service, are essentially intended to advertise a good or service, and are supplied free of charge.

Annex 2-A
National Treatment and Import and Export Restrictions

1. With respect to Ecuador, Articles 2.2 and 2.9 shall not apply to the following measures and their continuation, prompt renewal, or amendment, provided that their continuation, prompt renewal, or amendment do not decrease the conformity with this Agreement:

- (a) measures related to the importation of used vehicles, parts, spare parts and accessories established on COMEX Resolution No. 51, and subsequent amendments; and
- (b) the measures related to the importation of used clothing, used footwear and merchandise of Resolution No. 182 of COMEXI done on 8 January 2003 published in Official Gazette No. 57 on 8 April 2003; and its modifications.

2. With respect to Ecuador and Korea, Articles 2.2 and 2.9 shall not apply to the actions authorized by the WTO Dispute Settlement Body.

3. The need to maintain the measures referred to in paragraph 1 shall be reviewed ten years after the date of entry into force of this Agreement.

Annex 2-B
Elimination of Customs Duties

1. Except as otherwise provided in a Party's Schedule to this Annex, the following staging categories apply to the elimination of customs duties by each Party pursuant to Article 2.4.2:

- (a) customs duties on originating goods provided for in the items in staging category "A" in a Party's Schedule shall be eliminated entirely and such goods shall be duty-free on the date of entry into force of this Agreement;
- (b) customs duties on originating goods provided for in the items in staging category "B" in a Party's Schedule shall be removed in three equal annual stages beginning on the date this Agreement enters into force, and such goods shall be duty-free, effective January 1 of year three;
- (c) customs duties on originating goods provided for in the items in staging category "C" in a Party's Schedule shall be removed in five equal annual stages beginning on the date this Agreement enters into force, and such goods shall be duty-free, effective January 1 of year five;
- (d) customs duties on originating goods provided for in the items in staging category "D" in a Party's Schedule shall be removed in seven equal annual stages beginning on the date this Agreement enters into force, and such goods shall be duty-free, effective January 1 of year seven;
- (e) customs duties on originating goods provided for in the items in staging category "E" in a Party's Schedule shall be removed in 10 equal annual stages beginning on the date this Agreement enters into force, and such goods shall be duty-free, effective January 1 of year 10;
- (f) customs duties on originating goods provided for in the items in staging category "F" in a Party's Schedule shall be removed in 12 equal annual stages beginning on the date this Agreement enters into force, and such goods shall be duty-free, effective January 1 of year 12;
- (g) customs duties on originating goods provided for in the items in staging category "G" in a Party's Schedule shall be removed in

15 equal annual stages beginning on the date this Agreement enters into force, and such goods shall be duty-free, effective January 1 of year 15;

- (h) customs duties on originating goods provided for in the items in staging category “S” in a Party’s Schedule shall be subject to the following provisions:
 - (i) for goods entered into Korea from 1 November through 30 April, duties shall be removed in 10 equal annual stages, beginning on the date this Agreement enters into force;
 - (ii) for goods entered into Korea from 1 May through 31 October, duties shall remain at base rates;
 - (iii) for goods entered into Ecuador from 1 March through 31 August, duties shall be removed in 10 equal annual stages, beginning on the date this Agreement enters into force; and
 - (iv) for goods entered into Ecuador from 1 September through 28 February, duties shall remain at base rates;
- (i) customs duties on originating goods provided for in the items in staging category “TRQ” in a Party’s Schedule shall be applied in accordance with the conditions set out in Appendix 2-B-1, beginning on the date this Agreement enters into force; and
- (j) customs duties on originating goods provided for in the items in staging category “X” in a Party’s Schedule shall remain at base rates.

2. The base rate of customs duty and staging category for determining the interim rate of customs duty at each stage of reduction for an item are indicated for the item in each Party’s Schedule.

3. Interim staged rates shall be rounded down, at least to the nearest tenth of a percentage point, or if the rate of duty is expressed in monetary units, at least to the nearest Korean won in the case of Korea and the nearest 0.001 of the official monetary unit of Ecuador.

4. For purposes of this Annex and a Party’s Schedule, **year one** means the year this Agreement enters into force as provided in Article 23.4 (Entry into Force).

5. For purposes of this Annex and a Party's Schedule, beginning in year two, each annual stage of tariff reduction shall take effect on January 1 of the relevant year.

GENERAL NOTES

TARIFF SCHEDULE OF KOREA

1. Relation to the Harmonized Tariff Schedule of Korea (“HSK”). The provisions of this Schedule are generally expressed in terms of the HSK and the interpretation of the provisions of this Schedule, including the product coverage of subheadings of this Schedule, shall be governed by the General Notes, Section Notes, and Chapter Notes of the HSK. To the extent that provisions of this Schedule are identical to the corresponding provisions of the HSK, the provisions of this Schedule shall have the same meaning as the corresponding provisions of the HSK.

2. Base Rates of Customs Duty. The base rate of customs duties to which the successive reductions are to be applied under Article 2.4.2, are those specified in this Annex.

Appendix 2-B-1
Tariff Rate Quota Administration of Korea

1. This Appendix shall apply to TRQs provided for in this Agreement and sets out modifications to the HSK that reflect the TRQs that Korea shall apply to certain originating goods under this Agreement. In particular, originating goods of Ecuador included under this Appendix shall be subject to the rates of duty as set out in this Appendix in lieu of the rates of duty specified in Chapters 1 through 97 of the HSK. Notwithstanding any other provision of the HSK, originating goods of Ecuador in the quantities described in this Appendix shall be permitted entry into the territory of Korea as provided in this Appendix. Furthermore, any quantity of originating goods imported from Ecuador under a TRQ provided for in this Appendix shall not be counted toward the in-quota amount of any TRQ provided for such goods elsewhere in the HSK.

2.

- (a) The aggregate quantity of originating goods of Ecuador described in subparagraph (c) that shall be permitted to enter free of customs duties in a particular year is specified below:

Year	Quantity (Metrics Tons)
1	10,000
2	11,000
3	12,000
4	13,000
5	14,000
6	15,000

After year six, the in-quota quantity shall remain the same as the quantity of year six;

- (b) Customs duties on goods entered in aggregate quantities in excess of the quantities listed in subparagraph (a) shall be treated in accordance with staging category “X” as described in subparagraph 1(j) of Annex 2-B.; and
- (c) Subparagraphs (a) and (b) shall apply to the following HSK provisions: 0306161090, 0306169090, 0306171090, 0306179090, 1605211000, 1605219000, and 1605290000.

3. Korea Fishery Trade Association shall administer these TRQs and allocate the in-quota quantity of the TRQ through auction system.

GENERAL NOTES
TARIFF SCHEDULE OF ECUADOR

1. Relation to the Harmonized Tariff Schedule of Ecuador (“HSE”). The provisions of this Schedule are generally expressed in terms of the HSE, and the interpretation of the provisions of this Schedule, including the product coverage of subheadings of this Schedule, shall be governed by the General Notes, Section Notes, and Chapter Notes of the HSE. To the extent that provisions of this Schedule are identical to the corresponding provisions of the HSE, the provisions of this Schedule shall have the same meaning as the corresponding provisions of the HSE.

2. Base Rates of Customs Duty. The base rate of customs duties to which the successive reductions are to be applied under Article 2.4.2, are those specified in this Annex.

Annex 2-C
Andean Price Band System³

HSE 2017	Description
1007.90.00.00	- Other
1101.00.00.00	Wheat or meslin flour.
1108.19.00.00	- - Other starches
1201.90.00.00	- Other
1202.41.00.00	- - In shell
1202.42.00.00	- - Shelled, whether or not broken
1206.00.90.00	- Other
1207.10.90.00	- - Other
1207.99.99.00	- - - - Other
1208.10.00.00	- Of soya beans
1208.90.00.90	- - Other
1502.10.10.00	- - Denaturalized
1502.10.90.00	- - Other
1502.90.10.00	- - Denaturalized
1503.00.00.00	Lard stearin, lard oil, oleostearin, oleo-oil and tallow oil, not emulsified or mixed or otherwise prepared.
1508.10.00.00	- Crude oil
1508.90.00.00	- Other
1512.11.20.00	- - - Safflower
1512.19.20.00	- - - Safflower
1512.21.00.00	- - Crude oil, whether or not gossypol has been removed
1512.29.00.00	- - Other
1513.11.00.00	- - Crude oil
1513.19.00.00	- - Other
1513.21.10.00	- - - Of palm kernel
1513.29.10.00	- - - Of palm kernel
1514.11.00.00	- - Crude oil
1514.19.00.00	- - Other
1514.91.00.00	- - Crude oil
1514.99.00.00	- - Other
1515.21.00.00	- - - Crude oil
1515.29.00.00	- - Other
1515.30.00.00	- Castor oil and its fractions
1515.50.00.00	- Sesame oil and its fractions

³ For the goods listed in this Annex, the fixed component of the Andean Price Band System (APBS) shall be eliminated in accordance with the Schedule set out in Annex 2-B. The variable component of the APBS shall be maintained.

1515.90.00.90	- - Other
1516.20.00.00	- Vegetable fats and oils and their fractions
1517.10.00.00	- Margarine, excluding liquid margarine
1517.90.00.00	- Other
1518.00.90.90	- - Other
1702.30.20.00	- - Glucose syrup
1702.30.90.00	- - Other
1702.40.10.00	- - Glucose
1702.90.90.00	- - Other
1703.10.00.00	- Cane molasses
2302.10.00.00	- Of maize (corn)
2302.30.00.90	- - Other
2302.40.00.00	- Of other cereals
2309.90.90.13	- - - - For aquaculture use whose particle has a dimension of up to 1,200 microns in diameter
2309.90.90.19	- - - - Other