



Universidad del Azuay

**Faculty of Judicial Sciences
School of International Studies**

“History and rules of the Agreement between Ecuador and Guatemala, and the impact that it has generated on one of the largest export companies of the city of Cuenca, INDUGLOB”.

Graduation thesis prior to obtain the
*Bachelor's Degree in International Studies minor in
Foreign Trade*

Author:

Daysy Bermeo Berrezueta

Thesis Director:

Dr. Antonio Martínez

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Dedication

After a very hard effort and a lot of sacrifices, I have reached the total accomplishment of my thesis. All the energy put into this work should be dedicated to very important people in my life; thanks to them I was able to achieve one more of my goals.

I dedicate this work:

To my parents, Nancy and Gerardo, and to my two sisters, Dayanna and Carolina, who have helped me every time, especially in the most difficult moments in my life and in my career.

To the new person with who I share my life now, my husband Jimmy Arias, who has always maintained his support and faith in me to finish with this part of my career.

Last but never least, to my best friends Diana, Vanessa and Katty that with their friendship, laughter, and discussions have accompanied me through my career and from whom I have learned different things that made me call them BEST FRIENDS.

Thanks to these people I can proudly say that I'm a professional!

Acknowledgment

All my gratitude goes to God!

I thank God for the solid family that has given me, for a great husband and for my nice friends. Thanks to their advice and unconditional support, I was able to finish with this very important part of my life.

Also, I thank to the personnel of the Chamber of Industries of Cuenca, FEDEXPOR of Cuenca and my tutor, who have helped me and guided me in the accomplishment of this work, which I finish today with satisfaction and happiness.

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Abstract

This thesis mainly proposes to present the benefit that a Partial Reach Agreement on Economic Complementation brings to the country. To achieve this purpose, it is essential to know the history of the agreement from the beginning, highlight the most relevant points of the agreement in order to understand it better, and most of all determine how the agreement influences the company INDUGLOB, which uses this agreement and is benefited by it. Finally this work will be a guide for anyone interested in learning how to apply an agreement, its trajectory and its influences.

Introduction

There are several kinds of agreements that are established between different countries. However, the most known and used for some years and until these days are the Trade Agreements. These types of arrangements have allowed countries, to have a broader understanding of the production of other nations.

Some countries excel in oil production, others in banana, others in wine, etc.. and at the time that a country wants to establish a trade agreement with another country, both seek to achieve the importation of the stuff that we need and to export what we can produce in big amounts. However, knowing that the trade agreements are beneficial in many ways, we have to keep in mind that each country should have control over their trade and therefore every country must export more than what it imports to obtain profit from international trade.

As we all know, in the last three years our country has imported more than it has exported and for this reason Ecuador's government has had to implement various types of import restrictions for these to reduced, and at the same time try to promote the exportation so that there will be an increase on the production in the country. Also, because of this, Ecuador has sought to be part of the agreements or treaties with other countries that can benefit those who participate in it.

Forming an agreement with one or more countries aims to have a balanced scale of what we import from those countries and what we export to them. Taking this as a priority, it is possible to have a better control over the economy of our country and in this way emphasize the production of our country and share it with the world. At the same time, we must not forget that in the countries that are part of the agreement may be some companies that will benefit from it and others that will not benefit completely. Therefore it is crucial to study an agreement before being part of it and find the best options for all the countries involved.

On the other hand, I will achieve the objectives established in this thesis, obeying a particular schema in the index follow by an introduction, which usually explains the thesis topic in mention. Subsequently, each chapter will describe the objectives of the thesis in sequence.

This thesis is developed based on Official Records, Memos and Decrees issued by the National Assembly of the Republic of Ecuador and the Congress of the Republic of Guatemala. In addition, we will make use of secondary sources such as interviews performed by different newspapers of the country to the company INDUGLOB. To finish, information from institutions that are aware of the agreement, will be also used.

CHAPTER I

GENERAL PRINCIPLES OF THE AGREEMENT

1.1 Overview of the Agreement process from its beginning

First, it should be noted that Ecuador has considered "Guatemala, and continues today, as its main trading partner in Central America."¹ It is for this reason that our country saw in Guatemala a very good chance to constitute a Partial Agreement of Economic Complementation, which had a long transcendence.

The history of this agreement starts with the presentation of the study of a commercial opening with Centroamerica, based especially in white line, which was prepared by the Chamber of Industries of Cuenca and a unit of commerce that used to work with the University of Azuay, in September 2005. Due to this, the University of Azuay is also part of this history and the studies were presented, both with the logo of the Chamber of Industries and the logo of the University. Then, our country took time to analyze whether or not Guatemala was an interesting market for Ecuador, since the government of Lucio Gutierrez to the government of Rafael Correa. These studies were sent step by step, around six times, to the Chancellery so that it could analyze it and verify the need of certain products from Ecuador in the Republic of Guatemala.

This agreement was based on products manufactured in the city of Cuenca, because in this part of the country there are many businesses that produces manufactured goods, in which Guatemala is interested. However, this agreement may be used by all the country completing the requirements demanded by it. Before the negotiations with Guatemala, Ecuador first made a private approach with the Chamber of Commerce of Guatemala and signed as cameras. Then this Chamber was the one who got their country to consider the agreement proposed.

¹ PEÑA HURTADO, EDUARDO. Chamber of Commerce of Guayaquil. Foreign Trade Bulletin. <http://www.lacamara.org/website/images/boletines/informacion-comercial/relacion%20comercial%20ecuador%20-%20guatemala.pdf>.

In 2010 the Chancery finished reviewing all the studies and started negotiations with Guatemala making several rounds and mini rounds during the following years, in order to form a solid and beneficial agreement for both countries. However, it is important to mention that in the various studies, not only were considered Ecuador and Guatemala, but also Honduras, El Salvador and Costa Rica, with whom negotiations will start later.



Source: PRO ECUADOR

1.1.1 Year 2010

In this year, the negotiations got opened between the two countries putting on the table all the points and benefits that the countries intended to achieve with this agreement. It is said that both countries agreed to negotiate the Partial Agreement on August 2010, having already held three rounds of negotiations between January and April of the same year. Hence the negotiations started in November 2010 with duration of about six months, until April 2011 when they signed the Partial Agreement of Economic Complementation in a ceremony in Guatemala, which also defined the guidelines that will govern the next rounds of negotiation.

In a statement, in that year, it was indicated that the agreement would cover 700 tariff fractions, which would decrease gradually. Furthermore, “some of the products included in the agreement are: shrimp, flowers and ornamental plants, fruits, confectionery, preserves, rubber, vegetables, medicines, handicrafts, leather goods,

steel, iron, home appliances, textiles and clothing, among other."² However, these products and tariffs will be studied further in the following rounds of negotiations in order to achieve common goals without harming productive sectors of each country.

According to a bulletin published by the Chamber of Commerce of Guayaquil, it is indicated that this year Ecuador exported to Guatemala around \$103.9 million and imported from that country about \$65 million. However, with the Partial Agreement and Trade Complementation that both countries wanted to establish, it will balance the exportations and importations of both countries for mutual benefit, according to the needs of each one.

It is also clear that "one of the main purposes of the Agreement would involve new actors -particularly small producers, MIPYMES and organizations of popular and supportive economy- in the gains from trade."³ With this we can see that everyone has a chance to be benefited by this agreement and reach one of the main goals of a big or small company, which is to export their products and increase production and profits.

Ecuador knows how important are the agreements with other countries, whether they are commercial or the other kind, therefore to establish this agreement both countries also need to promote the integration of both of them, and especially in Latin America, because we are countries with similar customs and language and we know how to work cooperatively to achieve common purposes. Also, Ecuador knows that its competition is no longer just the Latin countries but mostly with countries in other continents like Europe and Asia mainly.

² AMERICA ECONOMY. Guatemala and Ecuador sign the Partial Agreement to strengthen the bilateral trade. <http://www.americaeconomia.com/economia-mercados/comercio/guatemala-y-ecuador-firman-acuerdo-de-alcance-parcial-para-fortalecer-el-> (2011).

³ MINISTRY OF FOREIGN TRADE AND INTEGRATION. Ecuador and Guatemala to a Trade Agreement. <http://www.mmrree.gob.ec/2010/bol969.asp> (2010).

1.1.2 Year 2011



Source: Ministry of Foreign Affairs, Trade and Integration.

This year, there will be two very important Rounds of Negotiation, in which some points of the agreement seeking a common good will be discussed. The first Round of Negotiation was in January 24 until January 28, 2011. It is said that this round was a success because it moved gradually on common interests, according to the Foreign Trade Deputy Minister Francisco Rivadeneira and Chief Negotiator Sonia Lainfiesta from Guatemala.

On one hand, the Chief Negotiator of Guatemala estimated that with a good rhythm like the one in this round, it could be possible to achieve great trading opportunities. On the other hand, the Vice President of Ecuador Foreign Trade reiterated that both countries "have much in common, we are very complementary countries and we have a huge potential for trade."⁴ After these statements by each country, a very good future for this agreement can be clearly predicted.

Subsequently, according to a statement issued by the Ministry of Economy of Guatemala, from March 7 to the 11th 2011 the second round of negotiations between the two countries in Guatemala took place. In this round there were also important

⁴ MINISTRY OF FOREIGN TRADE AND INTEGRATION, ECUADOR. Successful negotiations between Ecuador and Guatemala. http://www.sice.oas.org/TPD/ECU_GTM/1Round_s.pdf (2011).

progress about topics such as: Sanitary and Phytosanitary Measures, Technical Barriers to Trade, Rules of Origin, Customs and Commercial Cooperation, Institutional Affairs, among others. According to the same statement, in this round were agreed approximately 400 products that will be included in the benefits of the agreement and it is expected that at the end of this round they can get to 1000 products and continue to increase over time. The main goal of both countries at the end of this round is to sign the deal next April 15 in Guatemala, and to get there it was scheduled smaller rounds between the 7th and 8th of April in Panama.

This second round of negotiations took place in Guatemala and some sectors participated in it such as: the metallurgical and vehicles, plastics, textiles and leather, wood and furniture, food, pharmaceuticals, tires, jewelry, ceramics, and the floriculture area. It is important to note that under the agreement, the countries have decided to respect the sensitivity of each nation which does not include agricultural products such as: bananas and coffee, with the exception of sugar, fruit and vegetables, which have a specific quota to be exported and these last products must only be used in industry as raw materials.

There was a third round, according to the Ministry of Economy of the Government of Guatemala, which was the closing round that took place in Guatemala from the 11th to the 14th of April, 2011 in which both countries talked about the last issues of the agreement in order to sign it on the 15th of the same month, as mentioned above, so it could reach the conclusion and be put into effect.

As indicated by the Ministry of Foreign Affairs, Trade and Integration of Ecuador in a ceremony on April 15 in Guatemala, the Ambassador of Ecuador Vicente Vélez and the Minister of Economy of Guatemala, Erick Coyoy definitely signed the **Partial Agreement of Economic Complementation.**

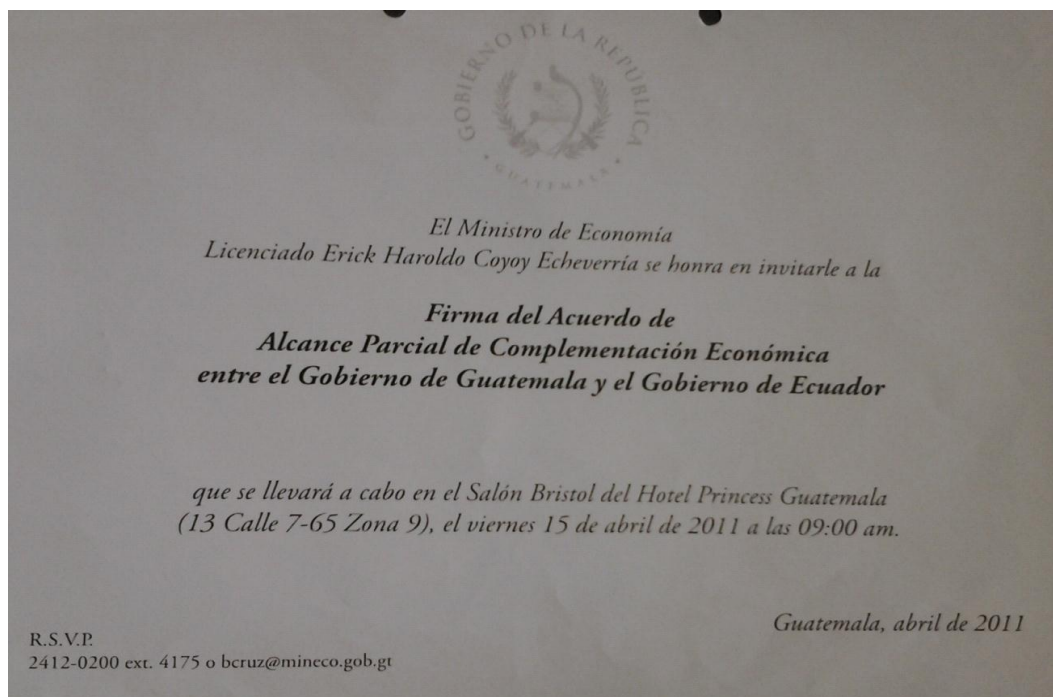


Illustration 1: Invitation to the Signature of the Partial Agreement

Source: Chamber of Industry of Cuenca

In this meeting, it was analyzed that this agreement improves non-oil trade balance in favor of Ecuador because the country has already made substantial trade spaces for products of small and medium enterprises and for the popular and solidarity economy; also subscribe, in the same date, the Agreement on Cooperation and Mutual Assistance between SENAE Customs and Tax Authority of Guatemala.

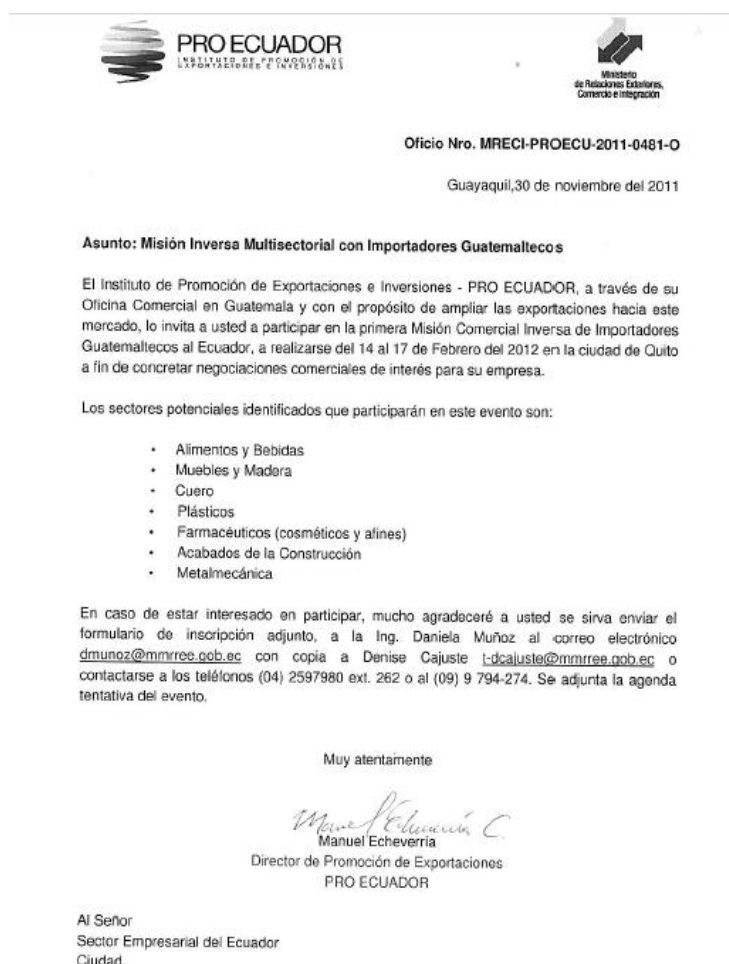
In May, the President of Guatemala Alvaro Colom, visited Ecuador to meet with his Ecuadorian counterpart Rafael Correa, and ratify the agreement that was signed in April. The meeting was to re-analyze the product's list and some of them were highlighted in it such as: kitchens and other white line domestic appliances, pharmaceuticals, shrimp, leather goods, toiletries and more. Besides “the leaders discussed issues of democracy, Latin American and Caribbean integration, security, migration, tourism, culture and environment, and also signed a Memorandum of Understanding for the establishment of political consultations between the Ministry

of Foreign Affairs of Guatemala and Ecuador.”⁵ It is expected for the agreement to enter into effect once it is reviewed by the legislative departments of each country.

1.1.3 Year 2012

This year, the Institute for Promotion of Exports and Investments PRO ECUADOR invited the participants of the agreement to take part of the first Reverse Trade Mission of Guatemalan importers to Ecuador. It was held in February 2012 in Quito-Ecuador. On the same month, the Congress of Guatemala approved the Partial Agreement on Economic Complementation between Guatemala and Ecuador.

Illustration 2: Invitation of PRO ECUADOR



Source: Chamber of Industry of Cuenca

⁵ PP THE TRUE DIARY. Economic Agreement between Ecuador and Guatemala. <http://www.ppelverdadero.com.ec/judicial/item/acuerdo-economico-entre-ecuador-y-guatemala.html> (2011).

According to the Inter-American Development Bank, on December 4th, 2012 the National Assembly of Ecuador approved the agreement with Guatemala and once it was approved by the two countries, there was only left the entry into effect by the ratification of the President of Ecuador Rafael Correa, possibly in January 2013. From this, the Partial Agreement will allow access of 593 products exempted from tariffs and it will also liberalize, progressively, tariffs of 84 products in a period of approximately 7 years. Even el Salvador is included in the process to be the next country to begin negotiations with the two countries already involved, Ecuador and Guatemala.

In February 2013, finally the Partial Agreement of Economic Complementation was effective, strengthening the commercial trade between the two countries. “The main Ecuadorian products to export to Guatemala are shrimp, gas stoves for domestic use, toilets and sinks, pharmaceuticals, cacao, fish flour, among others.”⁶ In this way we know which products are mostly affecting the exports during this year with this new agreement.

1.2 Main objectives of the agreement

The objectives are a substantial part in an agreement, because they allow traders to fulfill specific aspects in short and long terms, so they will not harm the other party and will let have limits in it. The objectives must be taken into consideration from the start of the negotiations until the end of them and throughout the duration of the agreement in order to measure the progress of the agreement and establish new goals for the future.

Article 1 of the first chapter of the agreement between Ecuador and Guatemala called Initial Provisions describes six objectives that guide it.

⁶ PRO ECUADOR. Tariff reduction takes effect in Ecuadorian products in Guatemala. <http://www.proecuador.gob.ec/2013/02/27/entra-en-vigencia-reduccion-arancelaria-de-productos-ecuatorianos-en-guatemala-2/> (2013).

- The first goal refers to the granting of tariff preferences and to the elimination of non-tariff barriers:

This objective seeks to facilitate the commercial flows between the two countries for there to be a free circulation of products, respecting each nation's economic policies.

- The second objective seeks to help the merchandise trade in particular:

At this point, it refers to the provisions of the customs, its rules and technical regulations, the assessment procedures and over all to the sanitary and phytosanitary measures to maintain the necessary control over the goods.

- The third objective seeks to reinforce the relations between the two countries:

This will deepen the complementation of the productive sectors, considering the needs of those producers or smaller companies to achieve an inclusive trade.

- The fourth stated objective is to establish a proper and fair system for the management of the resolution of commercial disputes:

In this way the dialogue will be privileged in order to find a satisfactory solution for all the parts involved.

- The fifth objective wants to stimulate the investments:

In this way, the productivity and technology will improve and also the participation of each country in each other's market will grow.

- The last objective wants to promote Latin American integration:

Through this, the exchange of goods can be deepened ensuring the natural heritage of each country and the use of its technologies.

With all these objectives, the agreement will be handled properly and will attain to pass to the next level with great achievements. Furthermore, the agreement proposes to involve several types of producers, big and small, and likewise to achieve greater integration between them in order to cooperate and reach potential supplement for future negotiations together.

1.3 Considerations of the Constitutional Court on the agreement

After the negotiation of the agreement, it will go to the different instances of each government to be approved by each part. Before it is approved by the National Assembly in Ecuador, the agreement passed by the Constitutional Court where it took a year, because it was the first trade agreement signed by Ecuador, and the Constitutional Court had no knowledge of how it worked and the purpose of it.

During the stay of the agreement on the Constitutional Court of Ecuador, this entity performed DICTAMEN N° 004-12-DTI-CC, of CASE N° 0018-11-T, the 28th of February, 2012. In this dictamen, Dr. Alexis Mera Giler, informed to the Constitutional Court, for the transition period, the subscription of the "Partial Agreement of Economic Complementation between the Government of the Republic of Ecuador and the Republic of Guatemala," so according to the article 438 paragraph 1 of the Constitution, the dictamen of this International Agreement was granted.

Also, the dictamen held by the Constitutional Court described the considerations and reasons that are summarized in the following:

- **Jurisdiction of the Court.-** The Court Plenary has the responsibility to know and emit the corresponding binding preliminary dictamen of constitutionality of the international treaties, prior to the approval by the National Assembly.

- **Juridical Nature, scope and purpose of the constitutional control over international treaties.-** The constitutional control prior to the legislative approval of an international treaty includes an analysis of their adequacy with the provisions of the Constitution, according to article 417 of the same Constitution.

- **The Role of the National Assembly on the ratification and denunciation of international treaties and conventions.-** Ecuador is a Constitutional State of Rights and Justice with a democratic regime. The role that the legislative function assumes is fundamental because it embodies the popular will expressed through their representatives in the National Assembly.

Furthermore, pursuant to the requirements of the Organic Law of Jurisdictional Guarantees and Constitutional Control, the Court will control both formal and material control of this International Instrument.

- **Formal Control.-** It refers to examine if the agreement was signed in accordance with article 418 of the Constitution that says: "It corresponds to the President of the Republic to sign or ratify treaties and other international instruments."

- **Material Control of the PA.-** It refers to control of the objectives that are specify in the agreement.

CHAPTER II

KEY POINTS OF THE AGREEMENT

Before starting to describe the key points of the Partial Agreement of Economic Complementation between the Government of the Republic of Ecuador and the Government of the Republic of Guatemala, it is important to make a reference to the rules that the agreement must follow to be developed properly. Inside these rules, the Constitutional Court mentions the International Rules that should be observed, which is the Vienna Convention on the Law of Treaties. Subsequently, it will indicate those products mainly benefited by the agreement to get to know where to focus the key points.

2.1 Rules of the agreement



Source: The Guide / Right

As the Vienna Convention on the Law of Treaties says in its article 18, a treaty should not be frustrated before it enters into effect. Within this article two characteristics that underlie it are detailed. It is said that the country that decides to be part of the treaty should refrain from defeat the purpose and the finality of it, in the following situations:

- If the country has signed or exchanged instruments that constitute the agreement.

- If the country has expressed its consent to be bound thereby.

Furthermore, referring to the article 26 “Pacta Sunt Servanda”, the Vienna Convention says that every treaty in effect forces the parts involved in it and must be performed by them in good faith. It means that if the parties engaged in an agreement or treaty, decide to be part of it, they should respect every regulation and specification contained in it in good will.

Finally referring to article 27 that talks about the internal right and the observance of the treaties, we can notice that these articles summarize the fact that each nation that is part of the agreement cannot use their domestic law to justify any breach of it.

2.2 Benefited products under the agreement

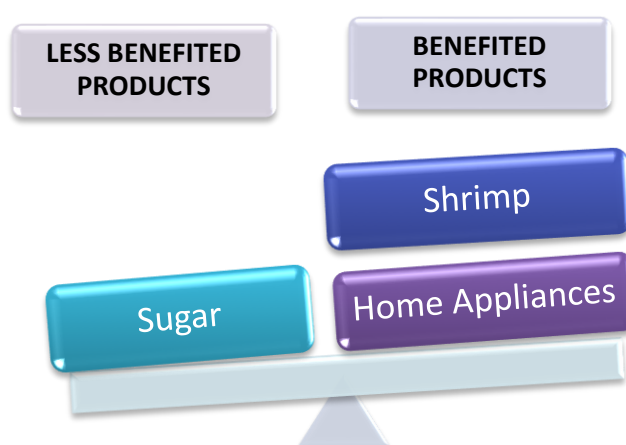
Some of the main benefited products are:

- White Line (Home appliances)
- Shrimp
- Flowers
- Fruits
- Vegetables
- Medicine
- Handicraft
- Rubber
- Textiles

The principal “Ecuadorian products that have been exported to Guatemala, prior to the agreement are: shrimp, gas stoves for domestic use, toilets and sinks, pharmaceuticals, cocoa, and fish flour.”⁷ Thanks to the agreement, these products will increase their production and may generate more jobs inside each nation so the progress of these companies will be obvious.

According to the Daily Express, one of its publications reported that some sectors like home appliances will increase its sales in a big level thanks to the agreement. For this reason, there will be a study to the company INDUGLOB from the city of Cuenca, which is the biggest exporting company of this city, due to its high quality in the manufacture of the White line. In this way we can know more clearly how this agreement has influenced this company.

Some goods like stoves and refrigerators could expand their exports to Guatemala, where until December 2012, according to the newspaper “Hoy” from Quito, more than \$10 million were billed. However, the sugar industry was not very happy with the deal, because one of the requirements from the Republic of Guatemala, under the agreement, is that our country should import from Guatemala 21 thousand tons of sugar and this has upset this productive sector of the country.



Source: Author Daysy Bermeo

⁷ PROECUADOR. Tariff reduction takes effect in Ecuadorian products in Guatemala. <http://www.proecuador.gob.ec/2013/02/27/entra-en-vigencia-reduccion-arancelaria-de-productos-ecuatorianos-en-guatemala-2/> (2013).

2.3 Tariff

As everyone knows, the tariff is a percentage to be paid on the importation of certain products to our country. “This is an instrument of trade policy that should promote the development of productive activities in the country.”⁸ The tariff is one of the most important parts of the importation, the final price of a product and the amount that it has to pay to enter to another country depends on it. It means that the profit or the loss on the products sold will depend on the tariffs. In chapter 3 of the agreement, entitled National Treatment and Market Access for Goods, are described in different articles, the aspects of the tariff of this agreement.

2.3.1 Tariff elimination



Source: Manzanilloxport

According to article 6 of the second chapter of the Partial Agreement and Trade Complementation between the Republic of Ecuador and the Republic of Guatemala, it was agreed between the two sides, to remove or keep reducing the tariffs according to a reduction schedule raised. In this issue, it was agreed to completely eliminate tariffs on around 470 tariff lines, and around 84 items will decrease slowly from 5 to 7 years.

⁸ LEGAL EDITIONS. Resolution N° 86.
<http://www.aduana.gob.ec/archivos/Boletines/2013/Resolucion%2086.pdf> (2012).

2.3.2 Tariff Modifications

As it is set in the AAP (Partial Agreement) between Ecuador and Guatemala, the parties involved may make changes or expand the same list of products and any tariff within it, as long as they reach a common agreement. No country involved may make modifications unilaterally without the consent of the other country after it has come into effect, unless it is provided in the contract.

2.3.3 Custom and Consular Rights

As stipulated in the agreement between the two Republics of Guatemala and Ecuador, its article 9 entitled Rights of Customs Procedures and Consular Rights, indicates three points that rule this article.

1. Any party will impose or charge custom processing for the service provided by the customs authority.
2. Any part will charge rights or consular taxes or will require formalities from the entry into effect of the agreement.
3. Each party will provide and maintain updated information on fees and charges of the imports and exports.

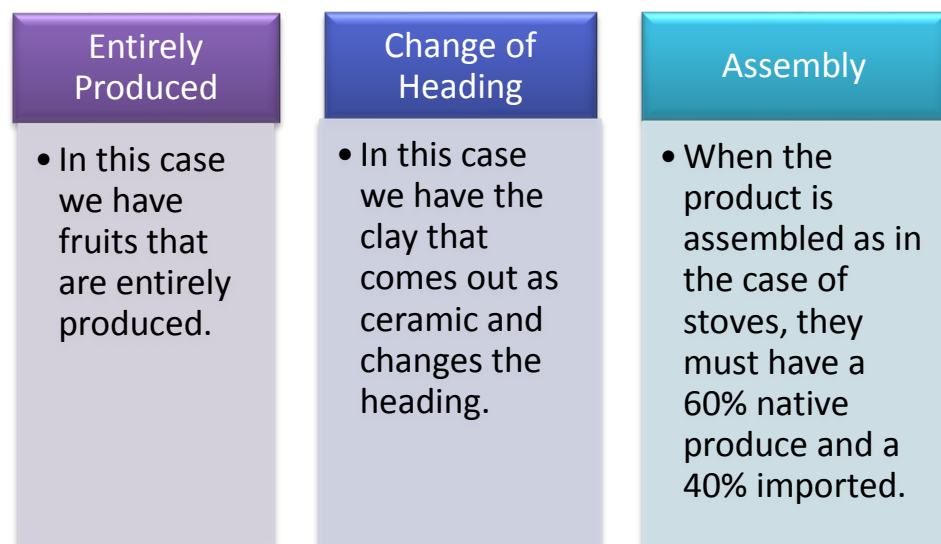
2.4 Origin Rules

A whole chapter is intended to the origin rules, because they are a very important aspect. Article 14 which talks about this issue, says that the Administrative Commission may take decisions regarding to the origin rules, if necessary.

- The origin rules should be appropriated to the technological advances and to the productive processes of each country.

- To ensure effective implementation and administration of the origin rules with the necessary regulations.
- Establish, modify, suspend or eliminate some specific origin rules.
- Attend immediately any issue with regard to the origin rules when necessary.

Every agreement has its General Rules of Origin. However, this agreement has also Specific Rules of Origin. Within these specific rules the headings and subheadings that are affected by these rules are detailed. All these headings and subheadings can be reviewed in Annex 2 (Partial Agreement of Economic Complementation) attached at the end of this work. It is also important to clarify that there are three main types of Origin Criteria with which this agreement will govern.



Source: Author Daysy Bermeo

2.5 Sanitary and Phytosanitary measures



Source: The new entrepreneur

2.5.1 Objectives

In the case of the objectives, the parties involved in the agreement want to establish the sanitary and phytosanitary measures of the WTO to “protect life and human health, animal health and plant health and strengthen the cooperation for the agricultural development of the parties.”⁹

2.5.2 Area of application

The application of this measure will be for all agricultural products, including fishery products, aquaculture and its derivatives. All these products will be checked and will go through a strict control to ensure that they are healthy, either for people or for animals or plants.

Both countries will establish their procedures of control, inspection, approval and certification of the products that each of them import to the country, guided by the rules of four institutions:

⁹ PRESIDENCY OF THE REPUBLIC OF ECUADOR. Partial Agreement of Economic Complementation, between the Government of the Republic of Ecuador and the Government of the Republic of Guatemala. (June 2012).



Source: Author Daysy Bermeo

2.5.3 Committee Set

The committee in charge of these measures will consist of:

ECUADOR	GUATEMALA
<ul style="list-style-type: none"> • Ministry of Foreign Affairs, Trade and Integration. • Ministry of Agriculture, Livestock, Aquaculture and Fishery. • Ecuadorian Agency for Agricultural Quality Assurance. • National Fisheries Institute. • Ministry of Public Health. 	<ul style="list-style-type: none"> • Ministry of Economy. • Ministry of Agriculture, Livestock and Feeding. • Ministry of Public Health and Social Assistance.

Source: Author Daysy Bermeo

2.6 Safeguard Measures

It is said that “a safeguard is which regulates or temporarily restrict the import of identical, similar or directly competitive goods with those of domestic production.”¹⁰

These safeguard measures are established in order to remedy, in some level, the damage caused to the domestic production of certain goods, and in this way balance the negotiation between the countries involved in it.

This agreement sets 5 types of safeguards, which help the two countries concerned, to have a better control over it. Each safeguard describes the articles on which are based to be unfounded.

2.6.1 Global Safeguard, Antidumping Countervailing Rights

In this issue, by the rights and obligations under the GATT 1994 articles, undertake to apply their domestic law. According to article 20 on this agreement, it is said that it will not be applicable to the differences that arise from the application or interpretation of the provisions mentioned in this article.

In addition, the imports carried from the other country will have to be a certain percentage of the total imports of the similar or competitive goods from that country, during the last three years. It is also necessary some control to prevent serious injuries or threats to the domestic production of each country.

2.6.2 Bilateral Safeguard

Regarding the bilateral safeguard, Article 18 of the agreement states that the importing party may apply this measure if after an investigation it is proven that an originating good, of one of the countries, is being imported to another country in the amount, terms, or conditions that could cause serious damage to the domestic production of the other country.

¹⁰ UNIVERSITY ICESI. Foreign Trade Office.
<http://www.icesi.edu.co/blogs/icecomex/2007/10/12/meldidas-de-salvaguardi/>
(2007).

This type of safeguard consists in the temporal suspension of the margins of tariff preferences granted with respect to this agreement. These measures will apply for a period no longer than a year. However, if this problem persists, it may extend the suspension time for only one more year.

2.6.3 Safeguarding for Development

According to the article 56 of chapter 8 entitled Trade Protection, this measure applies to the creation of a new industry. This means that you start a new activity, but it must be related to the existing production, the same as some kind of transformation or development of any branch of production that does not satisfy the interior demand but only a small portion.

Several products of each country have its own history and methods of production, which must be respected and preserved. However, it is also important to take into consideration the product demand. For this reason, despite the history of a product and its development must take into account new methods, technologies, transformations, etc. that can improve the product without changing it for a new one.

2.6.4 Special Agricultural Safeguard

Article 23, which deals with the Agricultural Safeguard, says that this measure will be established in case that the parties involved modify or extend the list of goods and its margins of tariff preferences. This safeguard, as you can tell, will be applied to certain agricultural goods depending on the interests of each country and respecting its nature.

2.6.5 Changeable Safeguard

This safeguard measure can be applied for three reasons:

- Starting a Bilateral Safeguard.
- Decision to apply or extend a safeguard measure.

- Application of provisional Safeguard .

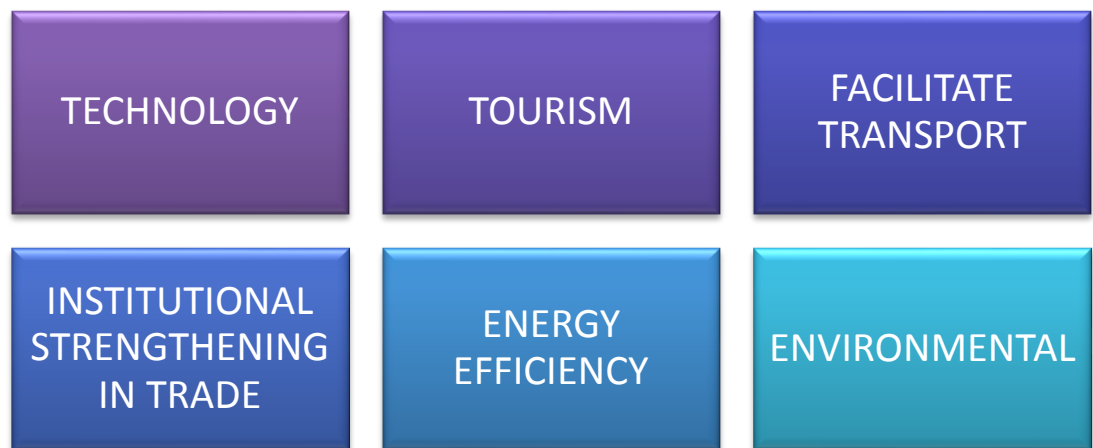
Also, before applying this type of measure, testing should be done about the damage caused, description of the exact goods and the measures that will be applied, the date of the start of the measure, and the duration of it.

It is important to mention that there is also a provisional safeguard. This safeguard is simple and clear, because it will be used in critical circumstances. It means when any previous safeguard was applied and it has not been amended and an extension in the duration of it is required until it can be solved.

2.7 Commercial Cooperation

This topic refers to the cooperation that both countries offer in the development of the negotiation. As already mentioned above, the objectives to cooperate in negotiations focus on improving the technical capabilities of both countries, strengthen trade capacity, innovation, promote the development of trade and over all, include the small businesses, generating major sources of work and competitiveness in the country. The chapter describes nine forms of cooperation.





Source: Author Daysy Bermeo

2.8 Final Disposition

Finally it was announced that the agreement entered into effect on February 19, 2013, certifying that they have complemented the respective internal legal procedures. Among the final provisions are the following:

- The duration of the agreement is indefinite and any kind of reservation must be made with the consent of the other party.
- Any other country can be part of this agreement if it complies with all the legal requirements and the terms agreed between the country that enters and the ones that are already part of the agreement.
- In case that any of the parties wishes to make a complaint against the other party, it should notify, in writing, about the complaint to the denounced country.
- Any modification must be made by the two parties involved and under the legislation already agreed.

CHAPTER III

To have a better knowledge and to be able to comment about the development of an agreement between two countries, it is important to make a brief description of one of the companies that will be using this agreement. In this way, it is possible to understand how the commercial situation of this company, was before and after the agreement, and perform any kind of analysis on it.

COMPANY INDUGLOB



Source: Author Daysy Bermeo

This company was born in 1972, in the city of Cuenca, Ecuador, as an idea of the Jaramillo family. It opened with the name of INDUTECNIA until, thanks to the volume of sales achieved in Peru in 1997, the company changed its name to INDURAMA. Subsequently, due to all its efforts, it became a great and successful company, now known as INDUGLOB. “Since its beginning it has aimed to produce home appliances that besides facilitating house work, complies with the highest standards of design and technology.”¹¹

¹¹ INDURAMA. Who we are, <http://www.indurama.com/portal/web/indurama2/ecuador/quienes-somos> (2012).

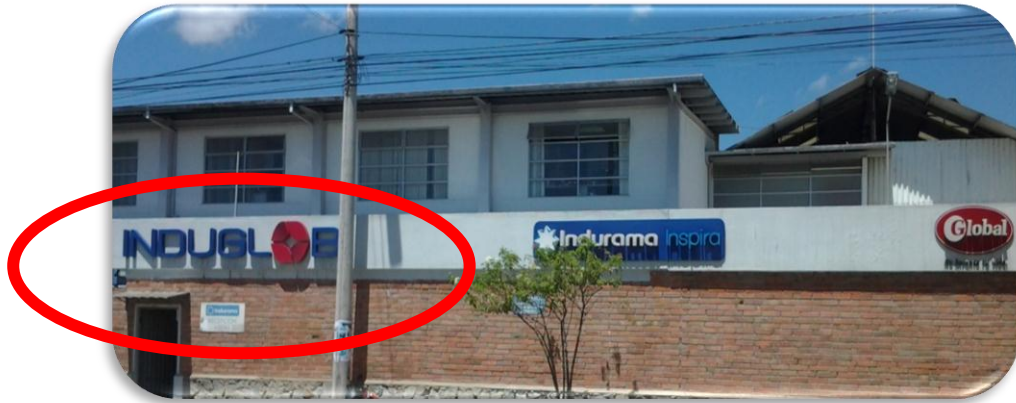
This company has opened many jobs, approximately more than 1900 employees, which help to improve production processes and the operation of it. Furthermore, these employees receive incentives or prizes as an acknowledgment for their ideas or solutions to some problems, according to the General Manager of the company Marcelo Cordero. Even 90% of the employees participate voluntarily in Overcoming Circles, in which they contribute with ideas to improve the product and its manufacturing processes.

In 2000 the company was able to be among the three most recognized brands in the country and has also become one of the 10 companies that have generated more employment and training to its employees continuously. INDUGLOB not only recognizes the hard work and the new ideas from its employees, but also the company manages a good development and grow endlessly thanks to the importance given to its clients in the international market, which has enable the company to gradually enter in several countries during its 40 years of career.

3.1 Changes that the company has had in the last three years

The main objective of the company INDUGLOB is to focus in the designs of its products, production processes and the service that the company provides to the customers, achieving the mentioned points through a continuous innovation. It is for this reason that the company has made some significant changes that will give a new presence for their new goals. For this stage, the company has decided to change its name and image, and also resolved to bring to the market its new line of stoves and refrigerators with higher technology and convenience for its customers.

3.1.1 Name



Source: Author Daysy Bermeo

The company INDUGLOB, known before as INDURAMA, has always been concerned about the satisfaction of its customers, both domestic and international. The company established a quality laboratory and permanent technological service, which helps it to fulfill its goals. Due to its constant changes, INDUGLOB also saw the need to change their image, which at the end of 2010 changed its name. This change was done for reasons of marketing and new strategies in commercializing its products. This new name involves INDURAMA's production together with the brands Global, Premium, Innova and Whirlpool.

According to an interview conducted by EKOS Business to the company INDUGLOB, in February of this year, it is worth highlighting that this company saw a very good chance to work with Global brand, which likewise has a wide variety of home appliances. Furthermore, the interview emphasized that: "the brown line and home appliances are imported and before marketing, they have to obtain the INEN Standard Certification, and they also have to pass through stringent quality tests conducted in the company, hence the name INDUGLOB,"¹² which is the mixture of the two brands.

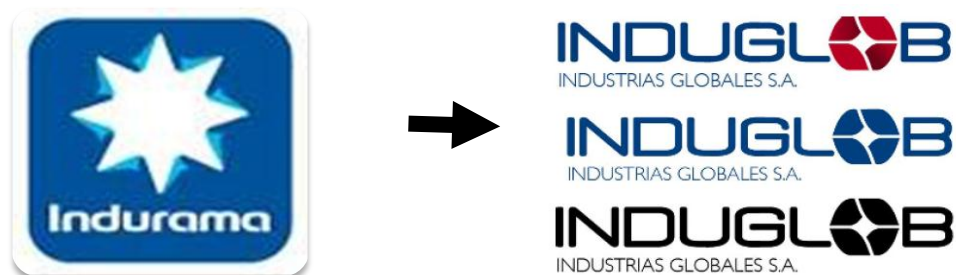
¹² EKOS BUSINESS. Inspiration is the key in INDUGLOB.
<http://www.ekosnegocios.com/negocios/m/verArticulo.aspx?idArt=1572> (2013).



Source: Author Daysy Bermeo

3.1.2 Logo

The logo of the company also changed in September 2010, together with the name. The new logo is located inside the new name of the company, and the following designs are used.



Source: INDUGLOB

3.1.3 Product manufacturing mode

Concerning to the manufacturing mode used in INDUGLOB, it is important to highlight its responsible production processes, because after the selection of the raw material that is part of the device, there is a strict control over the bending, *traquelado* and other steps that will build the articles. Also, the pieces are washed

with chemicals to clean impurities and prevent oxidation of the final product, and the process finishes by painting it and entering it in the oven to give the product the luster characteristic.

Usually the remaining material of the artifact is reused thanks to the knowledge and supervision of the supervisors and technicians of each area, and in case of finding any anomaly in the manufacturing process, a review is made and the affected product is removed to be tested again. After the product is ready and well inspected, it proceeds to put quality labels and manuals, so it is ready to be packed and transported to the different stores, in and outside the country, which will be negotiated with the final user.

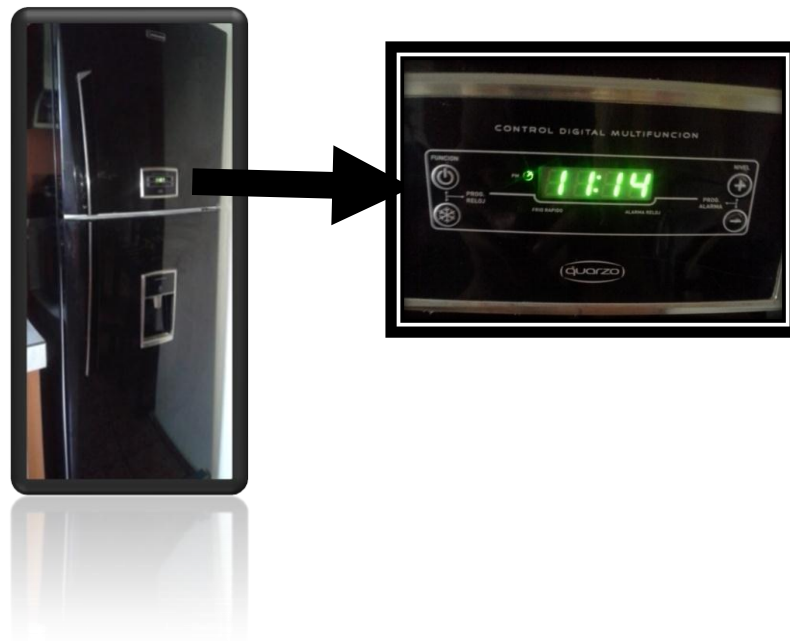
The manufacturing method that this company uses on its products will renew in the degree that it requires. Both the technology and the customers are paying attention to the suggestions of their employees who are those that will be more aware of the improvements that they can give to each item manufactured in INDUGLOB. As already mentioned, INDUGLOB is a company that is known for their responsibility and for this reason, the company will always seek to take the best decisions, for both their employees and their production processes and finally its national and international customers.



Source: INDUGLOB

3.2 Technological Innovation

According to Leaders Magazine, INDUGLOB has focused on the technological innovation seeing this as a need of the company to compete both within the country and outside it. In September of last year a new generation of refrigerators QUARTZ, was introduced to the market, which has better characteristics to preserve food and give higher durability to the artifact. One of these new characteristics is a multifunctional digital control that programs the temperature or any type of alerts from the outside of the artifact.



Source: Author Daysy Bermeo

Furthermore, “touch pad technology has been incorporated into the kitchens, allowing the touch pad operate the oven, block the gas fluid, activate the turbo system, turn on the rotisserie grill and put into operation the electric sky.”¹³ These products have better lighting that will help users gain better visibility on the food and even save energy.

¹³ EKOS Business. Inspiration is the key in INDUGLOB.
<http://www.ekosnegocios.com/negocios/m/verArticulo.aspx?idArt=1572> (2013).



Source: Author Daysy Bermeo

INDUGLOB offers these new artifacts in three different colors: White, chrome and black, which are sold in big quantities thanks to the new comfort offered. Together with the technological innovation is the working environment of the company, which is the most suitable and thanks to the motivation and all the support given by the chiefs and the staff, it is possible to work in a professional way, and with respect and commitment to their work.

3.3 INDUGLOB's main exported products

INDUGLOB begin manufacturing home appliances, cookware and even bicycles. However, as the company studied the market demand day by day, it focused in manufacturing various kinds of household items such as stoves, refrigerators, freezers and recessed appliances, toaster ovens, microwaves, air conditioning, display cabinets, fume hoods, washing machines and dishwashers. However, their strongest items for exports are stoves, refrigerators, and parts and pieces of the mentioned items, depending on the tastes and needs of each client.

Of all the articles mentioned that INDUGLOB produces, some of them are exported to over 20 countries and in big amounts. Between the most demanded articles in other countries we have stoves, refrigerators and spare parts for these articles. Furthermore, "it is said that in 2006, a production plant in Peru was consolidated,

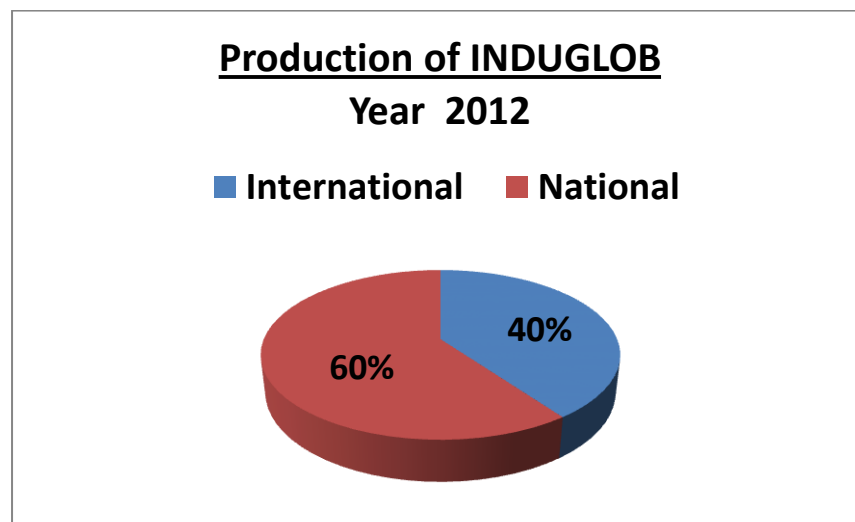
where the company has a participation of a 32% in the stoves market,”¹⁴ which demonstrated the great reception that this country provides to the products of INDUGLOB.

3.4 Participation of INDUGLOB in the country’s export percentage

To start, it must be indicated the percentage of exports that INDUGLOB has in the company. According to an investigation made by the newspaper *HOY* in September, 2012, it is estimated that INDUGLOB sells, annually, 500 thousand products of White line, and home accessories. This company, throughout its career, has worked to satisfy its customers and for this reason it has tried to maintain its level of exports, so it can be able to supply also the domestic demand because every single customer is very important for the company.

In the following chart we can see that in 2012 INDUGLOB exported 60% of its production, while 40% of it was destined to be sold in our country with the same quality as the exported products.

Illustration 3: Production of INDUGLOB

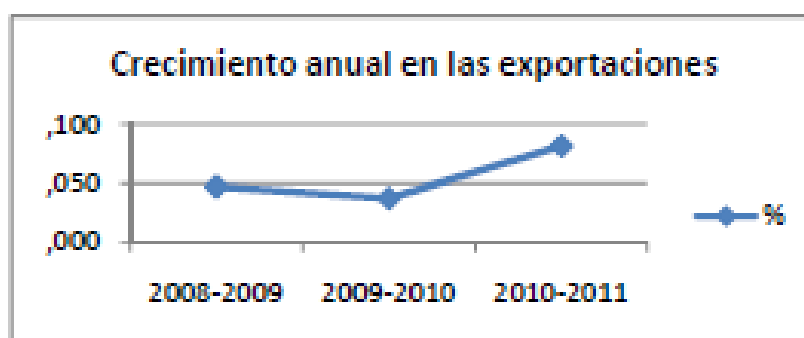


¹⁴ NEWSPAPER “HOY”. Cuenca, an exclusive niche of big companies.
<http://www.omu.com.ec/histórico-de-noticias/6402-cuenca,-un-nicho-exclusivo-de-grandes-empresas.html>.

From this reference we can have a better idea of how important are the exports of company INDUGLOB, especially for the Azuay and consequently for the country. In an investigation conducted by the Chamber of Industries and the Ministry Coordinator of Production, Employment and Competitiveness MCPEC, it follows that the white line and the furniture are the products of greatest export potential of Azuay. Then, this same study “revealed that the main economic activity of the city is the manufacturing, specially the white line metalworking industry, with the manufacture of products such as stoves, refrigerators, ovens, among others.”¹⁵

Due to the fact that this sector of white line has been dynamic and innovative with good offers in terms of energy, environment and technology and getting better prices, the country’s exports of these products have been increasing. In the following illustration we can observe the progress of the White line exports of Ecuador, annually.

Illustration 4: Annual growth in exports



Source: Ing. Marco Jara

¹⁵ Cáceres, Diego. Diary “El Tiempo”. White Line and furniture with export potential. <http://www.eltiempo.com.ec/noticias-cuenca/113799-la-nea-blanca-y-muebles-con-potencial-exportable/> (January, 2013).

3.5 Participation of INDUGLOB in International fairs

Among all the activities that the company INDUGLOB has developed lately, there is the exhibition in the Boulevard of Asia during the summer, in which all the people who visited this place acquired a better knowledge on the home appliances and also the new line of stoves and refrigerators QUARZO that the company launched. This exhibition was given because of the new image that the company brought, which is called RENEWAL THAT INSPIRES / INDURAMA INSPIRES.

Similarly, the digital Business Journal BIZNEWS.PE of Peru reported that “INDURAMA INSPIRES participated in the VI estate exhibition *Expohogar* 2010 and in Expomujer, a 3-day event where INDUGLOB was present with its exhibition module, activations and sponsoring the space”¹⁶, all dedicated to women. INDUGLOB, aside from being known for its good quality, it also does its best to give a good presence at the exhibitions where it attends, creating suitable environments to show their products.



Source: Mario Urrea

¹⁶ BIZNEWS.PE. The new image of Indurama: Renewal that inspires.
http://www.indurama.com/portal/html/themes/indurama2012/pdf/la_nueva_imagen_de_indurama.pdf (2010).

3.6 Recognition of the company to the world in the commercial area

The company INDUGLOB, started from the bottom and through its efforts, responsibility and focus on the international market, its products are already sold in other countries where they have been very well received since the joining. This company entered the international market in 1985. It is known that the company started the exports with Peru, opening an office there and also a production plant, and later continued its international marketing to seven more countries. Now, the company “sells stoves and refrigerators of the brands: Global and Whirlpool in 25 countries.”¹⁷ Some of the countries are: Venezuela, Peru, Colombia, Bolivia, Nicaragua, Jamaica, Dominican Republic, El Salvador, Honduras, Chile, Guayana, Guatemala, Panamá, Antigua & Barbuda, Barbados, Granada, St. Lucia, St. Vincent, Trinidad and Tobago, Belize, Saint Kitts & Nevis. It is also said that in Guatemala, INDUGLOB opened offices this year, after the approval of the Partial Agreement of Economic complementation between the two countries.

3.7 Competitive companies for INDUGLOB

In the past 15 years, the kitchen is no longer a space exclusively for cooking and has become one of the areas where the family shares more time. For this reason, the company INDUGLOB has focus, not only in selling articles of good quality, but also in selling comfort and innovation for its customers and this led the company to increase its competitiveness.

Juan Enrique Gil, Export Manager of the company INDUGLOB, states that “the government support is very important for the company, especially considering that their products enter to Central America at a competitive disadvantage because they pay 15% tariff in stoves and 18% in refrigerators, while many products from Mexico

¹⁷ LEADERS MAGAZINE. Induglob, Commitment to Technological Innovation. http://www.revistalideres.ec/mercados/tecnologia-innovacion_0_775722435.html (2012).

and Colombia enter with 0 tariffs.”¹⁸ For this reason the company INDUGLOB takes advantage of the Partial Agreement signed between Ecuador and Guatemala, in which tariffs are eliminated for both countries and through this, Ecuador tries to enter into the Central American market to compete mostly with Mexico. The company MABE is the major representation of the Mexican’s competition, which began their industrial operations in Ecuador since 1966.

Another company that also represents a level of competitiveness for INDUGLOB is CETRON, a company from Costa Rica. After a long history, since 1961, this company was acquired by MABE in 2006, strengthening its quality, performance and durability.

3.8 INDUGLOB’s goals with the new agreement

Due to all the exports made by INDUGLOB, this company has seen the need to use the agreement established with the Republic of Guatemala, and for this reason, the company raised new goals for the company to trade with the mentioned country. Thanks to the tariff elimination between both Republics, the company INDUGLOB will have new goals, both short term and long term, so the manager of the company could have a control over the progress under the agreement in question.

3.8.1 Short-term Goals

With regard to the short-term goals, INDUGLOB has proposed to sell its innovated products, as it has always done, and in this way also offer more options to its customers and pay attention to their suggestions to study and include them in the production. This company seeks to design programs that facilitate the opening of the company to the market. Among these programs are: Information Systems of

¹⁸ EL MERCURIO. White Line from Cuenca expands over the continent.
http://www.indurama.com/portal/html/themes/indurama2012/pdf/mercurio_indurama_se_extiende_por_el_continente.pdf (2011).

International Markets, Fairs and Trade Missions Sector. Furthermore, INDUGLOB wants to develop a Fair of Parts and Pieces to promote this area of the company.

3.8.2 Long-term Goals

Concerning to the long-term goals, INDUGLOB seeks to negotiate with the countries of Central America, because in this way the company will export higher amounts of its products and consequently the production of the company will also increase creating more jobs in the country.

CHAPTER IV

IMPACT OF THE AGREEMENT IN THE COMPANY INDUGLOB

4.1 Situation between Ecuador and Guatemala before the signed arrangement

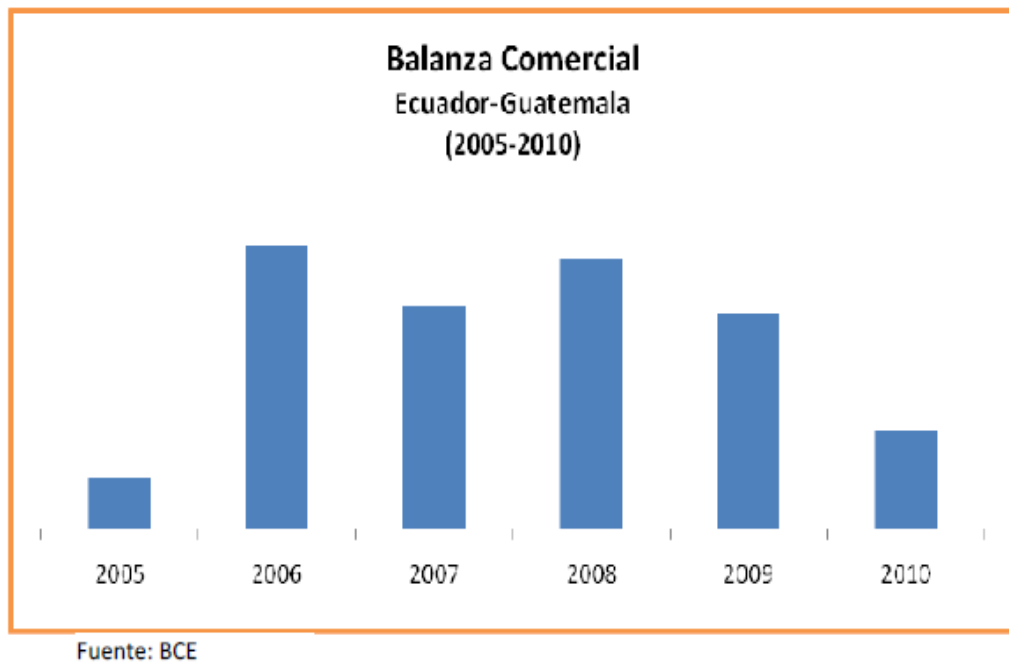
Definitely, Ecuador has always considered Guatemala as a very significant market, their interests are similar and the manufacture has a very good exchangeable potential. These two countries are complementary and have a huge potential for trade in different areas. The situation between both Republics, prior to the Partial Agreement, has been considered very well. As mentioned before, both countries are similar and this fact helped to establish a better relationship between them, not only in trade but also in the environment field, tourism, and even “there are agreements between indigenous groups from both countries to exchange knowledge in the development of handicraft.”¹⁹ Knowing that there are various areas that can be related between the two countries, now the nations are seeking for agreements that will help to improve the accessibility between them and thus have a much more fluid exchange and an effective one.

To better understand the situation between Ecuador and Guatemala before signing the trade agreement, the Central Bank of Ecuador, has illustrated in a table, the Trade Balance of Ecuador and Guatemala for 5 years, from 2005 to 2010. “The total value of the Ecuadorian exports to Guatemala, registered in 2010, increased to US\$103, 9 million, while the importations from Guatemala, totaled approximately US\$65 million.”²⁰

¹⁹ Cancilleri. El ciudadano.gob.ec. Successful negotiations between Ecuador and Guatemala.
http://www.elciudadano.gob.ec/index.php?option=com_content&view=article&id=20814:negociaciones-exitosas-entre-ecuador-y-guatemala&catid=3:economia&Itemid=44 (January, 2011).

²⁰ Peña Hurtado Eduardo. Chamber of Commerce of Guayaquil.
<http://www.lacamara.org/website/images/boletines/informacion-comercial/relacion%20comercial%20ecuador%20-%20guatemala.pdf> (2010).

Illustration 5: Trade Balance of Ecuador-Guatemala



In the illustration above, we can clearly see the progress of the negotiations with Guatemala in 2005. Although these have been growing up, in 2010 they went down. It is important to mention that this is due to the tariff barriers between the countries which have been rising sharply. For this reason, the country looks for agreements that help to solve these problems between countries. For 2011, the exports to Guatemala increased, however, a much greater progress is expected in 2013 where the agreement took effect.

4.2 Answer from the Ecuadorian companies to the agreement

In our country, the agreement has already been announced in a newsletter published on the website of the SENAE. This is how the Customs of Ecuador keeps all the operators of foreign trade in track about the agreement that just entered into effect, and then each company will analyze the agreement to see if it is convenient or not for their companies.

Illustration 6: Ecuador Customs Bulletin on the Agreement



The screenshot shows the website of Aduana Del Ecuador (SENAE). The main navigation bar includes links for 'Acerca de', 'Novedades', 'Servicios para OCE's', 'Procedimientos', and 'Atención al Cliente'. The header features the slogan 'Conectando al socio global, Aduana Del Ecuador' with a background image of a customs officer. On the left sidebar, under 'Novedades', the 'Noticias' menu is expanded, showing 'Boletines' and 'Sala de Prensa'. The main content area displays a bulletin titled 'Acuerdo Ecuador - Guatemala' (circled in red). The bulletin details include: Bulletin No. 118-2013, Estado: Vigente, Proceso: Despacho, Subproceso: VARIOS, F./Publicación: 18-Apr-2013, F./Vigencia: 18-Apr-2013, and Emitido Por: Direccion Nacional de Gestión de Riesgo y Técnica Aduanera. The text of the bulletin states that on February 14, 2013, the Partial Agreement of Economic Complementarity between Ecuador and Guatemala was published, and a liberatory code No. 0199 was generated for its application.

tema	Acuerdo Ecuador - Guatemala		
Boletín No	118-2013	Estado	Vigente
Proceso	Despacho	Subproceso	VARIOS
F./Publicación	18-Apr-2013	F./Vigencia	18-Apr-2013
Emitido Por	Direccion Nacional de Gestión de Riesgo y Técnica Aduanera		

Se pone en conocimiento de los operadores de comercio que mediante Suplemento de Registro Oficial No 891 de jueves 14 de febrero de 2013, se publicó el Acuerdo de Alcance Parcial de Complementación Económica entre el Gobierno de la República del Ecuador y el Gobierno de la República de Guatemala, ante lo cual, y a efectos de poder aplicarse las preferencias de dicho ACE, se ha generado el código liberatorio No. 0199.

[Lista](#)

Source: Customs of Ecuador

4.2.1 Benefited companies with the agreement

It is estimated that “there are 150 Ecuadorian companies that export directly to Guatemala, most of which will benefit from the agreement.”²¹ However, currently, with the agreement in effect we have two companies that are already using the agreement and have been benefiting greatly with it.

The first company that uses the agreement is INDUGLOB which has been discussed extensively in this thesis. This company was the base to think about this agreement and it has generated a positive view of the government.

²¹ HOY.COM.EC. The trade agreement with Guatemala, an opportunity that generated fears. <http://www.hoy.com.ec/noticias-ecuador/el-acuerdo-comercial-con-guatemala-una-oportunidad-que-genera-temores-570302.html> (2012).

The second company that is also using this agreement is FIBRO ACERO. This company is dedicated to the production of stoves with ecogas and offers these articles for each necessity and budget. FIBRO ACERO sells stoves, portable stoves, top stoves and gas cylinders, which are also well received by the market.



Source: FIBRO ACERO

Subsequently, according to the Ecuadorian Federation of Exporters, it is considered that other companies will be also benefited. These produce:

- *Shrimp that will benefit from the agreement with shipments of 69%.*
- *Pharmaceutical products with shipments of 94%.*
- *Confites with shipments of 87%.*

4.2.2 Disadvantaged companies with the agreement

Despite the good reception given to this agreement, there is a productive sector of Ecuador that is worried about the agreement and it is the sugar sector. It is said that “the sugar production of Guatemala is a 2, 5 million metric tons and almost half is exported.”²² Consequently, Guatemala wants to export it to Ecuador. The National

²² HOY.COM.EC. The trade agreement with Guatemala, an opportunity that generates fears. <http://www.hoy.com.ec/noticias-ecuador/el-acuerdo-comercial-con-guatemala-una-oportunidad-que-genera-temores-570302.html> (January, 2012).

Federation of Sugar – FENAZUCAR – through its president, Miguel Perez, expressed their disagreement with the entry of Guatemala’s sugar to our country, because Ecuador has a good production of this sector.

“The Ecuadorian production is about 11, 4 million bags of 50 kg, and for next year is expected a total of 12 million, which will be sufficient to cover the domestic demand.”²³ Moreover, Miguel Perez states that the entrance of Guatemalan’s sugar to Ecuador will annihilate a sugar mill of the six that exist in the country, plus our country is also expecting to join two more mills. However, these claims were not made at the right time, because *Fenazucar* opposed to the agreement when it was already in the Constitutional Court and it never had any complaints in the negotiation rounds made before.

On the other hand, Ecuador produces 500 thousand tons of sugar and the request from Guatemala was for Ecuador to import 21 thousand tons of this product, which will not entirely affect the sugar sector. However, the fact of not wanting to compete with the Guatemalan sugar made *Fenazucar* oppose and create drama showing, supposedly, big disadvantage with the agreement in question.

4.3 Responsibilities of the parties involved

Each party, by agreeing to be part of the agreement, accepted the responsibilities to fulfill within it. Afterwards, it is described the responses of each country to the agreement in which they are already involved.

4.3.1 Ecuador’s response to the agreement

Being Ecuador the country where the proposal of the agreement was created, it has been very well received and the best results are expected for this year. Also, the goals that Ecuador wants to achieve with this agreement are the objectives implemented by

²³ HOY.COM.EC. The trade agreement with Guatemala, an opportunity that generates fears. <http://www.hoy.com.ec/noticias-ecuador/el-acuerdo-comercial-con-guatemala-una-oportunidad-que-genera-temores-570302.html> (January, 2012).

PRO ECUADOR, the Institute for Promotion of Exports and Investments, over the international trade area as: promoting the exporting offer of the country, strengthening the country's presence in the major world markets, boosting the exporting culture, promoting the investment capacitating, encourage the diversification of the exports, promote the technological innovation and managing the network of international offices. In this way, Ecuador will have more entities that support the agreement and help to improve it.

4.3.2 Guatemala's response to the agreement

For Guatemala, this Partial Agreement with the Republic of Ecuador is a beneficial agreement for the country, because Guatemala also considers Ecuador as a complementary market with good expectations. In addition, the Deputy Minister of Economy of Guatemala states that "the entrance in effect of the Partial Agreement with Ecuador will allow the immediate access of 595 products of our country with 100% tariff reduction to the Ecuadorian market and 82 other products will be reduced in a period from 3 to 7 years."²⁴ This will impulse the production of Guatemala and will create more jobs for different companies.

The Ministry of Economy of the Government of Guatemala considers that the administration of trade agreements is the most effective way to ensure the acquired rights and improve the utilization of trade openness and through these, enhance the exports, so it creates an attraction for the investors and generates more jobs that the country needs.

In this agreement, Guatemala had total support of the Chamber of Commerce of Guatemala. This entity, not only promotes international trade through national and international exhibitions, it is also an important engine for the development of the

²⁴ FLORES, MARIA LUISA. Deputy Minister of Integration and Foreign Trade, Ministry of Economy of Guatemala.
<http://www.estrategiaynegocios.net/blog/2013/02/19/en-vigencia-acuerdo-comercial-entre-guatemala-y-ecuador/> (2013).

business and commercial sector of Guatemala due to its great experience in trade missions.

4.4 Agreement Management by FEDEXPOR



The Ecuadorian Federation of Exporters of Ecuador provides various services to its members as: Advice on foreign trade, Customs consulting, Digital certification of origin, Business directory and mailing, Access to the offer and demand platform online, Forums, events and training in the Management Training Center CEG. INDUGLOB, being a member of the federation, has all the services mentioned before and thereby accelerates their work.

FEDEXPOR is the principal representative and spokesman of the export sector and its duty is to support the exports, especially when there are trade agreements with other countries, so in this way the production of our country will also increase and we will have other benefits already mentioned.

4.4.1 Informative Assistance

FEDEXPOR provides informative assistance that is a benefit for its customers, keeping them updated permanently in foreign trade regulations. Within this information are the customs procedures, tariff nomenclature and market requirement for entrance, so in this way its customers will be currently involved in the movement of the international trade and its regulations.

It also provides online business information. This information has free access through an integrated business information database called “Data Trade”, which allows customers to have executive personalized reports anywhere and at any time; exports and imports by product, volume, origin and destination of each one, among other things.

The Ecuadorian Federation of Exporters also provides to its customers a monthly electronic informative of foreign trade, which publishes official statistics by the Central Bank of Ecuador, sectorial analysis and relevant information for the exporting sector. This is how, the customers of FEDEXPOR and other exporters who wish to be part of this federation, may be aware of the movement of the international trade data.

4.4.2 Certificates of Origin

A certificate of origin is a document that verifies and credits the origin of the goods from their country of destination. With this certificate it is possible to verify that the international standards of origin are fulfilled and the correct application of the tariff preferences of each product, in case they have it. Every kind of product requires a Certificate of Origin and this is issued by the Ministry of Industries and Productivity (MIPRO), Chambers of Industries and the Ecuadorian Federation of Exporters (FEDEXPOR) in Cuenca.

In the following illustration we can see the format for the request of the Certificate of Origin.

Illustration 7: Example of the request for the Certificate of Origin

APENDICE II

FORMATO DE CERTIFICADO DE ORIGEN

**ACUERDO DE ALCANCE PARCIAL DE COMPLEMENTACION ECONOMICA
ENTRE EL GOBIERNO DE LA REPÚBLICA DEL ECUADOR Y
EL GOBIERNO DE LA REPÚBLICA DE GUATEMALA**

CERTIFICADO DE ORIGEN
(Instrucciones de llenado al reverso)

Número de Certificado:

Llenar a máquina o con letra de imprenta o molde

PAÍS EXPORTADOR		PAÍS IMPORTADOR		
1. Nombre, dirección, teléfono, fax, correo electrónico y número de registro fiscal del Exportador				
2. Nombre, dirección, teléfono, fax, correo electrónico y número de registro fiscal del Productor				
3. Nombre, dirección, teléfono, fax, correo electrónico y número de registro fiscal del Importador				
4. Descripción de las mercancías	5. Clasificación Arancelaria	6. Criterio de Origen	7. Número y Fecha de Factura Comercial	8. Peso bruto (kg.) u otra medida
9. Observaciones				
ECUADOR				

<p>10. Declaración del exportador</p> <p>El que suscribe declara que las mercancías arriba designadas cumplen las condiciones exigidas para la emisión del presente certificado.</p> <p>País de origen.....</p> <p>Firma.....</p>	<p>11. Firma de la autoridad competente o entidad habilitada</p> <p>Certifico la veracidad de la presente declaración</p> <p>Nombre.....</p> <p>Sello</p> <p>Lugar y fecha.....</p> <p>Firma.....</p>
<p>GUATEMALA</p>	
<p>12. Declaro bajo fe de juramento o bajo promesa de decir verdad que:</p> <ul style="list-style-type: none"> - Las mercancías son originarias del territorio de Guatemala y cumplen con los requisitos de origen que les son aplicables conforme al Acuerdo, no han sido objeto de procesamiento ulterior o de cualquier otra operación fuera del territorio, salvo en los casos permitidos en el artículo 14 del Anexo 14.1 (Reglas de Origen). - La información contenida en este documento es verdadera y exacta, y me hago responsable de comprobar lo aquí declarado. Estoy consciente que seré responsable por cualquier declaración falsa u omisión hecha en o relacionada con el presente documento. - Me comprometo a conservar y presentar, en caso de ser requerido, los documentos necesarios que respalden el contenido del presente certificado, así como a notificar por escrito a todas las personas a quienes entregue el presente certificado, de cualquier cambio que pudiera afectar la exactitud o validez de la misma. 	
<p>Firma autorizada:</p>	<p>Empresa:</p> <p>Código del exportador:</p>
<p>Nombre:</p>	<p>Cargo:</p>
<p style="text-align: center;">D M A</p> <p>Fecha:</p>	<p>Teléfono: Fax:</p>

INSTRUCCIONES PARA EL LLENADO DEL CERTIFICADO DE ORIGEN

Para efectos de obtener un tratamiento arancelario preferencial, este documento debe ser llenado en forma legible y completa, para el caso de Guatemala por el exportador de la mercancía o mercancías y para el caso del Ecuador debe ser emitido por la autoridad competente o entidades habilitadas, sin tachaduras, enmiendas o entre líneas. Llenar a máquina o con letra de imprenta o molde.

Número de Certificado: Para el caso del Ecuador, incluir el número de serie del certificado de origen que la autoridad competente o entidades habilitadas asignen al certificado de origen que emite. Para el caso de Guatemala no aplica.

País Exportador: Indique el nombre del país de donde se exportan las mercancías.

País Importador: Indique el nombre del país de donde se importan las mercancías.

Campo 1: Indique el nombre completo, denominación o razón social, el domicilio (incluyendo la dirección, ciudad y el país) teléfono, fax, correo electrónico y el número de registro fiscal del exportador. El número de registro fiscal será: en Guatemala, el Número de Identificación Tributaria (NIT) y en Ecuador el Registro Único de Contribuyentes (RUC).

Campo 2: Indique el nombre completo, denominación o razón social, el domicilio (incluyendo la dirección, ciudad y el país) teléfono, fax, correo electrónico y el número de registro fiscal del productor. El número de registro fiscal será: en Guatemala, el Número de Identificación Tributaria (NIT) y en Ecuador el Registro Único de Contribuyentes (RUC). En el caso que el certificado de origen ampare mercancías de más de un productor, señale "VARIOS" y anexe una lista de los productores, incluyendo el nombre completo, la denominación o razón social, el domicilio (incluyendo la dirección, ciudad y el país) teléfono, fax, correo electrónico y el número de registro fiscal, haciendo referencia directa a la mercancía descrita en el Campo 4.

Campo 3: Indique el nombre completo, la denominación o razón social, el domicilio (incluyendo la dirección ciudad y país) teléfono, fax, correo electrónico y el número de registro fiscal del importador. El número de registro fiscal será: en Guatemala, el Número de Identificación Tributaria (NIT) y en Ecuador el Registro Único de Contribuyentes (RUC).

Campo 4: Proporcione una descripción completa de cada mercancía. La descripción deberá ser lo suficientemente detallada para relacionarla con la descripción de la mercancía contenida en la factura, así como con la descripción que le corresponda a la mercancía en el Sistema Armonizado (SA). En caso de requerir mayor espacio deberá utilizar otro(s) Certificado(s) de Origen, incluyendo en el campo 9 la leyenda "ANEXO No.-".

Campo 5: Para cada mercancía descrita en el Campo 4, indique los seis dígitos correspondientes a la clasificación arancelaria del Sistema Armonizado (SA).

Campo 6: Para cada mercancía descrita en el Campo 4, indique el criterio (a, b o c) aplicable. Las reglas de origen se encuentran en el Capítulo IV Reglas de Origen y su Anexo.

Criterio de Origen:

- la mercancía sea obtenida en su totalidad o producida enteramente en el territorio de una o ambas Partes, según la definición del Artículo 4 del Anexo 14.1 (Reglas de Origen);
- la mercancía sea producida en el territorio de una o ambas Partes a partir exclusivamente de materiales que califican como originarios conforme a las disposiciones del Capítulo IV (Reglas de Origen) y su Anexo; o
- la mercancía sea producida en el territorio de una o ambas Partes a partir de materiales no originarios, que resulten de un proceso de producción o transformación confiriendo una nueva individualidad caracterizada por un cambio de clasificación arancelaria u otros requisitos según se especifica en el Anexo 14.1 (Reglas de Origen) y Apéndice II del Acuerdo.

Campo 7: Indique el número y fecha de la factura comercial. En caso de facturación por un operador de un país Parte o un país no Parte incluya la leyenda "Operación facturada por un operador de un país Parte" u "Operación facturada por un operador de un país no Parte", según corresponda, en el campo 9.

Campo 8: Indique el peso bruto en kilogramos (kg.) u otras unidades de medida como volumen o número de unidades que indiquen cantidades exactas.

Campo 9: Indique cualquier información referente a la comprobación de origen de las mercancías. En caso de facturación por un operador de un país Parte o un país no Parte incluya la leyenda "Operación facturada por un operador de un país Parte" u "Operación facturada por un operador de un país no Parte", según corresponda, en este caso se debe indicar el nombre, la denominación o razón social y domicilio (incluyendo la dirección, la ciudad y el país) teléfono, fax, correo electrónico de dicho operador.

Campo 10: Para el caso del Ecuador, este campo debe ser llenado y firmado por el exportador.

Campo 11: Para el caso del Ecuador, este campo debe ser llenado por la autoridad competente o entidad habilitada. La fecha deberá ser aquella en la cual el certificado de origen fue aprobado y firmado por la autoridad competente o entidad habilitada.

Campo 12: Para el caso de Guatemala, este campo debe ser llenado y firmado por el exportador. La fecha debe ser aquella en que el certificado se llenó y firmó.

Source: Ecuadorian Federation of Exporters

More than knowing what a certificate of origin is and where we can emit it, it is important to indicate that to obtain this certificate, first of all, the exporter must register as an exporter in the Customs of Ecuador and to obtain a TOKEN, also called Electronic Signature Certificate. The TOKEN is a new method to encrypt and decrypt information using the identity and authenticity of the signer or owner of that identity, such as the traditional ID does with the handwritten signature.

This electronic signature has the same validity and legal effect as the handwritten signature and it can be obtained in FEDEXPOR or the Central Bank of Ecuador, after submitting the documents required by these entities to emit the electronic signature. Subsequently, these entities will deliver to the applicant a flash memory that will contain the encrypted data of the owner of the TOKEN and then the owner will be able to use this flash memory to import or export products for a period of 2 years. In addition, all exporters must fulfill certain requirements in order to finally obtain the certificate of origin.



**APPLICATION FOR THE CERTIFICATION
OF ORIGIN BY INTERNET
REQUIREMENTS TO REGISTER IN THE SYSTEM AS**

Juridical Person

- Copy of RUC
- Copy of the Nomination of the Legal Representative
- Letter with the detail of the productive process and the flowchart
- List of originating and non-originating inputs involved in the productive process
- Registration of exporter
- Sworn Statement of Origin obtained in the MIPRO

Natural Person

- Copy of RUC
- Letter with the detail of the productive process and the flowchart
- List of originating and non-originating inputs involved in the productive process
- Registration of exporter
- Sworn Statement of Origin obtained in the MIPRO

Handicraftsman

- Copy of RUC
- Letter with the detail of the productive process and the flowchart
- List of originating and non-originating inputs involved in the productive process
- Copy of the qualification as a handicraftsman
- Registration of exporter
- Sworn Statement of Origin obtained in the MIPRO

Cargo Agency

- Copy of RUC
- Copy of the Constitution of the Company
- Copy of the Nomination of the Legal Representative
- List of companies to who they provide the service

After submitting the required documentation, FEDEXPOR coordinates an inspection to the production plant with authorized officers of both the Chamber of Industries of Cuenca and FEDEXPOR, then after the inspection of both entities, the exporting company receives a username and a password to be able to sing in FEDEXPOR's system called CERTORIG so the exporter can enter the information of the product, together with the corresponding invoices to start the export process.

Illustration 8: Emission System for the Certificate of Origin

CERTORIG

SISTEMA DE EMISION DE CERTIFICADOS DE ORIGEN

Jueves, Mayo 09 de 2013

FEDEXPOR
FEDERACIÓN ECUATORIANA DE EXPORTADORES

ENTIDADES HABILITADAS

- FEDEXPOR MANTA
- CÁMARA DE COMERCIO HUAQUILLAS
- CÁMARA DE INDUSTRIAS DE CUENCA
- FEDEXPOR QUITO
- FEDEXPOR GUAYAQUIL
- FEDEXPOR CUENCA
- CÁMARA DE LA PEQUEÑA INDUSTRIA DEL CARCHI

Ingreso

Usuario:

Contraseña:

Ingresar

Si Ud. es un nuevo usuario por favor haga [click aquí](#)
Si olvidó su contraseña haga [click aquí](#)

 CÁMARA DE COMERCIO DE HUAQUILLAS
Impulsamos tu desarrollo

 CÁMARA DE INDUSTRIAS DE CUENCA

FEDEXPOR
FEDERACIÓN ECUATORIANA DE EXPORTADORES

 CAPECAR
CAMARA DE COMERCIO Y AGRICULTORES DEL CARCHI

Dirección : Iñaquito 3537 y Juan Pablo Sanz - Teléfono: (593-2) 2449723 - Email: certorig@fedexpor.com

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Recomendamos usar: Internet Explorer 7+, Firefox 3.5+

Source: FEDEXPOR



REQUIREMENTS TO REGISTER AS A USER

Companies:

- Letter with the Names and Title of Officers authorized to process Certificates of Origin on behalf of the Company (letterhead and signature of the Legal Representative).
- Copy of the ID of the authorized officials.
- For companies that work with cargo agencies it is required a letter authorizing the agency to transact the certificates.

Cargo Agency:

- Letter with the Names and Title of Officers authorized to process Certificates of Origin on behalf of the Company (letterhead and signature of the Legal Representative).
- Copy of the ID of the authorized officials.
- Letter of the companies that authorize the agency to transact the Certificates of Origin (letterhead of the company that authorized and signature of the Legal Representative).

For companies and agencies, this procedure is for a single occasion.

For the companies that export for the first time, a technical visit will take place prior to the registration.

Source: FEDEXPOR

4.5 Brief study of the changes in the volume of products due to the agreement

The company INDUGLOB not only seeks to increase, but also to preserve its quality and performance to make it more durable. It is estimated that each day, the company produces an average of 1100 refrigerators and 2200 stoves. The productive processes are automated. Edy Paltan, production manager, estimates that in one minute are ready for sale two stoves and one refrigerator. However, it is not possible yet to see a considerable increase in the production of this company due to the partial agreement signed with Guatemala, because this agreement just entered into effect in February of this year and it is estimated that in two more years the company will be able to notice the difference in the production. Nevertheless, it is hope to see good results from this agreement. According to the Ecuadorian Federation of Exporters, the last month of April, INDUGLOB emitted 24 certificates of origin, only for the Guatemala's market.

4.6 Example of a product that has already been exported by the agreement Ecuador and Guatemala in 2013

Although the agreement has already been more than four months in effect, INDUGLOB has been able to make only two shipments to Guatemala because there was some delay with the Certificates of Origin. The products sent to Guatemala were the new QUARTZ stoves and refrigerators.

The containers are always loaded inside the company and in this case the company sent containers of 40'. Then the company takes pertinent photographs of the container at the moment that it is loading and with all the security seals. It is always required to take good care of the goods at the time they are been transported so they will not suffer any damage. The negotiations with Guatemala began about two years ago and have been maintained stable so far.

5. Conclusions

Today most countries in the world are already aware of what an agreement is, and most of them look the exact point and the indicated countries to establish an agreement. Every agreement has a story behind its development and each country takes the time to analyze it and see if it is really beneficial to their nations. The time that a country takes to discuss an agreement is very important because in that time, various points that will govern it and the sectors that will be affected by it will be analyzed. In addition, the countries involved undertake the negotiation round needed to reach the final agreement. The authorized entities will be involved in the review and the suggestions on the agreement for it to be the most suitable.

More than analyzing the sectors that the agreement will be focus on; each country will have to study the rules of origin that will help to control the development and proper use of it. Besides the General Rules of Origin, the Republics of Ecuador and Guatemala have established their own Specific Rules of Origin to know more clearly the headings and subheadings that will be benefited with the gradual reduction of tariff rate and even with the elimination tariff, thanks to the agreement. After this study, the safeguard measures and the sanitary measures that will control the entrance of the products to each country, in a more agile and efficient way, will be checked. It is important to note that this agreement counts with the support and the authorization of important entities of foreign trade of each country, and even with the support of the Constitutional so its operation is legal and in accordance with the rules of each nation.

The parts that can give more testimony on the operation of this agreement are the sectors that make use of it. One of those areas is the one that produces home appliances, represented by the company INDUGLOB, known before as INDURAMA, of the city of Cuenca. It is an enterprising company that also has more than 40 years of experience. This company, a manufacturer of high quality home appliances, was the base for this valuable initiative project, which finally came into effect in February 19, 2013.

A brief study of the history and operation of this company helps a lot to measure the value of the agreement in the country. Although its entrance into effect is recent, the agreement provides a very good future for those companies and even natural exporters or importers who wish to use this agreement. When referring to a company favored by the agreement, it is also important to mention the sector that feels a little threatened by it, so in this way we can make clear the positive and the negative aspects of this deal and study the sectors that are negatively affected.

Although the responses of both Republics were positive about the agreement, the parties involved must not forget that during the term of the agreement, they should have control over the performance of it. In this way, it will be possible to continue with the search for improvements, because as everything advances and changes, the agreement can also be extended to other sectors of the two countries or even be subscribed by new nations.

Finally, the Chamber of Industries of Cuenca, which is the creator of this project, hopes to add other countries to the agreement so in this way improve the demand for the products of their markets. In addition, this entity, together with the Ecuadorian Federation of Exporters, work to help the exporters to obtain their certificates of origin to sell their products in other countries. They also provide information so their clients are updated with the requirements and the benefits of the new agreement in effect and other issues about the exportation. In this way, we can conclude saying that there are the appropriated entities where we can consult any issue about the international commerce and also where we can ask for ideas or support for the creation of new agreements in other sectors of the country.

6. Recommendations

At the time of study certain sectors of the country that see the need to establish an agreement with another country, first of all we have to investigate the need of that product or service in the other country and then it will be possible to look for informative assistance in the entities with higher knowledge about this subject such as the Chambers, Federations and other entities totally involved in the international commerce of Ecuador.

No sector of the country is totally developed and for this reason we can always look for new markets that help to increase the demand of our products and consequently, require better production and quality in our country. The best way to achieve this is through the establishment of an agreement that will even renew the relationship between the nations that negotiate it.

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8. Attachments

ATTACHMENT 1

ATTACHMENT 2

ATTACHMENT 3