

**TRADE POLICY REVIEW**

**Report by**

**ECUADOR**

Pursuant to the Agreement Establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), the policy statement by Ecuador is attached.



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## 1. INTRODUCTION

1. Six years after Ecuador's first WTO trade policy review (2005-2011), major political, social, institutional and economic changes have occurred in the country, based on a new constitution approved by the Ecuadorian people in 2008, which inaugurated a new development model.

2. The new economic and trade development model, described in this report, has been formulated through legislation supplementing the Constitution, and a new vision prioritizing trade, first and foremost, as a tool for development, combating poverty, and reducing inequalities.

3. This report firstly considers Ecuador's general socio-economic environment, summarizing its economic evolution and addressing issues such as inflation, the fiscal sector, the government budget, public debt, and policies and strategies to eradicate poverty.

4. It then discusses economic policy, which, by definition, encompasses the guidelines and directives through which the government steers or defines general measures to support the adopted development model, based on the new 2008 Constitution, the National Plan for Good Living (*Plan Nacional del Buen Vivir* (PNBV)), dollarization, fiscal and financial policies, and the important labour market policy.

5. It also analyses the external sector, with the new trade-policy approach, as well as the multilateral and bilateral foreign trade agenda, the policy to promote exports and investments, and foreign direct investment (FDI).

6. In relation to trade regulations and policies, the report explains the current regulations and their institutional framework, as well as tariff policy, customs and trade facilitation, technical, sanitary and phytosanitary standards, the national logistics strategy, intellectual property, quality policy, transparency and the fight against corruption, and environmental policies.

7. Lastly, it has been considered important to develop sectoral policies, many of which are horizontal, and relate basically to crop farming, livestock, aquaculture and fisheries, agribusiness, manufacturing industry, tourism and strategic sectors - the latter being of vital importance to complement and underpin the new development model and its future sustainability, through infrastructure building.

## 2. GENERAL SOCIO-ECONOMIC ENVIRONMENT

### 2.1 ECONOMIC GROWTH

8. Although the Ecuadorian economy consolidated its recovery in 2010, progress was held back somewhat by the poor performance of the external sector. The growth of loans and deposits in the financial system, tax revenue (as a proxy for economic activity), the reduction of unemployment and improvements in job quality in the main branches of economic activity, all combined to generate economic growth of 3.58 per cent in 2010.

9. Value-added is growing in the non-oil sector, but not in the oil sector. The halting of private sector investment needed to increase oil production, the 60-day shutdown of the Esmeraldas refinery, and an increase in fuel imports to compensate for the reduction in hydroelectric-power generation, contributed most to the decline in oil value-added in 2010. The renegotiation of oil contracts by the

national government, and the coming online of the Mazar hydroelectric plant helped to reverse the downward trend in oil value-added in 2011.<sup>1</sup>

10. Oil value-added dropped by 2.65 per cent to make a negative contribution of 0.37 per cent in 2010. This adverse result is partly the consequence of a year of oil production shortfalls for private companies, owing to the uncertainty surrounding the conditions of the new oil contracts, for which negotiations lasted until November. While output from State-owned crude oil companies grew by 7 per cent<sup>2</sup> in that period, production by private companies shrank by 9.6 per cent.<sup>3</sup> Accordingly, domestic crude oil production expanded by just 0.56 per cent overall in 2010. The recurrent maintenance tasks on the Esmeraldas refinery, needed to improve production processes, caused stoppages resulting in a 10.25 per cent fall in the domestic production of refined petroleum products in 2010. Moreover, demand for thermoelectric generation grew in response to a drop in hydroelectric power generation caused by the drought in the first few months of the year. This energy deficit caused a substantial increase in fuel imports, of 33.4 per cent in volume and 72.9 per cent in value terms (owing to a 25.7 per cent rise in the prices of petroleum products)<sup>4</sup>, to increase thermoelectric power generation and satisfy the nation's energy demand.

11. Non-oil value-added grew by 4.47 per cent, contributing 3.45 per cent to the 3.58 per cent GDP growth recorded in 2010. Recovery has been widespread among nearly all branches of economic activity since the 2009 crisis, except agriculture, which posted a year-on-year drop of 0.68 per cent in 2010.

12. Several sectors of activity made significant contributions to the gross value-added generated in the Ecuadorian economy in 2010. Manufacturing and trade contributed 0.92 per cent each, followed by other services, which accounted for 0.87 per cent. Construction contributed 0.62 per cent, thanks to its vigorous growth, particularly in the fourth quarter of 2010. These activities have jointly generated 62 per cent of gross value-added in the economy over the last ten years, and accounted for 84 per cent of urban and rural employment nationwide in December 2010.

13. Financial intermediation expanded strongly by 17.33 per cent, its highest growth rate since 2006 when it grew by 20.58 per cent; and, in 2010, the volume of credit was up by 30.7 per cent on the previous year.

14. The wholesale and retail trade sectors returned to growth in 2010 (6.32 per cent), as the balance-of-payments safeguard measures gradually expired. The latter had imposed tariffs on several products, particularly consumer goods, imports of which increased by 14.1 per cent in volume terms, fuelled mainly by 42.3 per cent growth in imports of consumer durables. Other factors that may have contributed to the strong performance of this sector include the growth of household consumption

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<sup>1</sup> The 2011 Annual Investment Plan envisages the start of implementation of eight hydroelectric power projects, to reduce dependency on thermoelectric generation.

<sup>2</sup> If the crude oil produced by Perenco and Petrobras since August and November 2010, respectively, when their production was assigned to Petroamazonas, is excluded from the calculation, then State production grew by 1.95 per cent in 2010.

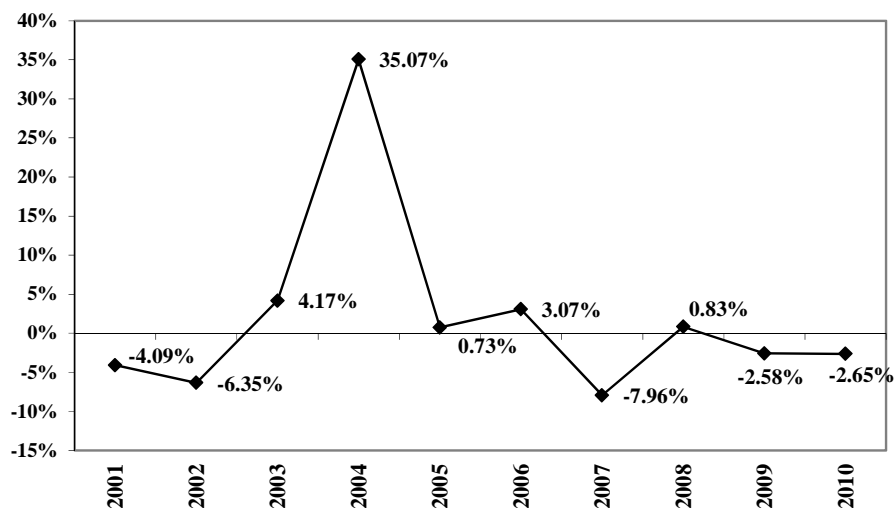
<sup>3</sup> The 9.6 per cent fall in this period mainly reflected the fact that production from the Perenco and Petrobras fields was not counted, since these oil fields have been operated by Petroamazonas since August and November 2010, respectively. If the 2009 output of Perenco and Petrobras is excluded from the calculation, private production would have shrunk by 0.61 per cent.

<sup>4</sup> Information obtained from the Central Bank of Ecuador. Only includes high-octane gasoline, diesel, and liquefied petroleum gas.

(real annual growth of 7.7 per cent), and an expansion of over 50 per cent in consumer credit (in current value terms).

### Chart 2.1 Annual value-added by the oil sector

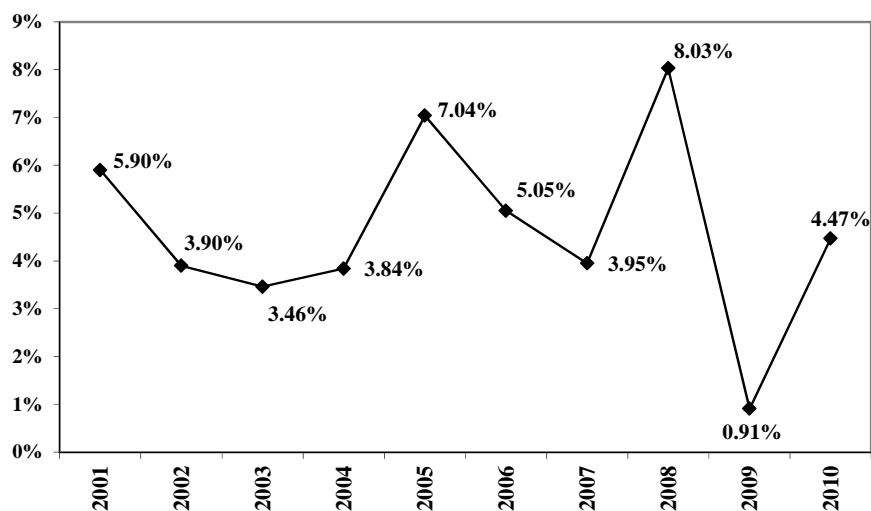
Growth rates at 2000 prices



Source: Central Bank of Ecuador.

### Chart 2.2 Annual value-added by the non-oil sector

Growth rates at 2000 prices

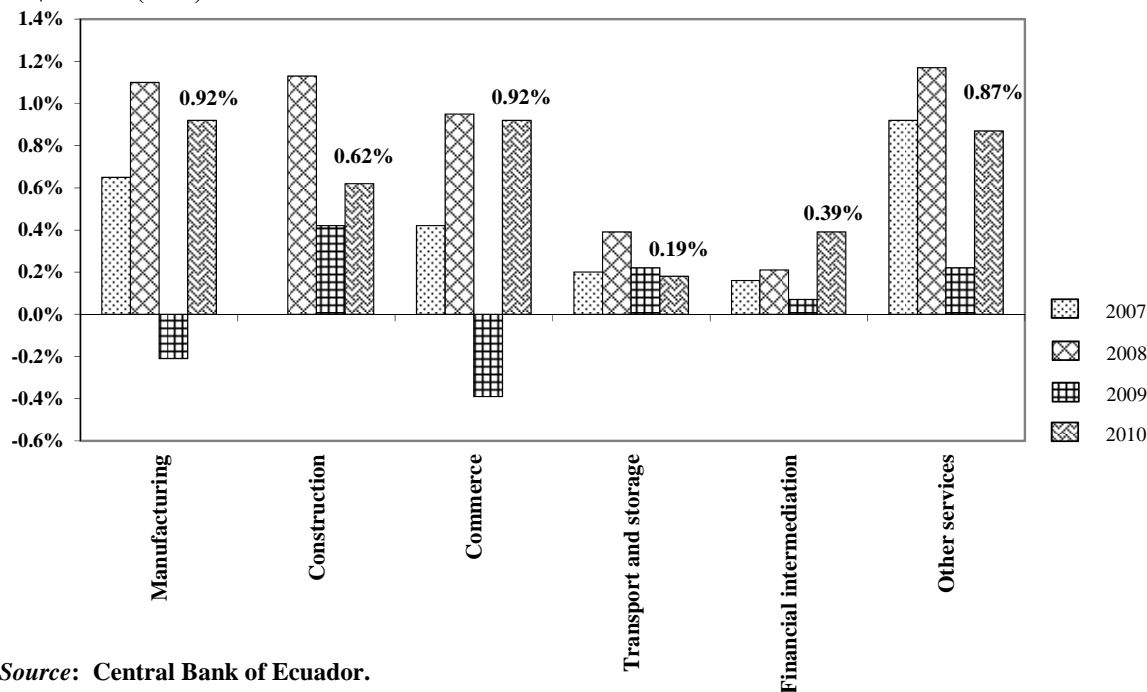


Source: Central Bank of Ecuador.

**Chart 2.3**

**Real annual contribution to gross value-added: selected sectors**

US\$ million (2000)



Source: Central Bank of Ecuador.

15. Manufacturing industry has grown at an average rate of 5 per cent per year over the last ten years. Although it recorded 6.7 per cent growth in 2010 (above the decade average), it failed to match the 2008 figure of 8.1 per cent. This recovery in manufacturing industry helped fuel a vigorous expansion of imports of capital goods for industry (12.7 per cent in volume terms) and industrial raw materials (23.5 per cent in volume terms). The additional purchase of capital goods will probably mainly be reflected in the production figures for 2011.

16. The 3.58 per cent GDP growth in 2010 was mainly driven by buoyant demand. Household consumption, which expanded by 7.67 per cent in that year, contributed 5.12 per cent to overall GDP growth. Gross fixed capital formation (GFCF) also played a major role in the economy's performance in 2010, contributing 10.24 per cent; but exports performed modestly in real terms during this period, making only a minor contribution to GDP growth (2.28 per cent).

## 2.2 INFLATION AND PRICES

17. Inflation in December was 0.51 per cent, which meant that the rate for 2010 as a whole came in at 3.3 per cent - just below the government's forecast and the lowest for three years. Monthly inflation was strongly affected by the food and non-alcoholic beverages sector, which accounted for 54.45 per cent of the rise in prices in December. The divisions displaying the greatest year-on-year variation in December that year were alcoholic beverages, tobacco and narcotic drugs (6.31 per cent); food and non-alcoholic beverages (5.40 per cent); clothing and footwear (4.60 per cent); and restaurants and hotels (4.56 per cent).

18. The producer price index (PPI) rose by 6.67 per cent between December 2009 and 2010. Variations in this indicator normally trend above the consumer price index. In annual terms, the



goods segments with the greatest annual variation were minerals, electricity, gas and water (23.22 per cent) and food products, beverages and tobacco, textiles, clothing, and leather products (9.92 per cent).

## 2.3 FISCAL SECTOR

### 2.3.1 Central government budget

19. According to Article 292 of the Political Constitution of the Republic of Ecuador, the General State Budget includes all public-sector incomes and outgoings, except for those pertaining to social security, public banks, public enterprises, and decentralized autonomous governments. The income and expenditure of the account created to finance the purchase of deficit petroleum products (*cuenta de financiamiento de derivados deficitarios* (CFDD)) is also not included.

### 2.3.2 Income received

20. Income received through the General State Budget between January and December 2010 amounted to US\$14,938.25 million - US\$3,355.32 million more than during the same period in 2009 (US\$11,582.93 million).

**Table 2.1**  
Income received by central government  
(US\$ million)

| Description                                       | 2009<br>Total | 2010<br>Total | January-December     |                   |
|---|---------------|---------------|----------------------|-------------------|
|   |               |               | Difference<br>(US\$) | Difference<br>(%) |
| Income  | 11,582.9      | 14,938.2      | 3,355.3              | 28.97             |
| Oil income  | 2,298.2       | 4,410.2       | 2,112.0              | 91.90             |
| Non-oil income                                    | 9,284.7       | 10,528.0      | 1,243.3              | 13.39             |
| Tax revenue                                       | 7,256.7       | 8,653.7       | 1,397.0              | 19.25             |
| Income tax  | 2,517.5       | 2,353.1       | (164.4)              | -6.53             |
| VAT   | 3,018.5       | 3,746.1       | 727.6                | 24.10             |
| ICE (special consumption tax)                     | 448.1         | 530.2         | 82.1                 | 18.32             |
| Tariffs   | 923.4         | 1,152.4       | 229.0                | 24.80             |
| Other taxes (ISD/used vehicle ownership transfer) | 230.4         | 427.7         | 197.3                | 85.62             |
| Non-tax income                                    | 752.4         | 1,511.6       | 759.2                | 100.90            |
| Transfers   | 1,275.6       | 362.7         | (921.9)              | -71.57            |

Source: Ministry of Finance (prepared by the Ministry of Finance).

21. Income received in 2010 was up by 28.97 per cent on the 2009 figure, thanks mainly to an increase in tax revenue on the order of US\$1,397 million, and oil income amounting to US\$2,112 million, compared to the previous year's levels.

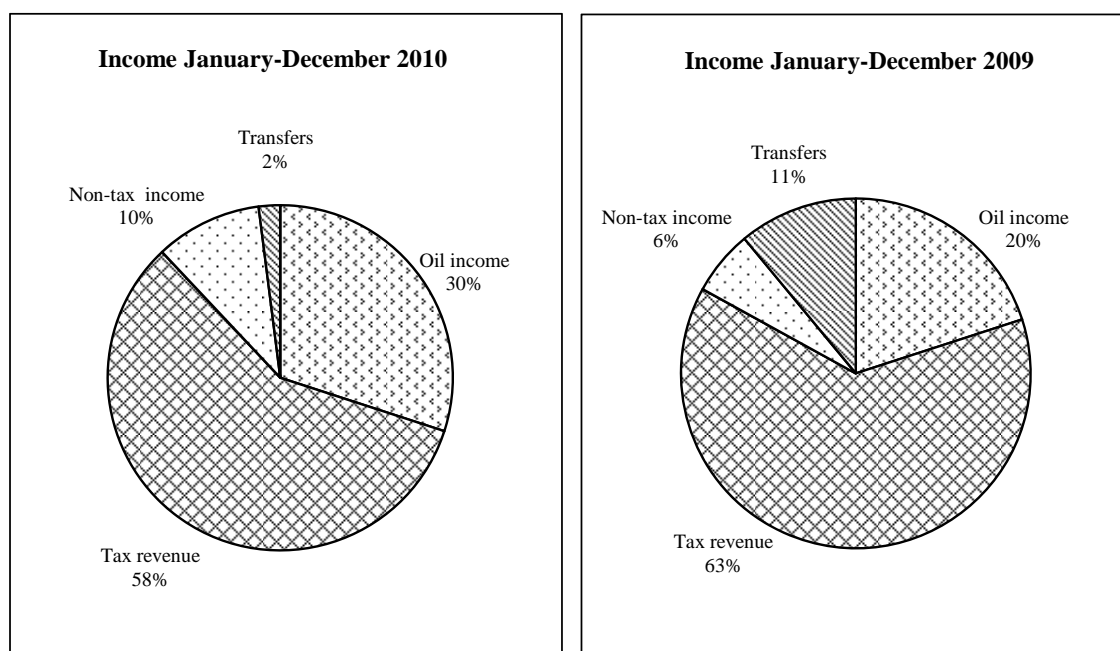
22. The growth of tax revenues mainly reflects VAT which grew by 24.1 per cent, and tariffs which increased by 24.8 per cent, with respect to January-December in the previous year.

23. In contrast, revenue from income tax and transfers decreased by 6.53 per cent and 71.6 per cent, respectively.

### *Composition of income*

24. There were significant changes in the composition of income received by the General State Budget in the period analysed:

### **Charts 2.4 and 2.5**



*Source: Ministry of Finance (prepared by the Ministry of Finance).*

25. Although tax revenue maintained the largest share of the total (58 per cent) between January and December 2010, its relative share was smaller than in the same period in the previous year, when it accounted for 63 per cent, while oil income represented 30 per cent of the total, compared to the previous year's 20 per cent.

26. The share of non-tax income grew from 6 per cent of total fiscal income in January-December 2009 to 10 per cent in the same period in 2010.

27. Transfer income slumped from 11 per cent in 2009 to 2 per cent in 2010.

### ***Tax revenue***

28. Net revenue collected by the Internal Revenue Service (SRI) in 2010 amounted to US\$7,864 million, representing nominal growth of 17.4 per cent compared to the same period in 2009 (US\$6,693 million). The amount collected represented 103.9 per cent of the proportional target set for the period, representing an additional contribution of US\$294 million.

29. Considering all taxes (i.e. SRI revenue plus tariffs), direct taxes accounted for 43 per cent of total revenue received in the period January-December 2010, one percentage point more than in the previous year. Indirect taxes accounted for 56 per cent of total income received, 1 percentage point down on the previous year's figure.

**Table 2.2**  
**Tax revenue, January-December 2009-2010**  
 (US\$ million)

|                              | US\$ million |                     |         | (%)          |                |
|------------------------------|--------------|---------------------|---------|--------------|----------------|
|                              | 2009         | 2010                |         | Growth rate  |                |
|                              |              | Reprogrammed target | Revenue | 2010 vs 2009 | 2010 vs target |
|                              | a            | b                   | c       | c vs a       | c vs b         |
| VAT                          | 3,431        | 4,157               | 4,175   | 21.7         | 0.4            |
| Income tax                   | 2,552        | 2,478               | 2,428   | -4.9         | -2.0           |
| ICE                          | 448          | 508                 | 530     | 18.2         | 4.2            |
| Exceptional income tax       |              | 231                 | 561     |              | 142.7          |
| Motor vehicles               | 118          | 188                 | 156     | 31.8         | -17.1          |
| Outflow of foreign exchange  | 188          | 338                 | 371     | 97.2         | 9.8            |
| Assets abroad                | 30           | 35                  | 35      | 16.4         | 1.6            |
| Simplified tax system (RISE) | 4            | 6                   | 6       | 56.6         | 4.1            |

*Source:* Internal Revenue Service.

30. Value added tax (VAT) was the non-financial public sector's largest permanent income source. The US\$4,175 million in revenue collected between January and December, reflects the following factors, among others: (i) the country's economic activity; (ii) variation in consumer prices; (iii) administrative management of the SRI; and (iv) reform of the Organic Law of Public Enterprises, regarding reimbursement of the 12 per cent tariff on purchases of goods and services by public institutions, including public enterprises, which has affected VAT collection and repayment since this reform entered into force in December 2009. In addition, it also reflects the expiry in 2010 of the temporary safeguard measure applied in 2009 to protect the country's balance of payments position.

31. Although income tax was the country's second-largest revenue earner (US\$2,428 million), in the period under analysis it contracted by 4.9 per cent compared to January-December 2009. This trend reflects the reforms made to this tax as part of a broader tax reform, which affected revenue from: (i) tax returns, basically legal entities (0.4 per cent of GDP), and to a lesser extent tax returns by private individuals; and (ii) advances, which shrank by about 0.1 percentage points of GDP.

### 2.3.3 Accrued expenditure

32. Accrued expenditure in the General State Budget, up to December 2010, amounted to US\$16,200.10 million, which was US\$1,982.10 million more than in the same period in 2009 (US\$14,218 million).

33. The larger outgoing represented capital expenditure of US\$6,431.67 million - up by 21.7 per cent on the 2009 figure (US\$5,283.89 million).

34. Current expenditure in the form of wages and salaries (US\$6,017.17 million) grew by 28 per cent in relation to the same period in 2009 (US\$4,707.83 million).

**Table 2.3**  
**Accrued central government expenditure**  
(US\$ million)

| Description            | 2009<br>Total | 2010<br>Total | January-December   |                   |
|------------------------|---------------|---------------|--------------------|-------------------|
|                        |               |               | Difference<br>US\$ | Difference<br>(%) |
| Total expenditure      | 14,218.00     | 16,200.00     | 1,982.10           | 13.94             |
| Current expenditure    | 8,934.07      | 9,768.43      | 834.36             | 9.34              |
| Wages and salaries     | 4,707.83      | 6,017.17      | 1,309.34           | 27.81             |
| Goods and services     | 824.00        | 1,094.57      | 270.57             | 32.84             |
| Interest*              | 474.11        | 529.79        | 55.68              | 11.74             |
| Current transfers      | 1,962.11      | 1,284.30      | (677.81)           | -34.54            |
| Other current expenses | 966.01        | 842.60        | (123.41)           | -12.78            |
| Capital expenditure    | 5,283.89      | 6,431.67      | 1,147.78           | 21.72             |

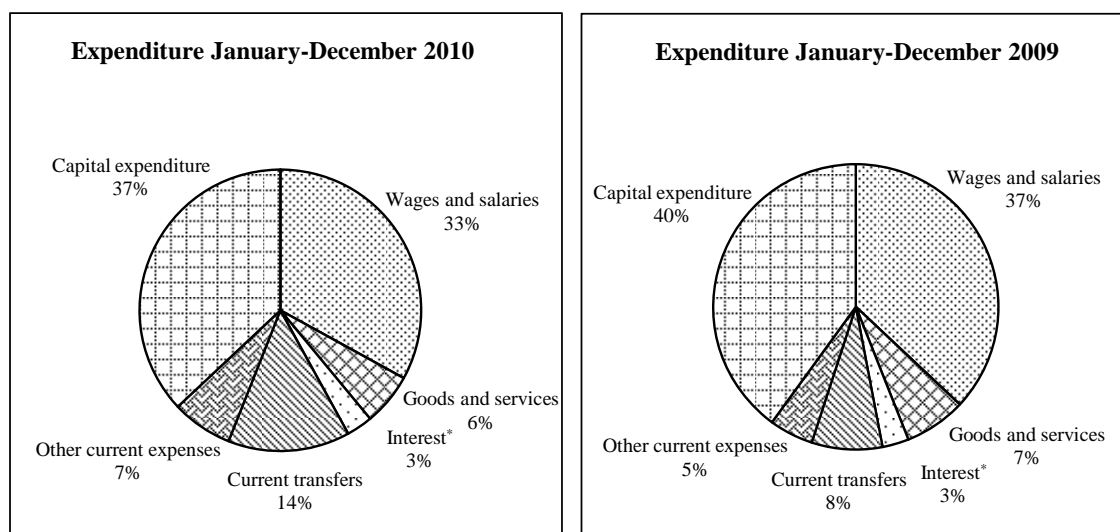
Source: Ministry of Finance (prepared by MF/SCM).

35. Current transfers retreated sharply, falling 34.5 per cent, from US\$1,962.1 million in 2009 to US\$1,284.3 million in 2010.

#### *Composition of expenditure*

36. The structure of expenditure is similar in the two years analysed, although certain differences can be discerned.

#### **Charts 2.6 and 2.7**



Source: Ministry of Finance (prepared by the MF/SCM).

37. Investment expenditure grew in the period January-December 2010, increasing its share by three percentage points from 37 per cent in 2009 to 40 per cent in 2010. On the other hand, the share of current transfers declined sharply by six percentage points from 14 per cent in 2009 to 8 per cent in 2010. In the period analysed, the share of goods and services grew slightly, to account for 7 per cent of total expenditure in January-December 2010. The share of payroll expenses grew from 33 per cent in 2009 to 37 per cent in 2010.

### 2.3.4 Central government balance

38. At the end of 2010, the overall financial position displayed a deficit of US\$1,261.86 million, considerably smaller than the US\$2,635 million shortfall recorded in 2009.

39. In relation to GDP, the overall deficit shrank from 5.1 per cent in 2009 to 2.2 per cent in 2010.

**Table 2.4**  
Central government balance  
(US\$ million)

| Description            | 2009<br>Total     | 2010<br>Total     | January-December   |                   |
|------------------------|-------------------|-------------------|--------------------|-------------------|
|                        |                   |                   | Difference<br>US\$ | Difference<br>(%) |
| Total income           | 11,582.90         | 14,938.25         | 3,355.35           | 28.97             |
| Total expenditure      | 14,218.00         | 16,200.10         | 13,933.44          | 13.94             |
| <b>Overall balance</b> | <b>(2,635.00)</b> | <b>(1,261.86)</b> | <b>1,373.14</b>    | <b>-52.11</b>     |
| % of GDP               | -5.10%            | -2.21%            |                    |                   |
| <b>Primary balance</b> | <b>(2,160.90)</b> | <b>(732.07)</b>   | <b>1,428.83</b>    | <b>-66.12</b>     |
| % of GDP               | -4.20%            | -1.28%            |                    |                   |

Source: Ministry of Finance (prepared by MF/SCM).

40. The primary balance displayed a deficit of US\$732.1 million, down by 66.1 per cent on the US\$2,160.9 million deficit recorded in 2009. The primary balance represented 1.3 per cent of GDP in 2010.

41. The improved fiscal outturn reflects a significant increase in income (28.97 per cent) combined with a moderate increase in expenditure (13.94 per cent).

## 2.4 PUBLIC DEBT

### 2.4.1 Domestic public debt

42. With respect to domestic public debt, Table 4 shows a 2.35 per cent reduction in the balance of US\$4,665.1 million outstanding on 31 December 2010 (8.2 per cent of GDP in 2010) and the US\$4,555.2 million outstanding on 28 February 2011 (7.3 per cent of GDP of 2011). This mainly reflected the payment of US\$96.3 million to consolidate the government's debt with the Ecuadorian Social Security Institute, together with payments and disbursements by Banco del Estado amounting to US\$4.49 million and US\$0.18 million respectively in the stock of debt placed with government entities at 28 February 2011.

43. Amortization payments on the domestic public debt increased by 515.15 per cent from US\$17.89 million in February 2010 to US\$110.03 million in February 2011, owing mainly to the payment of the consolidated debt with the Social Security Institute in January 2011.

44. In contrast, total domestic debt disbursements fell from US\$1.17 million in February 2010 to US\$0.19 million in February 2011, the difference being due to an increase in disbursements by Banco del Estado.

## 2.4.2 External public debt

45. The outstanding balance of external public debt grew by 17.79 per cent, from US\$8,671.72 million on 31 December 2010 (15.2 per cent of 2010 GDP), to US\$8,760.47 million in February 2011 (14.1 per cent of 2011 GDP) (see Table 2.5).

46. This increase reflected the 4.47 per cent upturn in external debt owed to governments (in February 2011) and a 0.11 per cent increase in bank debts and bonds<sup>5</sup>, although there were reductions of 0.21 per cent in debt contracted with international organizations, and 5.36 per cent with "suppliers" in February 2011 compared to December 2010.

**Table 2.5**  
**Outstanding external public debt**  
(Balances at December 2010 and February 2011; US\$ million)

| Category                    | 31/12/2010      | 28/02/2011      |
|-----------------------------|-----------------|-----------------|
| <b>Total external debt</b>  | <b>8,671.72</b> | <b>8,760.47</b> |
| International organizations | 5,257.99        | 5,247.15        |
| Governments                 | 2,258.47        | 2,359.46        |
| of which Paris Club         | 632.20          | 637.47          |
| Banks and bonds             | 1,107.42        | 1,108.59        |
| of which Global Bonds       | 918.03          | 925.51          |
| Suppliers                   | 47.84           | 45.27           |
| <b>External debt/GDP</b>    | <b>15.21%</b>   | <b>14.12%</b>   |

Source: Debt bulletins published by the Under-Secretariat for Public Credit (prepared by the Ministry of Finance).

47. Between February 2010 and February 2011, amortizations increased by 87.8 per cent, from US\$48 million to US\$90.1 million, mainly owing to increases of 230.19 per cent in payments to international organizations and 17.94 per cent in payments to banks between these two dates.

48. Actual disbursements of external debt in February 2010 amounted to US\$7.8 million, compared to US\$110.65 million in February 2011, as a result of a significant increase in government disbursements from US\$1.82 million in February 2010 to US\$110 million in February 2011.

## 2.5 POVERTY AND INEQUALITY

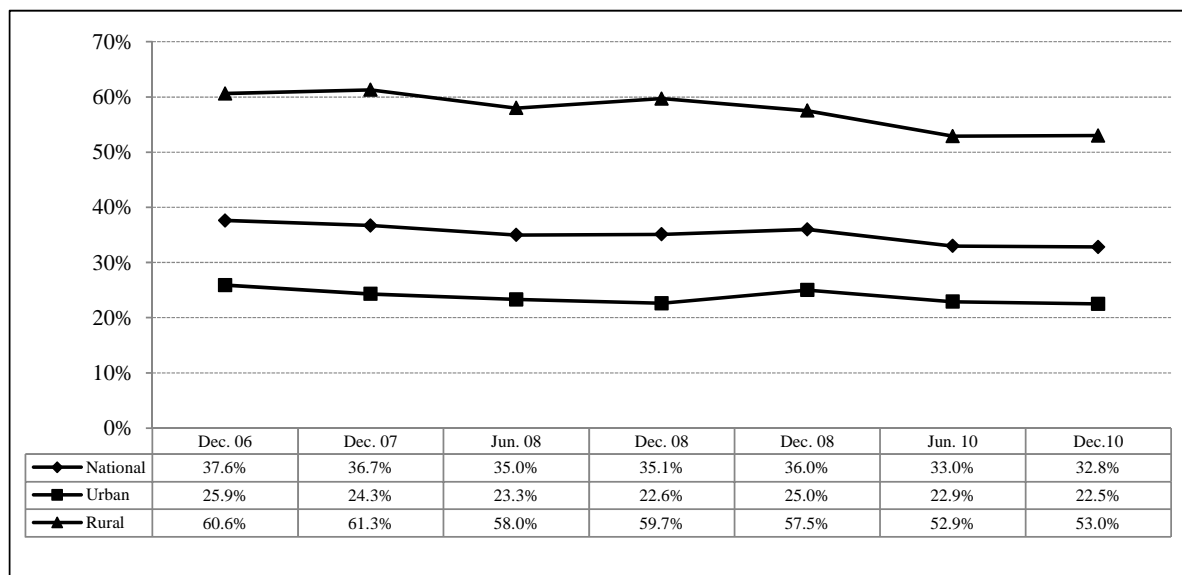
49. The trend of income poverty over the last five years has been positive; the figures show that this did not increase in the period 2006-2010 despite the international crisis. Income poverty nationwide declined from 37.6 per cent in 2006 to 32.8 per cent in 2010. Over the same period, income poverty in urban areas fell from 25.9 per cent to 22.5 per cent; while rural poverty declined from 60.6 per cent to 53 per cent (Chart 2.8). Possible explanations of these results include wage increases, such as the "decent wage" (*salario digno*); the reduction of extreme poverty resulting from government support such as the "Joaquín Gallegos Lara" programme<sup>6</sup>; and the human development credit programme, which benefited 700,000 Ecuadorians who were previously excluded and are now owners of their own businesses.

<sup>5</sup> In the case of global bonds, although there was no disbursement, the balance increased as a result of arrears in debt payments due in January and February 2011.

<sup>6</sup> A programme sponsored by the Office of the Vice-President of the Republic, benefiting persons with physical or intellectual disabilities. Persons in this category receive an official grant, entitled "Joaquín Gallegos Lara", of US\$240, which is paid to parents or relatives of persons with severe disabilities living in extreme poverty. Source: [www.ecuadorinmediato.com](http://www.ecuadorinmediato.com).

**Chart 2.8**  
**Trend of poverty in Ecuador**

Per cent

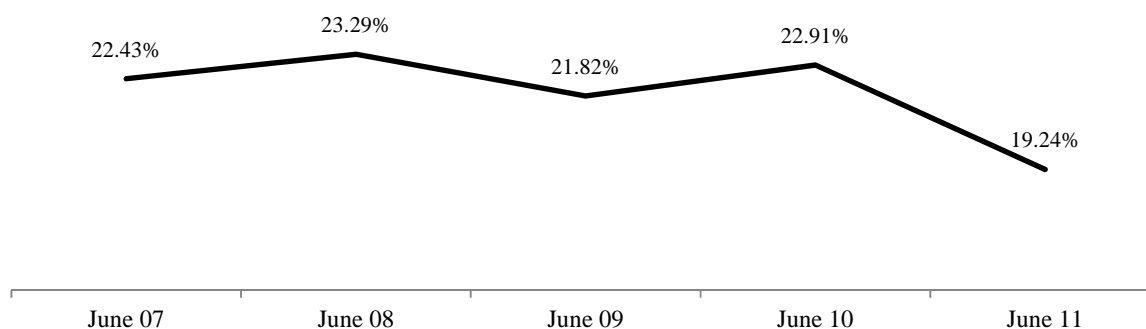


*Source:* ENEMDU (prepared by SENPLADES).

50. Urban poverty decreased substantially in the period June 2007 to June 2011, from 22.91 per cent to 19.24 per cent (Chart 2.9).

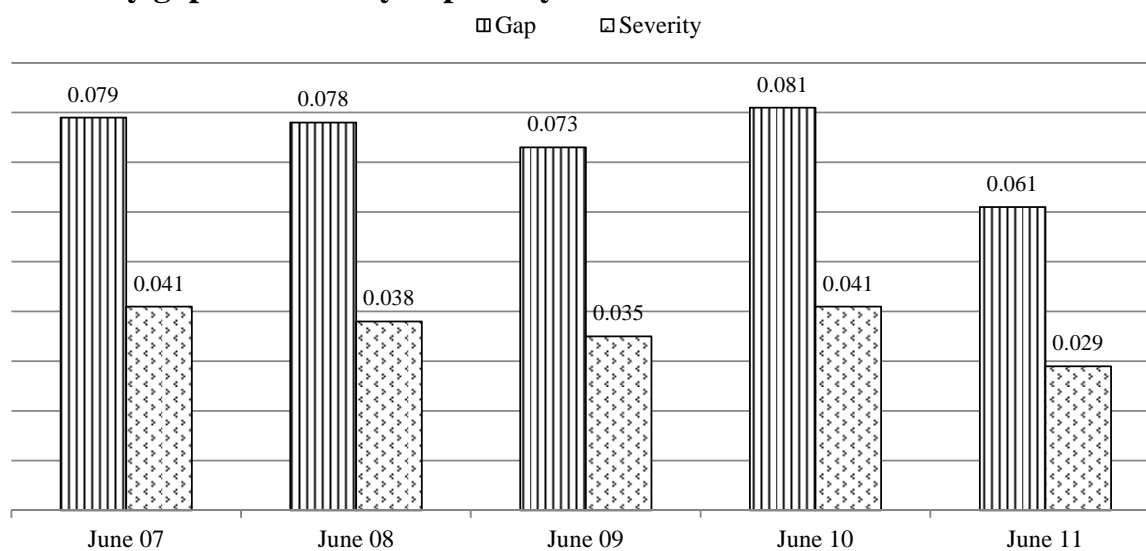
51. Moreover, the poverty severity gap, or intensity of poverty, is also decreasing, which means that the poor are becoming increasingly less poor, as shown in Chart 2.10. The gap between the wealthiest and the poorest segments of the population has also narrowed, with the Gini coefficient falling from 0.52 in June 2007 to 0.47 in June 2011 (Chart 2.11). These figures reflect the recovery of public services, through the provision of goods and services to the most vulnerable population groups, e.g. quality education and health services. The figures are also the result of the implementation of best practices on income redistribution in the Ecuadorian population.

**Chart 2.9**  
**Incidence of urban poverty**



Source: INEC - ENEMDU at June 2011 (prepared by SENPLADES).

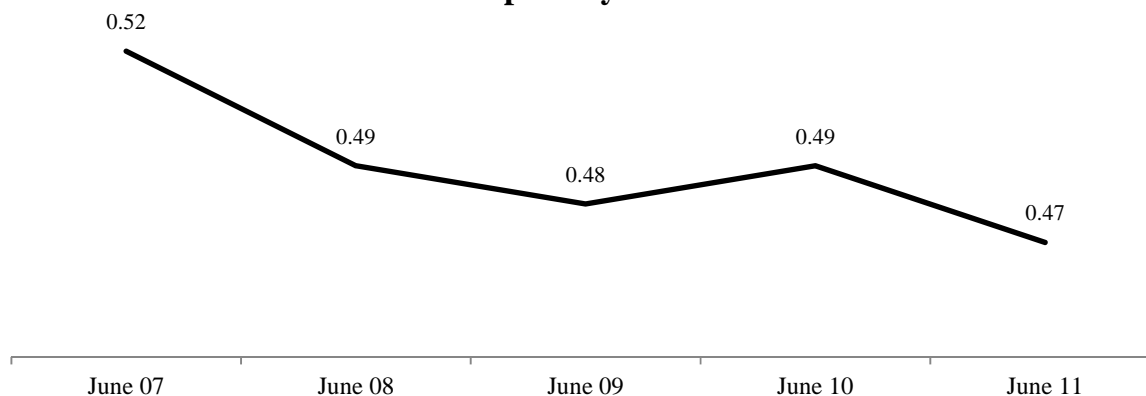
**Chart 2.10**  
**Poverty gap and severity of poverty**



Source: INEC - ENEMDU at June 2011 (prepared by SENPLADES).



**Chart 2.11**  
**Gini coefficient as a measure of poverty**

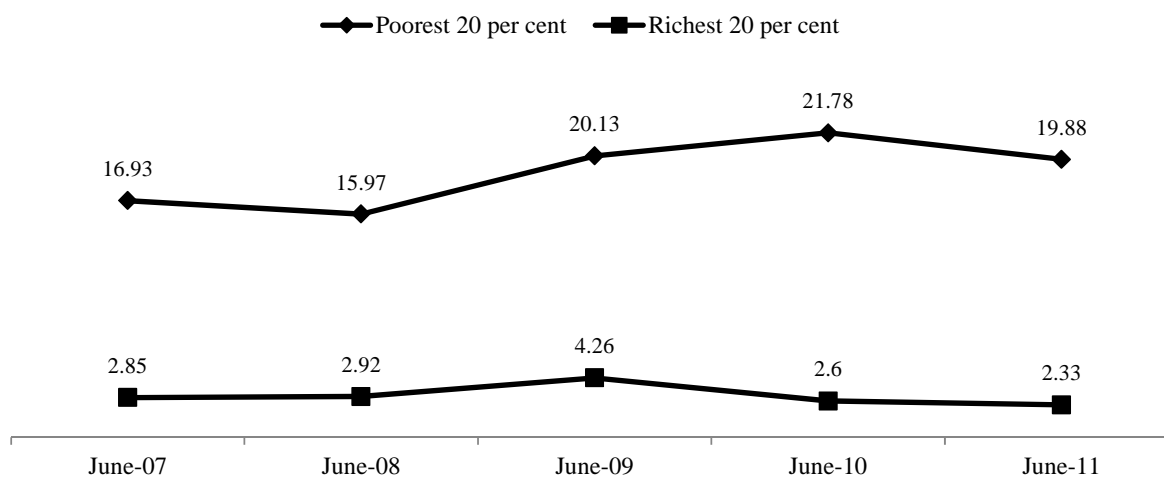


*Source:* INEC - ENEMDU at June 2011 (prepared by SENPLADES).

52. Lastly, unemployment among the most vulnerable population groups has decreased, with joblessness among the urban poor falling faster than among the wealthier groups: 1.9 per cent in the quintile representing the poorest 20 per cent of the population compared to 0.27 per cent in the quintile representing the richest 20 per cent nationwide (Chart 2.12). One of the key explanations for this result is the increase in public investment, and the momentum of the construction sector, which has created jobs for the most vulnerable population groups.

**Chart 2.12**  
**Trend of unemployment by total population quintile**

Per cent



*Source:* INEC - ENEMDU at June 2011 (prepared by SENPLADES).

### 3. ECONOMIC POLICY

#### 3.1 THE 2008 CONSTITUTION AND THE NATIONAL PLAN FOR GOOD LIVING

##### *The 2008 Constitution*

53. Since Ecuador's first WTO trade policy review in 2005, far-reaching changes have occurred in the country, including the new Constitution approved in 2008, which lays the foundations for a new endogenous development model and also prioritizes integration among the different peoples, particularly the Latin American peoples.

54. In relation to development, the new model makes it a State duty to plan national development, eradicate poverty, promote sustainable economic growth and the fair redistribution of resources and wealth, in order to allow access to "Good Living" (*Buen Vivir*).

55. Good Living is a State-guaranteed objective that recognizes and guarantees the right to food sovereignty and the right of the population to live in a healthy and ecologically balanced environment that ensures sustainability and good living (*sumak kawsay*). It also proclaims the public interest in protecting the environment, conserving ecosystems, biodiversity and the integrity of the country's genetic heritage, prevention of environmental damage, and the recovery of degraded natural spaces.

56. The State also promotes the use of environmentally clean technologies and non-polluting low-impact alternative energies, in both the public and the private sector. Energy sovereignty cannot be achieved at the expense of food sovereignty, or by impairing the right of the entire population to water.

57. In relation to the rights of nature, environmental services are not subject to appropriation; and their production, provision, use, and exploitation are regulated by the State.

58. Among its competencies, the central government is responsible for directing international relations, for formulating economic, tax, customs and tariff as well as fiscal and monetary policies, and for external trade and debt management.

59. The Constitution defines the development regime as the organized, sustainable and dynamic group of economic, political, sociocultural and environmental systems that guarantee the achievement of Good Living.

60. The economic system specified by the Constitution is social and solidarity-based; it recognizes the human being as subject and end; it promotes a dynamic and balanced relationship between society, State and market, in harmony with nature; and it aims to guarantee the production and reproduction of the material and non-material conditions that make Good Living possible.

61. The State is responsible for providing incentives for national production, systemic productivity and competitiveness, the accumulation of scientific and technological knowledge; strategic engagement in the world economy, and complementary productive activities in regional integration. It is also required to ensure food and energy sovereignty; promote the incorporation of value-added with maximum efficiency, within the bio-physical limits of nature and respect for life and cultures; and to promote the fair and complementary exchange of goods and services in transparent and efficient markets, giving priority to satisfying the needs of persons and society, among others.

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62. Ecuador's economic policy aims to effectively fulfil the rights established in the Constitution, and to attain the objectives of the development regime and the National Development Plan.
63. Trade policy aims to develop, strengthen and invigorate domestic markets, in accordance with the strategic objective laid down in the National Development Plan; and to regulate, promote and implement the actions needed to further the country's strategic integration into the global economy.
64. The State prioritizes integration with Latin American and Caribbean countries. It also seeks to strengthen the national productive apparatus and boost domestic production, and must help ensure food and energy sovereignty and reduce internal disparities.
65. The State is also required to foster the development of economies of scale and fair trade. It must encourage environmentally responsible exports, preferably those that generate higher employment and value-added, and exports from small and medium producers and the crafts sector in particular.
66. In relation to imports, the State will promote those needed for full exercise and enjoyment of the rights established in the Constitution; and it will discourage those that have an adverse effect on national production, the population, and nature.
67. In principle, the Ecuadorian State cannot be made subject to foreign jurisdiction in disputes with private individuals, except for the arbitration procedures pertaining to Latin American integration, which are provided for in the Constitution. Nonetheless, arbitration can be agreed upon in the framework of the "investment contracts" governed by the Organic Code of Production (COP).
68. As regards strategic sectors, services and public enterprises, the State can reserve the right to manage, regulate, control and administer strategic sectors, in accordance with the principles of environmental sustainability, precaution, prevention and efficiency.
69. Strategic sectors, subject to exclusive government decision-making and control, are those whose transcendence and scale give them a decisive economic, social, political or environmental influence; they must be oriented towards full development of rights and social interest. Strategic sectors are defined as energy (all forms), telecommunications, non-renewable natural resources, transport and refining of hydrocarbons, biodiversity and genetic heritage, the electromagnetic spectrum, water, and all other sectors determined as such by law (*the PNBV lists others that could be added*).
70. Non-renewable natural resources are an inalienable and non-transferable part of State patrimony. Water is a strategic national asset of public use; it is the inalienable and non-transferable property of the State, and constitutes a vital element of nature and the existence of human beings. The Constitution prohibits the privatization of water in any form.
71. The State is required to foster modes of production that ensure Good Living for the population, and to discourage those that undermine the rights of people or nature. It will encourage production that satisfies domestic demand and ensures Ecuador's active participation in the international arena.
72. Intellectual property is recognized in accordance with, and subject to, the law. The Constitution prohibits all forms of appropriation of collective knowledge - science, technology and ancestral knowledge. It also prohibits the appropriation of genetic resources forming part of biological diversity and agro-biodiversity.

73. The Ecuadorian State develops policies to foster national production in all sectors, particularly to guarantee food and energy sovereignty, and to create jobs and value-added. It also oversees and promotes fair trade as a means to obtain quality goods and services, so as to minimize the distortions of intermediation and promote sustainability.

74. The State will promote both national and foreign investments, and will establish specific regulations for different types of investment, prioritizing national investment. Investments will be guided by criteria of productive diversification, technological innovation and the generation of regional and sectoral equilibria.

75. Foreign direct investment (FDI) will be complementary to domestic investment and subject to strict respect for the legal framework and national regulations, and the application of human rights and the rights of nature; and it will be guided by the needs and priorities defined in the National Development Plan and in the various development plans of the decentralized autonomous governments.

76. The Organic Code of Production, Trade and Investment (COPCI) defines principles, rights and guarantees for foreign investment, such as non-discrimination and the understanding that foreign investors have the same rights and obligations as domestic ones. It also establishes the right to transfer abroad part or all of the profits or returns obtained from the investment, subject to compliance with the corresponding obligations. Tax stability is guaranteed by maintaining the income-tax rate in force at the time of making a new investment, for a predetermined period (which depends on the case in question). Legal stability is also provided, as well as the possibility of signing investment contracts giving access to arbitration mechanisms, including international ones. It is also possible to sign investment contracts that specify the treatment to be given to the investment under the COP.

77. Property rights are guaranteed by providing that the investment will not be expropriated or nationalized, either directly or indirectly - except when this is in the public interest, in which case it will be done equitably, and by payment of prompt, adequate, and effective compensation, according to legal procedures, observing the principle of fair and non-discriminatory treatment. Lastly, freedom of access to the national financial system and securities market is established for the purposes of obtaining short, medium and long-term credit to implement investment projects.

78. Food sovereignty is a strategic objective of Ecuadorian society, which obliges the State to promote and facilitate agri-food and fishery production and processing by small and medium-sized enterprises and community and solidarity-based grassroots production units, destined basically for local and domestic consumption by setting up distribution and marketing systems. For that purpose, the State must adopt fiscal, tax, and tariff policies to protect the national agricultural and fisheries sector, with a view to reducing reliance on food imports.

79. The State must also recover and preserve ancestral knowledge and genetic resources as part of the Ecuadorian people's heritage, guarantee rights concerning the use and conservation of seeds, and promote their free exchange.

80. In relation to biodiversity, the Constitution declares Ecuador free from transgenic crops and seeds. On an exceptional basis, and only in the case of national interest duly justified by the Office of the President of the Republic and subject to approval by the National Assembly, genetically modified seeds and crops may be introduced.

81. The Constitution prohibits the granting of rights, including intellectual property rights, on derived or synthesized products obtained from collective knowledge relating to national biodiversity.

82. The State also will not make commitments in conventions or cooperation agreements that contain clauses which impinge on the conservation and sustainable management of biodiversity, human health, collective rights and the rights of nature.

83. On the principles of international relations, it prioritizes the political, cultural and economic integration of the Andean region, South America and Latin America. It also promotes a new system of trade and investment between States, based on justice, solidarity, complementarity, the creation of mechanisms for the international control of multinational corporations, and the establishment of an international, fair, transparent and equitable financial system. It rejects the notion that disputes with foreign private enterprises should become conflicts between States.

84. The international treaties ratified by Ecuador will be subject to the provisions established in the Constitution.

85. Integration, particularly with Latin American and Caribbean countries, is a strategic objective of the Ecuadorian State. To that end, it must promote economic, equitable, solidarity-based and complementary integration; productive, financial and monetary unity; the adoption of a common international economic policy; the promotion of policies to overcome regional asymmetries; and regional trade, with emphasis on goods of high value-added.

86. The State must also promote joint strategies for the sustainable management of the country's natural heritage, particularly the regulation of extractive activities; sustainable cooperation and complementation in the energy field; conservation of biodiversity, ecosystems and water; research, scientific development and the exchange of knowledge and technology; and the implementation of coordinated strategies on food sovereignty.

87. It also favours the consolidation of supranational organizations made up of Latin American and Caribbean States, and the signing of international treaties and other instruments on regional integration.

### **National Plan for Good Living (PNBV) 2009-2013**

#### ***Background***

88. In January 2007, Ecuador started to develop the 2007-2010 National Development Plan; the challenge now is to consolidate it. To that end, the PNBV 2009-2013 poses new challenges aimed at materializing and radicalizing the project for change to construct a plurinational and inter-cultural state, and ultimately achieve Good Living (*Buen Vivir*)<sup>7</sup> for all Ecuadorian people.

89. As was the case with the Plan in force during the previous government period, the 2009-2013 Plan takes up and aims to bring about changes not only in the public domain but also in the productive sphere, which are defined in the Citizen Revolution project. These commitments to change were also guidelines for the constituent process of 2008, which ultimately formed part of the new social covenant reflected in the new Constitution of the Republic of Ecuador.

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<sup>7</sup> The term *Buen Vivir* (Good Living) implies the satisfaction of needs, attainment of a quality of life and reconstruction of the public domain. It also entails expanding individual freedoms, capacities, opportunities, and potentials to make it possible to simultaneously achieve what society, local territories, collective identities, and each individual - seen as both a universal and an individual being - value as a desirable life goal (SENPLADES: 10).

90. The proposals contained in the PNBV 2009-2013 raise major technical and political challenges and involve substantial methodological and instrumental innovations. Nonetheless, the Plan's deeper significance stems from the conceptual break it makes with classical liberalization models and more orthodox approaches to the concept of development.

91. The PNBV accordingly starts from a wide-ranging search for alternative ways of life that have been promoted particularly by social stakeholders in Latin America over the last few decades, by lobbying against the neoliberal economic model. In the Ecuadorian case, these claims were recognized and incorporated into the Constitution, thus becoming the principles and orientations of the new social covenant.

92. The PNBV is therefore a commitment to change that is being constructed continuously out of those claims to strengthen a broader vision, reaching beyond the narrow quantitative boundaries of economic thinking. It allows for the application of a new economic paradigm whose purpose is not concentrated in processes of material, mechanistic and endless accumulation of goods, but promotes an inclusive, sustainable and democratic economic strategy. In other words, its vision incorporates into the processes of accumulation and redistribution those sectors of the population that have historically been excluded from the market logic, and forms of production and reproduction that are based on principles that depart from that logic.<sup>8</sup>

93. Lastly, the PNBV is also based on calls for equality and social justice, and the recognition, valuation, and dialogue of peoples and their cultures, know-how and ways of life.

94. On the international front specifically, the Plan mentions the need for intelligent and sovereign participation in trade. To establish a different equilibrium, emphasis is placed on South-South integration, without neglecting already consolidated market niches.

95. For the first phase of its application in 2009-2013, this new mode defines 12 strategies for change, of which those relating to the economic and commercial domain are described below:

### *Strategies*

96. The National Planning and Development Secretariat (SENPLADES), as the governing institution of State planning, is responsible for issuing public-policy guidelines in all of the national government's spheres of action. In that regard, the National Development Plan, now entitled National Plan for Good Living 2009-2013 (PNBV), defines the national objectives aimed at achieving the goal of Good Living. The latter is a proposal for change away from the traditional economic model, which seeks to place the human being ahead of economic activity.

97. In the domains relevant to this report, two of the 12 national objectives established in the PNBV should be highlighted:

- Objective 5: *Guarantee sovereignty and peace, and promote strategic insertion in the world as well as Latin American integration.*
- Objective 11: *Establish a solidarity-based and sustainable socio-economic system.*

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<sup>8</sup> *Buen Vivir* is also based on calls for a review and reinterpretation of the relation between nature and human beings; in other words a shift from the current anthropocentrism to biopluralism, while human activity uses natural resources adapted to their natural generation (regeneration) (Guimaraes in Acosta, 2009).

98. To achieve these objectives, SENPLADES promotes productive diversification by identifying industries as priorities for changing the production pattern (matrix). Public-policy guidelines are put forward to intensify the development and inclusion of these industries. This change is based on a selective import-substitution model, rather than productive development and export orientation.

99. With regard to strategic participation in the global arena, SENPLADES promotes a trade strategy for the selected industries, for example by prioritizing trade offices for market and product diversification, and promoting a logistics plan for trade facilitation in the selected industries. These trade offices have a strategic role to play, not only limited to the introduction of products on markets, but also by facilitating access to external resources for the country's endogenous development. Small-scale producers and local community and solidarity-based economies have been taken into account both in the inclusive strengthening of the domestic market through productive diversification, and in strategic integration into the world market. The strategies put forward by SENPLADES stress their inclusion domestically but even more at the international level.

100. Another of the trade policies pursued by SENPLADES involves signing trade for development agreements (TDAs). Unlike the traditional types of agreement, TDAs include long-term planning objectives with a new vision on trade and its links with development. Without departing from the multilateral trading system framework, TDAs include cooperation and political dialogue, in addition to trade issues, and should form the basis for the trade negotiations undertaken by Ecuador.

101. Lastly, the aforementioned policies go hand-in-hand with a prioritization of public investment projects aimed at fulfilling national planning objectives, generating domestic conditions that allow for strategic engagement in the world economy and Latin American integration, and provide incentive for a sustainable and solidarity-based economic and social system, by promoting sectors that generate value-added, increasing their profitability and strengthening the country's systemic productivity.

102. The following strategies have been proposed:

- Democratization of the means of production, redistribution of wealth, and diversification of forms of ownership and organization.
- Transformation of the economy's pattern of specialization through selective import substitution to foster Good Living.
- An increase in real productivity and diversification of exports, exporters, and export markets worldwide.
- Strategic and sovereign integration in the world and Latin American integration.
- Connectivity and telecommunications to build the information society.
- Sustainability, conservation, awareness of the natural heritage and promotion of community tourism.

103. With these foundations, the Plan sets forth a planning logic based on the major national objectives for Good Living that were already proposed in the 2007-2010 National Development Plan, and were updated according to parameters relating to performance on national targets, with different proposals for public, sectoral and territorial action, and in particular the need to meet the challenges posed by the new constitutional framework.

104. For that purpose, the National Plan for the Development of Good Living (*Plan Nacional de Desarrollo del Buen Vivir*) proposes the following economic and trade policies:

- Promote the production of healthy and culturally appropriate food products from the basic shopping basket for domestic consumption, avoiding reliance on imports and unhealthy nutritional habits.
- Promote the domestic food industry, by taking steps to revive and innovate in producing high-quality, healthy products of high nutritional value, coordinating agricultural production with local consumption.
- Promote, manage and plan the integrated and sustainable management of water resources to guarantee the availability of water in sufficient quantity and quality to ensure food and energy sovereignty.
- Expand national capacity for power-generation based on renewable sources.
- Promote the creation of a new international financial architecture that contributes to the objectives of collective production and welfare, with transparent and solidarity-based mechanisms, under principles of social, gender and environmental justice.
- Attract external saving, in the form of public and private FDI, for long-term sustainable projects that respect the rights of individuals, communities, peoples and nationalities, and which transfer technology and create decent jobs.
- Apply mechanisms for making use of the progress achieved by transferring science and technology to the benefit of the country.
- Align international cooperation with the national objectives for Good Living, institutionalizing accountability mechanisms and permanent impact evaluation systems.
- Promote commercial relations and international cooperation with decentralized autonomous governments throughout the world.
- Define priority spheres of action for international cooperation in Ecuador.
- Promote TDAs as tools to encourage complementarity, solidarity and the reduction of asymmetries between countries.
- Promote the inclusion of social factors in economic and trade integration agreements.
- Actively promote triangular and South-South cooperation, encouraging micro, small and medium-sized enterprises (MSMEs), and solidarity-based firms.
- Support regional and subregional integration agencies to strengthen the process of Andean, South American and Latin American integration, as well as integration with the Caribbean, through convergence mechanisms and processes that deepen integration between the different peoples.



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- Improve connectivity with Latin America and the Caribbean.
  - Coordinate, on a convergent basis, the economic, social, cultural, migratory and environmental policies of countries that are members of the regional integration schemes in which Ecuador participates.
  - Prioritize joint negotiation as a bloc with South American countries to achieve beneficial agreements by increasing the region's bargaining power.
  - Promote regional integration through productive integration, as a means of achieving trade complementarity with the rest of the world.
  - Promote mechanisms that facilitate the free movement of people within the region and encourage tourism exchange.
  - Consolidate the region's financial institutions as an alternative to traditional multilateral lending agencies, and promote the use of single regional clearing house systems.
  - Specify strategic State guidelines on the marketing of Ecuadorian products abroad.
  - Define and implement mechanisms for the transfer of resources and technology with a direct social impact.
  - Make the most of the country's capacities to influence the international agenda and bilateral and multilateral policies which, among other things, facilitate the exercise of rights and guarantee the protection of Ecuadorian citizens living abroad.
  - Diversify Ecuadorian exports to the rest of the world, prioritizing complementarities with the economies of the South, with fair trade that protects domestic production and consumption.
  - Include new participants in foreign trade, particularly micro, small, and medium-sized production units and the non-industrial sector, promoting environmentally responsible and job-creating initiatives.
  - Set up international export guarantee mechanisms, particularly for MSMEs, solidarity-based enterprises and grass-roots organizations, prioritizing those that involve women from various population sectors, including priority groups, peoples and nationalities.
  - Defend the nation's commercial interests at the bilateral and multilateral levels, adopting measures to protect domestic production and consumption as necessary.
  - Maintain foreign-trade relations with a focus on domestic legal certainty, and prevent private interests from affecting relationships between States.
  - Implement a selective import-substitution scheme that promotes the imports that are essential to the objectives of Good Living, particularly production inputs, and discourage those that have a negative effect on domestic production, population and nature.

- Institutionally strengthen customs services to achieve efficiency and transparency and facilitate international trade.
- Position the country, on the strength of its natural heritage, in the global mechanisms to combat climate change.
- Apply incentives to develop value-added generating activities, particularly in the industrial and services sectors.
- Diversify modes of production, the provision of services and their capacities to add value in order to expand domestic and export supply.
- Promote imports that are essential to the objectives of Good Living, particularly production inputs, and discourage those that have a negative effect on domestic production, population and nature.
- Recognize the diversity of economic actors, and promote their effective participation in economic decision-making mechanisms.
- Promote small and medium-sized productive units for local territorial strengthening and complementarity, both nationally and within regional integration frameworks.
- Maintain and expand the domestic transport system and multimodal mobility so as to foster domestic and external trade, as well as national and regional integration.
- Manage customs services in an efficient and transparent manner to facilitate export and import trade.
- Apply selective tariffs, subsidies and other measures to regulate trade on the basis of national interests, while respecting the country's international commitments. Implement a tax-and-tariff policy to protect and promote domestic production, wealth redistribution, income and environmental responsibility.
- Expand domestic protection to cover goods produced by the grass-roots and social and solidarity-based economy, against social dumping in international trade and protectionism by central States.
- Define norms and standards for products and services to guarantee consumers' rights and promote domestic production.
- Generate incentives for environmentally responsible export products that create jobs and value-added, particularly those originating in small and medium-sized cooperative production and the crafts sector.
- Stimulate systemic productivity, with a view to creating favourable production conditions in the endogenous economy for Good Living.

105. In short, the PNBV 2009-2013 proposes a paradigm shift in terms of development, which goes beyond economic growth, is adapted to our realities and offers integrated vision and a retargeting of priorities. The productive model is adapted the needs of the community, and its results are measured by its effect on the quality of life of individuals, the satisfaction of their needs, its

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contribution to making the most of human opportunities and capacities, and its relation with the environment.

### 3.2 DOLLARIZATION

106. Since 2000, Ecuador has implemented a dollarization scheme, which was adopted, as claimed at the time by economic policymakers, to halt the rapid depreciation of the sucre (the national currency at that time), and to avert a process that threatened to lead the economy into hyperinflation, in one of the worst crises of the country's history. Dollarization meant replacing the national currency, the sucre, by the United States dollar, which became the means of payment in the economy.

107. In practice, this substitution had two effects for domestic monetary and exchange-rate policy. In terms of monetary policy, dollarization meant that the Central Bank of Ecuador renounced the capacity to issue its own currency and thus ceased to be able to conduct monetary policy through the money supply. In terms of the foreign-exchange system, dollarization meant the strictest possible commitment to a fixed exchange rate, because it meant the total replacement of the national currency by foreign exchange at an exchange rate that was set once and for all and could not be altered. The loss of the ability to issue money also meant an inability to implement exchange-rate policy.

108. In a dollarized economy, domestic liquidity depends exclusively on the balance of external accounts. When an economy has no issuance capacity, the money supply is the outcome of transactions between the domestic economy and the rest of the world. This makes it much more sensitive to its international trade and financial relations. Accordingly, liquidity changes in the economy will largely depend on the outturn of the balance of payments. External shocks that cause sharp and significant changes in foreign-exchange flows into the country tighten liquidity in the economy and almost automatically cause corresponding adjustments in the real sector, namely production, employment and public well-being. The greater vulnerability of the dollarized economy has no counterpart in the capacity of economic policy to affect its performance; on the contrary, economic policymakers have few intervention tools and those that do exist are less effective in responding to unforeseen shocks. Hence it is essential for the Ecuadorian economy to develop the external sector and adequately manage its trade policy, within the multilateral commitments it has assumed, but which enable it to protect liquidity and thus the level of production and well-being of the population.

109. The reality of a dollarized economy also meant a reorganization of the country's internal institutional framework, to make it more consistent with the scheme being implemented. The new 2008 Constitution restructured the functions of several institutions to adapt them to the reality of dollarization, but mainly to integrate them in a new institutional framework to promote structural change in the Ecuadorian economy. Thus, the formulation of monetary, credit, exchange-rate and financial policies became an exclusive government prerogative, implemented essentially through the Central Bank of Ecuador (BCE) and the institutions comprising the public banking system. These policies also have explicit objectives, including: (a) providing means of payment for the system to operate efficiently; (b) establishing liquidity levels that ensure adequate margins of financial security; (c) directing surplus liquidity towards investment; and (d) promoting national saving, the financing of productive sectors, seeking price stability and maintaining equilibrium in the balance of payments. The latter is critical in a dollarization setting, because adequate management of economic policy and the administration of flows is crucial for guaranteeing the inter-temporal sustainability of the existing monetary framework. Dollarization requires a public policy to moderate excessive fluctuations in the balance of payments, because the money supply and, hence, the level of real activity in the economy depend directly on this.

110. Dollarization has had major consequences for the Ecuadorian economy, particularly by eliminating exchange-rate uncertainty, reducing the inflationary effect of devaluation, and strengthening fiscal discipline by making it impossible to finance the fiscal deficit by printing money. The commitment towards dollarization is extremely important, and the policies implemented over the last few years are aimed at strengthening the scheme and guaranteeing its permanence through time.

111. Among the institutional changes that have occurred in Ecuador, special mention should be made of those affecting the functions of the BCE. To respond to the reality of dollarization, but also to allow for coherent management of the economy with the aim of fulfilling the medium and long-term objectives of the PNBV and the new Constitution, several public institutions had to be reorganized within a new macroeconomic management logic; and many of them, including the BCE, had their functions and objectives reassigned.

112. In an economy with its own currency, central banks have the role of maintaining price stability through adequate management of an independent monetary policy. To fulfil this purpose, central banks need autonomy from the government, to protect them from the pressures that the latter might exert to monetize the fiscal deficit, i.e. to finance gaps in the government's accounts by issuing money, thus contributing to price instability. The autonomy of central banks is, within this rationale, closely linked to their capacity to issue money. As noted above, dollarization eliminated the country's capacity to issue its own currency, and will thus also have eliminated any possibility for the Central Bank of Ecuador to finance government accounts. In that case, and given the new characteristics of the economy, central bank autonomy was no longer necessary, and in fact the institution had to be included within the country's new institutional framework.

113. Accordingly, the BCE's functions were reassigned within the new regulatory framework, bearing in mind that, although the country was no longer able to issue its own currency, this did not mean that it could do without a central bank altogether. In fact, the Central Bank of Ecuador still fulfils important functions such as: (a) avoiding systemic risk under the dollarization scheme, by ensuring adequate administration and regulation of the payments system; (b) managing liquidity in the economy by specifying bank reserve requirements or other control mechanisms; (c) channelling the savings of the various economic sectors through the public banking system into investment in the productive sector; (d) managing freely usable international reserves; (e) serving as the depository of public funds and the government's financial agent; (f) undertaking operations such as: international transactions, centralized securities custody services, management of currency in circulation, electronic certification and others; (g) producing macroeconomic statistics concerning the main sectors of the economy; and (h) providing technical support and serving as executor of economic policy aligned with the broad objectives of the National Development Plan and the guidelines put forward on the basis of the economic policy agenda.

### **3.3 FISCAL POLICY**

114. The fact that tax policy in Ecuador has not changed significantly over the last five years can be seen as negative for the country's external trade. In fact, over the last four years, policy has tended to generate greater liquidity for legal entities, private individuals and wage earners, which has increased the consumption capacity of middle and lower-income sectors, favouring trade in consumer products - both domestically produced and imported. Tax incentives for industries in relation to newly hired workers, for hiring disabled people, and for better and more productive use of clean technology; and income-tax deductions for training, technical assistance, trade promotion, and deductions for private individuals provided in the law governing the domestic tax regime, are good examples of that.

115. The basic principle guiding the actions of the tax administration, specified in the Constitution of the Republic, is to alter the relation between direct and indirect taxes, since the latter are considered not to contribute to redistributive justice. In 2005 this ratio was 32.1 per cent direct taxes to 67.9 per cent indirect taxes; but by 2010, the balance had shifted to 44 per cent direct and 56 per cent indirect.

116. Revenue growth of 100.15 per cent between 2005 and 2010 (from 3,929 billion to 7,864 billion) was the result of a substantial improvement in tax control, assessment and collection processes; as well as decisive corrective actions in response to tax offences. The number of tax-control visits to commercial premises increased by 800 per cent between 2005 and 2010.

117. The new taxes have contributed less to overall revenue than the tax benefits granted through the latest reforms. The total effect of the partial reforms made to the tax structure has reduced potential revenue rather than increased it.

118. Value added tax has remained unchanged at 12 per cent, compared to a weighted average of over 18 per cent in the rest of Latin America.

119. The special consumption tax on communications was abolished; and this represented a greater loss of tax revenue than the total amount collected through new taxes and reforms - the special consumption tax on casino games and luxury vehicles, among others. Apart from the exceptional income tax, created to tax the exceptional profits made by oil companies, which brought in US\$220 million in its first two years, compared to a universe of over US\$8,000 billion, the other taxes created - the rural land tax, the tax on foreign exchange outflows and the tax on assets held abroad - have contributed roughly US\$62 million in tax revenue.

120. Facilities have been implemented to enable taxpayers to file income-tax returns and monthly value added tax (VAT) declarations over the Internet. The transactional annexes have been simplified, and electronic invoicing has been implemented. Similarly, income-tax reimbursement has been automated, as well as requests for the repayment of value added tax through the computer network, which are dealt with within 72 hours. Citizens may now use the Internet to claim their rights, file complaints and propose improvements to the systems; and these are handled by a recently created Taxpayer Rights Department.

121. Criteria have been increased in respect of the expenditure deductibility for all types of enterprise, including trade promotion expenses for gaining access to international markets; and incentives have been provided to undertake economic activities in depressed and special economic zones, which are accessible without distinction to both domestic and foreign legal entities.

122. With the aim of formalizing broad sectors of the informal economy, the Ecuadorian simplified tax system (RISE) was created as an abbreviated system for declaration and payment of direct and indirect taxes by taxpayers whose annual income from commercial activities or services does not exceed US\$60,000 per year. The fixed monthly tax rates range from US\$1.17 to US\$212.40, depending on the economic activity in question.

123. The RISE was created through the tax reform in 2007 and came into effect in 2008. With the key aim of combating informality, by 2010 the system had 450,205 taxpayers registered, contributing US\$5,744,900.00 in revenue.

124. The Organic Code of Production, Trade and Investment, which has been in force since January 2011, has provided incentives for legitimate economic activities of all kinds, including commerce, through a general and gradual three-percentage-point cut in income tax and, for new

companies, a five-year income-tax exemption. As a result of these measures, Ecuador has one of the lowest personal and corporate income taxes in the world.

125. A tax reform proposal is currently under discussion, with the basic aim of correcting environmental and public health imbalances, to promote more responsible use of fossil fuels, non-degradable plastics and non-recyclable packaging. This proposal envisages sanctions for vehicles of higher fuel consumption and pollution levels, together with an incentive for hybrid and electric-powered vehicles. In the case of plastic packaging, the proposal is to tax the producer at a rate of two cents for non-returnables that cannot be recycled.

126. The reform also discourages cigarette consumption, by increasing the duty on this type of product. It also corrects shortcomings in the collection of the ICE on both imported and domestically produced beverages, using a single calculation parameter, based on the establishment of a general specific and *ad valorem* tax on special consumptions, per litre of pure alcohol.

### 3.4 FINANCIAL POLICY

127. It is essential for Ecuador to consolidate a stable and strong financial system in the long term, based on appropriate indicators of liquidity, solvency and asset quality, while avoiding oligopolistic practices. For that purpose, the government policy guidelines aim to underpin the financial security network, improve systemic risk prevention and deal with any future bankruptcies at the lowest possible social cost. In that regard, the government is working actively to strengthen supervision and control of the financial system, which will make it possible to deal with the liquidity and solvency problems of financial institutions on a timely and efficient basis, and increase the level of trust among depositors.

128. Although the financial system recovered from the 1999-2000 crisis, in the ensuing years, its structure still lacked depth (limited access), and it provided little financing for the productive sector. Against this backdrop, from 2007 onward, the government of President Rafael Correa introduced the Law Creating the Financial Security Network, which was finally promulgated in 2008. This legislation forms the first pillar of the new financial architecture that above all pursues financial-system stability and solidity through effective actions by the Ecuadorian government, and should also ensure that the financial sector serves the productive sector.

129. The Ecuadorian financial sector has been strengthened since 2006, following the enactment of the Financial Justice Law, which lowered the fees charged by financial entities, with a view to stimulating financial intermediation. In 2007-2011, regulations were progressively issued setting the interest rate for each segment; the tax on foreign exchange outflows; the rule regulating the domestic liquidity coefficient; and most importantly, the Law Creating the Financial Security Network. Lower interest rates made it possible for a larger share of the profits generated in the real sector of the economy to remain in the productive sector and not be concentrated in financial entities, owing to the very high cost of money. This was particularly favourable for micro and small enterprises, and for individual agents who faced lower rates of interest on production, housing or consumption loans.

130. In addition, measures such as the domestic liquidity coefficient and the tax on foreign exchange outflows have led financial entities to keep a larger proportion of funds within the country, consistent with the needs of the dollarization scheme. As noted above, domestic liquidity management is essential for a dollarized economy; and, through specific financial policy measures, this liquidity has been consistently managed in accordance with the economy's real needs.

131. The Financial Security Network of 2011<sup>9</sup> was conceived as a set of institutions and rules to protect the stability of the financial system and limit systemic crises in the financial sector at the least possible cost to society. To achieve the law's objectives, four fields of action were developed within the financial system:

- (a) Preventive and timely bank supervision by the Banks and Insurance Supervisory Authority, which led to the strengthening of this entity's functions and capacities, improvements in monitoring and control of the resources managed by banks, promotion of transparency in financial system information, the development of initiatives to improve the provision of financial services, and expanded access for the population to financial services.
- (b) Reformulation of the Liquidity Fund to provide liquidity to the system as necessary. This is managed by the BCE and uses contributions from financial institutions covered by the reserve requirement.
- (c) Promotion of an increase in the amount guaranteed by deposit insurance, managed through COSEDE (Deposit Insurance Corporation, formerly Deposit Guarantee Agency).
- (d) Establishment of a new bank resolution scheme, which is more effective and flexible, allowing for an orderly exit of institutions that are not viable for any reason. Banks that are declared in liquidation because they are unviable, are passed for administration to another solvent bank, thereby ensuring that the risk for depositors is covered.

132. This new structuring of the financial system enabled Ecuador to successfully adopt counter-cyclical policies during the latest global financial crisis in 2009. In the crisis setting, the national government preserved the liquidity of the economy by intervening actively in the balance of payments; generating complementary domestic liquidity instruments; and encouraging greater lending. The 2009 crisis reduced the demand for credit while at the same time inducing greater caution among financial entities; nonetheless, the key difference was a financial policy that focused on providing State banks with the resources needed to cope with the situation, favouring micro and small enterprises through credit lines.

133. On a complementary basis, the government plan to strengthen the financial sector aims to convert popular financial initiatives (savings and loan cooperatives (COACs)), savings banks and communal banks) into effective agents for development, while expanding their participation in the financial market. Under the PNBV, financial activity is recognized as a public service function, which should promote the democratization of capital and the channelling of saving towards productive activities, particularly those related to MSMEs, which have generally been excluded from the system. For that reason, the Law on the Popular and Solidarity-Based Economy was enacted<sup>10</sup>, which aims to regulate activities in this part of the economy, and provide the system with risk control mechanisms enabling it to finance undertakings of this type. The aim is to promote popular finance and economic and social projects. Currently, COACs may operate in the national payments system, and they have facilitated broader remittance distribution channels, payment of the human

<sup>9</sup> *Official Register*, Supplement No. 498 of 31 December 2008. Latest amendment: 10 May 2011.

<sup>10</sup> Organic Law on the Popular and Solidarity-Based Economy and the Popular and Solidarity-Based Financial Sector. *Official Register* No. 444, Tuesday 10 May 2011.

development bond, and payments in relation to public sector payrolls and suppliers, and also public utilities and taxes.

### 3.5 LABOUR MARKET POLICY

134. To improve the quality of life of the Ecuadorian people and assure public- and private-sector workers full respect for their dignity, a decent life, fair pay and remuneration, and a healthy and freely chosen job, the Ecuadorian government, through the Ministry of Labour Relations (MRL), which is responsible for employment policies nationwide, has implemented and executed the following policies, through regulations, development projects and programmes:

- Achieve a decent wage and fair pay for workers, taking account of sectoral specifics, by setting and reviewing the basic wage, with the aim of progressively attaining a decent wage and upholding the constitutional principle of "equal pay for equal work". Rationalizing the number, structure and functioning of the sectoral commissions and promoting union integration by labour market segment.
- Combat bad business practices in the labour market and social security sphere, and protecting safety and health in the workplace; by automating legal processes and procedures that employers have to fulfil, information transparency (online declaration of the 13<sup>th</sup> and 14<sup>th</sup> months and profit-share entitlements); implementation of controls to encourage real and timely payment of profit-share entitlements; and preparation of joint procedural manuals between the Supervisory Authority for Enterprises, the Internal Revenue Service (SRI) and the MRL, in order to streamline the handling of workers' demands, as the case may be.
- Safeguard the rights of workers, implementing controls and policies to penalize non-fulfilment of workers' affiliation to the Ecuadorian Social Security Institute (IESS), and also to combat fraudulent practices in the payment of contributions and remunerations to affiliated workers. This has resulted in an improvement in job quality and an increase in the number of workers affiliated to the IESS.
- Strengthen social dialogue, promote tripartite dialogue in decision-making, giving stakeholders (workers, employers and the government) active and inclusive participation.
- Promote, in the employment sphere, fulfilment of the rights enshrined in the PNBV, particularly for priority groups, and generate job opportunities, without any discrimination, promoting control mechanisms to ensure the right to work, freedom of job choice, fair and satisfactory working conditions, unemployment protection without distinction on ethnic, sex, socio-economic, migratory, health, disability grounds, etc.
- Help eradicate unemployment and intensify measures to eliminate labour exploitation; create and strengthen the public system and structure to facilitate access to employment (employment centres and exchanges); provide vocational training for priority groups through the Ecuadorian Occupational Training Service (SECAP), thereby helping to generate sectoral employment, the creation and development of SMEs and the crafts sector.



- Strengthen the legal and institutional framework for labour relations by restructuring the Ministry of Labour Relations and its attached institutions, thereby optimizing human talent, organizational structure, infrastructure and procedural structures, implementing technological tools to facilitate processes through automation and systemization, encouraging deconcentration.
- Promote knowledge of current labour regulations among workers and employers, to foster a more thorough understanding of the labour rights and obligations of the parties, and correct application of the provisions of the Labour Code based on the dynamic of current labour relations.
- Eradicate child labour in conjunction with public-sector entities and non-governmental organizations, by developing national programmes and campaigns.
- Adapt the legal framework for employment to the country's needs (Labour Code, Organic Law on Public Service, Social Security Law), in coordination with other institutions, to generate participatory dialogue that facilitates issues such as the formulation, reception and analysis of suggestions, observations and proposals by workers and employers, adapting contractual modalities to the realities and needs of workers and employers, within the framework of the Constitution and current laws.

135. These policies have resulted in a substantial improvement the employment conditions of Ecuadorian people in terms of job quality, and have upheld their rights in terms of preventing labour exploitation, and promoting pay improvements through annual reviews of the basic wage with a view to progressively attaining a decent wage; control of the payment of the basic wage; and affiliation to social security for domestic service workers. According to data from the National Institute of Statistics and Censuses of Ecuador (INEC) and the BCE, in June 2011, 46.5 per cent of persons employed full-time were not affiliated to the IESS. In 2011 the proportion had fallen to 40.7 per cent.

#### **4. EXTERNAL SECTOR**

##### **4.1 TRADE POLICY**

###### **4.1.1 New trade policy approach**

###### ***Organic Code of Production, Trade and Investments***

136. The Organic Code of Production, Trade and Investment was published on 29 December 2010 in the *Official Register* of Ecuador. Apart from the Agenda for Productive Transformation, the Code develops a new conceptual and institutional strategy for the country, which is the outcome of a wide-ranging domestic consensus agreed among productive sectors of different types and sizes, together with academia, local governments and development agencies, among others.

137. The Agenda for Productive Transformation defines 14 productive sectors as national government priorities, because they have a major effect on employment levels, generate value-added, and deconcentrate productive activities geographically.

138. The Agenda was formed on a participatory basis, with entrepreneurs, micro-entrepreneurs and small-scale producers putting forward their needs in relation to the various development initiatives being implemented by the national government.

139. Thus the Ecuadorian people and the national government are working together to implement this Agenda, which is consolidated through the creation of the Organic Code of Production, covering topics relating to productive development, the development of productive investment and its instruments, external trade, systemic competitiveness, and the sustainability of production, all within a framework of respect for the environment and strengthening of Ecuadorian industry and MSMEs.

140. In the investment sphere, the Code stimulates national and foreign investment to change productive structures and redistribute returns fairly among the community.

141. Joint work between the government, private sector and labour sector is expected to stimulate: domestic and foreign productive investment; the production of MSMEs; the production of sectors that have been recognized as priorities; production in special economic development zones (ZEDES)<sup>11</sup>; and production with respect for nature.

142. The Production Code governs productive development and competition mechanisms and entities; the development of productive investment and its instruments with special emphasis on productive development of the popular, solidarity-based and community economy; business development of MSMEs and the democratization of production; foreign trade and its control bodies and instruments; systemic competitiveness and customs facilitation for which a new institutional framework is also created; and, lastly, the sustainability of production and its relation to the ecosystem.

143. The Code also entailed an extensive and detailed legal exercise to reform current laws and repeal others to provide consistency between the different subjects and the organic nature of its content. In that regard, laws had to be amended such as the General Law on Financial System Institutions; the Organic Law of the Internal Tax Regime; the Reform Law for Tax Equity in Ecuador; the Law on the Electricity Sector Regime; the Labour Code; the Social Security Law; the Investment and Citizen Participation Promotion Law; the Law on the Development of the Port of Manta; the Law on the Ecuadorian Quality Control System, and lastly the Law to Promote and Control the Production and Marketing of Bananas, Plantains (Barraganete), and related Musaceas plants, for export.

144. The Production Code also repealed 14 laws; and work is currently ongoing on the Code's implementing regulations, which form an integral and, above all, complementary part of it.

#### **4.1.2 Foreign trade agenda**

##### **4.1.2.1 Multilateral sphere**

145. Ecuador has been a member of the World Trade Organization since 21 January 1996. It has not signed any of the plurilateral agreements, which are voluntary, such as the WTO Agreement on Information Technology and the WTO Agreement on Government Procurement.

146. Ecuador has not been a respondent in any dispute brought before the WTO Dispute Settlement Body; but it was a complainant in the long-running case relating to the European Union's discriminatory banana import regime, and against an anti-dumping measure imposed by the United States on shrimp imports. It has also participated as a third party in several legal cases.

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<sup>11</sup> A special economic development zone is a defined area within national territory where new domestic or foreign investments can be located, under tax and tariff incentives. There are three types: promotion of entrepreneurship and technological development; industrial diversification; and logistical services.

147. As part of the process for the accession of new Members to the WTO, Ecuador has signed bilateral market access protocols with China, the Russian Federation, the Kingdom of Saudi Arabia, Ukraine, Kazakhstan and Serbia; and it is holding bilateral negotiations with other countries, such as Algeria, Belarus, Bosnia-Herzegovina, Lebanon, Syria, Libya, the Bahamas, Yemen, Montenegro and Uzbekistan. These bilateral negotiations in the multilateral framework have opened up new markets for traditional and potential export products, such as flowers, bananas, seafood products, pineapples, mango, cocoa, palm hearts, juice concentrates, cauliflower, broccoli, wood, clothing, and services, and others. Such goods will enter with very low bound tariffs once the countries in question complete the WTO accession process.

148. Ecuador has made regular notifications, pursuant to transparency requirements, in the areas of agriculture, sanitary and phytosanitary measures, and technical barriers to trade. It is currently working hard to update overdue notifications, while guaranteeing the continuity of notifications.

149. In the external trade policy guidelines contained in the 2008 Constitution, international law is recognized as the standard of conduct; the "democratization" of international organizations is promoted, along with equitable participation by developing countries in them, based on the principles of transparency and inclusiveness, effective implementation of special and differential treatment, and safeguarding the public policy space in the commitments adopted. In this regard, Ecuador has done its utmost to ensure that the WTO Doha Development Round is brought to conclusion. This negotiating round began in November 2001 and is still ongoing. Ecuador thus assigns a leading role to multilateralism in its trading relations, since it considers this the most appropriate forum for the developing countries, in various coalitions, to promote the adoption of trade rules and disciplines aimed at eliminating existing distortions in international trade.

#### *Doha Development Round Negotiations in the World Trade Organization (WTO)*

150. Ecuador is a developing country that accounts for just 0.098 per cent of world trade in non-agricultural goods, and 0.326 per cent of trade in agricultural products. In acceding to the WTO in 1996, it agreed to apply low levels of tariff binding, to make wide-ranging commitments on services, and to overhaul its rules governing intellectual property.

151. Ecuador belongs to the Group of Recently Acceded Members (RAMs), having assumed ambitious commitments in its WTO accession process in 1996, compared to those assumed by countries that were members of the former GATT. It also participates in the Group of Small Vulnerable Economies, given its percentage share of world trade.

152. Ecuador considers that the negotiating modalities on agriculture and non-agricultural market access (NAMA), presented in December 2008 and ratified in April 2011, form the basis for progress in these negotiations with a view to bringing the Doha Development Round to the quickest possible conclusion.

153. Ecuador also makes its interests known by participating in the agricultural G-20 negotiations, which, for our country, are the key part of the Doha Round. The outcome of these negotiations should determine the level of ambition in the other negotiating areas, where the developed countries will need to demonstrate a wide-ranging commitment to reduce trade-distorting measures. As a member of the Tropical Products Group, Ecuador has developed a strategy with the WTO developed country Members with a view to fulfilling the mandate on fullest liberalization in such agricultural products in accordance with the principle of special and differential treatment.

154. Ecuador also led the negotiating process in the WTO to adopt the Geneva Agreement on Trade in Bananas, signed in Geneva on 31 May 2010, between Latin American countries that supply bananas to the community market and the European Union. This agreement brought 16 years of multilateral dispute to a definitive and successful conclusion, and has enabled the country to lower the tariff of €176 to €114 per metric tonne over a period of eight to ten years, under a progressive tariff reduction schedule.

155. Ecuador is negotiating market access commitments for non-agricultural products (NAMA) in terms of tariff reductions; sectoral approaches; and the creation of rules that eliminate or reduce technical barriers to trade. It calculates its tariff cuts on an average basis and not linearly, applying the Swiss formula.

156. With regard to the negotiations on trade and environment, Ecuador is promoting an approach based on supply of and demand for environmental goods and services, including organic agricultural products and those obtained from biodiversity, as well as the elimination of technical barriers to trade. In accordance with the principle of special and differential treatment, Ecuador is proposing an effective transfer of technology to combat the effects of climate change.

157. In the intellectual property negotiations, Ecuador attaches special importance to the amendment of the TRIPS Agreement, to include the provisions of the Convention on Biological Diversity requiring patent applicants to disclose the source and country of origin of the biological/genetic material and associated traditional knowledge used in their invention, as well as evidence of prior informed consent and benefit sharing requirements

158. Ecuador is a member of the so-called "Friends of Fish" coalition, which seeks the elimination of fishery subsidies granted by the developed countries as a decisive factor for conserving fishery resources, avoiding overexploitation and overfishing of this resource, and recognition of special and differential treatment for the developing countries, particularly in the most vulnerable sectors such as small-scale fishing. Nonetheless, this cannot represent a blank cheque for current subsidy providers to be replaced by others.

159. Since July 2004, Ecuador has participated actively in the negotiations conducted by the Group on Trade Facilitation on the only topic of the "Singapore issues" being negotiated in the WTO. The aim of these negotiations is to simplify the procedures and controls governing the movement of goods across national borders. They also seek to enhance technical assistance and capacity building in the developing countries.

160. In the Council for Trade in Services, Ecuador has participated actively in the negotiations on domestic regulation, subsidies, safeguards, and specific commitments established in the Doha Round. As Ecuador took on wide-ranging commitments when it joined the WTO, it is seeking additional flexibilities, particularly in terms of the sectoral and modal coverage of the schedules of specific and horizontal commitments, and also to ensure that, in terms of regulation, there should be no restrictions on domestic public policy space.

#### **4.1.2.2 Bilateral sphere**

161. Since 2006, Ecuador's trade policy has pursued intelligent integration in the global economy, defining important lines of action such as market diversification; product diversification; economic complementarity, reduction of asymmetries, and endogenous development.

162. The solid relations that Ecuador has maintained over decades with traditional trading partners, such as the United States and the European Union, have provided it with large markets; but, at the same time, it has become somewhat dependent on them. As a result, the changes that have taken place in the United States economy, for example, have had significant repercussions on the Ecuadorian economy. To provide an alternative to this situation without neglecting such an important trading partner, links, particularly commercial ones, are being developed with old and new partners, with the aim of *diversifying Ecuador's export markets*. Approaches to Arab countries and Turkey, and shortly to European countries that are members of the European Free Trade Area (Switzerland, Norway, Liechtenstein and Iceland), as detailed below, reflect efforts made in this direction.

163. Similarly, Ecuador's (non-oil) exports have been concentrated in a very small range of products. Although these have gained significant position in international markets, this concentration has made it harder to take advantage of the country's resources in the exploration and production of additional products and has also caused dependency on them. With the aim of diversifying Ecuador's export supply and enhancing it, the country is working very closely with priority sectors, particularly MSMEs and organizations in the popular and solidarity-based economy, to develop the capacities needed to achieve sustainable productive and export growth.

164. Previously, trade negotiations focused on trade liberalization agreements pure and simple, as exemplified by the start of negotiations for an FTA between Ecuador and the United States at the beginning of the past decade.

165. In contrast to this scenario, Ecuador is proposing and conducting negotiations aimed at more balanced liberalization of tariff and non-tariff measures, with the aim of achieving complementarity between the different economies and reducing the asymmetries that exist between them. In the case of *complementarity*, Ecuador's negotiations also aim to facilitate bilateral trade, identify productive linkages in sectors where the parties could be complementary rather than supplementary, thus benefiting both fully and mutually. To obtain a *reduction in asymmetries*, Ecuador is negotiating agreements that reflect the difference in size and development of the economies of the parties both in the commitments undertaken and in the texts. In other words, market liberalization should involve different criteria for each party, based on its particular relative economic development. In all of this, Ecuador incorporates concepts of cooperation, sustainable development and political dialogue, among others.

166. With a view to incorporating these elements and introducing additional initiatives in a proposal alternative to FTAs, Ecuador has defined a strategy for negotiating TDAs. The trade negotiations currently being conducted by Ecuador include the aforementioned principles.

### ***Andean Community***

167. According to data from the General Secretariat of the Andean Community (CAN), exports within the community grew by 35 per cent in 2010, in relation to the 2009 level, attaining a total of US\$7,810 million. Ecuador's intra-community exports in 2010 amounted to US\$2,127 million, representing total growth of 34 per cent in relation to the 2009 figure. The main intra-community market for Ecuador is Peru with a total of US\$1,328 million, which represents 62 per cent of its total exports to the CAN.

168. Ecuador is the second-largest intra-community exporter, accounting for 27 per cent of total exports in 2010. CAN members (the Plurinational State of Bolivia, Colombia, Ecuador and Peru)

provide an important market for Ecuadorian exports - mainly manufactured goods. In the period 1990-2009, CAN represented the following for Ecuador:

- The leading market for the subsectors of textiles, leather, paper and printing, basic metal industries and metal products and machinery.
- The second largest market for the mining, manufacturing, wood, cork and non-metallic mineral products sectors.
- The third largest market for the food, beverages, tobacco, chemicals, oil, coal and other manufactures subsectors.
- The fourth largest market for the agricultural sector.

169. Ecuador's total exports to this integration bloc over the last five years averaged 17 per cent of its total exports worldwide.

170. Although Ecuador's exports to the CAN have been trending downward, dropping from 19.13 per cent in 2007 to 15.67 per cent in 2009, the Andean bloc provides the main export market for its manufactured products, as mentioned above.<sup>12</sup>

171. On the import side, at the manufacturing subsector level, the CAN represented the following as a source for Ecuadorian imports in the period 1990-2009:

- The leading supplier to the food, beverages, tobacco, textiles and leather, paper and printing, and non-metallic minerals subsectors.
- The second largest supplier to the manufacturing and wood, cork and cork products, chemicals, oil and coal subsectors.
- The third largest supplier to the metal products and machinery subsector.
- The fourth largest supplier of the agricultural, mining, basic metal industries and other manufactures sectors.

172. Imports from the Andean Community average 19.30 per cent overall. It should be noted that the figures for exports and imports to and from the CAN include the Bolivarian Republic of Venezuela, which withdrew from the Community in 2006.

173. In addition, under the CAN framework, negotiations are ongoing over a proposal to implement the Andean Strategic Agenda.

#### ***Bolivarian Alliance for the Peoples of Our America (ALBA)***

174. ALBA came into being in 2001 at the third Summit of Heads of State held on the island of Margarita. In 2004, the Joint Declaration on ALBA was signed, opening up the possibility for other countries of the south to join the new bloc. Ecuador joined officially in 2009.

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<sup>12</sup> Reports of the General Secretariat of the CAN.

175. The ALBA Bank, the Science and Technology Centre, the Import-Export Enterprise, and ALBA fair trade stores, together with the Telecommunications Enterprise<sup>13</sup>, are important projects proposed in the framework of this integration scheme.

176. The ALBA integration project is focused on political, economic and trade objectives; and for Ecuador, imports and exports with those countries over the last few years have been significant in the oil sector, particularly with the Bolivarian Republic of Venezuela, representing 4.01 per cent of its total oil exports in 2010.

177. Moreover, the single regional clearing-house system (SUCRE) is expected to be created in the financial domain, which aims to "encourage and promote reciprocal trade between these countries, minimizing the use of foreign exchange in the payment of the resultant transactions."<sup>14</sup>

#### ***Latin American Integration Association (LAIA)***

178. Ecuador has been a member of the Latin American Integration Association (LAIA) since 1980, one of the main objectives of which is to establish a free-trade zone between member countries in the long term.

179. Ecuador has signed partial-scope agreements with Chile, Cuba, the MERCOSUR member countries (Argentina, Brazil, Paraguay, Uruguay) and Mexico, information on which is submitted to the WTO through the LAIA Secretariat.

#### ***Partial-scope and economic complementation agreements under LAIA***

180. Ecuador has signed the Ninth Additional Protocol to Economic Complementation Agreement (ECA) No. 59 with Argentina. This protocol is in the final stages of approval by States members of ECA No. 59 for subsequent officialization with and implementation in LAIA.

181. With Brazil it has also signed the Eighth Additional Protocol to Economic Complementation Agreement No. 59. The domestic procedures needed for this Protocol to enter into force have been completed. In the case of Ecuador, the instrument was published in *Official Register* No. 118 of 16 February 2011.

182. With Paraguay, ECA No. 59 was deepened through the reciprocal granting of tariff preferences.

183. On 10 March 2008, the governments of Ecuador and Chile signed an Association Agreement and Partial-Scope Economic Complementation Agreement No. 65, which entered into force on 25 January 2010.

184. In March 2010, Ecuador and the Bolivarian Republic of Venezuela signed a Cooperation Framework Agreement to deepen the trade and development ties between the two countries.

185. In 2008, Ecuador reached agreement with the government of Mexico to deepen bilateral trading relations by renegotiating Partial-Scope Agreement No. 29.

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<sup>13</sup> Source: Bolivarian Alternative for the Peoples of Our America, <http://www.alianzabolivariana.org/>. Viewed on 14 March 2011.

<sup>14</sup> Central Bank of Ecuador, *Elementos Técnicos del Sucre* (Technical elements of the SUCRE), 2009.

### *Central American and Caribbean countries*

186. In March 2010, Ecuador and Cuba signed the Second Additional Protocol to Economic Complementation Agreement No. 46 in the LAIA framework. The bilateral tariff preferences granted will enter into force once the necessary domestic procedures have been completed (currently in their final phase) for subsequent officialization with LAIA.

187. On 15 April 2011, Ecuador signed a Partial-Scope Economic Complementation Agreement with Guatemala, establishing reciprocal tariff preferences for a small number of products.

188. Ecuador is also negotiating a Cooperation, Trade and Complementation Framework Agreement with Nicaragua, with the aim of initiating a process of granting tariff preferences in a second stage.

189. The Republic of Panama is in the process of acceding to the Montevideo Treaty of 1980, for the purpose of joining LAIA. In this context, Panama has negotiated its market opening schedule with Ecuador.

### *United States*

190. The United States is Ecuador's main trading partner as a market for its exports, absorbing over 30 per cent of its global exports. The leading exports under the preferences provided by the Andean Trade Promotion and Drug Eradication Act (ATPDEA) account for 80 per cent of trade and are generally agricultural. This sector has increased its share of sales to the United States market from 13 per cent in 2005 to 22 per cent in 2009. The main subsectors benefiting from the ATPDEA are the floriculture, tuna, horticulture and timber industries, among others. The effect of the concessions granted by the United States reaches beyond the exports from these subsectors, to enhance productive linkages: greater trade with suppliers, greater employment, cost reduction, and potential for increased investment in related sectors.

191. In any event, Ecuador seeks to consolidate its trading relations with United States through the possible negotiation of trade agreements that go beyond mere liberalization of the respective markets and focus on trade for development.

### *European Union*

192. Once Ecuador's 16-year banana dispute with the European Union was resolved through the signing of the Geneva Agreement on Trade in Bananas, on 31 May 2010, Ecuador notified the European Union of its decision to return to the negotiating table for the Multipartite Trade Agreement. A joint evaluation process for this purpose is currently ongoing.

### *Other negotiations*

193. With the aim of diversifying its export markets, Ecuador is promoting trade for development and cooperation agreements with new partners around the world, including Canada, China, Korea, Egypt, Iran, Indonesia, Lebanon and Syria, the countries of the Gulf Cooperation Council (Kingdom of Saudi Arabia, Kuwait, Qatar, United Arab Emirates), Russia and Turkey. It also participates in the Latin American Pacific Rim Forum (an informal high-level mechanism for coordination and consensus in identifying and implementing joint actions to generate synergies between participating countries on economic issues, and to increase trade to strengthen their relations with the Asia-Pacific economies).



### 4.1.3 Export and investment promotion

194. The official planning and implementation of activities to promote exports and non-financial investments, both in Ecuador and abroad, used to be the responsibility of the Export and Investment Promotion Corporation (CORPEI). However, following the publication of the Organic Code of Production, Trade and Investment in *Official Register* No. 351 of 29 December 2010, CORPEI's responsibilities were transferred to the Export and Foreign Investment Promotion Institute (PRO ECUADOR), created under Article 95 of the aforementioned Organic Code and attached to the ministry responsible for foreign trade policy, currently the Ministry of Foreign Affairs, Trade and Integration (MRECI).

195. Since the Code of Production has been in force, CORPEI has operated as a non-profit legal entity under private law, contributing to the country's development through private actions to promote exports and investments in the country and abroad.

196. PRO ECUADOR is a decentralized public-law entity with technical, administrative and financial autonomy, attached to the Ministry of Foreign Affairs, Trade and Integration. It is headquartered in the city of Guayaquil but has national jurisdiction.<sup>15</sup>

197. PRO ECUADOR has the functions of coordinating and implementing activities to promote exports and foreign investments in Ecuador and abroad. Its objectives are, *inter alia*, to promote Ecuador's export supply of goods and services, consolidating current exports and fostering the deconcentration and diversification of exporters, products and markets; promote diversification and enhance export supply through investments to generate productive linkages and technological innovation; create, prepare and disseminate an export culture, with emphasis on new players in foreign trade (micro, small and medium-sized entrepreneurs and organizations of the popular and solidarity-based economy); promote the strategic integration in international trade of all domestic products, particularly the goods and services supplied by SMEs, and participants in the popular and solidarity-based economy; strengthen Ecuador's presence in the main export markets, and open up new markets for products and services.

198. To fulfil the obligations inherent in its functions, PRO ECUADOR implements the policies and regulations issued by the Ministry of Foreign Affairs, Trade and Integration, and develops the methods and technical tools, among other things, required to conduct export promotion and foreign investment activities.

199. The Institute has four areas of work:

- (1) Investment promotion: This area is responsible for holding promotion and comprehensive guidance events for potential investors, in coordination with Ecuador's trade offices abroad (OCEs). The investments in question should promote technology transfer, conserve the environment, generate productive linkages, and target the sectors defined as strategic by the national government. In addition, it should disseminate Ecuador's legal and regulatory framework both nationally and internationally, collaborate in pooling efforts by all institutions involved in attracting investments to Ecuador, both public and private, contributing to the development of services to ensure that investors stay in the country, among other activities. This area consists of investment coordinators, organized by continent, who receive investment proposals from trade attachés. The proposals are channelled by a domestic

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<sup>15</sup> Executive Decree No. 776 of 16 May 2011.

coordinator who promotes the proposals with the various chambers of industry and commerce, trade associations and institutions.

- (2) Export promotion: This area promotes Ecuador's exports by providing specialized advisory services to its export sectors, particularly those that have been prioritized and have export potential, as well as ensuring the dissemination of trade opportunities by sector, and the coordination, execution and follow-up of trade fairs, missions and other national and international trade promotion events.
- (3) Exporter services window: This facility provides advisory services to exporters, including information on market access, trade opportunities and support tools, with a view to increasing the country's exports; and training on various foreign trade issues, programmes and projects targeting the inclusion of MSMEs and actors from the popular and solidarity-based economy in the country's export supply.
- (4) Trade and investment intelligence: This area is responsible for detecting and generating current and prospective information to support export development and attract investments to the country. As regards international markets, it prepares trade and investment reports, export market and product studies, logistical information, statistics and international trade analyses.

200. The Ministry of Foreign Affairs, Trade and Integration has six regional offices, with staff trained in foreign trade issues. These are responsible for promoting the export supply and actors in each of the country's regions, providing foreign trade information to users, and supporting PRO ECUADOR in its activities.

201. To strengthen the Institute and achieve its objectives, Ecuador currently has 27 trade offices around the world, whose role is to promote Ecuador's export supply of goods and services abroad, as well as tourism, and to attract foreign investment. These offices aim to increase exports, improve the trade balance and provide the services and information needed to help exporters introduce Ecuadorian products into the different markets where they are located.

202. The Ecuadorian State has promoted the PNBV, as provided for in the new Constitution, which defines a new approach to Ecuador's foreign trade policy. The Ministry of Foreign Affairs, Trade and Integration has accordingly launched the investment project to strengthen Ecuador's trade offices abroad, with a view to increasing and diversifying export products and markets. Since 2009, 16 new OCEs have been created, in addition to the seven trade sections that already existed in Ecuador's diplomatic representations abroad. In 2010 and 2011, four new trade offices were opened, and more are projected.<sup>16</sup>

203. The Ministry of Foreign Affairs, Trade and Integration, supported by OCEs and national institutions, is seeking to position Ecuador's exports in the world and diversify its markets, for which it has promoted participation by productive sectors in a number of export and investment promotion events.

204. Since PRO ECUADOR was created, the number of export promotion events has doubled, and emphasis has been placed on organizing reverse trade missions. As of July 2011, PRO ECUADOR and the OCEs had coordinated participation in 27 international trade fairs, six trade missions abroad, and 25 reverse trade missions.

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<sup>16</sup> The new offices will be located in Holland, Chicago, Miami, Singapore and Dubai.

205. The impact of the investment project to strengthen the network of Ecuador's trade offices abroad and the creation of PRO ECUADOR have given the country greater international presence through its OCEs, which have increased the number of export and investment promotion activities, targeted on deepening existing trade, diversifying markets and exporting new products, as well as encouraging the participation of new actors in foreign trade.

#### *Inclusive trade*

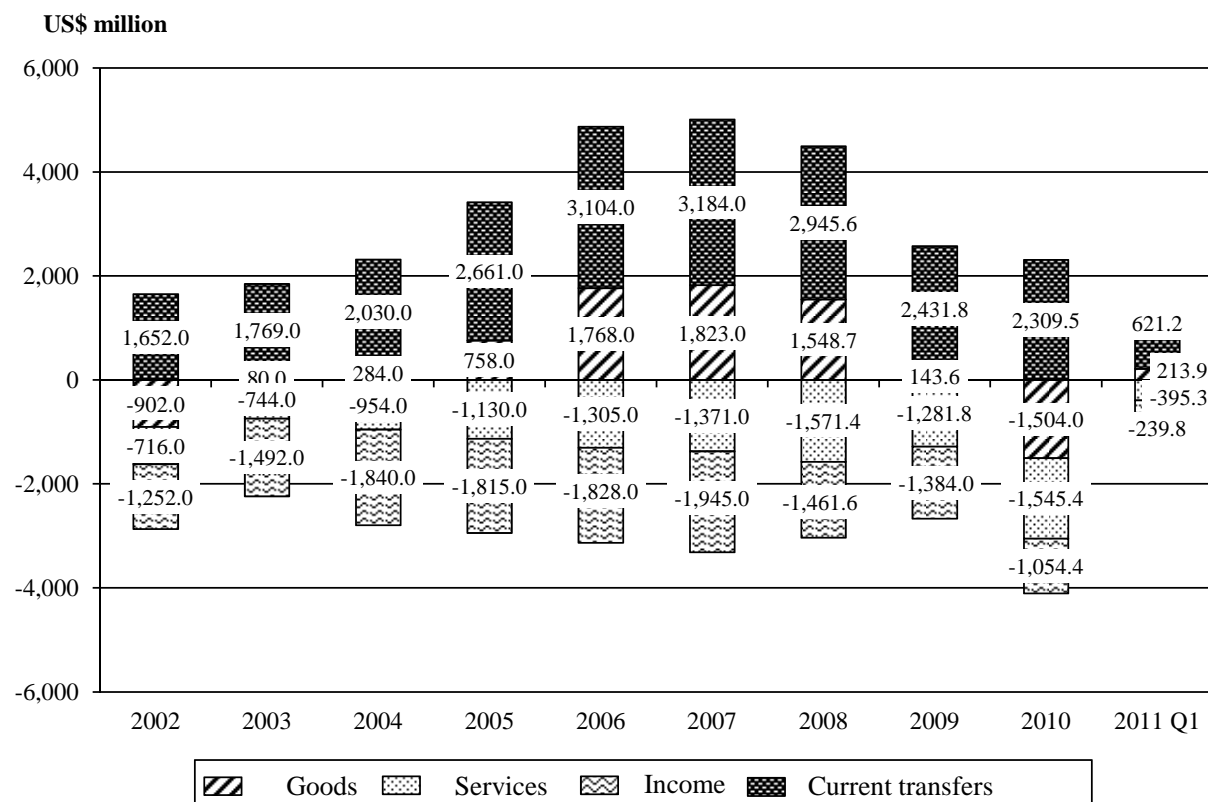
206. As provided for in Article 306 of the Constitution, since October 2010 an objective has been to incorporate new economic agents in external trade, by promoting stakeholders in the popular and solidarity-based economy, along with MSMEs, cooperatives, organized groups, associations and potential export producers, so as to diversify both actors and products and thus establish a fair-trade logic in the country. The sectors involved are agriculture, agribusiness, crafts, fisheries and aquaculture, tourism and services, and MSMEs in the metal-working, leather and footwear, chemicals, textiles and food sectors.

207. The actions being undertaken are based on proposals for strategies, policies and standards to establish the principles of fair trade and thus develop an exportable supply for the purpose of creating conditions and opportunities for organizations and MSMEs to gain access to foreign markets.

## **4.2 TRADE TRENDS**

208. Since Ecuador adopted the dollarization regime, foreign trade has become even more important for the domestic economy, since it largely ensures the flow of currency circulating in the country. The current account of the balance of payments reflects the importance of trade and remittance inflows (Chart 4.1).

**Chart 4.1**  
**Ecuador: structure of the current account, 2002-2011 (Q1)**



Source: Central Bank of Ecuador, Balance of Payments Quarterly Statistical Bulletin (prepared by DGEE/MRECI).

209. Since its last trade policy review, Ecuador increased its openness index from 53.2 per cent in 2005 to 63.3 per cent in 2010. In other words, the volume of exports and imports in relation to GDP has been increasing.

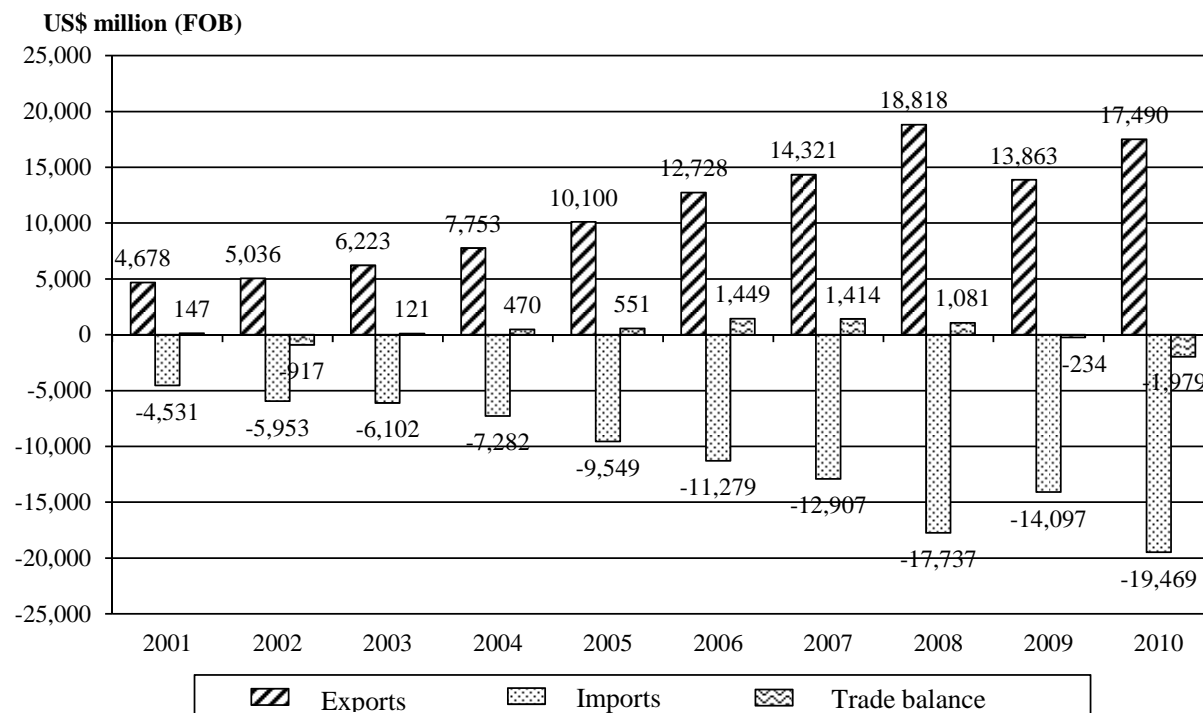
210. The country's overall trade balance has stayed in surplus, except in 2009 and 2010. This contrasts with the non-oil trade balance (Charts 4.2 and 4.3), which is characterized by a structural deficit, thus accentuating the importance of oil sales over and above other products. Nonetheless, non-oil exports are trending upwards, having reached US\$2,060 million in the third quarter of 2010, compared to US\$1,043 million in the third quarter of 2005 (Chart 4.4).

211. A product breakdown of non-oil exports reveals this trend in the main export products (plantains and bananas, shrimp, coffee and coffee products, cocoa and cocoa products; and tuna and other fish) and other non-traditional products (Chart 4.5).

212. In 2005, Ecuador's global exports amounted to US\$12,728 million, rising to US\$17,415 million in 2010. In addition, export destinations became more varied; in 2005, the concentration index<sup>17</sup> was 0.52, compared to 0.40 in 2010 (Chart 4.6).

### Chart 4.2

#### Ecuador: overall trade balance with the rest of the world, 2001-2010



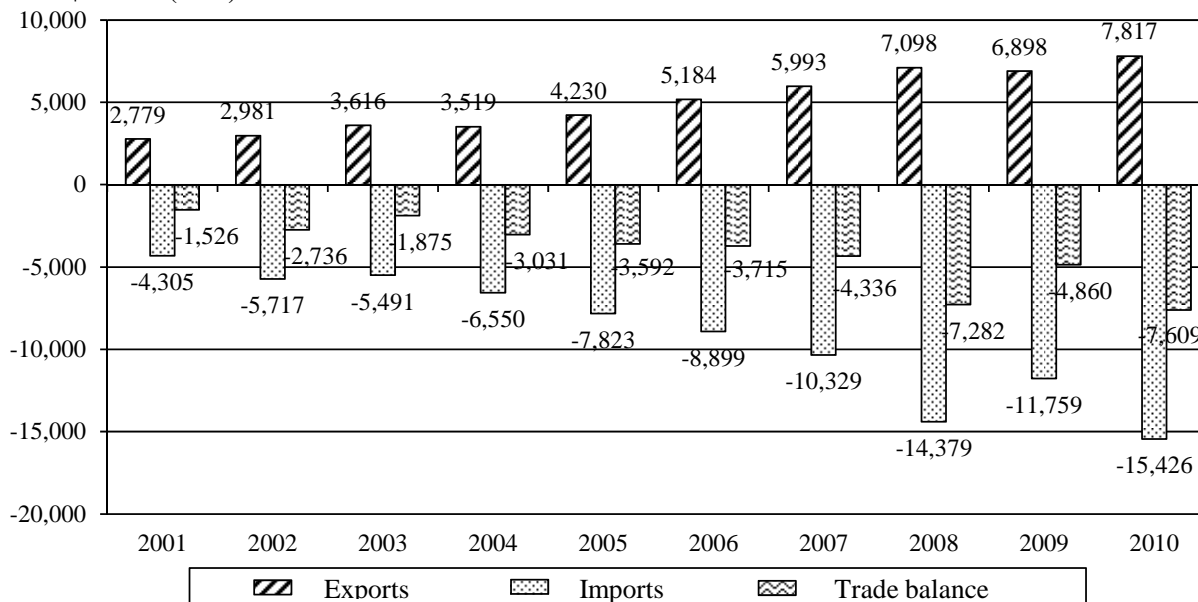
Source: Central Bank of Ecuador, Monthly Statistical Bulletin No. 1913-July 2011 (prepared by DGEE/MRECI).

<sup>17</sup> The Herfindahl-Hirschman concentration index takes a value between 0 and 1, and shows the share of each country as a destination for Ecuador's exports, with 1 denoting the highest concentration, and 0 denoting perfect deconcentration.

**Chart 4.3**

**Ecuador: non-oil trade balance with the rest of world, 2001-2010**

US\$ million (FOB)

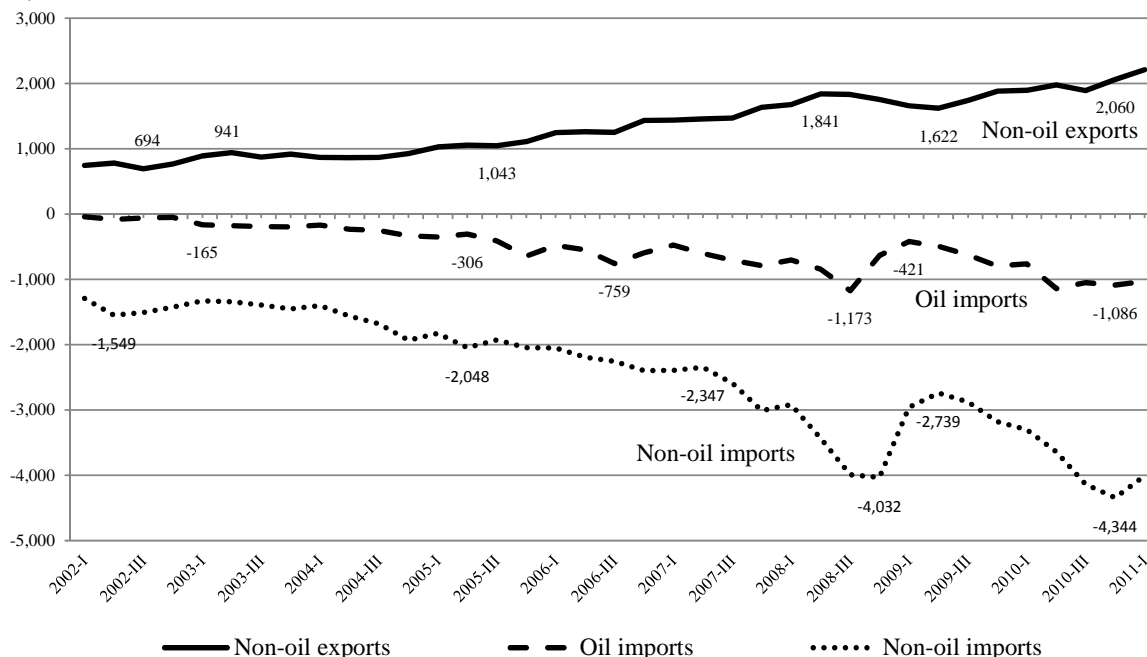


Source: Central Bank of Ecuador, Monthly Statistical Bulletin No. 1913-July 2011 (prepared by DGEE/MRECI).

**Chart 4.4**

**Ecuador: trend of non-oil exports and imports, 2002-2011 (Q1)**

US\$ million

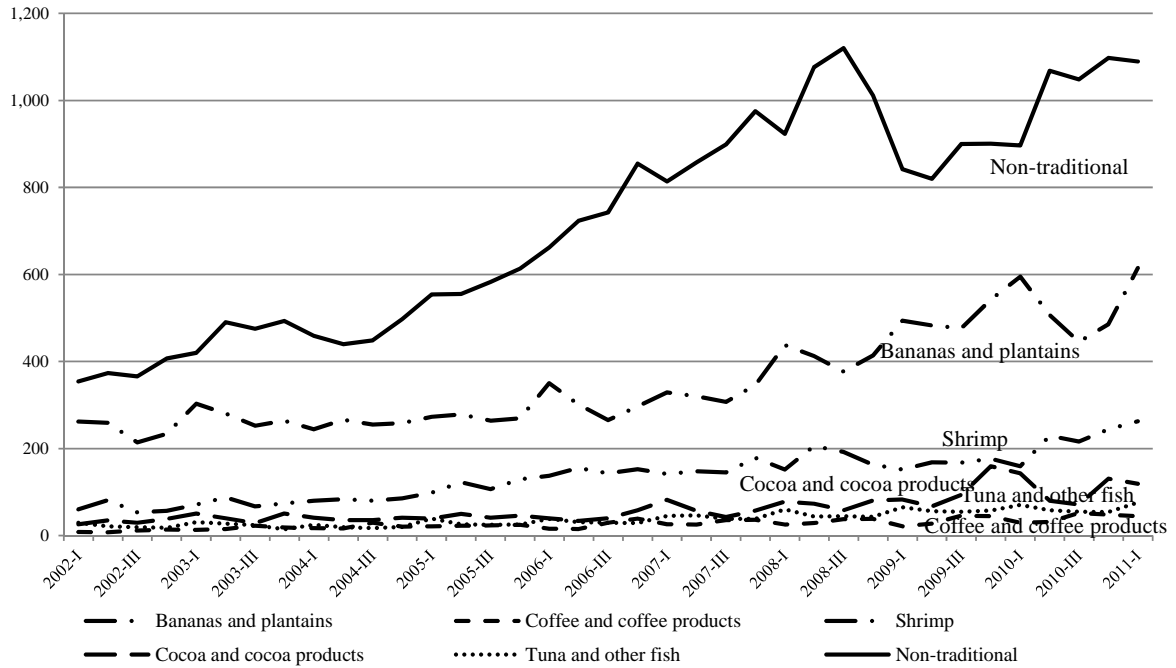


Source: Foreign Trade Statistics, Central Bank of Ecuador (prepared by DGEE/MRECI).

**Chart 4.5**

**Ecuador: trend of non-oil exports, 2002-2011 (Q1)**

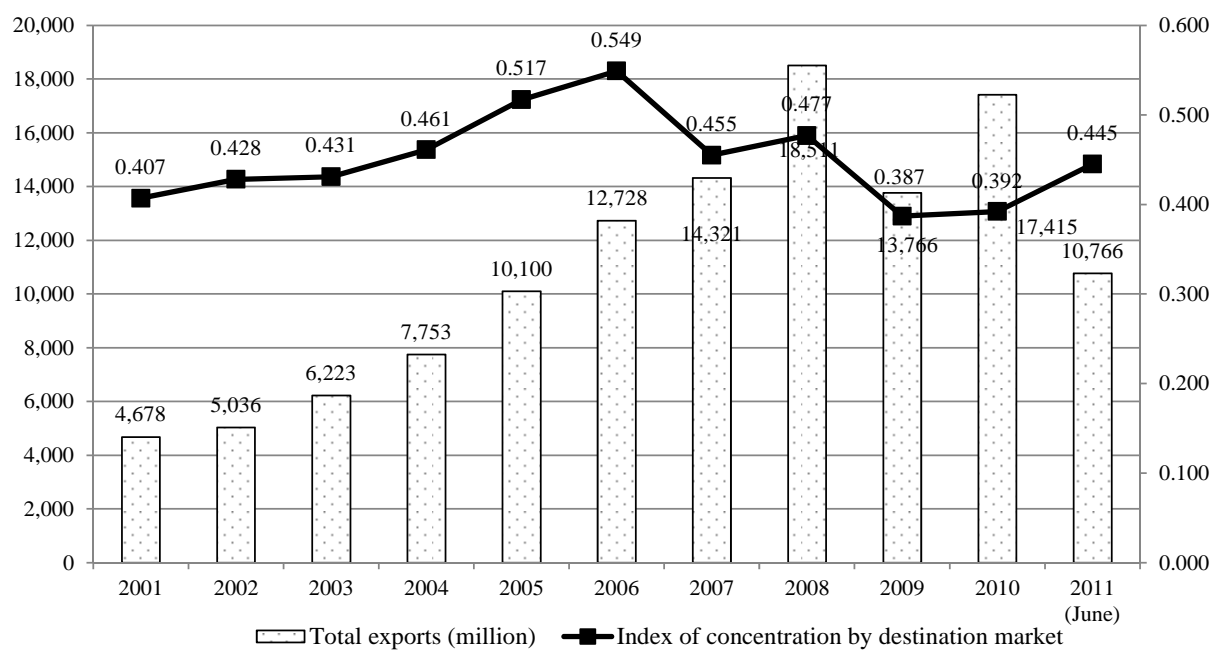
US\$ million



Source: Foreign Trade Statistics, Central Bank of Ecuador (prepared by DGEE/MRECI).

**Chart 4.6**  
**Ecuador: global exports and concentration by market, 2001-2011**

US\$ million (FOB)



**Source:** Foreign Trade Statistics, Central Bank of Ecuador (prepared by DGEE/MRECD).

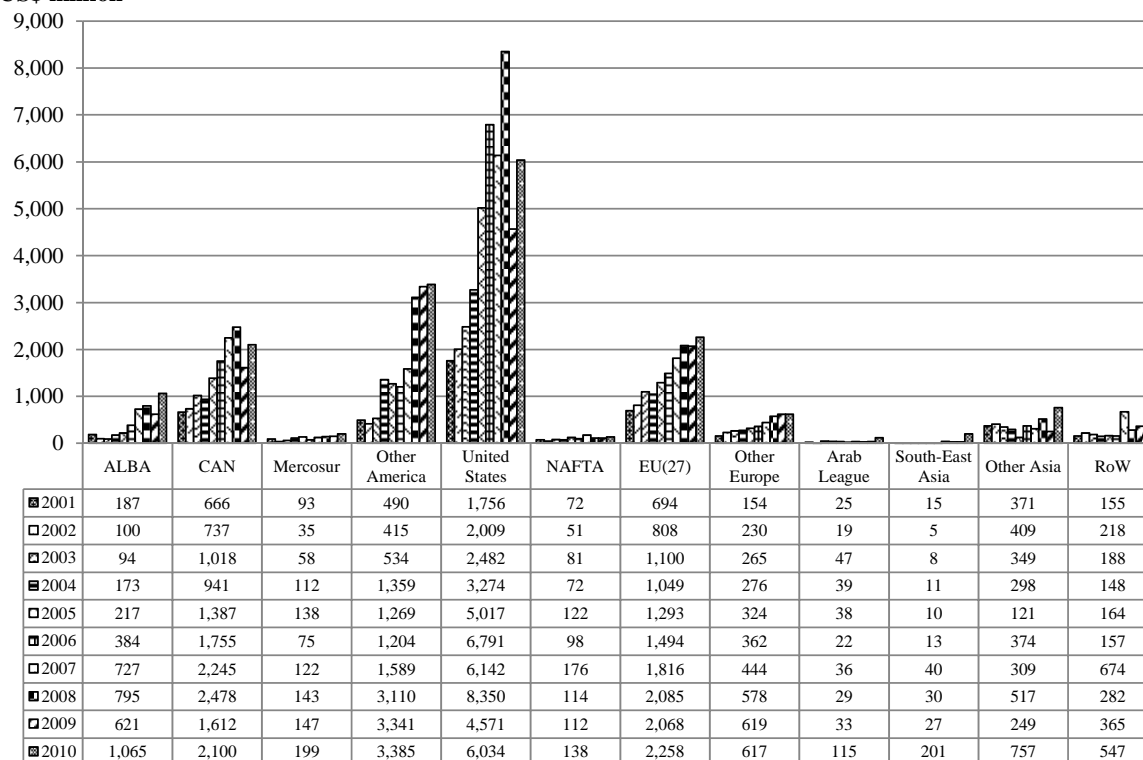
213. An individual analysis of some of Ecuador's leading export markets worldwide, such as the United States, the European Union, the Andean Community of Nations or other markets within America, shows a generally rising trend, although each of these destinations' share of the total has varied. In 2005 and 2010, total exports to each market varied as follows: the United States grew from US\$5 billion to US\$6 billion; the European Union grew from US\$1.3 billion to US\$2.3 billion; the Andean Community grew from US\$1.4 billion to US\$2.1 billion. In terms of the share of global exports, both the Andean Community and the United States saw their shares decline, from 13 per cent to 12 per cent and from 49 per cent to 34 per cent, respectively. The European Union's share rose from 12 per cent to 13 per cent. The greatest growth was with the ALBA countries, which almost tripled their share, from 2.1 per cent in 2005 to 6.1 per cent in 2010 (Charts 4.7 and 4.8).

214. A breakdown of non-oil exports among these destinations, shows that the European Union now has the largest share of the total, ahead of the United States. In 2005, the difference in share between the two destinations was already one percentage point (29.3 per cent compared to 30.5 per cent, respectively), but in 2010 the gap had grown to over eight percentage points (21.1 per cent for the United States and 29.2 per cent for the European Union). This demonstrates the efforts made by Ecuador to diversify its markets and reduce its dependency on certain destinations (Charts 4.9 and 4.10).



**Chart 4.7**  
**Ecuador: trend of global exports by country grouping, 2001-2010**

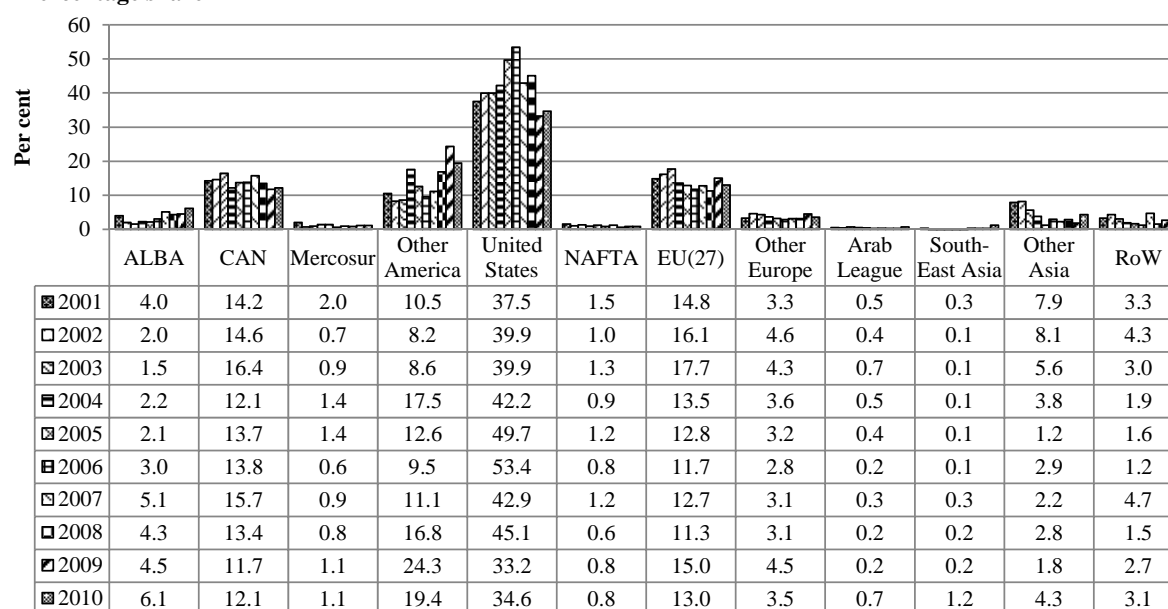
US\$ million



Source: Foreign Trade Statistics, Central Bank of Ecuador (prepared by DGEE/MRECD).

**Chart 4.8**  
**Ecuador: trend of global exports by country grouping, 2001-2010**

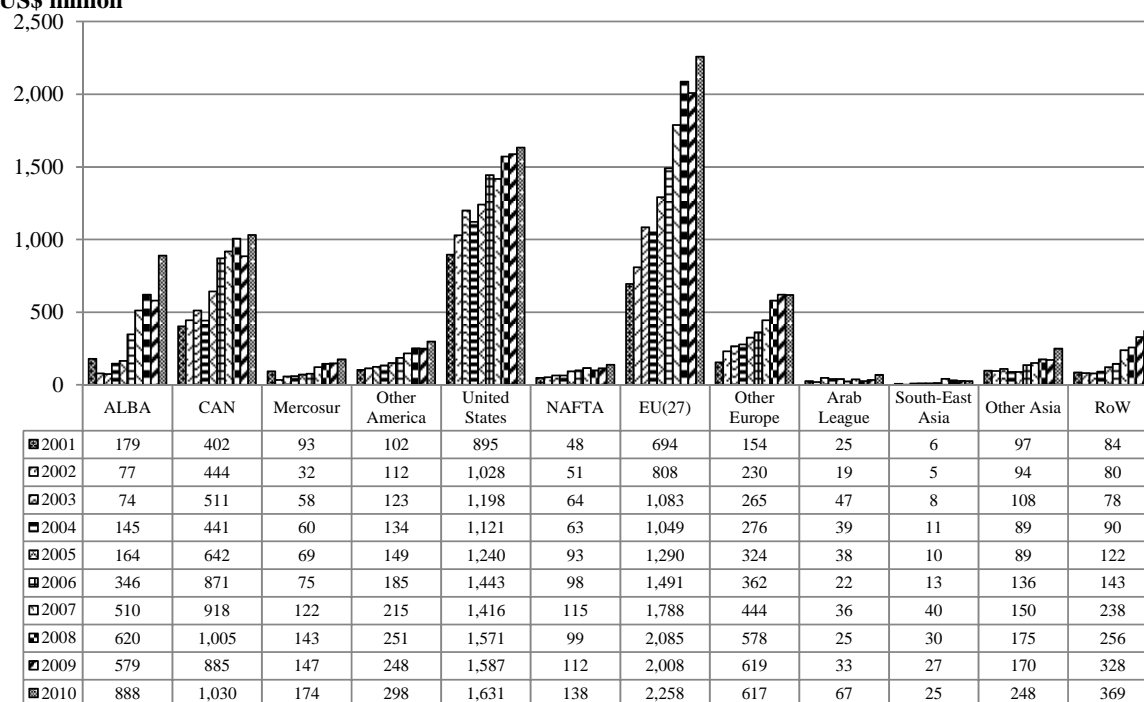
Percentage share



Source: Foreign Trade Statistics, Central Bank of Ecuador (prepared by DGEE/MRECI).

**Chart 4.9**  
**Ecuador: trend of non-oil exports by country grouping, 2001-2010**

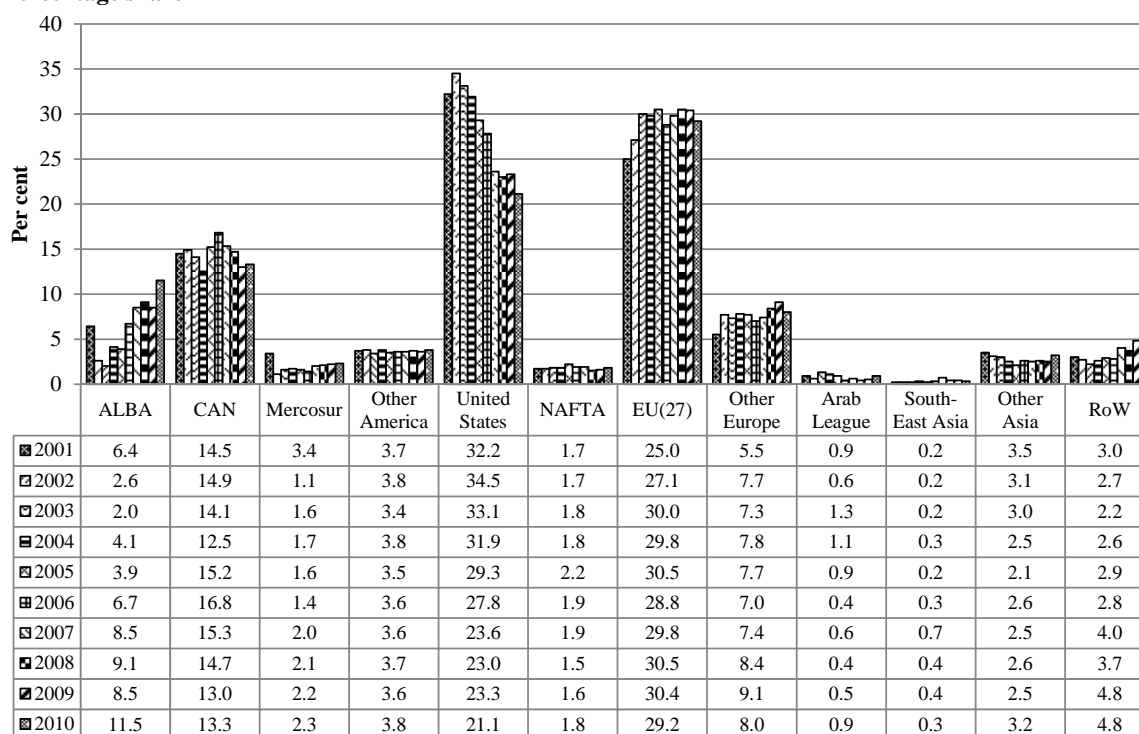
US\$ million



Source: Ecuador: Foreign Trade Statistics, Central Bank of Ecuador (prepared by DGEE/MRECI).

**Chart 4.10**  
**Ecuador: trend of non-oil exports by country grouping, 2001-2010,**

Percentage share



**Source:** Foreign Trade Statistics, Central Bank of Ecuador (prepared by DGEE/MRECI).

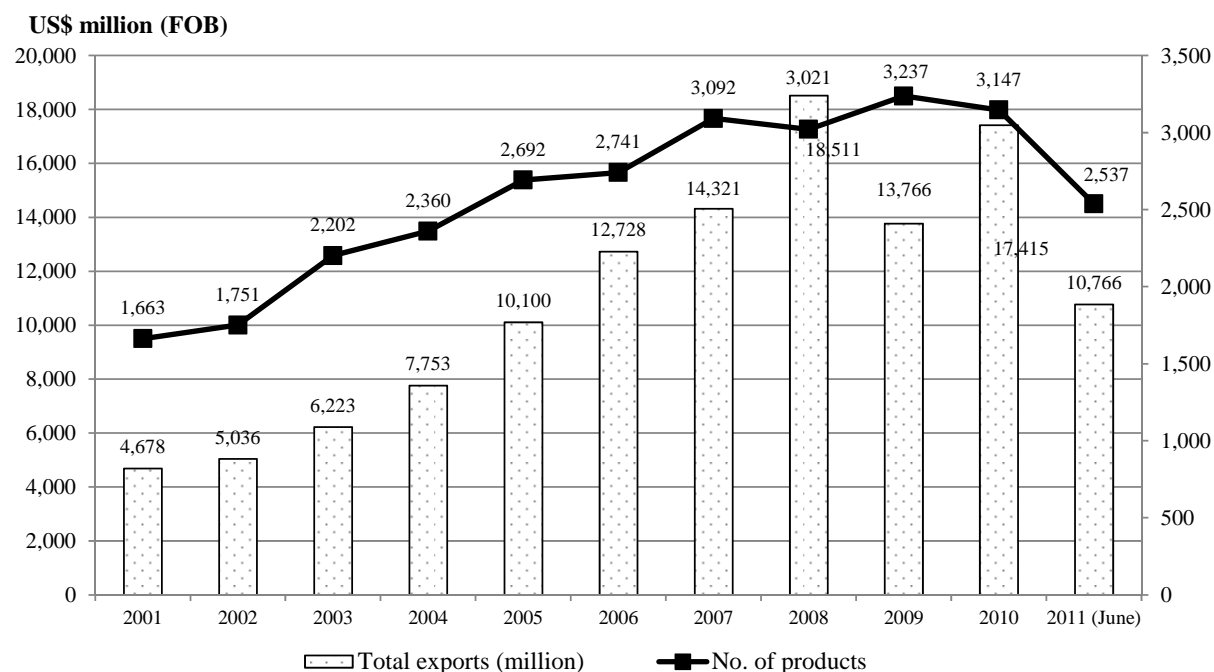
215. The number of products exported by Ecuador has increased, and the trend since 2001 has been rising. In 2005, a total of 2,692 products were exported<sup>18</sup>; in 2007, there were 3,092 export products; and in 2010 there were 3,247 (Chart 4.11). The index of concentration<sup>19</sup> of products exported has remained virtually unchanged at 0.29 in 2005 and 0.28 in 2010 (Chart 4.12).

216. Like exports, imports have also been growing, more than doubling their value over the last five years (from US\$9,549 million in 2005 to US\$19,469 million in 2010). The trend is similar when imports of petroleum products are excluded: US\$7,823 million in 2005 and US\$15,426 million in 2010 (Chart 4.13).

<sup>18</sup> The product definition corresponds to the ten-digit national tariff line.

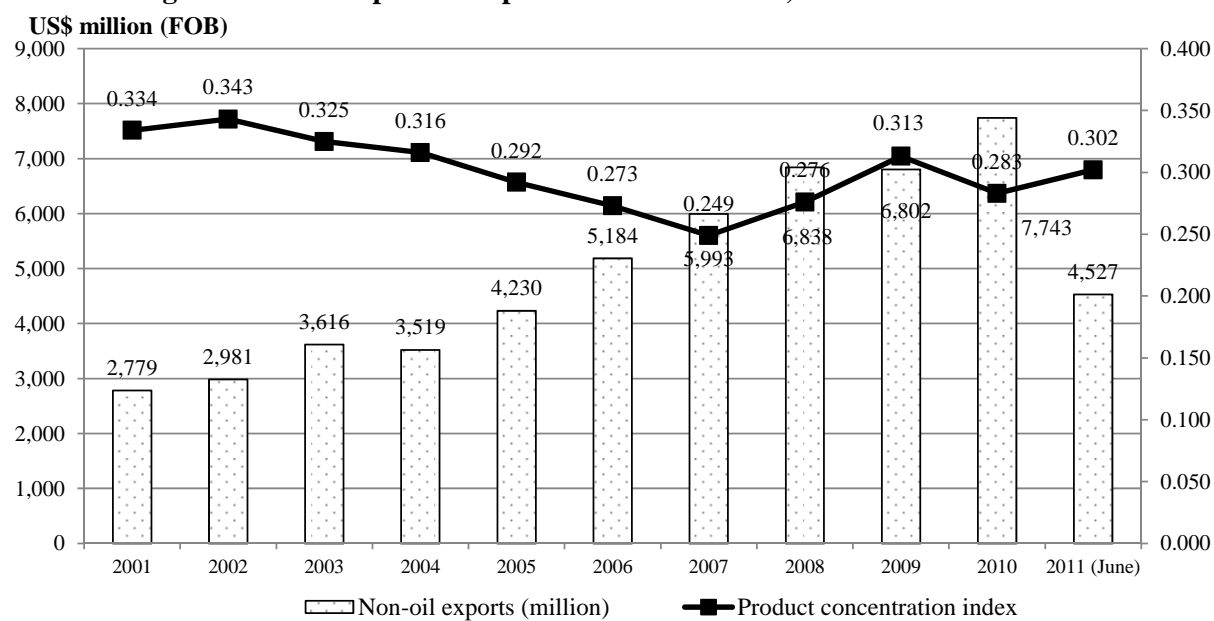
<sup>19</sup> In this case, the Herfindahl-Hirschman indicator measures the share of each product within the range of products supplied, where 1 indicates the highest concentration and 0 indicates perfect deconcentration.

**Chart 4.11**  
**Ecuador: global exports and number of products exported, 2001-2011**



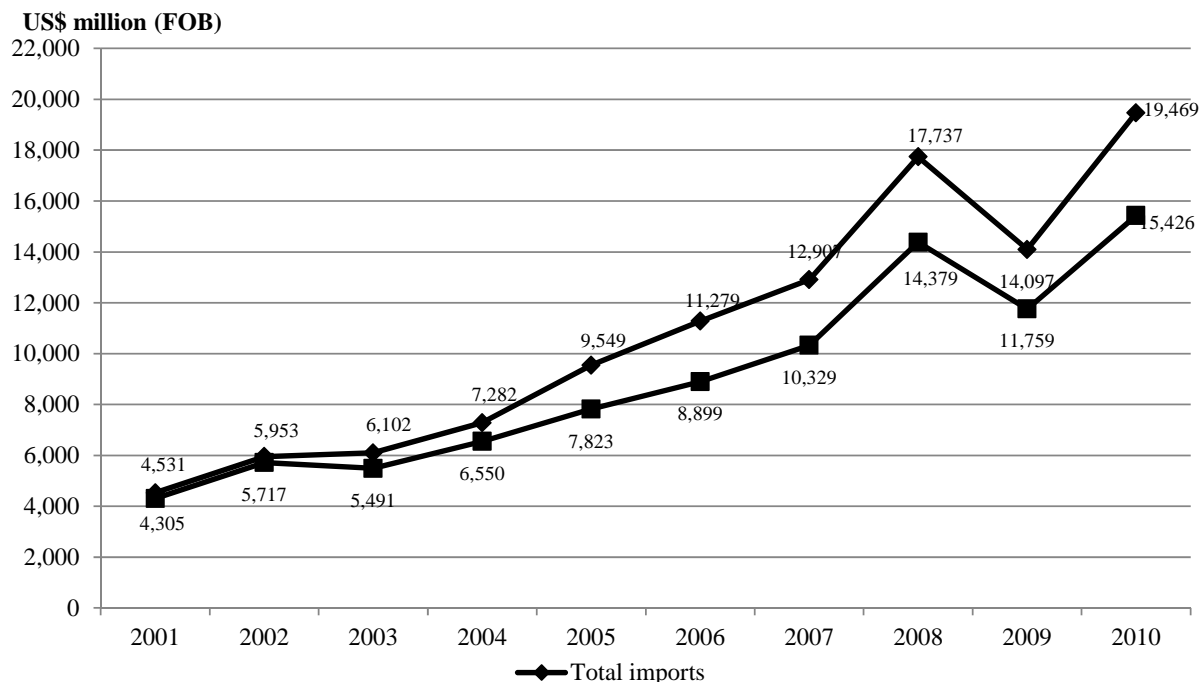
Source: Foreign Trade Statistics, Central Bank of Ecuador (prepared by DGEE/MRECI).

**Chart 4.12**  
**Ecuador: global non-oil exports and product concentration, 2001-2011**



Source: Foreign Trade Statistics, Central Bank of Ecuador, cumulative data (prepared by DGEE/MRECI).

**Chart 4.13**  
**Trend of imports**



*Source:* Foreign Trade Statistics, Central Bank of Ecuador (prepared by DGEE/MRECI).

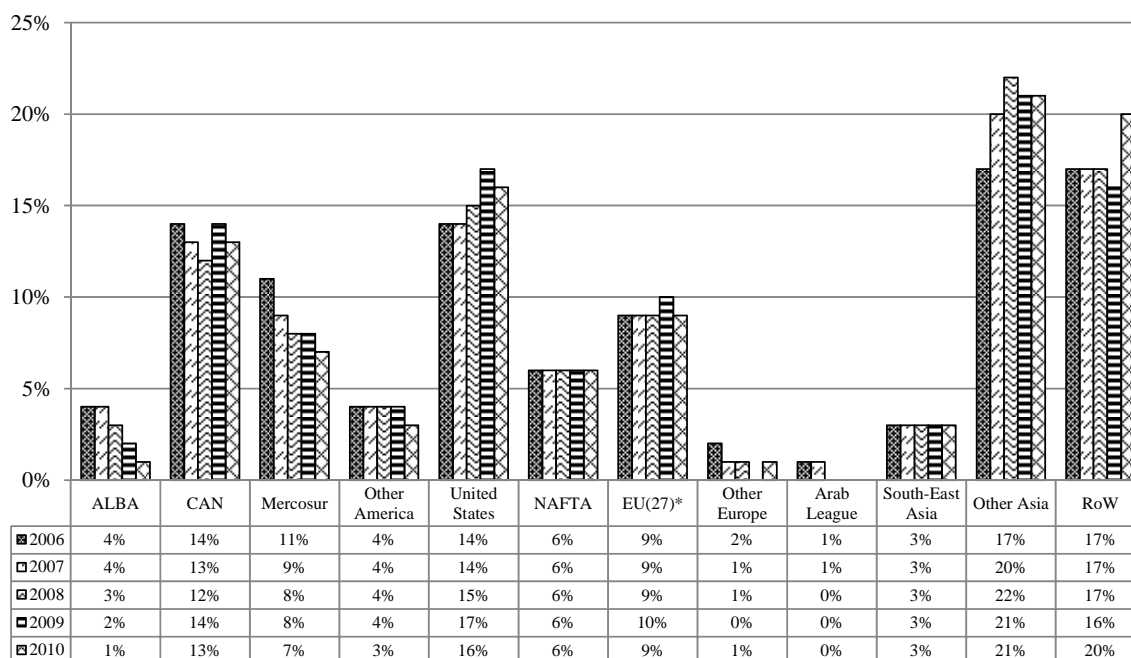
217. Ecuador's leading supplier countries are the United States, China and Colombia, while the Andean Community of Nations, the European Union and MERCOSUR are its main suppliers among the trade blocs. The shares have changed very little in the period 2005-2010, the United States has maintained a 14 per cent share, CAN has slipped from 14 per cent to 13 per cent, and MERCOSUR's share has dropped from 11 per cent to 7 per cent (Chart 4.14).

218. A classification by use or economic destination shows that most imports are raw materials, intermediate products or capital goods for industry. Although their values have been growing throughout the period, rising from US\$3,941 million in 2005 to US\$8,008 million in 2010, their share of total imports has remained around 40 per cent (Chart 4.15).

219. A classification by technological intensity points to another characteristic of the type of goods imported by Ecuador. Most of its imported products are of low technological intensity. During the period 2005-2010 the number of products imported in each category hardly varied at all - around 1,600 low technological-intensity products, and about 900 products of medium-technological intensity and natural resource intensive manufactures (Chart 4.16).

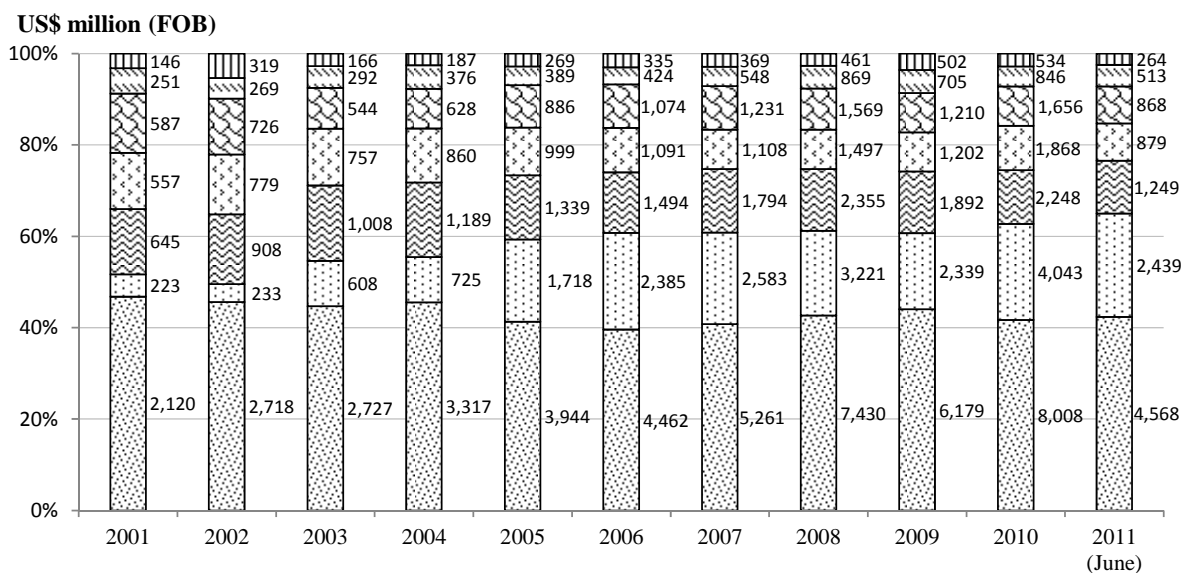
**Chart 4.14**  
**Ecuador: trend of imports by country grouping, 2001-2010**

Percentage share



**Source:** Foreign Trade Statistics, Central Bank of Ecuador (prepared by DGEE/MRECI).

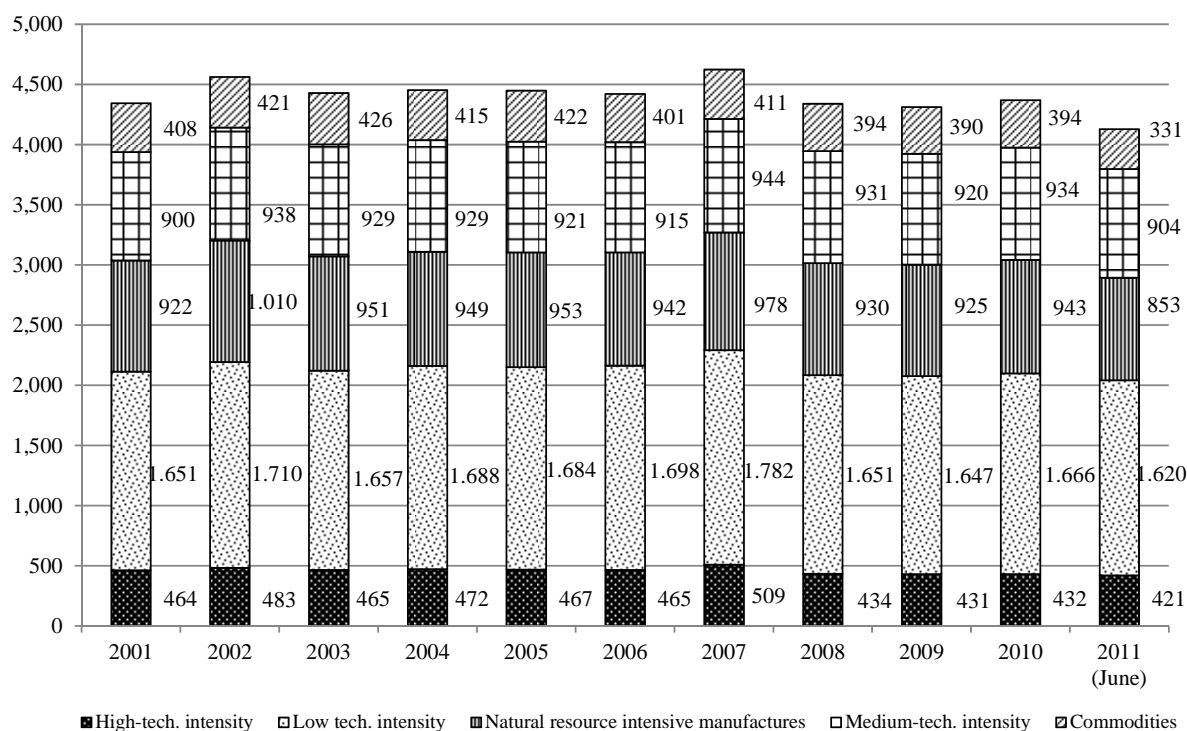
**Chart 4.15**  
**Ecuador: global imports by economic use or destination,**  
**2001-2011**



- Building materials
- ▨ Raw materials, intermediate products and capital goods for agriculture
- ▩ Transport equipment
- ▧ Durable consumer goods
- ▦ Non-durable consumer goods
- ▤ Fuels, lubricants and related products
- ▣ Raw materials, intermediate products and capital goods for industry

Source: Foreign Trade Statistics, Central Bank of Ecuador (prepared by DGEE/MRECI).

**Chart 4.16**  
**Ecuador: structure of global imports by technological intensity - no. of products**



Source: Foreign Trade Statistics, Central Bank of Ecuador (prepared by DGEE/MRECI).

### 4.3 FOREIGN DIRECT INVESTMENT

220. FDI flows into Ecuador averaged US\$408.48 million per year in the period 2005-2010. Since 2003, the amounts have fallen sharply, however, from US\$783.3 million in 2002 to US\$194.2 million in 2007, except for 2008 when FDI attained an annual average of US\$1,005.7 million. The leading FDI-absorbing sectors in that year were: mining and quarrying, transport, storage and communications, manufacturing, business services, and construction.

221. On average for the period 2005-2010, mining and quarrying absorbed 25 per cent of the investment, while manufacturing and commerce received 19 per cent and 15 per cent, respectively.

222. In relative terms, Brazil accounts for 33 per cent of the average total net FDI flow into Ecuador for the period 2005-2010, the vast majority of which (99 per cent) targeted the mining and quarrying sector. Panama accounts for 22 per cent, and Spain 13 per cent, among the other main countries investing in Ecuador.



***Regulatory framework governing foreign investment***

223. As from 29 December 2010, Ecuador has had a modern legal framework that fosters production and private investments in the country. The Code in question is the legal instrument needed to give the Agenda for Productive Transformation a modern framework that stimulates private productive investment.

224. The Code of Production promotes the development of higher value-added businesses with the capability to transform the production pattern (matrix) through investment incentives at the general, sectoral and regional levels.

225. It further provides that foreign investments and investors are to enjoy full protection and security, on an equal footing with their Ecuadorian counterparts. This legal framework establishes the following practical incentives:

- General: applicable to any individual or legal entity that makes new investments in any part of the country and in any productive sector.
- Sectoral: applicable to any private individual or legal entity making new investments in sectors considered priorities for the government.
- Specific, depressed zones: applicable to new investments made in zones with low development indicators.

226. The Code of Production recognizes full protection and security for foreign investments and investors; in other words foreign investments receive the same protection as national investors within national territory, in terms of freedom to produce and market lawful goods and services, access to administrative procedures and control measures to avoid speculative practices, freedom to import and export goods, and freedom to transfer periodic profits abroad, in foreign exchange.

227. Investors can also sign "investment contracts" with the Ecuadorian State to protect their investments. These will define the investment conditions for a renewable 15-year period, and can specify the national or international arbitration mechanism for resolving disputes.

228. These contracts can also contain arbitration clauses for settling disputes between the State and the investors, establishing a first-instance administrative mechanism with a 60-day deadline, followed by mediation with a three-month deadline, and arbitration as the final instance, which addresses issues of law, handing down final and binding rulings, but does not deal with tax-related matters.

**5. TRADE REGULATIONS AND POLICIES****5.1 INSTITUTIONAL FRAMEWORK: COMMITTEE ON FOREIGN TRADE (COMEX)**

229. The Ecuadorian Government is pursuing its production, diversification and productive transformation strategy in line with public policy designed to promote production, employment and competitiveness through the efficient use of existing resources.

230. As pertains to trade policy, the Constitution establishes the need for international coordination guided by principles of fairness and solidarity in order to further the balanced development of the economy, society and the environment. The Constitution encourages membership of blocs, mainly in Latin America, to promote diversification of destinations, products and exporters. It also prioritizes

the formation of production chains that afford small and medium-sized producers access to international markets.

231. The National Plan For Good Living (2009-2013) envisages the shaping of a new development model, including a new post-petroleum approach to wealth generation and redistribution.

232. The priority strategies for attaining that goal include the transformation of the pattern of specialization of the economy by means of selective import substitution that will reduce the structural weakness of the trade balance, create demand for new industries and reduce external dependence. This will go hand-in-hand with a strategy of increasing real productivity and diversifying exports, exporters and global destinations. These two strategies will induce change in the pattern of accumulation in the economy, thereby transforming the current scheme (primary production, limited human resource capabilities, declining output, low salaries, limited domestic demand, external dependence) into a new one (production that creates value, greater human resource capabilities, growing output, higher salaries, greater domestic demand, less external dependence). Similarly, another strategy aims for a strategic and sovereign worldwide presence and Latin American integration so as to boost endogenous development in Ecuador by rebalancing its geopolitical relations in an international context that allows the country to become part of political, economic and social networks that offer an alternative and complementary pattern for the country's worldwide integration.

233. Under this approach, the Organic Code of Production, Trade and Investment (COPCI) aims, *inter alia*, to foster domestic production of, trade in and sustainable consumption of goods and services, to promote and diversify exports and to step up strategic import substitution.

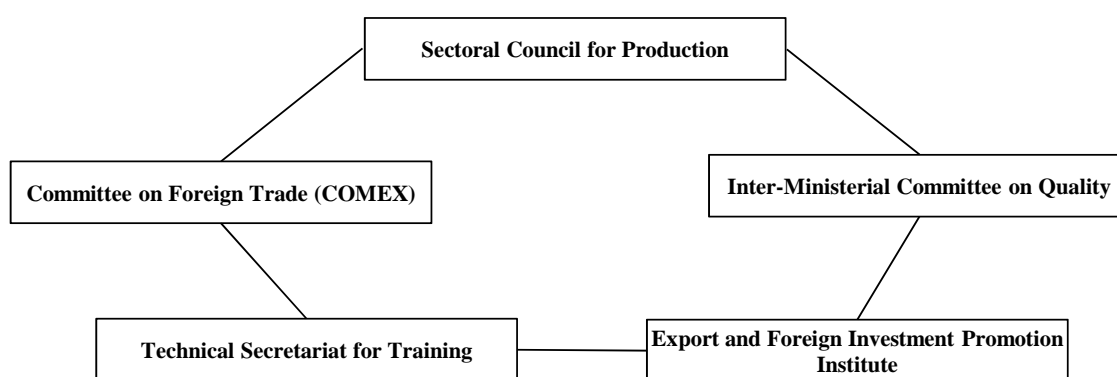
234. Adoption of the COPCI gave rise to the creation of the Committee on Foreign Trade (COMEX), entrusted with approving national public trade policies and made up of heads or delegates of the following institutions:

- The ministry in charge of foreign trade policy;
- the ministry in charge of agricultural policy;
- the ministry in charge of industrial policy;
- the ministry responsible for the coordination of productive development;
- the ministry responsible for the coordination of economic policy;
- the ministry in charge of public finances;
- the national planning agency;
- the ministry responsible for the coordination of the strategic sectors;
- the Internal Revenue Service;
- the Customs Authority;
- such other institutions as decided by the President of the Republic.

235. The duties and powers of the COMEX are to formulate and approve foreign trade and export promotion policies and strategies; give prior opinions and lay out guidelines for negotiations on international agreements and treaties concerning foreign trade and economic integration; create, modify or dismantle customs tariffs; review non-tariff rates; regulate and facilitate exports and imports; issue standards and licences; approve nomenclatures; take the necessary steps to remedy unfair international trade practices that affect domestic production; promote trade in products subject to environmental responsibility standards; provide for deferred payment of customs duties, *inter alia*.

### Chart 5.1

#### Institutional framework for productive development in Ecuador



## 5.2 TARIFF POLICY

236. Tariffs are one of Ecuador's main trade policy instruments as well as a source of tax revenue.

237. As a member of the Andean Community, CAN (which has had a common external tariff since 1995), Ecuador is required initially to ensure that changes to its tariff rates and nomenclature reflect the changes to the common external tariff approved by the members of the Community. The members of the Andean Community, however, currently apply the common external tariff with numerous exceptions. For this reason and in order to maintain a degree of flexibility in the application of tariff levels, Community member countries have not been obliged to apply the common external tariff since July 2007 (CAN Decision No. 669).<sup>20</sup>

238. Under the above-mentioned Decision, Ecuador's tariff policy is managed on the basis of guidelines and parameters designed to reduce the cost of raw materials, inputs and capital goods that are not produced in the country, in order to improve the competitiveness of the production sector, protect local industry as a generator of employment and added value, increase tax revenue especially on goods considered to be luxury items, and correct any kind of disparity by applying tariffs to imports of goods that are also produced locally.

239. Ecuador grants tariff preferences to all imports from the Plurinational State of Bolivia, Colombia and Peru in the framework of the CAN and to those from the Bolivarian Republic of

<sup>20</sup> Under CAN Decision No. 717, the final deadline for suspending the application of the common external tariff is 31 December 2011.

Venezuela under mechanisms for the maintenance of preferences agreed between both countries. It also grants preferential treatment to imports from countries with which it has signed agreements in the LAIA framework.

240. The product categories that have benefited from tariff reductions include industrial capital goods, raw materials and transport equipment, whilst durable and perishable goods have been subject to tariffs increases. Tariff increases have always been made in keeping with Ecuador's commitments in the WTO framework.

241. Ecuador uses the common tariff classification system of the Andean Community known as NANDINA (Andean tariff nomenclature), which is based on the 2007 Harmonized Commodity Description and Coding System (HS).

242. At the beginning of 2011, Ecuador's tariff nomenclature consisted of 7,241 ten-digit lines from the HS 2007, or 292 lines more than in 2005 (Chart 5.2).

243. The average most-favoured-nation (MFN) tariff rate applied was reduced from 11.4 per cent in 2005 to 9.2 per cent in 2011. Similarly, almost 54.5 per cent of the applied MFN tariff rates range between 0 per cent and 5 per cent.

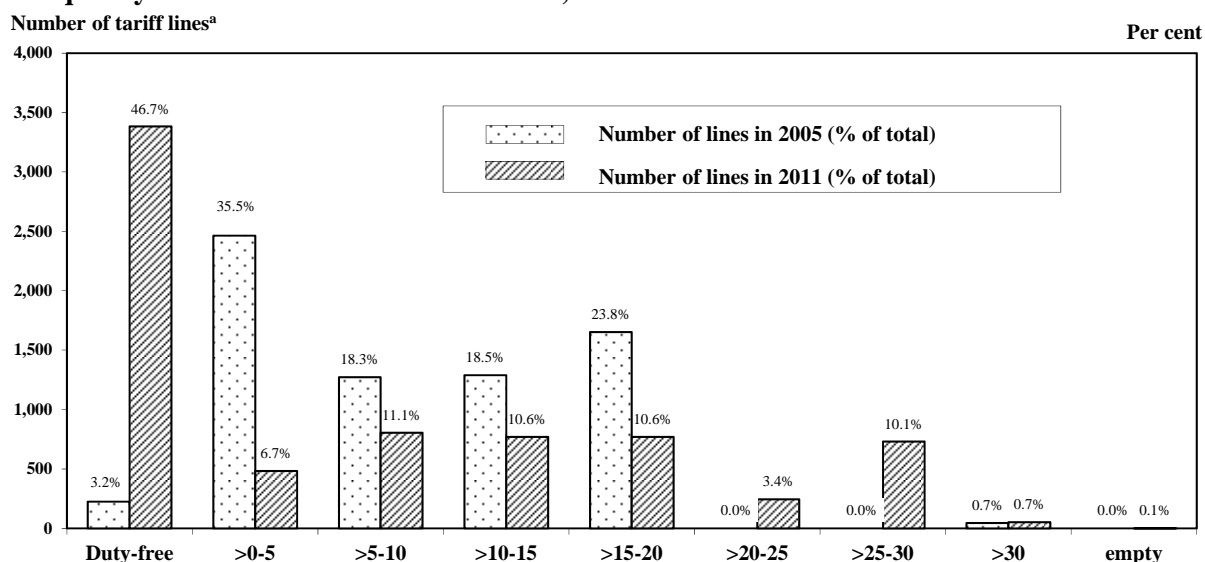
244. Between 2005 and 2011, the arithmetic average of the MFN tariff rates applied by Ecuador fell from 11.4 per cent to 9.3 per cent (Table 5.1).

245. The maximum *ad valorem* rates have remained unchanged since 2005 and are applied as follows: 85 per cent on meat offal, 67.5 per cent on rice and 54 per cent on milk and cream.

246. All tariff lines have been bound since Ecuador became a WTO Member, with roughly 98 per cent of tariff lines bound at rates of 30 per cent or less (in line with the 2002 version).

247. Ecuador's average bound rate exceeds the average applied MFN rate by nearly 12 percentage points; the biggest differences of up to 16-17 percentage points affect grains, milk products and oilseeds. Differences between bound and applied rates provide scope to raise the applied rates, especially in sensitive sectors (Chart 5.3).

**Chart 5.2**  
**Frequency distribution of MFN tariff rates, 2005 and 2011**



a The total number of lines is 6,949 for 2005 and 7,241 for 2011.

Source: WTO Secretariat calculations, based on data provided by the Ecuadorian authorities.

**Table 5.1**  
**MFN tariff structure, 2005 and 2011**  
(Per cent)

|  | 2005  | 2011  | Final bound rate |
|--|-------|-------|------------------|
| 1. Bound tariff lines (% of all tariff lines)                          | 100.0 | 100.0 | 100.0            |
| 2. Simple average tariff rate  | 11.4  | 9.3   | 21.0             |
| Agricultural products (HS 01-24)                                       | 16.7  | 19.6  | 26.7             |
| Industrial products (HS 25-97)   | 10.6  | 7.6   | 20.0             |
| Agricultural products (WTO definition)                                 | 15.7  | 17.3  | 25.6             |
| Non agricultural-products (WTO definition) (excluding petroleum)       | 10.8  | 8.2   | 20.3             |
| Textiles and clothing  | 18.1  | 14.4  | 28.4             |
| 3. Domestic tariff peaks (% of all tariff lines) <sup>a</sup>          | 0.7   | 10.8  | 0.2              |
| 4. International tariff peaks (% of all tariff lines) <sup>b</sup>     | 24.4  | 24.8  | 67.3             |
| 5. Overall standard deviation of tariff lines                          | 7.0   | 11.0  | 8.2              |
| 6. Coefficient of variation of tariff lines                            | 0.6   | 1.2   | 0.4              |
| 7. Duty-free tariff lines (% of all tariff lines)                      | 3.2   | 46.7  | 0.0              |
| 8. Non- <i>ad valorem</i> tariffs (% of all tariff lines)              | 0.0   | 4.9   | 0.0              |
| 9. Non- <i>ad valorem</i> tariffs with no AVEs (% of all tariff lines) | 0.0   | 4.9   | 0.0              |
| 10. "Nuisance" applied rates (% of all tariff lines) <sup>c</sup>      | 0.0   | 0.0   | 0.0              |

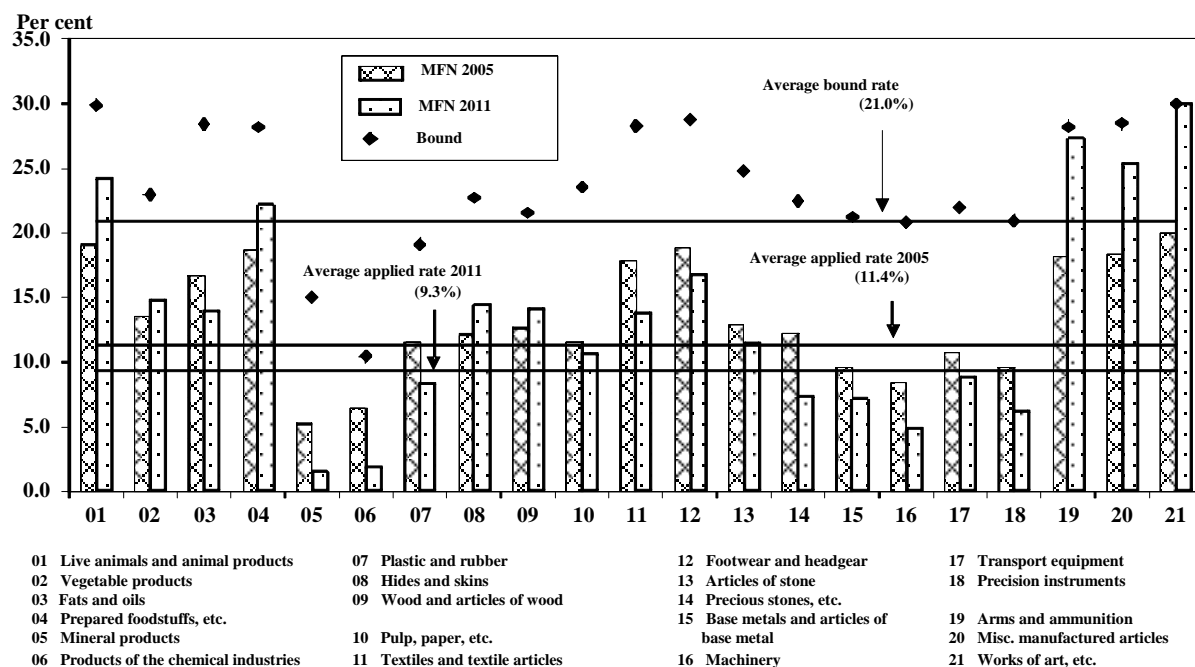
a. Domestic tariff peaks are defined as those exceeding three times the overall simple average applied rate.

b. International tariff peaks are defined as those exceeding 15 per cent.

c. "Nuisance" rates are those greater than zero, but less than or equal to 2 per cent.

Source: WTO Secretariat calculations, based on data provided by the Ecuadorian authorities.

**Chart 5.3**  
Average applied and bound MFN tariff rates, by HS section, 2005 and 2011



Note: Calculations do not include AVEs.

Source: WTO Secretariat calculations, based on data supplied by the Ecuadorian authorities.

248. Ecuador applies tariff quotas in respect of 17 lines (4, 6 or 8 digits). All goods to which tariff quotas are applied are subject to the Andean Price Band System and these quotas are generally assigned to importers on the basis of historic consumption and may be applied in conjunction with an absorption requirement designed to protect national output (importers must buy a portion of the national output in order to obtain authorization to import the product).

### 5.3 NATIONAL LOGISTICS STRATEGY

#### Background

249. Ecuador's logistics and goods transport sector cannot currently meet the needs of the production sector, a fact that limits its competitiveness and jeopardizes the implementation of the Productivity, Diversification and Transformation Agenda, especially as pertains to the strategies of diversification and productive transformation, both of which are based on logistically very complex goods.

250. Most of the services provided are limited to transport services with low added value, whilst other more complex ones, such as storage and distribution, are carried out by the production sector itself. There is limited specialization in services, more specifically in cold chain management, picking/packing processes and warehouse inventory management, as well as in specialized logistics segments such as food and bulk goods, which lack a quality bulk carrier fleet.

251. Ill-suited transport equipment affects both the supply of services as well as their degree of specialization and limits the range of services on offer. In that regard, most of the fleet of vehicles<sup>21</sup> - between 60 per cent and 80 per cent - is considered obsolete, being over 32 years old and generally unsuitable for the products transported, which results in both damage to that equipment and financial losses.

252. At the same time, much of the production sector regards logistics as a cost factor, which impacts efforts to provide more sophisticated services and complicates migration from traditional practices and from enterprises with somewhat weak management to models oriented towards service provision and the development of value-adding activities. This is yet another financial barrier to the entry of new logistics operators or the provision of more sophisticated services by transport companies (which are unable to finance their projects owing to insufficient demand).

253. There are also training deficits amongst small and medium-sized providers and users of logistics services, both in terms of managerial capabilities and specialized aspects of cargo handling (formalities associated with foreign trade, loading and unloading procedures, stowage, etc.). Most individual transport operators<sup>22</sup> have a low level of training in logistics and cargo handling, a situation similar to the vast majority of operators in the production sector.

254. In light of the above, there is a need for a comprehensive strategic framework to be created to guide government action, organize private sector activities and respond to the sector's main problems by establishing a forward-looking vision for the national logistics and transportation sector in order to coordinate all activities and strategies in pursuit of this objective. This strategic framework emanates from the formulation of a National Logistics Policy as the basis for establishing the institutional, legal, regulatory and financial framework and human resource profile of the sector, etc. that are required to overcome the problems and move the nation's logistics system towards the future.

#### *Aims of the national strategy*

255. The policy objectives reflect what it is hoped to achieve in the system by means of a sectoral policy and serve as the basis for formulating the government's action strategies and commitments. Hereunder are the ten objectives proposed for the National Logistics Strategy, together with the scope of each one:

- (a) To progress towards consolidating and formalizing the transport sector, giving rise to enterprises that are competitive in terms of size, robustness, diversification of the services on offer, and quality: FORMALIZATION AND CONSOLIDATION.
- (b) To encourage the transformation of the Ecuadorian transport sector into a reliable provider of logistics services that are competitive in terms of quality and cost: TRANSFORMATION OF OPERATORS.
- (c) To promote the commercialization and internationalization of transport and logistics service operators, positioning Ecuador as a quality benchmark in the Andean region: INTERNATIONALIZATION.

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<sup>21</sup> 70,000 units according to the National Federation of Heavy Goods Transport (FENATRAPE), possibly 100,000 units according to the Ministry of Transport and Public Works (MTOPE).

<sup>22</sup> 95 per cent of sector representatives state that they have not completed compulsory education.

- (d) To boost the modernization and competitiveness of the sector by means of entrepreneurial innovation and the incorporation of new information and communication technologies for efficient operations management: INNOVATION AND NEW TECHNOLOGIES.
- To adapt transport and logistics supply capabilities to the real needs of the various productions sectors, without market discrimination: ADAPTATION TO PRODUCTION SUBSECTORS.
  - To encourage the development of multimodality in the transport sector as a tool for the sustainable and balanced growth of regional potential and use of the existing domestic infrastructure: MULTIMODAL CAPABILITIES.
  - To promote the image of the sector and encourage the reduction of the negative externalities associated with cargo transport operations (adverse environmental effects, accidents, physical safety, etc.): REDUCTION OF NEGATIVE EXTERNALITIES.
  - To adapt the institutions involved with the development of the National Logistics System to the need to strengthen the transport and logistics sector: INSTITUTIONAL ADAPTATION.
  - To promote better use of local logistics and foreign trade infrastructure through the establishment of a physically and operationally integrated national network: LOGISTICS INFRASTRUCTURE.
  - To commit to the development of national logistical capabilities and encourage the professionalization of operations and management in all aspects and at all levels of logistics: NATIONAL CAPABILITIES.

256. The objectives of internationalizing national operators, developing multimodal capabilities and creating a logistics infrastructure network in particular are aimed directly at improving the balance of services through the development of local suppliers, for the benefit of both the domestic and regional production sectors.

#### **5.4 CUSTOMS FACILITATION FOR TRADE**

257. The past five years (2005 to 2010) have brought an improvement in customs services meant to facilitate foreign trade and better control the entry and exit of goods, cargo units and means of transport. The result is that total clearance time (from the arrival of the means of transport until the release of the goods) had been reduced from 11.91 days to 6.54 days at the end of 2010. This has not led to any decline in tax revenues, which instead were up 53 per cent on 2005 levels.

258. The revision of the Organic Customs Law on 23 October 2007 saw the elimination of the certificate of inspection at the place of origin as a document required to accompany the customs declaration, thereby allowing the import sector to save some US\$70 million annually. The requirement of approval (*visto bueno*) by the Central Bank of Ecuador prior to the shipment of goods being imported for consumption was also eliminated.

259. The concept of risk profile analyses for goods inspections, introduced as part of the reforms, reduced the number of physical inspection procedures from 75.54 per cent of all customs declarations



in January 2005 to 25.04 per cent in May 2011. Profiling based on reasonable doubt also reduced the number of physical inspection procedures from 29.80 per cent of all customs declarations in 2008 to 4.47 per cent in 2010. The use of X-ray and other similar scanning technology was also introduced for the inspection of goods; these techniques have only been in application for a few months and the percentage of inspection procedures concerned was therefore only 0.87 per cent in May this year. The automatic inspection channel, which allows goods to be released upon electronic validation of the customs declaration data transmitted to Ecuador's customs system and subsequently submitted physically, accounted for 27.88 per cent of clearance formalities nationwide in the month of May.

260. Moreover, customs formalities now include a subsequent control stage allowing for inspections at business premises and this has yielded significant results in terms of the number of seizures.

261. CAN Decision No. 671 was adopted in its entirety in 2010 in order to harmonize the use of the special regimes that had been envisaged in Community legislation and in the domestic laws of member countries. Collaboration has also been under way with in-house personnel from the South Korea Customs Service (which has received several awards from the WCO) to implement the new computerized customs system (EQUA-PASS). The system's various modules include a Web-based single window, import clearance, import cargo, export clearance, export cargo, legal system, post-clearance controls, risk management, etc.

262. The Organic Code of Production, Trade and Investment was enacted on 29 December 2010 and Title II "Customs facilitation for trade" of Book V thereof has replaced the earlier Organic Customs Law. Book V grants powers to Ecuador's National Customs Service based mainly on streamlined customs processes, proper revenue collection, encouragement of fair competition, as well as fair and dissuasive penalties.

263. This new legal text contains concepts such as clearance against guarantee of payment, which enables foreign trade operators to obtain the release of goods immediately upon determination of the amount payable in connection with the customs declaration, without authorization of the relevant payment of foreign trade duties and other charges, provided that an annual comprehensive guarantee has been issued for that purpose. The text also defines an authorized economic operator as a natural or legal person involved in the international movement of goods and complying with equivalent supply chain security standards and hence benefiting from simplified customs procedures.

## 5.5 TECHNICAL STANDARDS

264. The first paragraph of Article 52 of the Constitution of the Republic of Ecuador states: "Persons have the right to goods and services of optimum quality and to choose them freely, as well as to accurate and reliable information about their content and characteristics". The second paragraph reads: "The law provides for quality control mechanisms and consumer defence procedures, as well as penalties for the infringement of these rights, reparation and compensation for defects, damages or poor quality of goods and services and for the interruption of public services not caused by acts of God or *force majeure*".

265. Article 4 "Consumer Rights" of the Organic Law on Consumer Protection lays out 14 basic rights regarding the quality of goods and services.

266. Article 3 of the Law on the Ecuadorian Quality System provides as follows: "It is hereby declared State policy to demonstrate and promote quality, in both the public and private sectors, as a fundamental and priority factor of productivity, competitiveness and national development".

267. On the basis of these legal instruments and the aims of the National Plan for Good Living, the INEN has established the following strategic objectives and daily activities:

- In pursuit of the first strategic objective of formulating and issuing Ecuadorian Technical Standards (NTE) and Ecuadorian Technical Regulations (RTE) to serve as references for the production and marketing of raw materials, intermediate products and finished goods, the INEN will undertake the following activities: the study, formulation, defence and issue of Ecuadorian Technical Standards (NTE) and Ecuadorian Technical Regulations (RTE); the issue of revised Ecuadorian Technical Standards; and the study, formulation, defence and issue of codes of practice, practice guidelines and technical manuals.
- In pursuit of the second strategic objective of raising the quality of products, services, enterprises and staff concerned with quality matters and to enhance competitiveness in the domestic and international markets, the INEN will undertake the following activities: certification of the conformity of products or product samples with standards; certification of conformity with the INEN quality seal; certification of conformity with Ecuadorian technical regulations; certification of quality management systems; and certification and registration of staff working on quality matters.
- In pursuit of the third strategic objective of contributing to technological development in the country by means of physical, mechanical and analytical testing and the calibration of weighing and measuring instruments, the INEN will undertake the following activities: physical, mechanical and analytical testing of materials, products or product samples for industrial and household use or for research purposes; and certification of weighting or measuring equipment used in enterprises for gauging mass, length, volume, strength, pressure, temperature and humidity.
- In pursuit of the fourth strategic objective of protecting the health and safety of clients and users of goods or services in the country through oversight of compliance with the requirements of the Ecuadorian Technical Standards and Ecuadorian Technical Regulations, the INEN will undertake the following activities: issuing the certificate (form INEN-1) for imported goods subject to control, and issuing verification and evaluation reports regarding product compliance with Ecuadorian Technical Standards (NTE INEN).

268. Since 2005 the WTO has been notified of 58 Ecuadorian Technical Regulations (RTE INEN) and five conformity assessment procedures.

## **5.6 SANITARY AND PHYTOSANITARY STANDARDS**

269. Executive Decree No. 1449 of 22 November 2008 created the Ecuadorian Agency for Agricultural Product Quality Assurance (AGROCALIDAD), which took over all the functions of the Ecuadorian Agricultural Health Service (SESA).

270. The main legal provisions on animal and plant health are set out in national laws, which also contain the relevant WTO rules, as well as in various instruments adopted by the member countries of the Andean Community and the Board of the Cartagena Agreement. The Andean Community has updated the Community's regulations on and sanitary requirements for trade both within the subregion

and with third countries in animals, including bovine animals<sup>23</sup>, horses<sup>24</sup>, pigs<sup>25</sup> and birds<sup>26</sup>, and their products and by-products. The basic catalogue of animal pests and diseases exotic to the subregion was also amended.<sup>27</sup> Several phytosanitary standards have been issued since 2005, based on AGROCALIDAD Resolution No. 11 "Establishment of phytosanitary requirements".

271. AGROCALIDAD also registers goods such as pesticides and veterinary products in keeping with international regulations such as Decisions Nos. 436 and 483 of the Andean Community of Nations.

272. AGROCALIDAD forms part of the National Codex Alimentarius Committee (CNCA), created by Executive Decree in October 2004 as an advisory body to the National Government and responsible for studies and proposals on and the analysis and assessment of all matters relating to the work of the Codex Alimentarius Commission.

273. No cost/benefit analyses are used in the drafting of phytosanitary regulations for imported or exported plant products. The pest risk analyses (PRAs) used to determine the phytosanitary requirements for imported plant products, for example, entail qualitative rather than quantitative studies. They are first and foremost scientific studies to identify pests and/or diseases that may be present in both import and export products, based on the application of IPPC international standards for phytosanitary measures (ISPMs) regarding pest risk analyses and risk mitigation measures and on decisions by the World Organisation for Animal Health (OIE) and international bodies involved with pesticide management, such as the Rotterdam Convention. AGROCALIDAD therefore has personnel trained in IPPC, OIE and CODEX ALIMENTARIUS standards.

274. AGROCALIDAD is also active with regard to the importation of products under its control, such as plants, animals and/or pesticides and veterinary products. Imports covered by an animal or plant health certificate (issued by the national plant protection organization in the country of origin) are subject to physical inspection by AGROCALIDAD at the port of entry. If the outcome of the physical inspection is satisfactory, AGROCALIDAD issues a permit allowing the goods to enter. Non-compliant products are rejected and must be re-exported to the country of origin or, after a certain time lapse, they are declared as abandoned and are destroyed. What is issued is not a permit but a phytosanitary release document, known as a customs destination document, that allows the interested party to continue inward clearance formalities with the customs authorities.

275. A sanitary certificate issued by the Ministry of Public Health is required for imports of additives, processed foods, medicines, drugs, homeopathic products, medical devices and household pesticides. In addition to the sanitary certificate, an import licence must be obtained from the same ministry for the importation of additives, processed foods and their raw materials, medicines, cosmetics, drugs, homeopathic products, medical devices and household pesticides.

276. Since 2005 Ecuador has submitted 279 sanitary- and phytosanitary-related notifications to the WTO.

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<sup>23</sup> Resolutions Nos. 1130 and 1267.

<sup>24</sup> Resolution No. 1160.

<sup>25</sup> Resolutions Nos. 1183-623.

<sup>26</sup> Resolution No. 1285.

<sup>27</sup> Resolution No. 1012 amending Resolution No. 847.

## 5.7 INTELLECTUAL PROPERTY

277. The 2008 Constitution of Montecristi covers intellectual property rules on the protection of traditional knowledge, copyright and access to genetic resources. It represents a major step forward in intellectual property protection, as the supreme law now expressly addresses various areas of intellectual property protection that had not been covered previously.

### *Patents: Compulsory licences for pharmaceutical patents*

278. Executive Decree No. 118 of 23 October 2009 states that access to medicines used for the treatment of diseases that affect the Ecuadorian population and constitute a public health priority is a matter of public interest and that compulsory licences may accordingly be issued on patents for the medicines for human use needed for their treatment. Article 64 of CAN Decision No. 486 on the Common Industrial Property Regime lays out the conditions stipulated in Article 31 of the TRIPS Agreement under which member countries may issue compulsory licences.

### *Enforcement of trademark rights and copyright*

279. The Ecuadorian Intellectual Property Institute (IEPI) has had the authority to enforce trademark rights and copyright since its inception. There are two options, namely administrative control and border measures, whether ex officio or on application by an interested party.

280. There has been an average of 50 administrative control proceedings per year since 2005. Although most of the proceedings were initiated by aggrieved right-holders, since 2010 the IEPI has initiated administrative proceedings ex officio to identify and punish major marketing channels for unlawful reproductions of audiovisual products. Those rulings have been challenged by the offenders before the competent courts, which have upheld the findings of the IEPI.

281. Border measures were introduced in 2007 and by April 2011 over 1,000 such measures had been taken, almost all of them ex officio. In very few instances did the affected right holders attend the proceedings to defend their interests, a fact that complicated the task of the customs administration and the IEPI in determining the existence of an infringement.

282. Moreover, an analysis of the entire universe of border measures reveals that the most frequently infringed form of intellectual property is copyright, by means of reproductions or copies of protected images or the use of copyrighted works in goods without a licence or authorization.

283. In 2010, for example, of the 189 border measures taken, 104 corresponded to copyright violations. A total of 78 measures corresponding to all the forms of intellectual property have so far been taken in 2011.

284. The IEPI undertakes awareness-raising and dissemination campaigns in respect of intellectual property amongst public and private entities, leading to the launching and settlement of administrative controls and the adoption of border measures. It should be noted that the IEPI organizes dissemination exercises targeting different groups and participates in fairs and events throughout the year. The aim is to make more people aware of their rights as creators and to reduce the number of instances of infringement and non-observance of the law. The result has been an increase in the number of works registered with the IEPI (2,132 works registered in 2009 compared with 2,386 registrations in 2010) and ongoing recourse to administrative control procedures because creators are aware of their rights and are bringing actions accordingly. Hence, six copyright-related

administrative actions were brought in 2005, for example, 54 in 2006, 46 in 2007, 60 in 2008, 40 in 2009 and 42 in 2010.

## 5.8 QUALITY POLICY

285. The quality policy of the National Quality System is based on standards that safeguard and promote the well-being of citizens by encouraging the production of quality industrial goods and the consumption of goods and services that are of good quality, healthy and safe. The National Quality System operates in two fields of action.

286. The Quality Policy is aligned with the National Plan for Good Living, the Industrial Policy, the Agenda for Productive Territorial Transformation and the Code of Production.

287. The action lines of the quality policy are inspired by the law on quality, the objectives of which are as follows: (i) to regulate the functioning of the Ecuadorian quality system; (ii) to coordinate the participation of the public administration in conformity assessment activities; (iii) to establish mechanisms and incentives for quality promotion in the Ecuadorian society; (iv) to establish the requirements and procedures for the preparation, adoption and implementation of standards, technical regulations and conformity assessment procedures; (v) to ensure that the standards, technical regulations and conformity assessment procedures are adapted to the international conventions and treaties to which the country is signatory; (vi) to ensure the security, reliability and fairness of market relations in the trading of domestic or imported goods and services; (vii) to organize and determine institutional responsibilities that are consistent with the proper and timely provision of internal and external notification and information regarding standards, technical regulations and conformity assessment procedures.

288. Furthermore, four main pillars have been identified for the implementation of the quality policy: (i) standardization; (ii) metrology; (iii) accreditation; and (iv) conformity assessment.

289. This requires the introduction of mechanisms to render the quality policy more practicable through: (i) the Inter-Ministerial Committee on Quality; (ii) the Ecuadorian Standardization Institute (INEN); (iii) the Ecuadorian Accreditation Agency (OAE); (iv) the public entities and institutions which, depending on their areas of responsibility, are able to issue standards, technical regulations and conformity assessment procedures; (v) the Ministry of Industry and Productivity (MIPRO), the body responsible for the Ecuadorian Quality System.

## 5.9 COMPETITION AND CONSUMER PROTECTION POLICIES

### *Competition policy*

290. A draft Organic Law on Control of Market Power (Competition Law) has been prepared and is expected to be adopted during the current year 2011.

291. This draft Law was prepared pursuant to the UNCTAD Model Law on Competition and in keeping with the principles of modern comparative law, whilst recognizing the specificities of the situation in Ecuador.

292. Regional and worldwide experience shows that the only way to protect consumers and the entrepreneurs themselves from the distorting effects of competition is by means of a dedicated legal framework. This will entail the adoption of an Organic Law on Control of Market Power (Competition Law) that empowers Ecuador's national competition agency to investigate and possibly

penalize instances of abuse of a dominant position, competition-restricting arrangements, and to curb anti-competitive mergers or concentrations. This draft Law will also include rules that allow for the investigation and possible penalization of acts of unfair competition.

293. Like the more modern competition laws, the draft Organic Law on Control of Market Power (Competition Law) assumes that competition must be protected and, as a legal asset, cannot be left up to the sole discretion of economic agents. It further assumes that the market lacks the self-regulatory mechanisms that would prevent distortions arising from anti-competitive or unfair practices and that in such cases the State must intervene with clear and transparent rules. This is possible only by incorporating into the Ecuadorian legal order the Organic Law on Control of Market Power, which would protect the interests of 14 million Ecuadorians through an institution created for that purpose.

294. The Law therefore imposes on the economic players in the market the obligation to compete and provides for monitoring of compliance with this obligation. As is the case in all markets worldwide, and particularly in those that are similar to Ecuador's, the first effects of the implementation of this law in Ecuador will be better prices and/or quality of goods and services on the market and a significant reduction in unfair competition amongst entrepreneurs, all of which will obviously benefit consumers and the market directly.

### ***Consumer protection***

295. The rights of consumers and users in Ecuador are enshrined in the Constitution. Thus, Article 52 of the Constitution of the Republic of Ecuador states: "*Persons have the right to goods and services of optimum quality and to choose them freely, as well as to accurate and reliable information about their content and characteristics. The law provides for quality control mechanisms and consumer defence procedures, as well as penalties for the infringement of these rights, reparation and compensation for defects, damages or poor quality of goods and services and for the interruption of public services not caused by acts of God or force majeure*".

296. This constitutional framework contains specific regulations for the protection of consumer rights, laid out in the Organic Law on Consumer Protection (LODC) and its implementing regulations. There are two important aspects to the aforementioned LODC. The first is that it is an organic legal standard, which, pursuant to Article 425 of the Constitution, is hierarchically superior to ordinary laws and inferior only to the Constitution itself. This means that, in the event of the coexistence of or conflict between general legal standards that regulate a particular matter, the LODC provisions for consumer protection and defence will prevail. The second important aspect is that the Organic Law on Consumer Protection cuts across other areas pertaining to the provision of goods and services.

297. Despite being in force since 2000, the Organic Law on Consumer Protection has not been very effective in generating measures and public policies. It has only been in recent years, however, and under this government in particular, that there has been a directive to strengthen the protection of consumer rights and that this has taken concrete form both legally and institutionally. The final article of the implementing regulations of the Organic Law on Consumer Protection designates the Ministry of Industry as the government agency responsible for the implementation of the aforementioned Regulations.

298. The Consumer Defence Directorate (DIDECO) was therefore set up within the Ministry of Industry in July 2009 as the first government body for the protection and defence of consumer rights. The DIDECO is charged with promoting the rights and duties of consumers by means of training and

dissemination programmes, and with strengthening relations with national and international entities. Under Ministerial Agreement No. 10-356, the DIDECO has specific powers and responsibilities, including to propose, implement and oversee public policies, programmes, projects and actions pertaining to consumer protection, to ensure implementation of the LODC and applicable regulations, and to raise awareness among suppliers to ensure that they exercise their rights and fulfil their obligations to consumers.

299. The DIDECO has accordingly undertaken market surveillance to monitor possible breaches of the law and adopted measures to counteract such practices; it has provided training to suppliers and consumers; further, it has strengthened its presence *vis-à-vis* cooperation agencies and other consumer protection bodies, for example organizing the Consumer Protection Forum in conjunction with UNCTAD. The DIDECO has also taken part in international events on the theme of consumer protection at regional level, and has benefited from the sharing of experiences in order to reinforce its activities.

#### **5.10 GOVERNMENT PROCUREMENT**

300. The National Public Procurement System (SNCP), established by the Organic Law on the National Public Procurement System published in *Official Register* Supplement No. 395 dated 4 August 2008, is a package of principles, standards, procedures, mechanisms and organized relations geared towards the planning, programming, budgeting, control, administration and execution of procurement by contracting entities. Its main aims are to guarantee the quality of public spending and its execution in accordance with the National Development Plan, ensure transparency in government procurement, stimulate national production, and obtain the participation of craftspeople, professionals, micro, small and medium-sized enterprises and, in general, reliable and competitive suppliers, whilst modernizing public procurement processes.

301. Under the legal system, the National Institute for Public Procurement (INCOP), created by the same law, oversees the National Public Procurement System and, to this end, exercises a series of powers aimed in essence at requiring and securing compliance with the priority objectives of the system. In pursuit of these objectives, it was established that the use of Ecuador's Official Public Procurement System, COMPRASPUBLICAS, would be mandatory and that the system would be managed by INCOP. In this regard, the Institute oversees the system but has no powers of sanction. In the event of breaches of the regulations arising from the contracting processes carried out by the contracting entities, it is the Comptroller-General and the Attorney-General of the State that, in the exercise of their powers, impose the penalties they deem appropriate.

302. The National Public Procurement System (SNCP) has evolved positively since its inception. In 2008, the Official Public Procurement System (SOCE) underwent a complete overhaul: a workflow engine was introduced, making it possible to establish parameters for the different stages of the contracting processes; a tool was developed for setting parameters for the screens used to generate the various processes; and the tools for reverse auction, tendering, publication and registration of suppliers and contracting entities were restructured. The initial technological infrastructure needed to support the Official Public Procurement System was purchased and the first version of the Annual Procurement Plan (PAC) module was put into operation. The year 2009 brought the introduction of the following functionalities: direct/low-value contracting, bidding by invitation and open calls for tenders for goods, services and works, competitive bidding with respect to consulting services, and the online catalogue. Changes were made to the various tools so as to adapt them to the regulations in force and the model terms and conditions. The second version of the PAC module was also implemented. In 2010 the storage system was expanded in order to support the

Official Public Procurement System and optimized to enhance its performance. The presentation of the system was improved to make it more user-friendly, new features were incorporated, the emergency publications tool was implemented, the error validation stage restructured and the storage of system files optimised, and the accounts of suppliers not whitelisted by the Internal Revenue Service, i.e. that failed to meet their tax obligations on a timely basis, were disabled. The Annual Procurement Plan (PAC) was incorporated in accordance with the budget lines established in the Integrated Financial Management System (eSIGEF), and online interaction with the National Planning and Development Secretariat (SENPLADES) was set up in order to deliver INCOP statistics.

303. In a nutshell, 2008 saw the development of the engine that would support the entire system and the introduction of the latest emerging tools for its operation; in 2009, all the other tools required for full compliance with the existing regulations were put in place; and in 2010, work was carried out to optimize the system and develop additional tools for special contracting procedures. This work will continue during the current year 2011 with the implementation of new features such as the post-contract stage, digital signature, *inter alia*.

304. The Organic Law on the National Public Procurement System governs procurement by all agencies and departments that make up the public sector, including the Central Public Administration, the Institutional Public Administration and the Autonomous Local Regime. Also subject to this law are civil corporations, foundations or partnerships when they are made up of public sector entities or possess or administer funds and, in general, rights belonging to the State (including mercantile companies that administer funds and rights belonging to the State). Against this background, the contracting entities present in the Single Register of Suppliers (RUP) numbered 9,796 in February 2011, of which 5,014 were qualified. There are also 156,670 registered suppliers, 111,811 of which are qualified; these include public enterprises and bodies that can act concurrently as both procuring entities and suppliers.

305. For the period January 2010 to February 2011, the system reports a total of 189,258 procurement processes carried out via the Web portal with a total budget of US\$6,977 million, an adjudicated value of US\$6,630 million and hence a saving of US\$486 million. The most frequent procurement processes are direct contracting and the electronic reverse auction, followed by the online catalogue. This latter category expanded considerably during 2010 and currently includes a total of 2,351 registered items, covering vehicles, office supplies, printing equipment, computer equipment, cleaning supplies and assistance products for the disabled. It therefore embraces a significant market for products that are purchased on a regular basis by the contracting entities, which has facilitated and streamlined purchase procedures. The success of the online catalogue has prompted public entities to request the inclusion of a greater number of goods and services so as to facilitate their procurement.

306. Micro-enterprises have reported the greatest amount of procurement, followed very closely by small enterprises. This is evidence that the system's aim of encouraging participation by micro and small enterprises - which under the previous system had been negligible or non-existent - is being met.

307. Furthermore, between January 2010 and February 2011, 43 per cent of purchases were of goods, 28 per cent works and 24 per cent services, the rest consisting of consultancy, insurance and pharmaceutical products. It should be noted that those purchases are contingent upon the needs of the contracting enterprises and must be in full compliance with the Annual Procurement Plan (PAC).



308. In the exercise of its powers, INCOP has overseen a total of 2,654 processes between 2010 and 2011 and has monitored 2,390, which means that it has directly supervised 87.54 per cent of the procurement processes carried out via the system.

309. Given that the Institute has no powers of sanction, and in compliance with the law, a total of 168 processes, in respect of which INCOP has requested information regarding unsubstantiated transactions, have been submitted to the Comptroller-General of the State. Similarly, INCOP has reported 263 processes regarding which it has not received a reply from the contracting entities in relation to its comments. Once it is in possession of the information, it is the supervisory authority which is responsible for imposing the relevant penalties.

#### **5.11 ENVIRONMENTAL AND TRADE POLICY**

310. The 2008 Constitution of Ecuador enshrines the right of the population to live in a healthy and ecologically balanced environment that ensures sustainability and a good way of living (Article 14). Similarly, it provides that the economic system must be in harmony with nature and guarantee environmentally responsible consumption (Articles 283-284). Furthermore, it recognizes that the State will guarantee a sustainable development model that ensures satisfaction of the needs of present and future generations (Article 395). Moreover, the 2009 National Plan for Good Living reiterates the need to promote a healthy and sustainable environment and guarantee safe access to water, air and the soil. It further reiterates the appropriateness of and obligation to establish a supportive and sustainable economic system.

311. The National Environmental Policy is based on the principles of the Constitution and ties in with the precepts of the National Plan for Good Living. The Policy accordingly emphasizes the close linkages between the economy and the ecosystem by building the environmental variable into the economic model. It further highlights the adaptation of the production sector to environmental best practices, the sustainable mining of renewable resources and incentives for profitable productive activities with a low environmental impact. The policy also focuses on the efficient use of strategic resources for sustainable development. It further includes the need to deal with climate change in order to reduce social, economic and environmental vulnerability. The strategies to that end are related to mitigating the impacts of this environmental phenomenon and other natural and anthropogenic events on the population and the ecosystems, stepping up integrated risk management and reducing greenhouse gas emissions in the production sector.

#### ***Yasuní Initiative (ITT)***

312. In 2007, President Rafael Correa of Ecuador announced before the General Assembly of the United Nations the country's commitment to refrain indefinitely from exploiting reserves of 846 million barrels of petroleum in the ITT (Ishpingo-Tambococha-Tiputini) field, which are equivalent to 20 per cent of the country's reserves and located in the Yasuní National Park in Ecuador's Amazon region.

313. The President proposed that, in exchange, the international community should make a financial contribution of at least US\$3,600 million or the equivalent of 50 per cent of the funds that would accrue to the State should it decide to mine the oil. A capital fund was thus created under UNDP administration, with the participation of the State, Ecuadorian civil society and taxpayer representatives. This initiative will prevent the emission of 407 million tonnes of CO<sub>2</sub>, the gas mainly responsible for climate change. This reduction is greater than the annual emissions of countries such as Brazil or France.

314. At the time, President Correa said in New York: "This would be an extraordinary example of global collective action that would not only reduce global warming, to the benefit of the whole planet, but also introduce a new economic logic for the 21<sup>st</sup> century that rewards the creation of value and not just the production of merchandise".

315. The Yasuní National Park is the planet's biggest biodiversity reserve and home to the Tagaeri and Taromenane peoples, both of whom live in voluntary isolation in Ecuador.

## 5.12 NATIONAL TRANSPARENCY AND ANTI-CORRUPTION PLAN

### *Principles*

316. The principles of social change enshrined in the Constitution, the laws and in the Plan for Good Living are intended to improve the living conditions of the citizens of Ecuador, consolidate the constitutional State governed by the rule of law and social justice and build a society that is more inclusive, diverse, plural and supportive.

317. Both the Constitution and the new laws designed to put it into practice are based on the recognition of the role of the State as guarantor of citizens' rights and the mechanisms to be put in place for the effective exercise of those rights. This legal mandate is a fundamental component of public management, in particular with regard to respect for the principles of transparency, efficiency and ethics.

318. The main planks of the strategies and actions under the National Transparency and Anti-Corruption Plan are to implement this guaranteed rights approach and combat impunity and the abuse of power and discretion in decision-making by authorities and public servants.

319. In the Government's view, the ethical revolution entails, *inter alia*, transforming the public service to bring about transparent and efficient management, root out corrupt practices and relations amongst public servants and private players, ensure citizen involvement in social monitoring processes and help to strengthen business and trade union ethics and liability based on transparency and compliance with the law.

320. The National Plan also embodies cultural values that are representative of the society, such as honesty, loyalty, responsibility, probity, respect and dignity, which have been handed down for generations and which, in addition to good citizenship, express the resolve to follow a path of fairness, freedom and solidarity.

321. Good Living is not about macroeconomic objectives, which can show results whilst masking the implications for each individual citizen; it requires the reshaping of relations between the public and private spheres. To that end, the objectives must be made transparent and the coverage of education, health and social assistance expanded. Such an expansion is possible only by better distributing resources. The National Transparency Plan will therefore help to recover national resources and prevent them from being sapped by corruption, enabling them instead to be invested such that they reduce unfairness and inequality. Good Living requires everyone to display a capacity for mobilization and commitment, in other words, good citizenship.

322. The interpretation by the National Secretariat for Transparency in Management (SNTG) of transparency as "an attitude and behaviour that allow all persons, organizations and institutions to show their actions and provide information so that citizens are able to exercise their rights and obligations" makes this a powerful tool to the extent that the players involved can be convinced that

transparency benefits everyone. Transparency makes for responsible public management, enabling citizens, in awareness of their rights, to demand accountability, and subjecting tenders submitted by suppliers to the State to clear rules and transparent decisions.

323. The implementation and execution of the national plan comes within the framework of the Constitution chapters on "Participation and Organization of Power", "The Good Living System" and "Supremacy of the Constitution of the Republic", Article 3 of which states with respect to the prime duties of the State: "8. *Guaranteeing its inhabitants the right to a culture of peace, to integral security and to live in a democratic society free of corruption*". Article 141 on the powers of the President of the Republic lays out the fields of action of the national government as follows: "*The Executive Branch is composed of the Office of the President and the Office of the Vice-President of the Republic, the Ministers of State and the other organizations and institutions needed to fulfil, in the framework of their competence, the attributions of leadership, planning and implementation and evaluation of national public policies and plans that are created to implement them*".

324. Similarly, Article 147, subparagraph 3, of the Constitution states in reference to the powers and duties of the President: "*To define and direct the public policies of the Executive Branch*", and finally, Article 206, subparagraph 1, describes the powers of the Transparency and Social Control Branch as follows: "*To draw up public policies on transparency, monitoring, accountability, the promotion of public participation and the prevention of and fight against corruption*", whilst subparagraph 3 reads: "*To coordinate the drafting of the national anti-corruption plan*".

325. Although this latter article outlines the powers of the Transparency Branch with respect to coordination of the drafting of the National Anti-Corruption Plan, the SNTG is of the view that it is also incumbent on the Executive Branch to assist in an effective and timely manner in the fight against corruption and the implementation of public policies that make for transparency and efficiency in the management of public affairs, thereby embodying the spirit of the constitutional text.

#### Main sources and legal bases of the National Transparency and Anti-Corruption Plan

| Constitution   |  |  |   |  |
|--|--|--|---|--|
| Constituent elements of State  | Participation and Organization of Power<br>Good Living System<br>Supremacy of the Constitution   |  |   |  |
|  | Executive Branch   |  | Transparency and Social Control Branch  |  |
| Fundamental principles   | Executive Branch   |  | Transparency and Social Control Branch  |  |
| Article 3<br>It is a prime duty of the State to guarantee its inhabitants the right to live in a democratic society free of corruption | Article 141<br>The Executive Branch is responsible for leading, planning, implementing and evaluating national public policies and plans that are created to implement them. | Article 147<br>Power of the President of the Republic to define and direct the public policies of the Executive Branch | Article 206.1<br>Formulation of public policies on transparency, monitoring, accountability, the promotion of public participation and the prevention of and fight against corruption | Article 206.3<br>Coordination of the drafting of the National Anti-Corruption Plan |

326. Similarly, the National Transparency Plan proposed by the SNTG for the Executive Branch is also framed within the National Plan for Good Living, specifically in objectives Nos. 1: "*To foster social and territorial equality, cohesion, and integration with diversity*"; 3: "*To improve the quality of life of the population*"; 5: "*To guarantee sovereignty and peace and to promote Ecuador's strategic insertion in the world and Latin American integration*"; 9: "*To guarantee rights and justice*"; 10: "*To guarantee access to public and political participation*"; and 12: "*To build a democratic State for Good Living*"; and especially within policies 10.2: "*To reinforce, generate and innovate new forms of checks and balances and accountability for constituents*"; 10.4: "*To guarantee*

*free and timely access to public information*"; 12.2: *"To consolidate the new institutional organization of the State to recover the State's governing, planning, regulation, control, research and participation capacities"*; and 12.4: *"To foster efficient and competent public services"*.

327. The Transparency Plan embodies the principles of the United Nations Convention against Corruption, the Inter-American Convention against Corruption and the Andean Anti-Corruption Plan (CAN Decision No. 668), which are binding on Ecuador. It is also based on Policy No. 3 (*"To achieve transparent public management"*) of the Sectoral Policy Agenda of the Government of Ecuador.

## 6. SECTORAL POLICIES

### 6.1 AGRICULTURE, LIVESTOCK, AQUACULTURE AND FISHERIES

328. In constant terms, the share of the agriculture and livestock sector (agriculture, livestock, hunting, forestry and fisheries) averaged 10.28 per cent of overall GDP between 2005 and 2010. If the expanded contribution of agriculture and other GDP subsectors is added, the figure would be approximately 25 per cent.

329. The products described as traditional exports (bananas, coffee, cocoa) trend upwards during the review period, although their share in the country's non-oil exports is only 33.50 per cent. It is worth highlighting the importance to the nation's economy of the substantial foreign exchange garnered by exports of bananas, cocoa and coffee, which are still trending positively, and their commensurate contribution to the public treasury.

**Table 6.1**  
**Share of agriculture in Ecuadorian nominal GDP**  
in US\$ thousand (2000)

| Year                           | GDP               | Agriculture, livestock, hunting and forestry | Fisheries      | Agriculture and fisheries | % Share      |
|--------------------------------|-------------------|--|----------------|---------------------------|--------------|
| 2005 (semi-definitive figures) | 20,965,934        | 1,814,314                                    | 330,598        | 2,144,912                 | 10.23        |
| 2006 (semi-definitive figures) | 21,962,131        | 1,877,165                                    | 377,318        | 2,254,483                 | 10.27        |
| 2007 (semi-definitive figures) | 22,409,653        | 1,959,415                                    | 386,464        | 2,345,879                 | 10.47        |
| 2008 (provisional figures)     | 24,032,489        | 2,061,756                                    | 411,616        | 2,473,372                 | 10.29        |
| 2009 (provisional figures)     | 24,119,455        | 2,076,144                                    | 433,815        | 2,509,959                 | 10.41        |
| 2010 (provisional figures)     | 24,983,318        | 2,062,058                                    | 442,147        | 2,504,205                 | 10.02        |
| <b>Average</b>                 | <b>22,967,932</b> | <b>1,957,142</b>                             | <b>396,993</b> | <b>2,372,135</b>          | <b>10.28</b> |

Source: BCE Ecuador (compiled by MAGAP).

330. The economically active population linked to the agricultural sector is currently some 1.3 million, or 30 per cent of the country's active workforce. The agriculture, livestock and fisheries sector is undoubtedly of vital importance to economic development as it generates agro-production and agro-industrial chains of considerable significance in terms of creating jobs and earning foreign exchange at the primary and industrial levels.

331. Ecuador has implemented the following policies through the Ministry of Agriculture, Livestock, Aquaculture and Fisheries:

- **Governance and institutional development.** Maintain a highly devolved institutional structure that makes for decentralized processes based on stronger

authority; has a legal framework that ensures supervision and management as well as regulatory and control capability; introduces practices of transparency and accountability and ensures citizen involvement and rural organization; and is flexible and technologically advanced, has standardised procedures and promotes the development of human talent.

- **Promotion of production and productivity.** Raise agricultural production and productivity and ensure sustainability and competitiveness by strengthening and broadening the impact of services in the territories. Special emphasis is placed on research, the provision of adequate inputs and equipment, investment, productive innovation and the preservation of knowledge, in accordance with the National Plan for Good Living and the territorial agendas.
- **Equitable access to resources.** Assure producers, especially small and medium-sized ones, of access to and the protection and improvement of natural resources, such as land and water, by reducing concentration and fragmentation and improving techniques and forms of use.
- **Trade.** Encourage various systems of trade with the participation of small and medium-sized producers on an associative basis and involving storage systems, the processing of food and raw materials in order to expand the food supply, and the fair treatment of producers and consumers, in order to cover the domestic and export market.
- **Risk prevention and management.** Reduce vulnerability and risk in agricultural production by improving the responsiveness of the Ministry of Agriculture, investing in infrastructure, improving impact mitigation techniques, protecting production and family livelihoods by means of various systems of insurance, and reducing livestock losses.

332. The aforementioned policies are designed to bring about and foster the modernization of the Ecuadorian agricultural sector on the basis of competitiveness, sustainability and fairness, with a view to developing production so as to achieve food sovereignty and security and to boost exports. They also aim to improve the quality of rural life by strengthening local capacities, raising incomes, improving access to productive resources, ensuring fair processing chains and fair trade, as well as to guarantee optimal social and economic services for the Ecuadorian population and protect natural living systems and cultures.

333. Food sovereignty is a strategic objective consecrated in the Constitution, the Organic Law on the Food Sovereignty Regime (LORSA), the Code of Production and the National Plan for Good Living (*Sumak Kawsay*), which promote access to and the availability of food for the population as a whole whilst respecting and protecting agro-biodiversity, traditional and ancestral knowledge and forms of production, guided by the principles of equity, solidarity, inclusiveness and social and environmental sustainability.

334. In pursuit of the proposed objectives, the Ministry of Agriculture, Livestock, Aquaculture and Fisheries (MAGAP) has been implementing emblematic programmes and projects designed principally to support small and medium-sized agricultural and livestock producers. These include the National Inclusive Rural Businesses Programme (PRONERI); Agrarian Revolution Schools (ERAs); the Agricultural and Livestock Competitiveness and Sustainable Rural

Development Project (CADERS); the Land Plan (*Plan Tierras*); Alternative Marketing Circuits (CIALCO); Agricultural and Livestock Insurance (UNISA); and the Storage Unit (UNA).

## 6.2 AGRO-INDUSTRY

335. In 2006, MAGAP prepared an Integrated Diagnosis of the Agro-Industry, funded by the Inter-American Institute for Cooperation on Agriculture (IICA). The diagnosis revealed serious problems of viability and lack of competitiveness, presumably owing to low productivity at the national and international levels. A National Agro-Industrial Development Plan was therefore drawn up. This Plan was not fully implemented, however, and only isolated initiatives, such as MAGAP's draft Agro-Industrial Law for Ecuador, came into existence. Thus, the National Project for the Integral Development of Agro-Industrial Chains was set up on 31 July 2010. In this context, it should be noted that the agro-industry accounted for an average share of GDP of 15 per cent in the previous five years and generated some 177,000 direct jobs, representing 3.41 per cent of the economically active population. Feasibility studies have identified 27 agricultural products the value chains of which needs to be reinforced.

336. The chief objectives of the Project are the following: (i) to determine the roles, responsibilities, rights and duties of each of the players in the agro-industrial sector by promoting, and developing the social nature of, the legal framework set by the Agro-Industry Law; (ii) to consolidate and group the records of the private enterprises and public institutions in the agro-industrial sector so as to constitute a National Agro-Industrial Information System, thus making for an efficacious decision-making process; (iii) to identify skills and capacities in the agribusiness sectors; and (iv) to boost the development of chains and strengthen the links in those chains. The budget appropriation for the Project is US\$20,366,900 for the 2011-2015 period.

## 6.3 MANUFACTURING

337. The 2008 Constitution set out the guidelines for a development model on the basis of which the 2008-2010 National Development Plan was drawn up. This Plan subsequently became the 2009-2013 National Plan for Good Living. The broad outlines of an agenda for the effective, sustainable and equitable development of Ecuador were thus laid down. The objectives of the National Plan form the framework of the 2008-2012 Industrial Policy of Ecuador, which was developed in conjunction with other institutions that will help to achieve those objectives by focusing on efforts to attain qualitative and quantitative targets in the industrial sector. Attention is drawn to objectives Nos. 6 and 11.<sup>28</sup>

338. To pave the way for a coordinated approach, the Agenda for Productive and Territorial Transformation was established, starting with the creation of the Sectoral Council for Production, the prioritization of strategic sectors and territories, and the identification of territorial and sectoral policies, together with the related strategies, objectives and tools.<sup>29</sup> In addition, to further advance the development policies, the Organic Code of Production, Trade and Investment was adopted in December 2010; its aims include regulating the production process so as to achieve a better quality of

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<sup>28</sup> Alignment of the National Plan for Good Living and the Industrial Policy. Viewed at: <http://www.micp.gov.ec/images/stories/politica3idiomas.pdf>.

<sup>29</sup> Agenda for Productive Transformation, Ministry for the Coordination of Production, Employment and Competitiveness (MCPEC) [http://www.mcpec.gob.ec/index.php?option=com\\_content&view=article&id=591&Itemid=68](http://www.mcpec.gob.ec/index.php?option=com_content&view=article&id=591&Itemid=68), and Agenda for Productive Territorial Transformation, MCPEC, [http://www.mcpec.gob.ec/index.php?option=com\\_content&view=article&id=678:agendas-para-la-transformacion-productiva-territorial&catid=1:latest-news&Itemid=96&lang=es](http://www.mcpec.gob.ec/index.php?option=com_content&view=article&id=678:agendas-para-la-transformacion-productiva-territorial&catid=1:latest-news&Itemid=96&lang=es).

life and applying productive development tools that will impact productivity, further transform the production matrix and promote quality employment and balanced, eco-efficient and sustainable growth.<sup>30</sup> Under this new concept, the State has a leading role in the nation's productive development, both as a robust and efficient coordinator of policies and rules and as an entity responsible for controlling possible abuses of dominant market positions. The deliberate skewing of relative prices to favour priority sectors is therefore necessary in order to increase the profitability of, and attract greater private investment to, such sectors given the budgetary constraints on the investment of public funds. Problems of coordination with respect to information asymmetry also have to be ironed out to close any existing internal gaps and avert possible misuse, thereby furthering the development of these priority sectors. The development model under consideration is therefore one whereby sectors are strengthened not only through selective import substitution, but also by means of a real productivity increase, export diversification, provision of services, democratization of the means of production, integration into the global economy and access to information technologies.

339. The Industrial Policy is the frame of reference on which the powers of the Ministry of Industry and Productivity are based. It contains nine specific objectives (including helping to attain the goal of food and economic sovereignty), policies, strategies, programmes and projects. The industrial policy translates into concrete projects in keeping with 12 strategic priorities regarding: (i) increased productivity and systemic competitiveness; (ii) human capital; (iii) endeavour and technology transfer; (iv) physical and knowledge infrastructure; (v) domestic and foreign investment; (vi) generation of quality employment; (vii) the adding of value; (viii) environmental sustainability; (ix) diversification; (x) local and territorial development; (xi) generation of larger production chains; and (xii) strategic integration into the global market.

340. The objectives embodied in the National Plan for Good Living (PNBV) lay down targets to be met. In the case of industrial policy, in accordance with objectives 6 and 11 of the PNBV, targets have been set of 5 per cent growth for non-petroleum industrial GDP between 2009 and 2013 and of 25 per cent growth in average labour productivity for that same period. Considering that the programmes and projects are ongoing and have medium- to long-term execution time-frames, improvements will be able to be gauged at subsequent stages. Furthermore, given that most of the programmes, projects, incentives, etc. pertain to the strengthening of the priority production sectors, the prime indicator of competitiveness, i.e. better product positioning on the local market and a resulting reduction in imports, will have to be measured in the internal market. Once again, this indicator can only be validated *ex post*. In any case, the data provided relate to the productivity and trade balance of the priority sectors since 2005.

341. Fifteen institutional objectives are set within the functional organizational structure of the Ministry of Industry and Productivity (MIPRO), which determined this structure on the basis of its institutional mission and aims. In pursuit of its mission, MIPRO has developed a process-based organizational structure to enable it to attain the objectives set. These processes include governance processes, value-adding processes, enabling support processes, enabling advisory processes and decentralized processes. Value-adding processes are those that generate, administer and control products and services intended for external users and that enable fulfilment of the specialized institutional mission - the *raison d'être* - of the Ministry, namely policy design and implementation. The entities concerned are the Under-Secretariat for Industry, Productivity and Technological

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<sup>30</sup> Code of Production, *Official Register* No. 351, Wednesday 29 December 2010. MCPEC, [http://www.mcpec.gob.ec/index.php?option=com\\_content&view=article&id=16&Itemid=76](http://www.mcpec.gob.ec/index.php?option=com_content&view=article&id=16&Itemid=76).

Innovation, the Under-Secretariat for Trade and Investment and the Under-Secretariat for MSMEs and Handicrafts.<sup>31</sup>

342. The country is applying a strategy of wealth accumulation and distribution based on a new vision of development, conceived as a dovetailing of the economic, political, socio-cultural and environmental systems.

343. The execution of this strategy is based on an endogenous development model. In the industrial field, the Industrial Policy and the Agenda for Productive Transformation were devised on the basis of management models intended to increase added value through process evaluations in the priority sectors they cover and the implementation of specific programmes relating to quality, capacity, innovation, research and development, market access and eco-efficiency, *inter alia*. These will make for increased productivity and ultimately strategic import substitution in the medium-to-long term, paving the way for exports once the model has been consolidated.

#### 6.4 TOURISM

344. Tourism in Ecuador is undergoing innovation both in its structure and strategic planning, and this will form the basis for developing sustainable tourism and positioning it as the country's primary production focus that is based on social inclusiveness, in line with the National Constitution and the National Plan for Good Living.

345. Ecuador plans to develop a sustainable and competitive tourism product by building up human, natural and cultural resources and applying technological innovation to infrastructure, equipment, facilities and services in order to guarantee a comprehensive tourism experience for national and international tourists.

346. To move ahead with the development of sustainable tourism, the Ministry of Tourism is working assiduously to implement the tourism policies set out in the Agenda for Productive Transformation. These are: (i) a quality product with social inclusiveness; (ii) the development of domestic tourism; (iii) the strengthening of institutions and cross-sectoral coordination; (iv) promotion geared towards specialized demand. There is also a need to coordinate public, private and community endeavours inspired by the principles of poverty reduction, social inclusiveness, fairness, sustainability, competitiveness and decentralized management.

347. The work of the Ministry of Tourism is guided by two planning tools, namely the Strategic Plan for the Development of Sustainable Tourism in Ecuador by 2020 (PLANDETUR 2020) and the Comprehensive Tourism Marketing Plan of Ecuador (PIMTE 2010-2014).

348. PLANDETUR 2020, which outlines, organizes and provides guidance for the competitive management of sustainable tourism development in Ecuador in all spheres of activity for the benefit of its people and to ensure better use of resources, is structured around six key issues, namely governance of the tourism sector, tourism marketing and promotion, promotion of investment and financial management, crosscutting socio-cultural and environmental management measures, human resources training and development, and development of tourism destinations and tourism facilitation.

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<sup>31</sup> Organic Statute on Process-Based Organizational Management of the Ministry of Industry and Competitiveness (MIC), *Official Register* No. 231, 31 December 2007. MIPRO.  
[http://www.mipro.gob.ec/index.php?option=com\\_content&view=article&id=1082&Itemid=170](http://www.mipro.gob.ec/index.php?option=com_content&view=article&id=1082&Itemid=170).



349. PIMTE 2010-2014 is a marketing management guide that helps to establish objectives, policies, strategies, projects and programmes for tourism promotion in Ecuador.

350. It is crucially important for Ecuador to build up tourism products with the best attributes, taking into account technical criteria such as uniqueness, intrinsic value, local character, renown, and concentration of supply. Accordingly, the Ministry of Tourism has 12 product lines, namely culinary tourism, retirement tourism, sun and beach tourism, community tourism, cultural tourism, theme parks, ecotourism and green tourism, sports and adventure tourism, medical tourism, agri-tourism, business tourism and cruise tourism.

351. Work is in progress at the Ministry of Tourism on the mapping of tourism investments in Ecuador as a tool that will facilitate an objective, effective and coordinated approach to public and private investments, thereby helping to develop a tourism product conducive to systemic territorial development.

352. A tourism sector diagnosis carried out in 2005 revealed the low levels of training both of industry professionals as well as of immigration service officials and officials of other public services who come into contact with tourists. Given the importance of human resource training and learning, the National Tourism Training Programme (PNCT) was officially launched in 2009. Its main aims were to strengthen the tourism sector by means of the transfer of technical know-how, the development of skills and abilities, the involvement of all players in the tourism sector, and the improvement of quality standards in the provision of tourism services. The programme has the following ten components: quality management and good practices in sustainable tourism; training of trainers; professional skills; productive and enterprising young people; hospitality and food security; community tourism; specialized and native guides; young tourists; productive tourism businesses; and destination management. Since the inception of the programme, a total of 11,069 people have been trained at 356 events. Altogether 8,462 children have also been trained under Component No. 8, Young Tourists.

353. The period 2005 to 2010 saw an increase in international arrivals in Ecuador (4.02 per cent), as well in foreign currency earnings (10.7 per cent) recorded under the "travel" account in the balance of payments prepared by the Central Bank of Ecuador.

354. The number of tourism establishments registered with the Ministry of Tourism in 2010 was 17,778, representing an increase of 6.7 per cent over 2009 and of 31.6 per cent during the period 2005-2010. Furthermore, tourism establishment records show that there are 92,828 direct employees, of which 51.9 per cent are men and 48.1 per cent women. The year 2010 saw a 2.97 per cent increase in this indicator over 2009, while the increase for the period 2005-2010 was 28 per cent.

## **6.5 STRATEGIC SECTORS**

355. The adoption of the new Constitution in 2008 laid the groundwork for a new endogenous development model that is being implemented through amendments to laws and regulations and a considerable strengthening of the institutional framework.

356. The State reserves the right to administer, regulate, oversee and manage the strategic sectors in accordance with the principles of environmental sustainability, foresight, prevention and efficiency.

357. The strategic sectors falling under the exclusive decision-making power and control of the State, as stipulated in the Constitution and the law, are those which, by virtue of their importance and scale, have a decisive economic, social, political or environmental impact and must be geared towards

the full development of rights and furtherance of the social interest. The sectors considered as strategic are energy (all forms), telecommunications, non-renewable natural resources, transport and refining of hydrocarbons, biodiversity and genetic heritage, the radio-wave spectrum, water, and all other sectors determined as such by law.

358. The building of infrastructure to meet the requirements of Ecuador's 14 million citizens, the exploitation of the nation's strategic areas in order to generate resources for the benefit of the entire population, as well as the securing of resources for the realization of these and other tasks are imperatives for the Rafael Correa government.

359. The creation of the Ministry for the Coordination of Strategic Sectors came in response to the need to restore State control over the management of the country's strategic areas and to promote the vision of a sovereign nation operating with clean and renewable forms of energy, exploiting its natural resources in a socially and environmentally sustainable manner and strengthening its cooperative ties with friendly countries by forging new alliances.

360. The Ministry for the Coordination of Strategic Sectors was set up by Executive Decree No. 894, signed by the President of the Republic, Raphael Correa Delgado, on 3 January 2008. The Ministry's mission is to direct the policies and actions of the institutions that make up the strategic sectors and, through the coordinated, concerted and efficient implementation of sectoral and inter-sectoral plans, programmes and projects, help to achieve the fulfilment of the National Development Plan, improve the quality of life of the population and build more efficient institutions.

#### *Strategic objectives*

- (a) To monitor, support and facilitate the management of the bodies making up the Sectoral Council for Strategic Sectors with a view to the execution of the National Development Plan and government policies;
- (b) to propose, structure and coordinate inter-sectoral policies, plans, programmes, projects and actions;
- (c) to harmonize the policies, plans, programmes, projects and actions of sectoral entities;
- (d) to put in place the Sectoral Agenda for Strategic Sectors to serve as a tool for sectoral coordination and consultation and form the nexus between the National Development Plan and sectoral policies, as well as to interlink the activities of the entities being coordinated in order to unify efforts, optimize the use of resources, share information and raise their levels of efficiency, efficacy and impact;
- (e) to interlink ministerial needs and presidential decisions;
- (f) to carry out the management tasks assigned by the Executive Branch;
- (g) to devise and implement emblematic inter-sectoral initiatives and create institutional capabilities that enable them to be transferred to sectoral bodies within a set time frame;
- (h) to follow up, monitor and evaluate the management and implementation of sectoral and inter-sectoral policies, plans, programmes and projects.

361. A total of US\$6,970.33 million was invested in the strategic sectors falling within the purview of the Ministry for the Coordination of Strategic Sectors between 2007 and 2010, representing an increase of 3.9 times the amount invested between 2003 and 2006.

### *Investment outlook*

362. The National Government has developed an economic model based on sizeable infrastructure investments. Major national projects have been launched that will bring considerable new dynamism to the economy by generating jobs, increasing the capital stock and savings, and supporting production. These projects include:

### *Hydroelectric projects*

363. Major hydroelectric projects are currently under construction, the main ones in terms of investment and generating capacity being Coca Codo Sinclair, Toachi-Pilatón and Sopladora. They are mainly intended to increase the electricity supply to the Ecuadorian market, take advantage of the country's water resource capabilities and reduce energy imports and hence external dependence, as well as deliver long-term government savings and transform the energy matrix. Roughly US\$3,400 million are being invested in these three projects.

364. Coca Codo Sinclair lies between the Napo and Sucumbíos provinces and is the biggest power generation project with a capacity of 1,500 MW. It will require an investment of some US\$2,300 million and should become fully operational in 2016.

365. Toachi-Pilatón will generate 1,090 GWh annually and is a complex comprising two power stations that will be linked to the National Interconnected System (SNI). The stations are Sarapullo, with a generating capacity of 49 MW, and Alluriquín, with 204 MW. Toachi-Pilatón will therefore supply the country with a total of 253 MW. The amount being invested in these projects is US\$517 million.

366. Sopladora will take advantage of the hydraulic potential of the River Paute basin in Azuay province. With a capacity of 487 MW, this power station will contribute 2,800 MWh to the National Interconnected System and is expected to be in operation by 2014. The project will require an investment of some US\$672 million in civil engineering works and electro-mechanical equipment.

367. Moreover, the five hydroelectric power stations of Mazar-Dudas, Delsitanisagua, Minas-San Francisco, Quijos and Chontal will be incorporated into the National Interconnected System over the next few years, thereby augmenting the country's overall power generation capacity.

### *Petroleum projects*

368. The Eloy Alfaro Pacific refinery (RDP) is set to become Ecuador's leading refining and petrochemicals complex since, in addition to oil refining, it will generate raw materials for the petrochemicals industry. Investments totalling US\$11.8 billion are projected to 2015 and the complex will be fully operational by 2016.

### *Mining projects*

369. The National Government has begun negotiating contracts with foreign companies for responsible mining exploration and exploitation. The mining of minerals (gold, silver and copper) will be a powerful boost to the economy, with positive spin-offs in terms of employment, wealth

generation and export diversification, *inter alia*. These mining projects are being negotiated in an endeavour to regulate, and lessen the risks associated with, small-scale mining operations, and mitigate the environmental impact on the areas where such activities are conducted.

370. The large-scale national projects in question are as follows:

- Río Blanco;
- Mirador;
- San Carlos Panantza;
- Quimsacocha; and
- Fruta del Norte.

### ***Hydrocarbons***

#### ***Economic significance***

371. For the past decade, the contribution of hydrocarbons (oil and gas) to national GDP has averaged 15.7 per cent, with 2010 petroleum GDP standing at US\$9,530 million.

372. The 2005 output was 531,584 barrels per day, in 2008 it was 504,721, and that figure should be maintained in 2011. Owing to efforts to recover mature and marginal fields, average output for the period 2011 to 2015 is expected to be 528,639 barrels per day. The sector is of fundamental importance to the national economy, having made an average contribution of 27.2 per cent to the government budget over the past decade.

373. Petroleum exports have made up an average of 51.7 per cent of the country's overall exports and accounted for US\$8,951 million in 2010. At the same time, owing to growing domestic demand for derivatives in combination with the limited production capacity of local refineries, the country has been obliged to make sizeable imports, which were worth US\$3,708 million in 2010. The investments now being made in refineries are intended to reverse this trend.

374. There are two State enterprises, namely EP PETROECUADOR, and the recently created PETROAMAZONAS EP, the latter having taken over operations formerly carried out by private companies that have not renewed their contracts with the government. The cumulative output of both government companies represents 72 per cent of the country's overall output.

#### ***Investment in the sector***

375. Public investment seeks to boost the petroleum sector by increasing the productivity of public companies, retrofitting the main State-run refinery and prospecting for gas in the country's coastal region. Public investment in the petroleum sector increased from US\$1,036 million between 2004 and 2006 to US\$6,980 million between 2007 and 2011. Owing to the change in regulations and the entry into force of the new contracting system, investments by private companies fell from US\$2,063 million during the 2004-2006 period to US\$1,756 million during the 2007-2011 period.

***Legal framework***

376. The amendments to the Hydrocarbons Law and the Internal Tax Regime Law were published in *Official Register* Supplement No. 244 on 27 July 2010 with a view to stimulating the activities of the hydrocarbons sector and raising the output of oil fields. Under the current contracting system for service provision, ownership of the entire national output was restored to the State, with contractors being granted a rate per barrel of output that does not vary with the price of petroleum.

377. A new petroleum services contract model was established in December 2010 and signed by most of the companies. The new investment commitments entered into by the 14 private companies with which new contracts were signed amounts to US\$1,385 million for the duration of the contracts.

378. The new Law ushered in fresh institutional arrangements whereby the Ministry of Non-Renewable Natural Resources (MRNN) was invested with overall responsibility for policy and designated bodies and government companies were also brought on board. In addition to the two government companies mentioned earlier, the designated bodies are the Hydrocarbons Secretariat, which is charged with managing hydrocarbon resources and petroleum zones and with signing, administering and modifying petroleum contracts, and the Agency for Hydrocarbons Regulation and Control, which is responsible for regulating, overseeing and inspecting technical and operational activities in the various stages of the industry.

***Mining******Economic significance***

379. The contribution of the mining sector to GDP fluctuated minimally (1.20 per cent-1.30 per cent) between 1999 and 2009, showing a slight increase in 2010 (1.43 per cent). Mining GDP comprises two categories: "production of non-metallic mineral products", which contributed 0.93 per cent to mining GDP in 2010, and "other mining products", which accounted for 0.51 per cent of mining GDP in 2010.

380. A nationwide small-scale mining census conducted in March 2010 revealed that there were 8,428 workers in the country's mining areas.

381. The mining sector showed a trade deficit for the years 2003 and 2004, whilst exports outstripped imports in 2005. In 2009, exports of products derived from mines and quarries (not including petroleum) accounted for 0.45 per cent of total goods exports.

***Legal framework***

382. A new Mining Law was published in *Official Register* No. 517 on 29 January 2009. It established a new framework and policy for the sector under the responsibility of the line ministry, the Ministry of Non-Renewable Natural Resources. Pursuant to Article 315 of the Constitution, the National Mining Company (ENAMI EP) was created by an Executive Decree dated 31 December 2009 and published in *Official Register* No. 108 of 14 January 2010. Its purpose is to manage mining activities in the strategic non-renewable natural resources sector with a view to sustainable exploitation in keeping with the Mining Law, and it will play a role in all phases of those activities in a manner that ensures environmental protection and observance of the rights of the population. The current legal framework lays out clear rules for the State and for companies.

*Telecommunications*

383. The telecommunications sector has expanded considerably in recent years and that trend looks set to continue.

**Statistics for Ecuador's Telecommunications Sector**

| Service              | Indicator             | 2006      | 2007      | 2008       | 2009       | 2010       |
|----------------------|-----------------------|-----------|-----------|------------|------------|------------|
| Fixed-line telephony | Total number of lines | 1,768,049 | 1,819,760 | 1,906,382  | 2,011,213  | 2,060,822  |
|                      | Penetration rate (%)  | 13.19     | 13.38     | 13.81      | 14.36      | 14.40      |
| Mobile telephony     | Total number of lines | 8,485,050 | 9,923,622 | 11,692,248 | 13,454,600 | 15,105,420 |
|                      | Penetration rate (%)  | 63.3      | 72.9      | 84.7       | 96.1       | 106.3      |
| Internet             | Total number of lines | 823,483   | 1,151,906 | 1,309,605  | 2,052,147  | 3,002,914  |
|                      | Penetration rate (%)  | 6.14      | 8.47      | 9.49       | 14.65      | 21.14      |
| Broadband            | Total number of lines | 256,227   | 332,890   | 970,184    | 1,595,465  | 2,706,217  |
|                      | Penetration rate (%)  | 1.91      | 2.25      | 7.03       | 11.39      | 18.91      |

384. Under the 2008 Constitution, telecommunications were classified amongst the country's strategic sectors. With a view to strengthening the development of this sector, Executive Decree No. 8 of 13 August 2009 therefore set up the Ministry of Telecommunications and the Information Society.

385. This Ministry's mission is to oversee the development of information and communication technologies, including telecommunications and the radio-wave spectrum. It issues policies and master plans and monitors and evaluates their implementation, coordinates support and advisory activities to guarantee equal access to services and promotes their effective, efficient use in a manner that ensures progress towards an information society and hence an improved quality of life for Ecuadorians. The Ministry also represents the State in matters pertaining to the information society and information and communication technologies.